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Catherine F. Klein

The Catholic University of America, Columbus School of Law

Kate Seear

Lisa Bliss

Paul Galowitz

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Exploring the role of emotions in clinical legal education: inquiry and results from an international workshop for legal educators

Kate Seear ^a, Lisa Bliss^b, Paula Galowitz^c and Catherine F. Klein^d

^aFaculty of Law, Monash University, Melbourne, Australia; ^bCollege of Law, Georgia State University, Atlanta, GA, USA; ^cNew York University School of Law, New York, NY, USA; ^dThe Catholic University of America, Washington, DC, USA

ABSTRACT

Clinical legal education provides a unique opportunity to engage with emotions. This article describes and reflects on an interactive workshop that examined the nature, meaning and significance of emotions in clinical legal education. Through a variety of incorporated staged activities, employing the teaching methods of scaffolding as well as backward design, participants explored aspects of the emotional dimensions of the relationships between clinical teachers/supervisors and their students, along with the relationship between students and their clients. Participants extracted ideas for how educators should approach emotions when they surface in legal clinics. This article provides a detailed overview regarding the rationale for the workshop, followed by a summary of the workshop plans and steps, before detailing key observations and lessons from the workshop.

KEYWORDS Clinical legal education; emotions; reflection; pedagogy

Introduction: law, emotions and clinical legal education

Legal work can be emotional. As seasoned practitioners will attest, emotions are frequently a part of legal practice. Whether they come in the form of the elation that can be associated with winning a case, the sadness and frustration of losing one, the anger at systemic failings and injustices or the joy of helping improve a client's life, emotions are a common, enduring and perhaps even inherent feature of legal practice. Across history, however, the legal profession has not always been comfortable with acknowledging the centrality of emotions in law. Indeed, as Danielle Cover has argued: "Lawyering culture, more than any other, epitomizes a lack of comfort with – and distaste for – emotional vulnerability".¹ Effective legal practitioners were traditionally understood as those with the ability to exhibit little or no feeling; in this sense, the privileging of values such as "rationality", "reason" and "objectivity" (over emotion and subjectivity) were thought to be essential for effective legal practice. Over time, these priorities have been critiqued. For instance, "rational" thinking and "objectivity" have been interpreted as male,

CONTACT Kate Seear  Kate.Seear@monash.edu  Faculty of Law, Monash University, Melbourne, Australia
¹Danielle Cover, "Good Grief" (2015) 22 *Clinical Law Review* 55, 55–56.

white and heterosexual priorities.² There is also a strong tradition of critical scholarship – particularly from feminist perspectives – that critiques the binary logic of reason/emotion.³ Legal education has also come in for criticism in this regard. As Catherine MacKinnon argues, for instance:

What law school does for you is this: it tells you that to become a lawyer means to forget your feelings, forget your community, most of all, if you are a woman, forget your experience.⁴

Others have similarly argued that oppositions to emotions “abound in law teaching”.⁵ Some have even argued that there may be an association between pedagogical approaches which privilege reason over emotion and diminished mental health and well-being among both law students and lawyers.⁶

Concern about the well-being and mental health of both lawyers and law students has indeed been growing in recent years. Such concerns are often traced back to the mid-1980s in North America, after a series of studies examined the mental and physical health of these populations. In Australia, interest in the mental health and well-being of lawyers and law students is often attributed to the publication of a landmark report in 2009, “Courting the Blues”.⁷ There has been a considerable body of scholarship exploring these issues in the years since,⁸ and many initiatives within law schools, the profession and the judiciary are now designed to address mental health. Some of these initiatives expressly engage with emotions in the law and acknowledge the centrality of emotions to law practice, but there is much work still to be done. Between October 2017 and August 2018, for instance, two magistrates in Victoria, Australia, committed suicide. There have been suggestions that the workload and

²See Adrian Evans, *The Good Lawyer: A Student Guide to Law and Ethics* (Cambridge University Press 2014).

³See, for example, Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (Routledge 1990); Elizabeth Grosz, *Volatile Bodies: Towards a Corporeal Feminism* (Indiana University Press 1994).

⁴Catharine MacKinnon, *Feminism Unmodified: Discourses on Life and Law* (Harvard University Press 1987) 205.

⁵Carrie Menkel-Meadow, “The Fem-Crits Go to Law School” (1988) 38 *Journal of Legal Education* 61, 77.

