

Final report from STINT Teaching Sabbatical at Moritz College of Law, the Ohio State University, Fall Semester 2016



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1. Introduction

1.1 On the Importance of the Program

During the fall semester of 2016 I held the STINT Teaching Sabbatical Fellowship and spent the semester at Moritz College of Law, the Ohio State University, Columbus, Ohio, USA. This document constitutes my final report. The views expressed herein are my personal reflections and impressions, and do not represent my home or host institutions in any way. All comments about legal education in the US are based on my experiences with and impressions of legal education at the host institution.

I would like to start by expressing my sincere gratitude to STINT for providing me with this opportunity. It has been a very rewarding experience for me in my role as a university teacher, providing a fresh perspective and new ideas. Furthermore, I believe that the Teaching Sabbatical program is important on a larger scale as well, as one of very few programs concentrating on long-term teaching exchange. It is unfortunate, and telling of a tradition of underestimating the teaching aspect of a university position, that some find the very idea of a teaching sabbatical to be an oxymoron. Nothing could be further from the truth. Indeed, by teaching at a US university you are truly part of the host institution, in a way that a research exchange normally cannot achieve. This close relationship is valuable also from a research perspective.

I am particularly grateful to have been awarded this opportunity as a legal scholar. Law has, for obvious reasons, traditionally been regarded as a national subject, which in turn has somewhat limited the international outlook of the teaching of law. However, with the growing globalisation of law this idea of law as a national subject is no longer reasonable. In this situation, it is prudent to engage in further collaboration and exchange with other countries when it comes to the legal education as well. A traditional view of the law, and the teaching of law, would have made it difficult for me to be awarded this opportunity, and I am thankful that STINT and my host institution have taken a progressive view of legal education.

The structure of this report is as follows: After briefly introducing OSU and Moritz the document will discuss preparation and planning for the visit, tasks and responsibilities at Moritz, other activities during the visit, a comparison between the home and host institutions and finally a summary of the most important lessons from the visit and how they could be implemented at my home institution. All photos are mine.

1.2 The Ohio State University

The Ohio State University is a public university in Columbus, Ohio, established in 1870. It is one of the largest public universities in the US, with more than 58.000

students at the Columbus campus alone.¹ The university has 15 colleges, more than 200 undergraduate majors, 157 master's degree programs, 121 doctoral degree programs and it offers about 12.000 different courses.²

1.3 The Michael E. Moritz College of Law

The Michael E. Moritz College of Law (henceforth Moritz or the host institution) was established in 1891 and has a student body of about 600,³ a faculty of 50 teachers and a staff of more than 70.⁴

The main emphasis when it comes to teaching is the law program, the Juris Doctor degree (JD).⁵ The JD is a postgraduate degree, which means that the students have first obtained a bachelor's degree. The law program is a three-year education, with mandatory courses during the first year (1L), and mainly elective courses on the second and third years. My own course, described below, was such an elective course. Moritz also offers a Master of Laws (LL.M.) Program in US law, designed for lawyers from other countries.⁶

2. Preparation, Planning and Arriving

2.1 Preparations at the Host Institution

I would like to start by emphasizing the preparations at my host institution, before I was even accepted to the program. After having received my information from the Office of International Affairs at the Ohio State University the persons responsible at Moritz College of Law took particular care when deciding on my application. Rather than simply taking a decision at an administrative level the entire faculty was involved. Thanks to this the entire college was informed about and prepared for my arrival, which made my stay significantly easier.

2.2 Initial Contacts

I was given the happy news of having been accepted to the program in December of 2015 and I made contact with my administrative and academic contact already during the Christmas holidays, to start planning for the fall semester. More specifically, the most pressing question was what course to offer, and how that course would fit into the existing curriculum at Moritz. After some discussion, it was decided that I would offer an elective course, available for the students on the second and third year of the law program, on European Union Constitutional Law. The course presented particular pedagogical challenges, discussed further below.⁷

¹ OSU also has campuses at six other places in Ohio.

² For more basic data see <http://visit.osu.edu/discover/>.

³ This includes about 40 international students on the LL.M. program.

⁴ See further <http://moritzlaw.osu.edu/about/>.

⁵ From a Swedish perspective the use of the word doctor is somewhat misleading, as this is a taught education, not a research program. The reasons for the designation JD are historical, for an overview see <http://law.marquette.edu/facultyblog/2012/01/11/why-the-law-degree-is-called-a-j-d-and-not-an-ll-b/>.

