

Pracademia: a personal account of a mediation clinic and its development

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Abstract

This article tells the story of University of Strathclyde Mediation Clinic through the eyes of its founder. Taking its first case in 2012, by the start of 2021 it will be providing a free mediation service in 16 of Scotland's 39 sheriff courts,¹ covering more than half the country's population. Yet it started with no plan, no budget and little theory.

Writing in the first person, the author makes the case that mediation clinics, like mediation itself, call for improvisation. While mediators may plan and train, learning frameworks for action and a body of expert knowledge, they must then encounter complex, fallible people and the unpredictable dynamics of conflict. Responding well is arguably more important than preparation.

And so it has been with the mediation clinic. The clinic was triggered by student demand and was shaped by its volunteers; it adapted to law clinic gatekeepers and negotiated with university administration; and it reinvented itself through contact with the courts, with hundreds of clients and, most recently, with a pandemic. Each interaction has shaped it. Strathclyde Mediation Clinic is a work in progress, as it must be if it is to fulfil the hope of pracademia: bringing the academy into the world and the world into the academy.

Mediation sits uncomfortably within academic institutions. While aspiring to be a discipline and a profession it seems an outsider to both worlds.² Scholars have applied the term 'pracademic' to mediators working in the academy³ and academics working in mediation.⁴ Mediation clinics seem to straddle this divide.

Susskind offers a 'Circle of engagement' to explain his own activity as a pracademic. It includes 1) documentation, 2) theory building, 3) teaching and training and culminates in 4)

¹ Scotland has two tiers of civil courts, with the sheriff court dealing with the great bulk of civil business.

² Carrie Menkel-Meadow, 'Empirical Studies of ADR: The Baseline Problem of What ADR Is and What It Is Compared To' in Peter Cane and Herbert Kritzer (eds), *Oxford Handbook of Empirical Legal Studies* (Oxford University Press 2006); Benjamin J Broome, 'Negotiating the Nexus: Symbiotic Relationship of Theory and Practice in Conflict Management' (2017) 10 *Negotiation and Conflict Management Research* 252.

³ Barbara Wilson, "'Pracs" and "Demics": Identifying Pracademic Subtypes in Family Mediation and Other Disciplines' (2019) SSRN Electronic Journal <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3404962>.

⁴ Volpe MR and Chandler D, 'Resolving and Managing Conflicts in Academic Communities: The Emerging Role of the "Pracademic"' (2001) 17 *Negotiation Journal* 245; Michael Z Green et al, 'New Horizons for the ADR Field: Where Are We Headed and Where Can We Go?' in John Lande (Ed.) *Theories of Change for the Dispute Resolution Movement: Actionable Ideas to Revitalize Our Movement* (2020) <<https://ssrn.com/abstract=3533324>>.

'action partnerships.'⁵ Action partnerships allow 'students (both undergraduate and postgraduate) to engage in the world at large.'⁶ In narrating the story of University of Strathclyde Mediation Clinic I argue that it too has behaved in a pracademic fashion.

Just as in Susskind's personal history, and in mediation itself, the Clinic's successes are serendipitous rather than planned. One of its volunteers recently observed 'mediation is like poker: you must play the cards that are dealt as best you can.' Like card players and sports people, mediators adapt moment-by-moment to unpredictable, unfolding scenarios. Strathclyde Mediation Clinic has had to do the same. It owes its existence to assertive students, chance meetings and unforeseen events. It started with practice, and theory formed in its wake. I call it 'pracademia.'

A) Environment is key

i) Practice

A little of my own history underlines the significance of environment. I started mediating in 1993, after a short training course in family mediation. My 'apprenticeship of identity'⁷ took place in the ensuing years as 'intake worker/mediator' in a large post-industrial city (Glasgow). The induction was short and to the point: you are the shop window for the mediation service.