⁶See, for example, Lawrence S Krieger, “What We’re Not Telling Law Students – And Lawyers – That They Really Need to Know: Some Thoughts-In-Action Towards Revitalizing the Profession From its Roots” (1998) 13 *Journal of Law and Health* 1, 5; Lawrence S Krieger, “Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence” (2002) 52 *Journal of Legal Education* 112, 114; Elizabeth Mertz, *The Language of Law School: Learning to “Think Like a Lawyer”* (Oxford University Press 2007); Kennon M Sheldon and Lawrence S Krieger, “Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory” (2007) 33 *Personality and Social Psychology Bulletin* 883; Melanie Poole, “The Making of Professional Vandals: How Law Schools Degrade the Self” (Honours thesis, ANU College of Law 2011) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2029993> accessed 30 May 2019; Claire Carroll, “Alert But Not Alarmed: A Response to Parker’s Critique of Wellbeing Scholarship in Law” (2019) 29(1) *Legal Education Review* 1.

⁷Norm Kelk and others, *Courting the Blues: Attitudes Towards Depression in Australian Law Students and Legal Practitioners* (BMRI Sydney 2009).

⁸Molly T O’Brien, Stephen Tang and Kath Hall, “Changing Our Thinking: Empirical Research on Law Student Wellbeing, Thinking Styles and the Law Curriculum” (2011) 12(11) *Legal Education Review* 21; Anthony Lester, Lloyd England and Natalia Antolak-Saper, “Health and Wellbeing in the First Year: The Law School Experience” (2011) 36(1) *Alternative Law Journal* 47; Colin James, Miles Bore and Susanna Zito, “Emotional Intelligence and Personality as Predictors of Psychological Well-Being” (2012) 30(4) *Journal of Psychoeducational Assessment* 425; Adele J Bergin and Nerina L Jimmieson, “Explaining Psychological Distress in the Legal Profession: The Role of Overcommitment” (2013) 20(2) *International Journal of Stress Management* 134; Janet Chan, Suzanne Poynton and Jasmine Bruce, “Lawyer Stress and Work Culture: An Australian Study” (2014) 37(3) *University of New South Wales Law Journal* 1062; Christine Parker, “The ‘Moral Panic’ Over Psychoeducational Wellbeing in the Legal Profession: A Personal or Political Ethical Response?” (2014) 37(3) *University of New South Wales Law Journal* 1103; Richard Collier, “‘Love Law, Love Life’: Neoliberalism, Wellbeing and Gender in the Legal Profession – The Case of Law School” (2014) 17(2) *Legal Ethics* 202; Paula Baron, “The Elephant in the Room? Lawyer Wellbeing and the Impact of Unethical Behaviours” (2015) 41(1) *Australian Feminist Law Journal* 87.

emotional strain of their roles may have been a factor in their deaths.⁹ According to the American Psychological Association, lawyers are 3.6 times more likely to suffer from depression than non-lawyers.¹⁰ Over the last couple of years, judges and magistrates have become increasingly vocal about the pressures and stresses faced by legal professionals and the need to be more open about emotions in law. For all of these reasons, legal educators are becoming increasingly cognisant of the need to think through the relationship between emotions and the law, and to reconsider how we teach for – and with – emotions. The Canadian academic Michele Leering, for one, argues that twenty-first-century legal professionals need a reflective legal education that emphasises self-efficacy and self-assessment.¹¹ Indeed, the inclusion of reflective practice in legal education – and clinical legal education – is increasingly popular.¹²

Although there is a substantial body of work on the use and practise of reflective practice in law, there has been less work on how precisely how we should think about and engage with emotions through legal education in general, or reflective practice in particular.¹³ Our particular interest is in an even narrower question than this, which is how those working within the field of clinical legal education might engage with or approach emotions. Clinical legal education provides a unique opportunity to deeply engage with emotions, in part because emotions are experienced as a regular feature of clinics. How, put simply, should legal educators reflect on emotions when they surface in the course of legal education? What should we make of the emotions that law students experience and express? What practical, ethical and moral dilemmas do expressions of emotion pose? How should clinical supervisors navigate emotions – whether their own or those of students – when they come up in the clinic? How might we make use of articulations of emotion for learning? What lessons might be drawn from this emotion work for future legal practice? These questions were explored in a workshop designed and implemented by the authors in November 2018. That workshop was held at Monash University in Australia to coincide with Monash hosting the *International Journal of Clinical Legal Education's* annual conference. Bringing together clinical legal educators from around the world, the workshop examined the nature, meaning and significance of emotions in clinical legal education, and sought to extract ideas for how educators should approach emotions when they surface in legal clinics. In

⁹Peter Wilmoth, "Loneliness, Panic Attacks, Insomnia: Life for Some on the Judicial Bench" (*Sydney Morning Herald*, 4 August 2018) <<https://www.smh.com.au/national/loneliness-panic-attacks-insomnia-life-for-some-on-the-judicial-bench-20180731-p4zukuq.html>> accessed 21 November 2018.

