



Australian  
National  
University



# ANU

## SIMULATED CLIENTS

### INTERDISCIPLINARY LEARNING & TEACHING IN LEGAL EDUCATION

16 AUGUST 2017

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**VENUE: THE DRAWING ROOM**

UNIVERSITY HOUSE, THE AUSTRALIAN NATIONAL UNIVERSITY, CANBERRA

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Centre for Profession,  
Education & Regulation  
in Law (PEARL)

ANU College of

**Law**

[law.anu.edu.au/news-and-events](http://law.anu.edu.au/news-and-events)

# INTRODUCTION

The use of simulated clients in legal education derives from medical education's simulated patients (SPs), where lay people (ie persons not medically trained) are trained to do three things well: to simulate specific medical conditions, to assess the patient-facing skills of communication and physical examination, and to give feedback on those skills to learners. SPs can be used for formative assessment or summative, high-stakes assessment. They can also be used in what are called OSCEs, Objective Structured Clinical Examinations, alongside assessments of knowledge, skills and values.

While there had been speculation about and pilots on the translation of SPs into legal education as simulated clients (SCs), it wasn't until the extensive correlative study of Barton et al (2006) that their performance was analysed<sup>1</sup>. The study proved, inter alia, that SCs were as proficient as tutors in assessing the client-facing skills of novice lawyers. Since then, a number of us have set up the SCI, the Simulated Client Initiative. At a time when legal educators in the UK are facing new regulatory initiatives such as the Solicitors Qualifying Examination (SQE), and where in almost all Common Law jurisdictions the pressures of regulatory reform increase on legal educators, the work of the SCI gives us new perspectives on how we might improve some of our legal educational practices.

The power of the heuristic, which is both quite simple and quite revolutionary, goes further than the development of skills, however. What happens in both the training of SCs and in the encounter between SCs and novice lawyers is a process by which SCs become co-producers, co-designers of learning, because the experience of the client is foregrounded in the encounter. The role of academics is transformed. Indeed the method challenges many aspects of our current practices and attitudes in legal education, including the following:

1. Curriculum structures: the method leads us to re-design our conventional curriculum interventions.
2. Ethics of the client encounter
3. The cognitive poverty of much of conventional law school assessment
4. Law school as a self-regarding, monolithic construct
5. Law school categories of employment
6. The curricular isolation of clinic within law schools
7. Hollowed-out skills rhetoric
8. Conventional forms of regulation by regulatory bodies
9. The role of regulator, less as monitor/accreditor and more as encourager of innovation & reform.
10. Disciplinary boundaries – SCs and educators can learn much from other interdisciplinary practices
11. SCs reflect local jurisdictional practices – how might such a project work, globally?

This workshop will give you the opportunity to hear from a distinguished medical educator who has worked in the field of simulation. You will hear in detail the work of the Simulated Client Initiative (SCI), its global setting, and examples of SCs in use in a range of programmes. You will learn how to set up a SC project in your institution, how SCs interact with students, novice lawyers and can be used for lawyers' continuous professional development, and how they can be used to develop a range of legal skills. You'll learn how to use video to engage students in learning. You'll learn how to sustain a community of SCs in your law school, how to create a research agenda around the heuristic, and much else.

Paul Maharg

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<sup>1</sup> Barton, K., Cunningham, C., Jones, C.G., Maharg, P. (2006). Valuing what clients think: standardized clients and the assessment of communicative competence. *Clinical Law Review*, 13,1, 1-65

# PROGRAM

## WEDNESDAY 16 AUGUST 2017

9.50–10 am

### **Welcome**

- > Paul Maharg (Osgoode Hall Law School)

10–11 am

### **Simulations for learning and teaching: Experiences from healthcare**

- > Debra Nestel (Monash Medical Faculty)

Questions, comments

11–11.30 am

### **SC concept, practice and research background**

- > Paul Maharg (Osgoode Hall Law School)

Questions, comments

11.30–11.45 am

Tea and coffee

11.45 am–12.30 pm

### **The experience of using SCs at Flinders Law School**

- > Lucy Evans (Flinders Law, College of Business, Government and Law)

Questions, comments

12.30–1.15 pm

### **Working lunch**

Lunch in small groups. Discussion: starting a SC project in your area/institution – what might you need, how would you go about it, issues and problems to be solved.