I sat daily with complicated, messy people as they navigated the trauma of separation and divorce. Some were delightful. Some were furious. All were grieving. I didn't know it then, but I was developing theory from practice. As Schön puts it, 'doing and thinking are complementary.'⁸ I had the good fortune to share an office with an experienced mediator who had the curiosity and patience to chew over the work in minute detail. A key element in reflective practice is talking through the difficult cases, the exceptions and the pattern-defying experiments from which we build, first competence, then expertise.⁹

ii) Theory

Yet practice, no matter how reflective, can only take us so far. In the Anglo-American pragmatic tradition most mediators receive the equivalent of a 40-hour training. The assumption seems to be that participants are already professionals able to draw on their existing theoretical foundations. While the family mediation course did include some input on child and family systems, the extent of mediation theory was Fisher et al's 'Getting to

⁵ Lawrence Susskind, 'Confessions of a Pracademic: Searching for a Virtuous Cycle of Theory Building, Teaching, and Action Research' (2013) 29 *Negotiation Journal* 225, p. 235.

⁶ *Ibid*, p. 235.

⁷ This term refers to: 'an emerging professional's capacity to navigate the relationship between his or her personal and professional values and ways of being in the world.' Judith W Wegner (2011) 'The Carnegie Foundation's *Educating Lawyers: Four Questions for Bar Examiners*' *The Bar Examiner* 11, p. 14

⁸ Donald Schön *The Reflective Practitioner: How Professionals Think in Action*. (Ashgate 1983), p. 280.

⁹ Michael Lang and Jessica Taylor, *The Making of a Mediator: Developing Artistry in Practice* (Jossey-Bass 2000).

Yes'¹⁰ and Haynes & Haynes' 'Mediating Divorce.'¹¹ Some years later, my first encounter with Bush and Folger's 'The Promise of Mediation,'¹² was like pouring water on thirsty ground. Not only was there theory, but controversy too!

iii) Academia

And so, after ten years of practice, I registered for the MSc in Conflict Resolution and Mediation Studies at Birkbeck University of London. It was my first lesson in the significance of academic environment. While the experience was life-changing, and opened the doors to mediation's many disciplinary sources, the course was located within psychology. As we progressed towards our dissertation it became increasingly clear that mediation did not sit comfortably within that research-intensive culture. Academic psychologists showed little sympathy for our multi-disciplinary and practice-oriented topic. Despite healthy numbers the course was closed a few years later.

Here the tale becomes serendipitous again. University of Strathclyde Law School temporarily employed me to collaborate on a research funding proposal. While at Birkbeck I had formed the intention that Scotland should have a Masters programme in mediation, articulating my 'Three Pillars of Mediation' as a framework for learning.¹³ When I was ready to present a proposal Strathclyde was the obvious choice. Yet I was quite unaware of the law school's proud history of learning by doing.

iv) 'The place of useful learning'

It turns out that Strathclyde is home to Scotland's first and largest law clinic, founded in 2003.¹⁴ Four years earlier, in partnership with University of Glasgow, the GGSL¹⁵ set up its pioneering simulated learning environment, 'Ardcalloch,' to provide post-degree professional legal training.¹⁶ Going further back, University of Strathclyde is itself the successor to the 1796 Andersonian Institute, founded to be a university for 'useful learning.'¹⁷

More by luck than judgment the Mediation Clinic and its parent programme, the LLM/MSc in Mediation and Conflict Resolution, found a hospitable setting in the Law School. With over 300 students involved in the Law Clinic, the school is well aware of the commitment of resources, premises and staff time required in providing a useful service to the community.

¹⁰ Roger Fisher, William Ury and Bruce Patton *Getting to Yes: Negotiating an Agreement without Giving In* (2nd edn Penguin Books 1991).

¹¹ John Haynes and Gretchen Haynes *Mediating Divorce: Casebook of Strategies for Successful Family Mediation* (Jossey-Bass 1989).

¹² Robert A Baruch Bush and Joseph Folger, *The Promise of Mediation: The Transformative Approach to Conflict* (Jossey-Bass 1994).

¹³ Charlie Irvine, 'The Three Pillars of Mediation', *Kluwer Mediation Blog* (2012) Available from <http://www.charlieirvinmediation.co.uk/2012/01/12/the-three-pillars-of-mediation> (Accessed 6/12/20)

¹⁴ <https://www.strath.ac.uk/humanities/lawschool/lawclinic/> See also Jonel Newman and Donald J Nicolson, 'A Tale Of Two Clinics: Similarities and Differences in Evidence of the "Clinic Effect" on the Development of Law Students' Ethical and Altruistic Professional Identities' (2015) 35 *Buffalo Public Interest Law Journal* 1.

