

# **THE ANDRAGOGICAL APPROACH OF THE CLINICAL LEGAL EDUCATION: A DESCRIPTIVE ANALYSIS**

**KUSAL AMARASINGHE<sup>1\*</sup>**

*“Education is life — not a mere preparation for an unknown kind of future living.”*

Eduard Lindeman, ‘The meaning of adult education’, (1926), 3.

**ABSTRACT:** *Clinical education is the most important part of every professional education stream. Legal education is one of the leading professional education streams in the world. Therefore, the relevance of clinical education in improving the quality of legal education is a matter that needs to be addressed more. This article explores the application of the andragogical approach on education within the context of clinical legal education (CLE). Andragogy, often contrasted with Pedagogy (the science or method of teaching children), emphasizes self-directed and experiential learning among adults. In the realm of Clinical Legal Education (CLE), which integrates practical legal experience with academic theory, andragogical approach plays a crucial role in enhancing learning outcomes. This article analyzes the impact of the andragogical approach on the effectiveness of Clinical Legal Education (CLE) programs in preparing law students and legal practitioners for professional practice. Furthermore, the article discusses challenges and advantages associated with implementing andragogical methods in Clinical Legal Education, considering the dynamic nature of legal education and the evolving demands of the legal profession. Ultimately, this exploration underscores the importance of aligning educational methods with the unique needs and characteristics of adult learners in the field of clinical legal education in order to address the current trends in the profession.*

**KEYWORDS:** *Andragogy, Clinical Legal Education (CLE), Legal Discipline, Legal Education, Professional Education*

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<sup>1\*</sup> Lecturer, Faculty of Law, University of Colombo, Sri Lanka.

*LL.B (Hons.) (University of Colombo), LL.M, (University of Colombo), LL.M, (General Sir John Kotelawala Defence University), Accreditation of Staff and Educational Development Association (SEDA), United Kingdom. Attorney-at-Law, Deputy Director, Legal Aid Unit, Faculty of Law, University of Colombo, Sri Lanka, (2024).*

## I. INTRODUCTION

In Greek *andr*, meaning adult, for the *paid*, meaning child<sup>2</sup> and *gōgia* means lead. Accordingly, in educational science, *Pedagogy* is the teaching of children, or dependent personalities. *Andragogy* is the facilitation learning for adults, who are self-directed learners. In 1970, Malcolm S. Knowles introduced the concept of *andragogy* to modern education theory to separate the concerns that are peculiar to adult education from traditional education literature.<sup>3</sup>

One of the most eminent educators, Eduard Lindeman, in his book, ‘The Meaning of Adult Education’ (1926) claimed that adults learn best when actively involved in determining what, how, and when to learn. He introduced four assumptions dedicated to “those who need to be learners”:<sup>4</sup>

- 1) Education is life, not a mere preparation for an unknown kind of future living.
- 2) Education revolves around non-vocational ideals.
- 3) The approach to adult education will be via the route of situations, not subjects.
- 4) The resource of highest value in adult education is the learner’s experience

In his third assumption Lindeman argues that our conservative academic system has grown in reverse order: subjects and teachers constitute the starting-point, students are secondary. In conventional education the students are required to adjust themselves to an established curriculum. However, the situational approach to education means that the learning process is at the outset given a setting of reality. Intelligence performs its function in relation to actualities, not abstractions.<sup>5</sup> According to the educational psychology, that we learn what we do, and that therefore all genuine education will keep doing and thinking together.<sup>6</sup> Lindeman further argues that the resource of highest value in adult education is the learner's experiences.<sup>7</sup> It is obvious that the clinical educational approach has always been centered on situational base and experiences of the learner. Accordingly, Lindeman’s’ last two arguments enshrine the significance of clinical education in any discipline.