1.15–2 pm

### **Research into SCs: The HKU experience**

- > Julienne Jen (Hong Kong University Faculty of Law)

Questions, comments

2–2.30 pm

### **SCs and students at ANU College of Law: Student evaluation of the use of SCs**

- > Moira Murray (ANU College of Law)

Questions, comments

2.30–3.15 pm

### **The power of narrative: Immersive video/audio work with student**

- > Anneka Ferguson (ANU College of Law)
- > Vivien Holmes (ANU College of Law)
- > Pamela Taylor-Barnett (ANU College of Law)

3.15–4 pm

### **Plenary** (Tea & coffee)

- > Where to from here?
- > The Simulated Client Initiative (SCI)
- > Lines of research
- > Publications
- > International dimensions

# PRESENTERS

## Paul Maharg

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### Osgoode Hall Law School, York University

Paul's work currently focuses on interdisciplinary educational innovation, the design of regulation in legal education and the use of technology-enhanced learning at all levels of legal learning.

At Osgoode Hall, he is Distinguished Professor of Practice – Legal Education. At ANU College of Law he was Professor of Law and Director of the PEARL centre (Profession, Education and Regulation in Law), and is now an Honorary Professor there. He has worked with regulators in Scotland, England, Hong Kong, Australia and Ireland to improve the regulation of legal education.

Paul has authored or edited four books on legal education and is the founder and co-editor of two book series, 'Emerging Legal Education' and 'Digital Games and Learning', and co-editor of the *European Journal of Law and Technology*. He holds Visiting Professorships at Hong Kong University Faculty of Law, and Chinese University of Hong Kong Faculty of Law, and is part-time Professor of Law, Nottingham Law School. He is a Principal Fellow of the HEA (2016) and a National Teaching Fellow (2011).

> He blogs at [paulmaharg.com](http://paulmaharg.com)

## Debra Nestel

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### School of Rural Health, Monash University

Debra Nestel is Professor of Surgical Education, Department of Surgery, University of Melbourne and Professor of Simulation Education in Healthcare, Monash Institute for Health and Clinical Education, Monash University. She is program lead for the Graduate Programs in Surgical Education (Department of Surgery, University of Melbourne and Royal Australasian College of Surgeons) and the forthcoming Graduate Programs in Surgical Science in the Department of Surgery.

Debra is Editor-in-Chief, *Advances in Simulation* ([advancesinsimulation.com](http://advancesinsimulation.com)), the journal of the *Society in Europe for Simulation Applied to Medicine* (SESAM). Debra leads a national program for simulation educators – NHET-Sim ([nhet-sim.edu.au](http://nhet-sim.edu.au)) and a virtual network in simulated patient methodology ([simulatedpatientnetwork.org/](http://simulatedpatientnetwork.org/)).

Debra has published over 160 peer-reviewed papers in health professions education, edited books on simulated patient methodology (2016), healthcare simulation (2017), surgical education (late 2017) and is working on an edited book on research methods for healthcare simulation (late 2018)

> [researchgate.net/profile/Debra\\_Nestel](https://researchgate.net/profile/Debra_Nestel)

## Lucy Evans

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### Flinders University Law, College of Business, Government and Law

Lucy Evans is the Director of Professional Programs for Flinders Law and a Senior Lecturer in the Professional Programs Unit. Admitted to practice law in 1998, Lucy has extensive experience in corporate and commercial law in both transactional and litigious matters.

A lecturer since 2009, Lucy uses her practical knowledge and understanding to teach students valuable skills for their future careers. Passionate about assisting students to transition from student to professional, Lucy has integrated her knowledge of the legal profession into the practical legal training program. By providing authentic and contextualised learning experiences for students, Lucy generates high levels of student engagement and enthusiasm for learning.

Lucy has developed much of the curriculum for *LLAW 7002 Practical Legal Training: Transactional Legal Practice*, including two online transaction simulations, an authentic client interviewing program using standardised clients and a professional mentoring scheme. In 2012, Lucy redesigned the curriculum for *LLAW 7000 Practical Legal Training: Civil Litigation Practice* and created a simulated civil dispute which immerses students in a realistic personal injury claim in which they are either acting as lawyers for the injured party or the defendant.

In 2015, Lucy received the Education, Humanities and Law Faculty Award for Excellence in Teaching, Flinders University (team award) and in 2016 received the Vice-Chancellor's Award for Excellence in Teaching (team award).