¹⁵ Glasgow Graduate School of Law was formed to provide the one year Diploma in Legal Practice, required for law graduates entering the legal profession in Scotland.

¹⁶ Karen Barton, Patricia Mckellar and Paul Maharg, 'Authentic Fictions : Simulation , Professionalism and Legal Learning' (2007) 14 *Clinical Law Review* 143, p. 160.

¹⁷ https://en.wikipedia.org/wiki/University_of_Strathclyde

The Mediation Clinic has received administrative support and its own mediation room.¹⁸ Equally importantly, for academics reading this, the Law School has allocated a proportion of my own time to clinic activity. This enables me, for example, to read and comment on every mediator reflection; to devise training; to deal with difficult cases; and develop future policy.

The right environment, then, has made the Clinic possible. It was not, however, inevitable. Lest it be thought that I claim credit for the idea, I now turn to two things that triggered its foundation.

B) Why have a mediation clinic? Two triggers

i) Student demand

From the outset I was clear that the proposed Masters in Mediation and Conflict Resolution had to contain a practicum. Mediating as an activity pre-dates both research and theorising about conflict.¹⁹ The models in popular use all arose inductively, from description to prescription.²⁰ Their authors tended to start from practice, or observation of practice, over a considerable period, gradually forging their own explanatory schemes before shaping them into coherent, prescriptive models.²¹

It seemed logical to provide students with similar opportunities to work inductively, from doing to reflecting, from practice to theory. Alongside theoretical classes²² was one entirely practical module, Mediation in Practice, and two hybrids, Negotiation and Employment Mediation.²³ Intensive skills weekends would be recognisable to all who have taken a 40-hour mediation training, combining simulations and skills exercises with reflective journaling and observation. I had not, however, foreseen students' appetite for real cases.

Roleplays are a useful starting point but have their limitations.²⁴ I remember the paralyzing effect of performance anxiety during my own training. As a teacher I often described real

¹⁸ Pre-pandemic most mediations took place in our mediation room. While Covid has accelerated our online provision, we hope to return to at least a blended model of service delivery when it ultimately recedes.

¹⁹ Michael Palmer and Simon Roberts, *Dispute Processes: ADR and the Primary Forms of Decision-Making* (3rd edn, Cambridge University Press 2020), Chapter 2; Derek Roebuck, 'The Myth of Modern Mediation' (2007) 73 *Arbitration* 105.

²⁰ See Susskind (n 5), p. 231/2 for a discussion of how he proceeds from 'analysis to prescription.'

²¹ See for example Christopher W Moore, *The Mediation Process: Practical Strategies for Resolving Conflict* (Jossey-Bass 1986); John Haynes and Gretchen Haynes, *Mediating Divorce: Casebook of Strategies for Successful Family Mediation* (Jossey-Bass 1989); Bush and Folger (n 12); John Winslade and Gerald Monk, 'A Narrative Model of Mediation', *Narrative Mediation: A New Approach to Conflict Resolution* (Jossey-Bass 2001). For an overview of mediation models see Charlie Irvine, 'Mediation's Values: An Examination of the Values behind Five Mediation Texts' (Birkbeck University of London 2007) Available from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1686195 (accessed 12 January 2019).

²² Wholly theoretical modules are entitled 'Theory and Principles of Conflict Resolution'; 'Conflict Resolution and the State'; and 'Mediation, Policy and the Law.'

²³ 'Mediation in Practice' is taught via two intensive weekends based around simulations. 'Employment Mediation' and 'Negotiation' combine traditional academic seminars with a single intensive weekend.