⁶ See further <http://moritzlaw.osu.edu/admissions/llm/>.

⁷ See chapter 3.3 below.

Following the initial discussions the course was formally proposed and approved by the faculty.

2.3 Planning Visit

I visited Columbus in April to continue the planning of the Teaching sabbatical. Beyond further discussions concerning the course and other matters related to teaching, this included a number of practical details. One of the most obvious practical issues was finding somewhere to live. We were most fortunate to be able to rent an apartment along the High Street, very close to the law school. While it goes without saying I would highly recommend starting the search for a place to live as early as possible. There is a significant supply of apartments for rent in Columbus, but renting furnished lodgings for six months or less is somewhat challenging.

2.4 Arrival

The fall semester at the Ohio State University started in August, with the first class of my course taking place on August 23. However, I choose to arrive at the beginning of August, to get settled in Columbus and at Moritz. This enabled me to finalise the planning of my course with the help of my colleagues at Moritz. It also enabled me to get to know the city of Columbus, in the quiet, early weeks of August. I particularly recommend visiting the Thompson University Library, including the reading room at the top floor, before it becomes crowded in late August.



View from the reading room at the top floor of the Thompson Library

Getting ready to teach in a completely new context obviously requires a lot of preparation, beyond the usual planning going into a new course. This includes

teaching culture and student expectations.⁸ Since my arrival was exceptionally well prepared I was able to consult widely among the faculty and staff. I would like to take this opportunity to thank everyone at Moritz for their time and patience in answering my questions. However, in retrospect it might have been a good idea to request a special teaching contact/mentor at the host institution. Naturally, an academic contact was provided, but this was an Associate Dean. While she was very helpful one hesitates to disturb someone with so many other duties too often with practical and pedagogical questions. Having a designated teacher to consult might have been good, for me as well as the other teachers. Naturally, this is not a shortcoming of the program or the host institution. It is simply on reflection that I realise that it might have been a good idea to make such a request.

3. Tasks and Responsibilities

3.1 Introduction

My main responsibility during the Teaching Sabbatical was to give a course, European Union Constitutional Law. The course was a 3 credits elective course, open to students from the JD program and students on the LL.M. program. The decision to give my own course, rather than co-teaching a course, was primarily taken due to two factors. Firstly, the course topic was unique in the curriculum of the college. Indeed, this was the reason behind the choice of course in the first place, as no other course on Constitutional EU Law was provided by the college. Secondly, the academic tradition favours single-teacher courses, as discussed further below.⁹

3.2 Overview of European Union Constitutional Law

The aim of the course is to describe, analyse, and critically discuss the constitutional law of the European Union. It consists of 28 classes (meeting twice a week), divided among four separate themes:

A. Introduction - the Fundamentals of EU Law and the Balance of Power
The course starts with a thorough introduction to general EU law. This includes the goals of the European Union, the political and judicial actors, the sources of law and the legislative process. It also includes the fundamental relationship between the Member States and the European Union, i.e. the balance of power. This involves the controversial supremacy principle, from the perspectives of the European Court of Justice and national courts.

B. Fundamental Rights and Fundamental Freedoms
This theme analyses the protection of fundamental human rights in EU law, including the historical development of fundamental rights in the case law of the Court of Justice as well as their scope of application, the Charter of Fundamental Rights and the relationship between the EU and the European Convention of Human Rights. It also includes an examination of the so-called fundamental freedoms (the main rules

⁸ See the discussion in chapter 5 below.

⁹ See chapter 5.3 below.

of the internal market) and their constitutional implications, in particular their relationship to the fundamental rights.

C. From Paper to Reality – Enforcing EU Law

The third theme of the course concerns the crucial issue of enforcement of EU Law. It includes both centralized enforcement (remedies before the European Court of Justice) and decentralized enforcement (remedies before national courts). The latter includes the seminal principles of direct effect, indirect effect and state liability.

D. Conclusion – the Constitutional Nature of EU Law: Past, Present and Future

The course concludes with a discussion of the constitutional nature of EU law, taking all the previous issues of the course into account and discussing a number of issues in-depth. This includes an analysis of the historical development of the EU from a limited international cooperation to a sui generis legal system and the role played by the European Court of Justice in this development. It also addresses the challenge of multilingualism in the European Union, primarily from the perspective of legal certainty. The theme concludes with a look towards the future of European legal integration.

The examination on the course included active participation at classes, making it possible to create a mix of lecture and seminar for each class, as well as a final take-home exam.