¹⁰Jeena Cho, "Attorney Suicide: What Every Lawyer Needs to Know" (*ABA Journal*, 1 January 2019) <http://www.abajournal.com/magazine/article/attorney_suicide_what_every_lawyer_needs_to_know> accessed 17 June 2019.

¹¹Michele Leering, "Conceptualizing Reflective Practice for Legal Professionals" (2014) 23 *Journal of Law and Social Policy* 83; Michele Leering, "Integrated Reflective Practice: A Critical Imperative for Enhancing Legal Education and Professionalism" (2017) 95(1) *Canadian Bar Review* 47.

¹²See, for example, JP Ogilvy, "The Use of Journals in Legal Education: A Tool for Reflection" (1996) 3 *Clinical Law Review* 55; Rachel Spencer, "Your Place or Mine? Evaluating the Perspectives of the Practical Legal Training Work Experience Placement Through the Eyes of the Supervisors and the Students" (2007) 8(2) *International Education Journal* 365; Ross Hyams, "Assessing Insight: Grading Reflective Journals in Clinical Legal Education" (2010) 17 *James Cook University Law Review* 25; Ross Hyams, "Nurturing Multiple Intelligences Through Clinical Legal Education" (2011) 15 *University of Western Sydney Law Review* 80; Rachel Spencer, "First They Tell Us to Ignore Our Emotions, Then They Tell Us to Reflect: The Development of a Reflective Writing Pedagogy in Clinical Legal Education Through an Analysis of Student Perceptions of Reflective Writing" (2014) 21(2) *International Journal of Clinical Legal Education* 33.

¹³See, generally, Marjorie Silver, "Love, Hate, and Other Emotional Interference in the Lawyer/Client Relationship" (1999) 6 *Clinical Law Review* 259; Marjorie Silver, Sanford Portnoy and Jean Koh Peters, "Stress, Burnout, Vicarious Trauma, and Other Emotional Realities in the Lawyer/Client Relationship" (2015) 19(4) *Touro Law Review* 847.

what follows, we provide further background and context on different scholarly approaches to emotions. We explain that the meaning and significance of emotions is the subject of important debates among academics, and argue that legal educators need to be conscious of these debates in their work. We then provide a more detailed overview regarding the rationale of the workshop, followed by a summary of the workshop plan and steps, before detailing key observations and lessons from the workshop. We argue that much more work remains to be done to explore the role and function of emotions in clinical legal education (and, indeed, legal education more broadly). This work might include clinical faculty replicating our workshop activities within their own clinics or adapting the workshop for use with students.

Different approaches to emotions

The nature, meaning and significance of emotions are the subject of important debates among academics. This literature is too voluminous to review in detail for this article, but the key point is that there is a lack of consensus about what emotions “mean”, or what they “do”, and how we should approach them. There is, for instance, critical literature on the politics and ethics of emotions. Led by scholars such as Sara Ahmed and Judith Butler, this work critically examines what emotions do when they surface. Sara Ahmed argues, for example, that the emotion of “disgust” works to produce a category of subjects we might call “the disgusting”, and to surface “disgusting” bodies as those “that must be ejected from the community”.¹⁴ In other words, emotions are not just interior states of being and feeling but have distinctly political dimensions. The deployment of emotions can have real (material) implications for people. In this sense, the deployment or “expression” of emotions also raises important moral and ethical questions. Emotions can reflect – and perhaps also help to produce – some people or groups as “other”, less valid or valuable, and others as more valid or valuable. Emotions, thus, must also be examined for their political implications. Emotions can also shape our judgement. They can induce us to act. When we feel angry because of injustice, we might be compelled to fight. When we feel abhorrence, we may be reluctant to help someone who needs it. Emotions can thus do many things and be relevant to legal practice in multiple ways. At the very least, we think that the willingness of students, lawyers and members of the judiciary – and legal educators – to engage in a more open dialogue about emotions and the law is an important step. These conversations may help to reveal prejudices, priorities, assumptions and more, in ways that have implications for how we practice law. Conversations about emotions may also help to break down the binary logic of law as dispassionate, rational and ordered, and send a signal to lawyers – new and old alike – that experiencing and expressing emotions is acceptable and even healthy. Nevertheless, we also need to be cognisant of what they do, how they shape and affect our practice, and be more alert to those implications. With these overarching interests in mind, we developed and implemented a workshop focusing on critical, reflective practice about the nature and functions of emotions in clinical legal practice. The workshop had two primary objectives, as follows:

- (1) to consciously generate an enhanced awareness of our own emotions, as educators, and to develop awareness of the emotions of others in clinical contexts;

¹⁴Sara Ahmed, *The Cultural Politics of Emotion* (Routledge 2015) 15.

- (2) to explore whether it is possible to establish a set of pedagogical priorities for what we should do when emotions surface in the clinic and, if so, what those priorities should be.

The next section provides a more detailed overview of the rationale and design of the workshop.

Planning for the workshop and choices in design of the workshop

We wanted to design a workshop that allowed us to explore the role of emotions and our experience of emotions in our clinic classrooms and fieldwork. This focus comes from a broader understanding and consensus that the relationships we have with our students, the relationships they have with us and the relationships we both have with clinic clients form one of the most central and important aspects of effective clinical teaching.

We wanted to focus on something that each one of us thought was a critical aspect of our work as clinical teachers – something that was central, even essential, to what we do, but also something that we often do not give focused attention to, namely the emotional dimensions of the relationships that lie at the heart of the clinical experience: (1) the relationship between clinical teachers/supervisors and their students; and (2) the relationship between our students and their clients. These relationships seem wonderfully intertwined – always important – but also often left unexamined.

Several long-held beliefs helped shape this workshop. Relationships are the starting point for building trust and supporting the self-empowerment of the student and of the client. Related to this premise is our recognition of the key role that emotions play in helping us form effective relationships. Emotions are critical in creating trust and respect. In addition, emotions help us decide what to pay attention to, care about and remember. Emotions play an important role in helping us assign values to something. These values can, however, be generative, as Ahmed reminds us, and can generate subjects, objects, bodies and collectivities. These processes may be beneficial in some ways, or problematic. Because of all this, emotions are essential motivations for focus and motivation in learning. David Brooks says that, in this day and age, information is plentiful, but motivation is scarce.¹⁵ One of the key jobs of education is to “give students new things to love”¹⁶ and “what teachers really teach is themselves – their contagious passion for their subjects and students”.¹⁷

A teacher’s need to pay attention to emotions (both student’s and teacher’s) cuts across all fields of education, and certainly plays a key role in clinical legal education. Clinical work predictably involves aspects of learning that can invoke strong emotions as students face situations that involve risk, discomfort, struggle and conflict. At times, reactions to these challenges can produce strong emotions such as anger, anxiety, shame and even terror.¹⁸ Often the inner emotional lives of teachers can parallel that of their students. What can we do to learn more about this? How can we explore this topic to gain insight to become better, more effective teachers? How can we better model ways to address these strong emotions? These are the questions we wanted to explore in this workshop.

¹⁵David Brooks, “Students Learn from People They Love” (*The New York Times*, 17 January 2019) A23.

¹⁶*ibid.*

¹⁷*ibid.*

¹⁸Stephen D Brookfield, “Chapter 5: Understanding and Responding to Classroom Emotions” in Stephen D Brookfield, *The Skillful Teacher: On Technique, Trust, and Responsiveness in the Classroom* (3rd edn, Jossey-Bass 2015).

We had a second crucial premise: we believe that our primary mission as clinical teachers is to further the professional development of students so they can become competent professionals, and believe that a key aspect of this is the ability to develop successful relationships. Therefore, we believe it is essential to focus more on the emotional domains of teaching and learning.