²⁴ Nadja Alexander and Michelle LeBaron, 'Death of the Role-Play' in Christopher Honeyman, James Coben and Giuseppe De Palo (eds), *Rethinking negotiation teaching: Innovations for context and culture* (DRI Press 2009).

cases to illustrate a point. Perhaps it was unsurprising that within weeks students began asking me how they could take part in actual mediations. These requests only grew louder as they neared graduation. Unlike law and other professions, mediation in Scotland does not yet have an apprenticeship system, nor a buoyant market. I had just convinced them of the importance of practice. Where were they going to find it?

ii) A winning example

Another piece of serendipity: while developing the course I had taken some undergraduates to a UK Student Mediation Competition in Liverpool. They loved the experience. I couldn't help noticing that the winning team from California seemed astoundingly confident and skilful. I asked their coach how he trained them. He explained they were already mediating in his university's mediation clinic.²⁵ The seed sown in my mind was only reinforced as I witnessed the same law school consistently finish in the top three at other UK and US competitions. Actual practice, with real cases and real people, was clearly more useful in developing students' skills than any training I could devise.

Thus the triggers for our mediation clinic were 1) student demand and 2) imitation of US clinics (the 'sincerest form of flattery').²⁶ Starting a clinic, however, is only the first step. Clinics need cases. I turn now to that part of the story.

C) Mediation and the Justice System

One experience is common to almost all mediators. Fresh from our training, our imagination fired by new skills, we see disputes all around that look ideal for mediation. Yet our enthusiastic suggestion is greeted with a pained look: 'Yes, it's a great idea, but it won't work for this case'; 'We already tried negotiating and it failed'; 'You don't understand these people, they're crazy'; 'Oh, it's too late.' I am not pointing the finger here at the legal profession. I have heard the same sentiments from all sections of society.

I first introduced the concept of mediation to the Law Clinic. Staff were positive. They could see the potential in employment and civil cases and invited me to deliver training to their students. Many came. Yet no cases were forthcoming. Law students, I learned, are no different to lawyers. While they may grasp, intellectually, that mediation is a good idea, when it comes to the resolution of a particular case litigation is the default. More accurately, students were being inducted into 'litigotiation,' that time-honoured game of dare that sees lawyers trading offers and settling at the door of the court.²⁷

My mediation students worked hard, meeting sub-committees of the Law Clinic, drafting protocols and forms, and reassuring anxious law undergraduates that mediation was unlikely to harm their clients even if it was unsuccessful. Yet to a hammer everything looks like a nail.²⁸ And to trainee litigators everything looks ripe for the courts. Getting cases was

²⁵ The students were from Chapman University: <https://www.chapman.edu/law/legal-clinics/mediation.aspx>

²⁶ 19th Century saying, often attributed to Oscar Wilde.

²⁷ Marc Galanter, "'... A Settlement Judge, Not a Trial Judge:' Judicial Mediation in the United States' (1985) 12 *Journal of Law and Society* 1.

²⁸ Charlie Irvine, 'Scotland's "Mixed" Feelings about Mediation' [2012] *SSRN eLibrary* Available from <https://ssrn.com/abstract=2713346> (Accessed 7/12/20).

like pulling teeth. Even when the Law Clinic's student advisors did suggest mediation to their client, the other party or their lawyer often refused. After two years we had mediated no more than half a dozen disputes.

Here good fortune returns to the story. We held a formal launch event in 2013 featuring the University Principal. In attendance was a judge from the local court, Glasgow Sheriff Court.²⁹ He quietly asked me 'Could you help with my small claims court?' Naturally I said yes.

This sheriff turned out to be quite influential. He introduced me to the senior judge, the Sheriff Principal, and some months later I found myself sitting at the back of a busy court along with two students and an assortment of unrepresented (and mostly anxious) people. When the sheriff entered we were all told to stand. He made a little speech. 'Today we are fortunate to have in court expert mediators from the University of Strathclyde.' Apart from being pleasantly surprised, I believe this judicial endorsement improved the prospects of success. In that first year of attending court each week the Mediation Clinic mediated 39 cases, with 31 settling.

