

‘Access to Justice – Making it come alive and a reality for students and enabling engaged future practitioners’

An experience led conversation/workshop/dialogue

A workshop canvassing some real life exercises/role plays to explore:

- The role of legal education in access to justice
- Ethics, values and access to justice
- The practitioner's role in access to justice
- Critical understandings of law and justice

About Dr. Liz Curran



Dr Liz Curran is a Senior Lecturer, ANU Legal Workshop, and Masters in Legal Practice (MLP) at Australian National University's College of Law. Liz convenes and teaches the intensive 'Becoming a Practitioner' courses & teaches Legal Ethics, Consumer Protection Law (also convenes) and Professionalism in Practice in ANU's MLP/Graduate Diploma of Legal Practice. This sees her preparing graduate lawyers for entry into legal practice. She still also works as a solicitor on secondment to Consumer Action Law Centre

Liz has published research reports (2011, 2012 and 2013) on outcomes, quality and effectiveness for a number of organisations and on a 'Strategic Approach to Legal Problem Solving' (March 2013). She has published widely on integrated service delivery, access to justice, ethics, clinical legal education and human rights for over a decade. Liz has been commissioned from mid-2014 – 2016 to undertake and advise on a number of evaluations of Health- Justice Partnerships (HJP) in Australia and a family violence prevention program (completed May 2015). She has been invited to give a paper at the International Legal Aid Conference in June 2015 in Scotland. She is a regular media commentator in Australia on justice & human rights

Overview

- 20 minute discussion and illustration of teaching approaches, tools and strategies I have used to stimulate student awareness and engagement in access to justice and human rights.
- ***20 minute interactive conversation with guiding questions*** small group discussion of your experiences and a report back of ideas emerging from the discussion for us as law teachers/practitioners in educating a future profession.



Clinical programs are designed to provide opportunities for law students to critically examine the operation of the law “on the ground”. Practical legal education placement programs are designed to provide opportunities to acquire practice-ready skills. As such what is being assessed in terms of student performance is likely to be substantially different in each program, but nevertheless there are opportunities to engage students through role play and the use of scenarios and assessment in making their course come alive.

- **Use of role plays derived from real life experiences of clients/lawyers to make the law come alive and engage future practitioners**
- **PLT Course at ANU Examples:**
- ***Example One***
- ***Group Dynamics exercise in the ‘Becoming a Practitioner’ (BAP) Course, ANU Legal Workshop***

The exercises on group dynamics aim to assist students to recognise roles that can be assumed so that they are likely to be more mindful and discover a range of approaches that can be used in good group work. It is taught by way of an introduction to team work.

There are two exercises done separately in the first exercise a couple of students take on a designated negative role and the whole group must provide an advice in 10 minutes to the Senior Partner as it is urgent. In the second exercise the students take on positive roles and in 10 minutes have to also provide an advice. The exercises are based on two real life cases and the students are advised of the real life outcomes after their final de-brief.

There is a de-brief after each exercise.

What occurs every time is that students spend the whole 10 minutes of the first exercise fighting, sidelining and arguing amongst themselves? When the Senior Partner (the instructor in role) comes back after 10 minutes to get the urgent advice there is little to put on the butcher's paper. After the 10 minutes assigned for the second exercise the Principal Solicitor asks for the advice and students have so many suggestions that many pages are filled. The two examples juxtaposed present a stark realization for students of the benefits of working together and it is common for students to express surprise that the same amount of time was allocated for each exercise.

Scenario 1 Negative Roles (based on a real client case)

- ***Your Firm needs to make suggestions the following problem for the Senior Partner:***
- The client, James Martini is a member of a family which gives your firm a lot of work. The client has instructed your Senior Partner during a client interview that he wants to plead not guilty to a criminal offence of trafficking a large quantity of drugs.

The evidence against the client is strong but not overwhelming. James has admitted to your Senior Partner that he has been involved in the commission of the offence. The Senior Partner has outlined to James that there is a legislative discount for people who plead guilty at the earliest opportunity. James insists that he wants the partner to enter a plea of 'not guilty' and states that the Senior Partner's job is to 'get him off'. James has a pile of references saying that he has an unblemished character. The client has been charged with many offences previously and has never been convicted largely on the basis of legal technicalities (e.g. police did not formally swear their affidavit materials and so the affidavits were found to be inadmissible as a result).