As part of our planning and design of the session, we used “backward design” (sometimes called “backward planning”). “Backward design” is a method of designing educational courses or sessions that first focuses on the learning goals or desired results (instead of the activities). The techniques were developed by Jay McTighe and Grant Wiggins and are primarily focused on student learning and understanding. The typical three stages of backward design are: (1) identifying the desired results; (2) determining acceptable evidence; and (3) planning learning experiences and instruction to meet the desired results.¹⁹ For the workshop session, after brainstorming on a number of issues relating to teaching to plan for emotions in the clinic, we identified that our desired results were to, first, encourage supervisors to reflect on expressions of emotion in the clinic. In this respect, we anticipated that there would be some value in simply bringing clinicians together and inviting them to reflect upon and share encounters with emotion with the clinic. The workshop might also, in this sense, allow us to directly intervene into and subvert the traditional opposition to emotions in legal education, as noted earlier. Second, we aimed to explore and settle on pedagogical priorities for addressing articulations of emotion in the clinic. This might extend to some agreement as to how to work with emotions when they surface in the clinic. This might even be done in ways that promote well-being and mental health, and further access to justice.

A number of factors entered into our planning for the session. The first was the theme and format of the day-long workshop, “Reflective Practice and Assessment in Clinical Legal Education”. The entire workshop was designed to be interactive (workshop style rather than presentation), with the expectation that the sessions would incorporate interactive problem-solving, small group activities and report-backs. The workshop objective was for clinical faculty to learn from each other, and to share their experiences and expertise in a casual, supportive and informal environment.

The title of our session was “Reflection, Emotions and Student Wellbeing”. The description in the agenda for the workshop was:

Expressions of emotion (such as disgust, sadness, or anger) are commonplace in reflective practice. But what might emotions – such as disgust for a client, for example – mean? What ethical and moral dilemmas do expressions of emotion pose? How might we make use of articulations of emotions for learning? And how should clinical supervisors navigate them?

A second major factor in our planning was our collective awareness that discussion of emotions can be uncomfortable for some people, particularly in a group setting. While acknowledging and “embrac[ing] [emotions] as valuable tools for learning”²⁰ and seeing “emotions as critical objects for analysis and thought”,²¹ we gave considerable thought to how to frame the session. We wanted to create a comfortable atmosphere for the discussion of emotions and we also planned the sequencing of the session to

¹⁹Grant Wiggins and Jay McTighe, *Understanding by Design* (2nd edn, Association for Supervision and Curriculum Development 2005).

²⁰Kate Seear, “Do Law Clinic Need Trigger Warnings? Philosophical, Pedagogical and Practical Concerns” (2019) 29(1) *Legal Education Review* 1.

²¹*ibid.*

challenge the participants and their exploration of emotions, while deepening their analysis of what it means to confront emotions in our teaching.

Partly in response to our concerns about participants' potential discomfort with the topic, we employed the teaching method of scaffolding. In the construction context, the scaffold, sometimes a skeletal frame, enables a worker to access a building to construct, paint or do a variety of building tasks on the structure. In teaching, the instructor employs the concept of scaffolding to give structured support in an activity or concept to help students get to the next level of learning, typically on something just beyond the level of what the learners could be on their own.²² The scaffolding is meant to be temporary. Teachers assist students in mastery at each stage of learning so that they continue to grow and develop.²³

We employed a version of scaffolding in the first activity of the workshop by giving the participants an opportunity to think on their own about emotions. They were invited to think of a time when they had a strong emotional reaction (positive or negative) to a student or client. After having time to reflect on their own, we asked the participants to write the emotional reaction on a Post-it note. The next step in the process of exploring the emotion(s) was to invite participants to pair with the person next to him or her to reflect together on the ideas they generated. (This activity is described in greater detail in the next section.) One of the purposes of this staged process of exploration of the topic was to help the participants feel comfortable (or start to feel more comfortable) with reflecting and sharing their own emotions, beginning by first doing so individually and then with another participant.²⁴ We built on the scaffold of the personal reflection activity and invited participants to reflect on student emotions in the clinic. (This activity is described in greater detail in the next section.)

Another factor in our planning was the unknown nature and number of participants in the workshop. We did not know a wide variety of things, including the level of teaching experience of the participants, their familiarity with clinical teaching, or the countries or cultures of the participants²⁵ and their familiarity with each other. The various unknowns made it more difficult to plan the session and more important that we created experiential activities which allowed the participants to ease in to group discussions. It turned out that a wide range of professionals attended the workshop. Participants included in-house clinical faculty, people involved in legal education more broadly through externships and pro-bono projects, law faculty teaching outside clinics and practitioners.²⁶

The workshop activities

As already noted, we incorporated staged activities in order to explore different experiences of emotions. First, we devised an activity that invited participants to explore and reflect on their personal recollections of specific emotionally charged

²²Diane May, "Using Scaffolding to Improve Student Learning in Legal Environment Courses" (2014) 31(2) *Journal of Legal Studies Education* 233, 234.