Law Reform

Observers of mediation's relationship to the courts know that reform takes time. Scotland's last civil justice review was cautious, appearing to reject rule change to divert cases to alternative dispute resolution.³⁰ So, although the mediation community had for years suggested that mediation could support the work of the courts, we were taken by surprise when new 'Simple Procedure' rules were published in 2016. For the first time in this jurisdiction, in civil cases up to £5,000 (about €5,500) sheriffs 'must encourage cases to be resolved by negotiation or alternative dispute resolution, where possible [emphasis added].'³¹ Not only that. They must also take steps to ensure unrepresented people are not disadvantaged.

This minor piece of secondary legislation was transformative for the Clinic. Glasgow's conurbation includes over two million people, and now several courts approached us. Could we help them comply with the new rules? We became involved in detailed discussions about the timing of referrals, the wording of orders and paperwork, and the mechanics of engaging litigants with little or no experience of mediation. Since the start of 2017 our caseload has grown to around 200 referrals per annum, with between 70 and 80 cases mediated each year.

Pandemic

²⁹ Most judges in Scotland are known as sheriffs and the sheriff courts deal with the bulk of criminal and civil business.

³⁰ Charlie Irvine, 'The Sound of One Hand Clapping: The Gill Review's Faint Praise for Mediation' (2010) 14 *Edinburgh Law Review* 85.

³¹ SHERIFF COURT Act of Sederunt (Simple Procedure) 2016, Rule 1.4 (3). See also Charlie Irvine, 'And finally... some plain English from Scotland' (2016) *Kluwer Mediation Blog* Available from <http://mediationblog.kluwerarbitration.com/2016/09/10/and-finally-some-good-news-from-scotland/> (Accessed 7/12/20).

The most recent part of the story is less happy. The UK's response to Covid-19 was late and ineffective. Scotland's courts closed their doors in mid-March 2020. The Clinic immediately began preparing for remote mediation, training its volunteers in using Zoom and telephone. But cases simply stopped. Courts were slow to adapt to the new digital reality. Litigants too were initially unwilling to attempt remote mediation, saying they preferred to wait for a face-to-face meeting (a long wait as it turned out).

i) Choice architecture

By August the Clinic began to receive a trickle of referrals. Yet individual parties remained sceptical and often neither side made contact. We made an interesting discovery. One of the smaller courts operated a different system, obtaining parties' permission to pass details to our duty mediator who then emailed them and followed up with a phone call.

This might be termed an 'opt-out' system. Mediation remains voluntary, but parties have the chance to speak to a mediator first. Almost all agree to mediate, in stark contrast to the 'opt-in' system where as few as one third of those referred actually make contact with the Clinic. We are not the first to notice the importance of 'choice architecture' in providing a 'nudge' towards a socially desirable goal.³² In the last two months more courts and more sheriffs principal have agreed to move to the 'opt-out' model.

ii) Digital justice

Another discovery has been the success of telephone mediation. A sizeable number of party litigants are elderly, live in relative deprivation and/or have poor access to broadband or smartphones. Zoom presents a considerable barrier to engagement, potentially robbing some individuals of the opportunity to resolve their dispute consensually. Telephone, on the other hand, is old-tech: familiar and accessible. Some people say they do not want to see the other party. Using a freely available telephone conferencing app one mediator has specialised in this approach, achieving a settlement rate almost identical to face-to-face or Zoom. Policymakers concerned about digital exclusion would be well advised not to overlook the humble telephone.³³

A further benefit of digital justice is in breaking down geographical barriers. Parts of Scotland are large and sparsely populated. Thanks to remote mediation the clinic can mediate with people from anywhere in the country, and further afield. One small claimant recently mediated from Thailand.

Our involvement with the justice system has been critical to the clinic's development. Mediators need cases, and litigants need resolution. However, I could not simply throw inexperienced students in at the deep end. Quality is critical to credibility. The clinic and the courts have developed a respectful relationship and I turn now to the model that has enabled this to occur.

³² Daniel Watkins, 'A Nudge to Mediate: How Adjustments in Choice Architecture Can Lead to Better Dispute Resolution Decisions' (2010) 4 *American Journal of Mediation* 19.