## Julienne Jen

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### University of Hong Kong Faculty of Law

Julienne Jen is a Principal Lecturer at the University of Hong Kong and a solicitor admitted in the High Court of Hong Kong and the Supreme Court of England and Wales. Prior to joining the University, Julienne practised as a solicitor in the litigation department of an international law firm in Hong Kong. She joined the Department of Professional Legal Education in September 2004. She mainly teaches and coordinates the Civil Litigation and Commercial Dispute Resolution courses and teaches in the Clinical Legal Education course as a duty lawyer. Julienne has introduced the use of "standardised clients" in core and elective courses in the Postgraduate Certificate of Laws programme, for students training to be qualified as legal practitioners.

## Moira Murray

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### ANU College of Law

Moira is a lecturer who teaches in postgraduate online courses offered by the ANU College of Law including Torts and Litigation and Dispute Management in the JD Online program and Civil Litigation and Procedure in the Masters of Legal Practice.

Her research interests include experiential learning in law and online dispute resolution. She was involved in the training and use of simulated clients who worked with students preparing to be admitted to legal practice.

## Anneka Ferguson

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### ANU College of Law

Anneka Ferguson's research is designed to ensure that legal education ensures positive graduate outcomes both professionally and in terms of wellbeing and is placed at the nexus between theory, teaching and empirical evaluation.

Anneka has developed (in conjunction with Stephen Tang) a comprehensive action and empirical research framework to both evaluate whether ANU Law's core Professional Legal Education course is creating practice ready, professional, ethical and well graduates to enter the legal profession; and provide an environment to trial novel practices based on sound theory. Since 2012, Anneka and her colleagues have surveyed almost 2000 of ANU students at the beginning and end of the course, yielding one of the largest and most comprehensive datasets about legal education in Australia.

Recent data analysis has replicated the work of Lawrence Krieger and Kennon Sheldon demonstrating a positive correlation in our cohorts between the basic psychological needs of autonomy, relatedness and competence and the wellbeing and professionalism. Excitingly, unlike Krieger and Sheldon, ANU cohorts are not experiencing the depletion of these psychological needs, wellbeing and professionalism. As such this aspect of Anneka's research provides an extremely rich ground for building on the project in order to provide substantiated guidance on how to develop "well" curriculums in legal education.

## Vivien Holmes

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### ANU College of Law

Vivien is an Associate Professor in the ANU College of Law. She teaches and researches in the fields of legal ethics, legal education and the legal profession, and has a particular interest in the role of narrative and story to engage students in their learning.

Vivien is the Associate Director of Research for the ANU PEARL Centre (Profession, Education and Regulation in Law). She is a member of the ACT Law Society's Complaint Committee. Prior to joining ANU, Vivien worked as a litigation solicitor in private and government practice, a government legal policy officer, the Registrar of the NT Supreme Court, the NT Registrar of Probates, the NT Deputy Coroner and a Judicial Registrar of the NT Magistrates' Court. She has been a member of the Social Security Appeals Tribunal.

## Pamela Taylor-Barnett

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### ANU College of Law

Pamela Taylor-Barnett is a lawyer and lecturer at the ANU College of Law. Pamela teaches in the Graduate Diploma of Legal Practice.

Pamela has practised in several community legal centres in Melbourne. In addition to practise, she has led community development projects with marginalised communities, including migrants and sex workers. She has also worked on law reform strategies.

Pamela is interested in the way the law affects marginalised groups and researches in this field. She is also interested in a dynamic and relevant legal profession and currently researches into Health Justice Partnerships, which aim to reach clients most in need, through a multi-disciplinary approach.

## SOURCES AND MATERIALS

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All participants will be given a list of references applicable to the SCI, and a set of resources that can be used in the training of SCs and with students.

## PUBLICATION OF PAPERS

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We shall be drawing papers from this workshop and sister events held in London earlier this year and to be held next year in Toronto. Should you wish to be considered for publication please let Paul know.

## ACKNOWLEDGMENTS

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The workshop is hosted by ANU College of Law and in particular the PEARL centre – my thanks to PEARL staff for their support, and in particular Wendy Kember for her invaluable professional assistance in hosting the event. I would also like to thank the contributors to this workshop without whose energy, commitment and time it could not have taken place.

Paul Maharg

# CONTACT US

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