²³As a teaching tool, scaffolding came from a learning theory developed by Lev Vygotsky, a Russian educational psychologist. *ibid* 235.

²⁴In so doing, we sought to disrupt the opposition to emotions taught in law school, as described earlier (see Mackinnon [n 4]; Menkel-Meadow [n 5]).

²⁵This workshop was held in connection with, and one day prior to, the International Journal of Clinical Legal Education Conference held in Melbourne, Australia, in 2018.

²⁶Victoria Roper, "Reflecting on Reflective Practices in Clinical Legal Education" (2019) 26(1) *International Journal of Clinical Legal Education* 216.

teaching moments from their own experience. We did this with the belief that exploring our own inner emotional lives could give us insight into our students' emotional responses to their learning experiences. Moreover, we believe that as teachers, if we follow a practice of consciously confronting our own emotions, we will be both healthier and better equipped to address emotions when they are expressed by students, clients or others with whom we come into contact. We wanted the workshop to be a dialogue among us and the participants, and an opportunity for joint reflection on this little-discussed topic. Accordingly, we employed interactive pedagogical methods that reflected these teaching priorities.

The first activity consisted of four parts. Each segment will be described.

First, each participant was asked to reflect individually for two minutes on the following question:

Think about a time you had a strong emotional reaction (positive or negative) to a student or to a client. This can include a time where emotions were present but were not expressly articulated or acknowledged in the moment.

Second, after two minutes, participants were asked to write down their emotional reaction on 3 inch × 3 inch Post-it notes. In other words, they were invited to name the specific emotion they had been feeling.

Third, participants were invited to pair with someone sitting near them and to spend 10 minutes sharing their experiences with the emotion(s) they named. During this "Pair and Share" activity, participants were prompted to focus on the following questions as they shared with their partner:

- What was the emotion you experienced?
- Was it a positive or negative emotion?
- What did you do with that emotion?
- Why was that emotion important?
- Reflecting upon it now, how did you feel you dealt with that emotion?

Finally, the entire group was reconvened for a large group discussion and debrief.

Notably, the participants enthusiastically engaged in this activity, and around the room the discussions were expressive and animated. During the debrief, we first asked everyone to put their Post-it notes on the wall in the workshop space. We quickly grouped the listed emotions by categories on the wall so that we could more easily explore what the notes revealed. Meanwhile, the group debriefed their stories and their experiences of the exercise. We asked participants to raise their hands if they had reported on an experience involving a positive emotion. To our surprise, only two participants raised their hands. The particular positive emotions were joy and delight.

Next, we invited a number of the remaining participants to share the negative emotion they had selected to focus on. Again, we noticed a lot of energy in the room, and it appeared that participants were not "shy" at all about expressing instances in which they had experienced an emotional reaction as teachers. In fact, some gave examples of situations that had occurred long ago, and the emotion was still fresh and present. The emotions named ranged from anger to frustration, disappointment, confusion, horror and despair, and similar strong emotions. The grouping on the wall illustrated the common themes expressed by the group. Participants were particularly struck that the overwhelming majority of emotions that individuals had chosen to share

were negative ones. Participants commented upon how many of them had focused on anger or frustration, for example. We invited reflections on how they had addressed these strong emotional feelings at the time, what they had done, what they had wished they had done and why they seemed so memorable.

After a few examples, we asked the group to try to take a step back from their experience and think about any insights or take-aways they had from their reflections and conversations. We asked a few people to share ideas about what they might do next time they felt this way.

Although we did not have time to explore all of these, some of the large group discussion prompts we had considered for the debrief were as follows:

- What did you discuss?
- Any “light bulb” moments?
- Share one idea from your group.
- Most creative idea
- Most surprising idea
- Something your group shared in common
- One thing you will “take away” from discussion and try implementing in your class.
- What actions did the session prompt you to consider?
- What are your most significant “take-aways” from the session?

At the end of this activity, the facilitators reported on the patterns and themes that the reshuffling and categorisation of the Post-it notes revealed. It was clear that when asked to reflect on emotional experiences, participants continued to remember and be troubled by the strong emotions that they sometimes had in reaction to their students’ actions.