³³ Telephone mediation is widely used for small claims in England & Wales. See for example: <https://www.smallclaimscourtgenie.co.uk/small-claims-mediation-service/>

D) The Clinic model

The Clinic's approach has been continually developing since 2012. I start with two core features that have not changed before returning to Susskind's Circle of Engagement to explain the impact of our learning by doing.

i) Lead/student mediators

The term 'law clinic' conjures up images of dedicated students working into the night to conduct legal research on behalf of disadvantaged clients. Yet before passing on this advice a qualified supervisor carefully checks it for errors. That way quality is maintained and the law clinic's reputation is protected.

I struggled to envisage how this might work for a mediation clinic. Two decades of mediation taught me that situations can flip from 'minor' to 'grave' in seconds. My students were postgraduates, many with significant life experience, but that is no substitute for time spent mediating actual cases. We know it takes time to develop competence, let alone expertise or artistry.³⁴ I could not in good conscience expose real people with serious disputes to a novice or learner mediator.

The solution was obvious and brought additional unforeseen benefits. I asked friends and colleagues in the Scottish mediation community to work pro bono alongside students. Although I could offer no payment, they would have the satisfaction of nurturing the next generation of mediators. A good number responded. To this day the clinic relies on experienced practitioners acting as lead mediators. Many are now Strathclyde alumni. The courts and the public are reassured, and student mediators learn from experts. The additional benefit is that those practitioners enjoy the unplanned conversations, the written reflections and the sheer enthusiasm students bring.³⁵

ii) A court presence

Another core feature of the mediation clinic has been our presence in court. This reflects the diversity of our students. Most years fewer than half have a legal background.³⁶ At the same time parties referred to the clinic tend to be unrepresented and many are 'single shotters.'³⁷ It is therefore important for mediators to have a reasonable understanding of how the courts operate.

³⁴ Barbara Wilson, "'(Naughty) Departures': Expertise, Orthodoxy and the Role of Theory in the Practice of Mediation' [2011] SSRN eLibrary Available from <http://papers.ssrn.com/abstract=1818004> (accessed 5/12/20); Lang and Taylor (n 7).

³⁵ See for example this blog by a recent student: <https://www.mediate.com/articles/rodrigues-pressure-cooker2.cfm>

³⁶ The Mediation and Conflict Resolution programme attracts a wide range of individuals including human resource professionals, managers in local government, health, education and the not-for-profit sectors, international relations graduates and interpreters.

³⁷ Marc Galanter, 'Why the Haves Come out Ahead: Speculations on the Limits of Legal Change' (1974) 9 *Law and Society Review* 95.

This is not to ignore the healthy (or unhealthy) debate in mediation circles about how much guidance mediators should provide.³⁸ It is simply to acknowledge that in small claims the mediators may be the only ones in the room in possession of important process information: what happens at a hearing, who has to prove their case, what kind of evidence will be needed and how long they might have to wait. While some of this information is publicly available, the experience of sitting in the court and hearing the discourse between sheriff and parties is a valuable induction into the world of court-annexed mediation.

The past eight years of the Clinic have convinced me that our most successful mediators can be termed 'activists'.³⁹ Over time they become repeat players, familiar with the court setting as well as the dynamics of legal disputes. They work alongside the parties, sharing information, asking questions, at times acting as Devil's Advocate. Clients I interviewed for my doctoral research appreciated this much more than the passivity sometimes engendered by a misreading of the facilitative model of mediation.

The circle of engagement

To return to Susskind's circle of engagement, the Mediation Clinic behaves in pracademic style, moving through documentation, to theory building, to teaching and training, to action partnerships.⁴⁰

i) Documentation – from the start we recorded statistics, and student volunteers assisted with analysis. Susskind suggests field based projects (like the mediation clinic) should lead to theses and dissertations. Students are now required to complete an assignment based on a clinic observation. My own doctoral research is a qualitative study of mediation participants, including a substantial number from the clinic.⁴¹ These data provide the raw material for the next step on the circle.

ii) Theory building – Susskind includes 'opportunity to reflect' under this heading. From the start we have required all mediators to complete a review form. This supports the virtuous habit of reflective practice, enabling practitioners systematically to consider their work. They discuss what works and what could be improved, in the process building their own theory in action. In the past two years I have added clinic observation as one of the Masters assessments. Students observe a real mediation and then complete the standard mediator reflection as if they were one of the mediators.