- Instruction for Group: Your firm of junior lawyers needs to discuss a plan of action as to how the Senior Partner should handle this dilemma

Scenario 2 Positive Roles (based on a real client case)

The client's family lives in public housing. Prior to securing this public housing the family had been homeless for two years. They were on a waiting list for thirteen months before being provided with public housing. The female client, Jacinta, has two children. One is a baby of 16 months. The other child is three years of age. Jacinta and her partner, Dimitri are 30 years of age. Dimitri has a severe mental illness and the family is on a pension.

- The two bed-room flat provided through public housing has mould growing on the walls. The client fears there is also asbestos. All members of the family have developed asthma. The baby's asthma is so bad she has had to be taken to the Children's Hospital twice a week for the past three months. Each night, the mould grows on the baby's basinet and the client has to try and clean it off.
- The client has written to the Department formally complaining about the conditions. By law the tenants are not allowed to tamper with the flat and have to wait for the department to organise maintenance.

- The Housing Department cleaned the flat and painted it a year ago but the mould appeared within a week of the painting. The Department is aware of the client's medical reports about the poor effects on the householders' health. On the phone the Departmental official accidentally disclosed that there is also asbestos in the flat confirming Jacinta's fears.

- Jacinta is distressed and very worried about her children's and her partner's health. In this state, the Legal Aid Commission's guidelines rule out legal assistance for civil matters of this kind. Jacinta has no money to go to court as the family's combined income is \$26,000 per annum. The client is also worried that if she kicks up a fuss she may be kicked out and she is frightened of being back on the streets again.
- Instruction for Firm: Taking into account the client's circumstances, the Principal Solicitor has requested advice from your firm/group about one or more possible plans of action about how the firm might assist this client. You have 10 minutes to give the Principal Solicitor your advice as the client is due in then.

Debrief – compare and contrast advices – real case outcomes revealed.

Example Two Role Plays for Client Interviews – select clients which raise justice issues

- ***Elective Australian Consumer Law***
- ***Your client: Erica Fellini (female) or Erico Fellini (male)***
- Your client Erica/Erico is 20 years old who completed her/his year 10 of high school in 2012. Since completing high school, Erica/Erico has worked as a part-time administrative officer at a lost dog shelter. Erica/Erico is a bit slow. Although she presents physically as if there is no issue, it is apparent to most people on speaking to her, even briefly, that she is slow and easily led. Erica gets easily flustered, can be compulsive in some of her behaviours and panics.

As a result her social worker suggested she buy a cheap mobile phone and ring her when she needed to. Erica/Erico decided to talk to her friend Sally as she did not know a lot about phones and wanted to get one at a good price as she knew they are expensive. Then the scenario presents the substantive law issues for the student to analyse and advise on.

The Interview in the BAP

SCENARIO-Vella (Surname Vaccaro)

You are a migrant with three children: one working but still living at home, and two in school. Your spouse was killed four weeks ago in a car accident. You are in shock and are very upset. You have not been able to cope at home. Your sister has been staying to look after the kids, but she has had to return to her own family today.

Your spouse was a bricklaying subcontractor. Some of your spouse's employees have been asking for their wages and various leave entitlements they claim are owing to them. There is a fair amount of money in your spouse's bank account; however, the bank has advised you that you can't have access to it yet. You have a bill for the funeral of over \$8,000.

You have borrowed money from your sister to buy food, but you don't know what to do about the other debts. You think there may be a will but don't know where it is. You think your spouse had some life insurance. Your youngest child, Chris, a girl of 15, is in trouble at school related to drugs and you can't control Chris. NOTE: You are highly emotional and likely to burst into tears. You keep asking the lawyer, 'What would you do if you were me?'

Example Three - Improving the Legal System's Operation

Assessment – Involving Students in Law Reform through Assignments e.g. Law Reform project where if good enough (e.g. A+ – they identify and send to the decision-maker)

Example Four – Use of Journaling

In PIP students are required to keep a number of journal entries which have guiding questions that encourage reflection. The focus is on concrete examples of what worked, why or why not and what they might do differently, managing client expectations such as how to break bad news to clients and dealing with conflict. Journals are posted on-line and can only be seen by the student's mentor, the student and the Course Convener. Again it provides opportunities for dialogue with the student by way of written feedback and follow up discussion.

Interactive Group Discussion

If you could move into groups- nominate a person to take notes and report back and if you could discuss in groups your own experience in teaching or as a student where justice came alive and the sorts of activities that you have used/participated in which have made students engage and come alive or brought a sense of reality.

Report back from small groups and sharing of ideas to the larger group.

End Session