The second workshop activity invited participants to shift from looking inwards at their own emotions to looking outwards to reflect on emotions expressed by students. This activity was designed to help participants explore how manifestation and expression of emotions by students impacts our work as teachers and as lawyers, and how it affects what happens in the classroom, in the lawyer–client relationship and in our work as advocates.²⁷ This activity had three parts. Each will be described.

First, participants were invited to think of a time when they observed or learned of a student who had a strong emotional reaction (positive or negative) to a client, a case or a fellow student.

Second, participants were asked to spend a few minutes reflecting on the following questions:

- How did the student’s emotion impact upon your teaching?
- How did the student’s emotion impact upon advocacy?
- How did the student’s emotion impact the supervisory relationship between teacher and student?
- How did the student’s emotion impact the client?

Following the reflection period, participants were invited to pair and share with another person their experiences with student emotions.

²⁷Following Ahmed (n 14).

After the pair and share period, some participants shared their reflections on student emotions with the larger group. One participant reflected that student expression of emotion can also stir emotions within the teacher, particularly when a student emotion involves angry criticism of the clinic or teacher in some way. At the same time, the participant noted that the student's expression of emotion allowed the teacher to reflect on her own reaction to it, and after her own emotions subsided, the teacher made modifications to her assignment. Another insight the group gained was that student expression of emotions can alert the teacher to potential obstacles to student learning and potential opportunities for helping the student develop professionally. Finally, one participant noted that students can be fearful of expressing emotion, which could result in an absence of expressed emotion entirely. The group reflected that law school culture can encourage students to suppress emotion²⁸ and that we, as clinic teachers, are in a position to counteract this effect.

The third activity involved all of the participants working together in small groups to explore assigned topics related to the topic of the session. The groups were as follows:

Group A – teaching and planning for emotions

- What is the right forum for exploring emotions?
- What can we do as teachers to plan for emotions?
- Are there things that we can do affirmatively in our curricula to teach for emotions?
- How do we address those serendipitous moments in the clinic in which emotions surface?

Group B – issues and challenges when teaching for emotions

- Is there anything to fear about sharing emotions in the clinic?
- In situations involving your own emotions, did you share these emotions with your student?
- If you shared your own emotions with your student, what were you trying to achieve? If you did not, what was the reason?
- What, if anything, should we avoid when addressing articulations of emotion in the clinic?

Group C – pedagogical priorities in the teaching of emotions

- When exploring emotions in the clinic, have you ever consciously had a pedagogical goal in mind? What was it?
- Is there an optimal way of managing emotions in the clinic?
- What should our pedagogical priorities be when encountering emotions in the clinic – whether our own or those of students?

The groups were tasked with discussing the prompts and writing their reflections and explorations on butcher paper.

The final activity was a report-back of the ideas generated from all of the groups.

²⁸See also Mackinnon (n 4); Menkel-Meadow (n 5).

Reflections from Group A – teaching and planning for emotions

Some of the ideas that emerged from the participants who explored this topic included questions, such as asking ourselves “whose emotions are we exploring?” at a given time, and considering the context. In some circumstances, it may be appropriate to give room for expression of emotions in a private forum, which may then be used (with permission from the student) as a springboard for discussion with the class. Clinicians also suggested raising the topic of emotions during clinic rounds, which are regular opportunities for students to engage in self-reflection and peer learning, and provide an opportunity to model healthy ways to deal with emotions when they arise. Participants also suggested planning for emotions by building the workshop or other activities into a clinic orientation or seminar, to help students begin to see how they can better understand themselves and others as part of their work.

Other reflections included the idea that teachers should debrief emotions with the student after a key event or occurrence to maximise the learning opportunity. Reflective journals can also be used as a tool for exploring and processing emotions that arise in our and our students’ work. Finally, as teachers and supervisors, we have an opportunity to model experiencing and dealing with emotions when they come up, and we should be transparent about this with our students. If we normalise emotions as a part of our work experience, we can enhance their use for effective, honest communication and learning.