## II. WHY IS CLINICAL LEGAL EDUCATION NECESSARY?

In general, curriculum of a First Degree in Law (*Bachelor of Laws*) focuses theoretical and jurisprudential fundamentals in Law more than the practical and procedural parts in a legal system. Therefore, Law undergraduates in their studies and research tend to seek 'what Law ought to be' rather than 'how contemporary Law can be applied'. Although there is an ambiguity on whether the Law Degree is an ‘Academic Oriented Degree’ or ‘Professional Oriented Degree’, every Law student should arm with the application skill and procedural knowledge of Law as well. This can be only done by undertaking real or realistic simulated case studies. Therefore, Clinical Legal Education (CLE) is more significant in enabling students to understand how the Law works in action. According to Grimes, Clinical Legal Education means, ‘A learning environment where students identify, research and apply knowledge in a setting which replicates, at least in part, the world where it is practiced. It almost inevitably means that the student takes on some aspect of a case and conducts this as it would be conducted in the real world.’<sup>8</sup>

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<sup>2</sup> Frank S. Bloch, ‘The Andragogical Basis of Clinical Legal Education’ (1982) 35(2) Vanderbilt Law Review 327.

<sup>3</sup> M. Knowles, *The Modern Practice of Adult Education* (1970).

<sup>4</sup> Eduard Lindeman, ‘The meaning of adult education’ (1926) New York New Republic INC. 4-7.

<sup>5</sup> *ibid*, 8-9.

<sup>6</sup> *ibid*, 10.

<sup>7</sup> *ibid*, 9.

<sup>8</sup> R. Grimes, ‘The Theory and Practice of Clinical Legal Education’ (1996) *Teaching Lawyer’s Skills* 238.

### III. LEARNING WITH EXPERIENCES

Andragogical methodology favours participatory, experiential learning techniques. Experiential learning is a part of any professional education program that has a clinical component.<sup>9</sup> However, the experiential learning content of clinical programs is an obvious point that has not been explored fully in a general context.<sup>10</sup>

Law students are not the experts in the field of Law. However, they are training to become experts in future. Clinical legal education paves the way for the Law students to get involved with professional experts and extract experiences from them. According to Frank S. Bloch, since clinical legal education provides Law students with the opportunity to relate their own experiences, as well as their new Lawyering experiences presented to them in clinical practice, to whatever is being taught in the clinical program, supervised practice can achieve the optimal level of educational meaning and impact.<sup>11</sup> The range of experiences that are available to students in clinical education programs encompasses more than the normal Lawyering skills of interviewing, counseling, negotiation, and trial and appellate advocacy.<sup>12</sup> Thus, clinical legal education is experiential learning both in terms of what the students bring to the learning setting and in terms of the experiences that the students work through in the clinical program itself.<sup>13</sup>

According to Prof. Richard Lewis, the Professor of Law in the Cardiff University:

“The main advantage of clinical [legal] education is that, compared to traditional teaching methods, it involves a different approach to the learning of Law: it encompasses experiential learning, or ‘learning by doing’. [...] clinical [legal] education clearly gives opportunities for knowledge to be applied, but it also goes beyond this and calls for reflection and self-examination. It gives students the opportunity to explain why they are taking certain actions, and they are able to discuss and reconsider their actions.”<sup>14</sup>

### IV. AN OPPORTUNITY TO ACQUIRE SKILLS

According to outcome-based education system, intended learning outcomes can be summarised into four (04) areas. These areas are, **Knowledge** (theoretical and practical), **Skills** (communication, teamwork, leadership, problem solving. etc.), **Attitudes** (values, professionalism, vision of life, empathy. etc.) and **Mindset**, (how do they perceive the world or lenses through which they view the world, which is directly linked with lifelong learning).<sup>15</sup> Accordingly, mere knowledge based educational tradition is now outdated. Thus, one of the most significant objectives in Clinical Education is Skill development.

The United Kingdom government report on legal education (*Lord Chancellor's Advisory Committee Report*),<sup>16</sup> identified developing the following skills as an essential part of the legal education.<sup>17</sup>

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<sup>9</sup> Frank S. Bloch, (n.1).

<sup>10</sup> Kreiling, ‘Clinical Education and Lawyer Competency: The Process of Learning to Learn from Experience Through Properly Structured Clinical Supervision’, (1981) 40 MD. L. REV. 284.

<sup>11</sup> *ibid*, 342.

<sup>12</sup> *ibid*, 341; Griswold, ‘Law Schools and Human Relations’ (1956) 37 CHI. B. Rzc. 199.

<sup>13</sup> *ibid*, 341.