³⁸ Leonard L Riskin, 'Understanding Mediators' Orientations, Strategies, and Techniques: A Grid for the Perplexed' (1996) 1 *Harvard Negotiation Law Review* 7; Kimberlee K Kovach and Lela P Love, "'Evaluative" Mediation Is an Oxymoron' (1996) 14 *Alternatives to the High Cost of Litigation* 31; Ellen A Waldman, 'Identifying the Role of Social Norms in Mediation: A Multiple Model Approach' (1997) 48 *Hastings Law Journal* 703.

³⁹ Donald T Weckstein, 'In Praise of Party Empowerment - and of Mediator Activism' (1997) 33 *Willamette Law Review* 501; Charlie Irvine, 'The Activist Mediator' (2020) *Kluwer Mediation Blog* Available from <http://mediationblog.kluwerarbitration.com/2020/09/10/the-activist-mediator/> (Accessed 6/12/20)

⁴⁰ Susskind 2013 (n 4), p. 235.

⁴¹ Charlie Irvine, 'What Do "Lay" People Know about Justice? An Empirical Enquiry' (2020) 16 *International Journal of Law in Context* 146.

iii) Teaching and training – reading mediator review forms triggers ideas for further training, when we join with the Edinburgh Sheriff Court Mediation Service. Examples include: Simple Procedure rules, legal expenses, mediation taboos, dealing with high conflict people, mediating online and the basics of contract law. Increasingly this training is delivered by lead mediators and former students, building their confidence and passing on insights to the next generation of mediators.

iv) Action partnerships – as a result of the steps above, the clinic is in a position to develop its partnerships with local courts. It contributes to government consultations and is now having an influence on the model courts adopt to make the Simple Procedure rules a reality. Its approach was recently cited in a proposal for a Mediation (Scotland) Bill.⁴² It has received funding to develop a specialist housing mediation project. In February 2021 it will host the UK's first mediation clinic conference, bringing together teachers, trainers, practitioners and students to take stock and plan the future.

Conclusion

Clinical legal education remains something of a special interest within law schools. Law clinics tend to be associated with a particular vision of socially progressive and altruistic lawyers.⁴³ Nicolson argues against granting students academic credit for their efforts as this may discourage altruism and community orientation.⁴⁴

The preceding history makes a compelling case that mediation clinics are different. They are core to the educational endeavour, not optional extras for enthusiasts. While mediation is not short of theory,⁴⁵ practice is at its heart. Through the development of Strathclyde Mediation Clinic I have learned that clinical education is essential to the formation of mediators. This practice-orientation is not unique to mediation. Professions like medicine, dentistry, engineering, architecture and education all require significant practicums within their qualifying degrees. If anything law is an exception, with its emphasis on doctrinal, propositional knowledge acquisition.⁴⁶

To return to the theme of this article, there are parallels between the approach required for successful mediation and for the development of a mediation clinic. Given that many of those teaching the subject are themselves practitioners, its aim is to provide encouragement. Like other pracademics they must straddle the two distinct domains of practice and theory; as I said in the introduction: 'bringing the world into the academy and the academy into the world'. Few activities more richly deserve the term 'pracademia' than founding a mediation clinic and enjoying its unpredictable progress.

⁴² <https://www.parliament.scot/parliamentarybusiness/Bills/111864.aspx>

⁴³ Donald Nicolson, 'Do Law Clinics Help to Create Progressive Lawyers for the Future?' (2011) 59 *Socialist Lawyer* 14. *ibid*; Newman and Nicolson (n 14).

⁴⁴ Newman and Nicolson (n 14).

⁴⁵ Kenneth Cloke, 'Let a Thousand Flowers Bloom: A Holistic, Pluralistic and Eclectic Approach to Mediation' (2007) 6 *Family Mediation Quarterly* 1.

⁴⁶ Geoffrey Samuel, 'Interdisciplinarity and the Authority Paradigm: Should Law Be Taken Seriously by Scientists and Social Scientists?' (2009) 36 *Journal of Law and Society* 431.