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Foreword

FOREWORD: THEORY, PRACTICE, AND CLINICAL LEGAL EDUCATION

George A. Martínez*

Throughout the history of ideas, there has been a conflict between various sorts of dualisms. Thus, for example, some have argued that there is a dualism between mind and body¹ and word and object.² This symposium issue of the *Southern Methodist University Law Review* focuses on another significant dualism: that of theory and practice.³ Over the years, thinkers have attempted to bridge the various dualisms.⁴ This special issue on clinical legal education fits within this tradition. It represents an effort to close the gap between theory and practice. Indeed, clinical legal education may be thought of as an attempt to put legal theory into practice. Toward that end, the articles that have been written for this symposium do an excellent job in demonstrating how legal clinics bridge the gap between theory and practice.

Professors Kevin Johnson and Amagda Pérez's article, titled *Clinical Legal Education and the U.C. Davis Immigration Law Clinic: Putting Theory into Practice and Practice into Theory*, illustrates these themes.⁵ Pérez is an expert on legal clinics. Johnson is one of our nation's leading authorities on immigration law and race theory, and he is well positioned to discuss the central focus of the article: the relationship between clinical

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1. See generally Rene Descartes, *Meditations*, in *PHILOSOPHICAL WORKS OF DESCARTES* (E.S. Haldane & G.R.T. Ross trans., 1969).

2. See generally LUDWIG WITTGENSTEIN, *THE TRACTATUS LOGICO PHILOSOPHICUS* (D.F. Pears & B.F. McGuinness trans., 1974).

3. See Anthony V. Alfieri, *Black and White*, 85 CAL. L. REV. 1647, 1682 (1997) ("The liberal canon divides theory and practice into rigid categories."); see also RICHARD DELGADO, *THE RODRIGO CHRONICLES: CONVERSATIONS ABOUT RACE AND AMERICA* 86-88 (1995) (describing tensions between legal theory and practice).

4. See generally RICHARD RORTY, *PHILOSOPHY AND THE MIRROR OF NATURE* (1979). For a recent discussion of "dualisms at the heart of contemporary legal theory," see R. George Wright, *What's Gone Wrong with Legal Theory?: The Three Faces of Our Split Personality*, 30 WAKE FOREST L. REV. 371, 372 (1998).

5. Kevin R. Johnson and Amagda Pérez, *Clinical Legal Education and the U.C. Davis Immigration Law Clinic: Putting Theory into Practice and Practice into Theory*, 51 SMU L. REV. 1423 (1998).

legal education and subordinated communities. At the outset, Johnson and Pérez note that critical theorists often argue that it is difficult to bring about social reform through the legal system. As a result, they set out to address the question of whether clinical legal education is helpful for subordinated groups. They seek to answer this question by considering the experience of the Immigration Law Clinic (Clinic) at the U.C. Davis School of Law as viewed through the lens of Critical Race Theory and critical lawyering. In so doing, they note that many immigration lawyers take a dim view of the laws that regulate immigration in this country. Despite this, the Clinic has made a positive contribution to the lives of many immigrants. Nevertheless, critical theory predicts and the Clinic's experience demonstrates that conservative tendencies in law place important limits on what the clinic can achieve. Although it can help raise racial consciousness among law students, the clinic can only accomplish incremental social change and cannot represent everyone. The clinic has had little impact on the general state of immigration law which has become increasingly anti-immigrant. This article makes a very important contribution to the emerging literature on critical theory and legal practice.

The next article is by Professor Jon Dubin, titled *Clinical Design for Social Justice Imperatives*.⁶ The author of a number of influential articles, Dubin is an expert on clinical legal education. In his article, he seeks to connect theory with practice by exploring the relevance of social justice to clinical legal education. In so doing he focuses on the experience of St. Mary's University School of Law's Center for Legal and Social Justice in dealing with certain low-income communities of South Texas. At the outset, Professor Dubin observes that there has been a revival of interest in the social justice aspects of clinical legal education. This interest has been generated by critical theory, which has emphasized community development and the analysis of power in law. In his view, clinical legal education is a way to help achieve social justice. He uses the St. Mary's Center for Legal and Social Justice to show how clinics can put social justice theory into practice. In this regard, the St. Mary's clinic has sought to bring about social justice in the poverty belt of South Texas. In explaining the St. Mary's system, Dubin has provided a very helpful blueprint for other law schools to use if they are interested in incorporating a social justice perspective into their clinical legal education.

In the final article, Professor David Chavkin, the author of a number of articles dealing with topics in clinical legal education, addresses an important theoretical question with significant practical implications. In his contribution, *Am I My Client's Lawyer? Role Definition and the Clinical Supervisor*, he considers whether an attorney/client relationship exists be-

6. Jon C. Dubin, *Clinical Design for Social Justice Imperatives*, 51 SMU L. REV. 1461 (1998).

tween a clinical supervisor and the legal clinic client.⁷ He concludes that in most jurisdictions the prevailing law does not mandate any such relationship. This means that legal clinics are often free to construct the sort of relationship between the clinic and the client that will best advance educational objectives and the interests of the client.

Currently, in the legal academy there is a backlash against theory.⁸ Thus, there are those who call for academicians to focus on the concerns of practicing lawyers.⁹ This symposium issue is a timely reminder of the importance of theory to the practice of law.

7. David F. Chavkin, *Am I My Client's Lawyer? Role Definition and the Clinical Supervisor*, 51 SMU L. REV. 1507 (1998).

8. See, e.g., Michael Livingston, *Reinventing Tax Scholarship: Lawyers Economists and the Role of the Legal Academy*, 83 CORNELL L. REV. 365, 372 (1998); DENNIS PATTERSON, *LAW & TRUTH* 137 (1996) (offering a Wittgensteinian argument to the effect that "[t]heory [in law] is banished not because it is wrong, but because it is irrelevant"). For a response to the anti-theory, internalist approach to law, see George A. Martínez, *On Law and Truth*, 72 NOTRE DAME L. REV. 883 (1997).

9. See, e.g., *Legal Education and Professional Development—An Educational Continuum: Report of the Task Force on Law Schools and the Profession: Narrowing the Gap*, 1992 A.B.A. SEC. LEGAL EDUC. & ADMISSIONS.