<sup>14</sup> Richard Lewis, ‘Clinical Legal Education Revisited’, (2000) Dokkyo International Review 156.

<sup>15</sup> Sunil Nawarathne, Gominda Ponnampereuma and Vishaka Nanayakkara, ‘K-SAM Graduates for the 21<sup>st</sup> Century’ (2019), <<https://www.researchgate.net/publication/330440907>>, accessed 01 July 2024.

<sup>16</sup> Lord Chancellor's Advisory Committee on Legal Education and Conduct. (ACLEC) in 1996.

<sup>17</sup> Richard Lewis, (n.13), 157-158.

- a) **Research skill:** To find out where the relevant area of law in order to address the issue at hand.
- b) **Communication skills:** To advocate in different tribunals and courts.
- c) **Interviewing skill:** To interview clients and witnesses at the court.
- d) **Counselling skill:** To help sometimes bewildered clients to understand and deal with events.
- e) **Drafting skill:** To draft necessary legal documents.
- f) **Negotiating skill:** To arbitrate or settle disputes.
- g) **Problem solving skill:** To find out the best way to solve problems.
- h) **Interpersonal and organizational skills:** To communicate and work as a member of a team and lead a team.

Clinical legal education embraces a skill-based approach.<sup>18</sup> This means paying as much attention to the process associated with legal practice. Hence, on the one hand clinical legal education makes a way to the law students to sharpen their knowledge and in other hand, build-up opportunities to develop the skills which are necessary in the profession.

According to Frank S. Bloch, every inch and minute of the academic life is extremely important for a Law student to acquire skills which are necessary for their future professional practice. As he noted:

“Since law students are about to make one of the major social role changes of their lives 'becoming a lawyer', they are naturally ready to learn about law and lawyering. Regardless of the method of instruction, they will view whatever they learn as some form of preparation for solving problems that they will face in their professional careers.”<sup>19</sup>

## V. SIGNIFICANCE OF ANDRAGOGICAL APPROACH ON CLINICAL LEGAL EDUCATION

As discussed above, Andragogy has become established as a significant theory of instruction for adult learners, and its methodology is consistent with the general methods used to implement clinical programs.<sup>20</sup> Accordingly, in the realm of Clinical Legal Education (CLE), aligning Andragogical educational methods with the distinctive needs and characteristics of law students is paramount to fostering meaningful learning experiences.

Unlike traditional study methods, Clinical Legal Education (CLE) creates a path to apply theoretical knowledge to practical scenarios. Recognizing these traits, educational approaches must prioritize flexibility and relevance. Tailoring curriculum design to accommodate varying professional schedules and responsibilities ensures accessibility, allowing Law students to engage actively without compromising their professional obligations. Moreover, incorporating interactive, case-based learning methods capitalizes on their experiential backgrounds, encouraging deeper comprehension and application of legal principles.

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<sup>18</sup> *ibid*, 158.

<sup>19</sup> Frank S. Bloch, (n.1), 343.

<sup>20</sup> *ibid*, 345.

By embracing these tailored methods, Clinical Legal Education (CLE) not only enhances learning outcomes but also cultivates a cadre of adept professionals equipped to complex legal landscapes effectively. Thus, aligning educational strategies with the unique attributes of Law students in Clinical Legal Education not only respects their diverse experiences but also maximizes their potential to contribute meaningfully to the legal profession.

According to Bellow and Jonson,

“When a student who is about to become a lawyer enters a clinical learning environment and is taught through actual representation of a client in a legal dispute, optimal compliance with the andragogically dictated sensitivity to the student's readiness to learn is attained.”<sup>21</sup>

## VI. CHALLENGES ON CLINICAL LEGAL EDUCATION

Although the significance of Clinical Legal Education (CLE) can be discussed theoretically, in *de facto* scenario, Clinical Legal Education (CLE) programs face several challenges that impact its implementation and effectiveness. These challenges are mainly based on **resources**, **procedures** and **ethical issues**. Accordingly, the following issues can be identified as prominent challenges in Clinical Legal Education in general.