Reflections from Group B – issues and challenges when teaching for emotions

Group B explored issues and challenges that we face when teaching for emotions, and acknowledged that a teacher may fear the topic itself because it is not predictable, and also because teachers do not know everything about their students. The challenge of emotions themselves requires that teachers plan carefully and share carefully and thoughtfully. Again, presenting ideas about “normalising” emotions by setting the scene for students that emotions are expected, telling students about examples of other students who experienced emotions and explaining that emotions are appropriate and acceptable in clinic. Of course, there is an important distinction to be drawn between normalising expressions of and discussions about emotions in the clinic, and uncritically accepting or endorsing the particular emotions that are experienced. There can be problems, for instance, when students (or supervisors) express disgust towards a homeless client, anger at a client who uses drugs or frustration at a female client who has not been able to leave a longstanding and violent domestic partnership.²⁹ The key point is to acknowledge that such emotions exist, and to engage critically and non-judgementally with what these emotions might mean and what they might do, which includes how those emotions might motivate lawyers to action, or preclude willingness to engage in advocacy.

Other issues noted were the fear of loss of control of the classroom, the spectre of secondary trauma, the risk of students feeling “shame” for having emotions in a place (law school) where emotions are culturally taboo,³⁰ and the feeling by some that getting into emotions with students is simply “too much information”.³¹ Participants also noted that it was important to deal with emotions sensibly and not to overreact or rush any conversation about them. Other important issues were for teachers to notice

²⁹As Ahmed (n 14) reminds us. See also Seear (n 20).

³⁰See Menkel-Meadow (n 5).

³¹See Brooks (n 15).

that there may be students with differing levels of maturity and experience,³² and some may not be able to cope with heavy topics as well as others, and that group dynamics can play a role in how vulnerable a student may be willing to be in a group setting. Another issue raised was that teachers and others must be transparent about the limits of confidentiality in such conversations. Finally, participants drew a distinction between a student's personal journey and drawing appropriate boundaries around that versus a student's experience through work within the clinic.

Reflections from Group C – pedagogical priorities in the teaching of emotions

This group noted that it is our responsibility to help students become open to responding to clients' emotions and their own, and that this is a part of their professional identity development. This will help students prepare for the challenges of dealing with client emotions and their own emotional reactions to situations they encounter professionally. By doing so, we enable students to develop their own capacity to protect themselves and develop resilience.³³ Optimal ways of managing emotions include cultivating awareness of emotions, pausing to respond or not react, allowing expressions of emotion without judgement and engaging in personal self-care. Participants seemed to agree that it should be a pedagogical priority to help students recognise toxic stress and anxiety, develop resilience and enable students to remain effective and ethical in the face of negative emotions. It was also deemed important for students to cultivate their own empathy. To teach emotions, teachers should design this ideal into the ultimate learning outcomes for the course, and help students to explore and acknowledge emotions and their impact on client, self and others, and to consider multiple perspectives when exploring emotions. This group also focused on the priority of helping students understand that feelings are normal and acceptable, and that colleagues in the workplace are having emotions as well. The goal should be to make sure that we, as professionals, are self-aware and listening to others, and that we learn how to be comfortable being uncomfortable with emotions as a part of our work.

Conclusion: take-aways from the workshop and our experiences

Our goal in designing this workshop was to explore a topic that we all believe is important to our teaching, although one that is rarely explored. Proposing, designing, doing, reflecting and writing about this session has inspired all of us to dig more deeply into the possibilities surrounding emotions and their presence not only in our daily lives, but in our teaching. The process led us to new insights into ourselves and our teaching. In our cultures, there is somewhat of a taboo around expressing and naming emotions, especially in the legal profession. We found that the act of focusing on them for this workshop and in our discussions resulted in our connecting more deeply with one another and with ideas about our work. The acknowledging of emotions also involves a certain amount of vulnerability, and this vulnerability can make us more connected to one another not only as colleagues, but as friends and human beings. At the same time, professionals typically do not want to appear vulnerable, and the legal profession socialises lawyers to not show vulnerability. Exploring this topic led us to

³²See Brookfield (n 18).

³³See references in n 6.

realise that we and our workshop participants were energised by the process of exploring what emotions mean to our work. Although participants in the workshop expressed a range of views about how to deal with emotions when they surface in the course of clinical legal education, there was a broad consensus that emotions are important, and that there is a need to more actively engage with and reflect upon their significance to and implications for both the process of learning and the process of advocating for clients. These findings, along with the energy generated throughout the workshop, suggest that there is more fruitful exploration to be done around emotions in the clinical legal education context.

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ORCID

Kate Seear  <http://orcid.org/0000-0002-0886-7069>