- a) **Resource Constraints:** Limited funding and resources can hinder the expansion and quality of CLE programs. This includes inadequate staffing, insufficient space for clinical activities, and a lack of funding for student stipends or travel expenses.
- b) **Issues on Integration with Curriculum:** Integrating CLE into the law school curriculum can be challenging. It requires coordination between academic faculty and clinical instructors to ensure that clinical experiences align with academic learning goals.
- c) **Issues on Supervision and Mentoring:** Providing adequate supervision and mentoring for students engaged in CLE activities is crucial but can be resource intensive. Effective supervision requires experienced attorneys or faculty members who can guide students through real-world legal issues.
- d) **Ethical Considerations:** CLE often involves real clients and cases, raising ethical considerations regarding client confidentiality, conflicts of interest, and the ethical behavior of students and faculty.
- e) **Issues on Evaluation and Assessment:** Assessing student learning and the impact of CLE programs can be complex. Traditional metrics like exams may not fully capture the skills and competencies developed through clinical experiences.
- f) **Diversity and Inclusion:** Ensuring that CLE programs are accessible and inclusive of diverse student populations, including those from underrepresented backgrounds, requires intentional efforts in recruitment, support, and curriculum design.
- g) **Professional Development for instructors:** Clinical instructors need ongoing professional development to stay updated on legal trends, teaching methodologies, and ethical guidelines. Also, instructors should have a thorough knowledge of the profession and practice.

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<sup>21</sup> *ibid.* 343.

- h) **Issues on Community Partnerships:** Building and maintaining relationships with community organizations, legal aid clinics, and other stakeholders is essential for the success of CLE programs. However, establishing these partnerships requires time and effort.
- i) **Issue on Sustainability:** Ensuring the long-term sustainability of CLE programs amidst changing institutional priorities and financial constraints is a continual challenge.
- j) **Procedural Issues:** Legal aid clinics are not arbitration or counselling centers. Therefore, legal aid clinics are limited only to firsthand legal aid to the community. Since, the Law students are not the lawyers they cannot appear in the court on behalf on anyone else.

Addressing these challenges requires collaboration and interaction among stakeholders, including law teaching institutes, legal practitioners, clients, and policymakers, to enhance the quality and accessibility of clinical legal education.

## VII. CONCLUSION

As discussed previously, Clinical Legal Education (CLE) is not a traditional method of Legal Education. Clinical work is comparatively more expensive and time consuming than traditional classroom teaching. However, Clinical Legal Education offers Law students the opportunity to work together with faculty on cases that present the types of problems which Law students want to learn how to solve. Although there are several inherent issues in Clinical Legal Education, such as lack of resources, procedural and ethical related issues, Clinical Legal Education enables students to understand experimentally how the law works in practice.

The Andragogical approach on education always advocates self-directed, experience-based and realistic learning methods. Accordingly, by embracing concepts such as self-directed learning, practical experience, and relevance to real-world contexts, educators can empower Law students to develop critical thinking skills, ethical awareness, and professional identity. This approach not only prepares future lawyers to excel in their legal practice but also forwards a lifelong commitment to learning and growth within the legal profession. Emphasizing andragogical principles in Clinical Legal Education thus serves as a cornerstone for nurturing competent, conscientious, and adaptive legal professionals.

According to Frank S. Bloch, the clinical method of law teaching adds an important andragogical component to professional legal education; at the same time, andragogy provides both a theoretical basis for clinical legal education and some suggestions about a model for implementing the clinical method. Hence, aligning andragogical educational methods with the unique needs and characteristics in the field of legal education is essential for addressing the current trends in the legal profession. Law students bring diverse experiences, motivations, and learning preferences that require tailored educational approaches. By implementing strategies that respect and leverage these unique attributes, clinical legal education can become more effective, relevant, and impactful. As explained earlier, the andragogical approach in Clinical Legal Education (CLE) emphasizes experiential learning, where students actively engage in real-world legal problems under guided supervision. This method fosters the development of practical skills, critical thinking, and professional responsibility, aligning closely with the principles of adult education, which prioritize self-directed learning and reflective practice. This alignment not only enhances the learning experience for Law students but also ensures they are better prepared to meet the evolving demands of the legal profession, ultimately contributing to the development of more competent, confident, and adaptable legal practitioners in the future.