3.3 Main Teaching Challenges and Results

The main teaching challenge of European Union Constitutional Law was to provide an in-depth, advanced level course to students with no previous knowledge of European Union law. This was achieved by setting aside time at the beginning of the course for a thorough introduction to the topic, before moving on to more in-depth discussions. I was most impressed with how quickly the students adapted to learning about and discussing a new legal system.

As mentioned above the course consisted of 28 classes. The word classes is used consciously. Rather than following the Swedish distinction between lectures and seminars I enjoyed the freedom of the American approach. For every class readings were assigned, along with questions for discussion. The actual class was a mixture of lecture, used in particular to introduce the subject and to summarize, and seminar. This feature is discussed further below.¹⁰

Giving the course was very rewarding for me and I was happy to see that the students appreciated the course as well.¹¹

¹⁰ See chapter 6.3 below.

¹¹ On a scale of 1-5 the course scored 4.6 or higher for every question on the course evaluation, including 5.0 for instructor knowledge, instructor preparedness, the willingness of the instructor to help students and the likelihood of the students to recommend the instructor to other students.

4. Other Activities during the Semester

4.1 Introduction

My overarching goal during my stay at Moritz was to say yes to everything, in other words to gain as much experience as possible of the host institution. Indeed, experiencing the host institution in this way was as rewarding as my own teaching. At times, I wished I had more time to take part of such other activities. Naturally, teaching a course in a very different context takes a lot of time and effort, limiting the time available for other activities. However, I believe that the choice of having the STINT fellow give a course at the host institution is still the best strategy. Only by giving a course does one truly become part of the faculty, rather than being a mere visitor.

4.2 Taking Part of Other Teaching at the Host Institution

By far the most rewarding other activity I engaged in at the host institution was to sit in on other courses and thus taking part of the teaching culture at the law school. I chose to sit in on both elective courses and mandatory courses on the first year of the JD program (1L), giving me the widest possible experience of the teaching culture. I would like to thank the faculty at Moritz for so generously allowing me to take part of their teaching. My reflections, based on these experiences, are discussed below.¹²

When it comes to clinics, where the possibility to observe is limited, I instead conducted interviews with key faculty.

4.3 The National Security Simulation

One specific experience merits special mention – the OSU National Security Simulation. This two-day immersive national security simulation involves students from law, political science, security studies, communication studies and many others subjects. The students assume their respective roles (law students as governmental lawyers, communication students as journalists and so on), while senior practitioners serve as NPCs (non-player characters). The simulation is guided by a control team, controlling the NPCs and creating a realistic simulation. The simulation presents the student players with problems designed to test their knowledge of the respective fields, but also aspects such as professional independence and integrity.¹³

The simulation is led by Professor Dakota Rudesill at Moritz College of Law, and I was most fortunate to be able to observe it. It is clearly one of the most ambitious pedagogical simulations I have ever witnessed.

¹² See chapters 5 and 6.2 below.

¹³ See the following link for a presentation of the simulation conducted in 2014:
<http://moritzlaw.osu.edu/briefing-room/national-security-simulation/>.

4.4 Research Activities

During my stay at Moritz I also took the opportunity to take part of research activities. The college has two different research seminars, the Faculty Workshop and Junior Faculty Workshop series, and I took part of both. I was also fortunate to be able to present a paper for the Junior Faculty Workshop.

4.5 Other Activities

Beyond what is mentioned above I took part of many other activities while at the host institution. It is not possible to list them all here, but a few examples are provided.

Firstly, I would like to mention the great Teaching Innovation Group (TIG) at Moritz. The group is responsible for an interesting e-newsletter and it also organises lunches on topics related to law school pedagogy, providing a great forum for discussion and knowledge sharing.¹⁴ Furthermore, TIG provided the structure for a recurring “Open Classrooms Week”, where teachers could open up their classes, for their colleagues to sit in on.¹⁵

Secondly, I was fortunate to be able to take part of some of the official Faculty meetings. This provided an interesting insight into the workings of the law school, an issue to which I will return below.¹⁶

Finally, on a lighter note, I was happy to play a very small part in the course on Swedish at OSU. It is indeed a testament to the size of the university, and its extensive curriculum, that even Swedish can be studied. As part of the examination on the course the students interview native Swedish speakers, in Swedish, and I was glad to be one the persons interviewed.

5. Comparisons between OSU and Umeå

5.1 Introduction

It goes without saying that the differences between Moritz College of Law and the Department of Law at Umeå University are innumerable, and not possible to discuss at length. Consequently, this chapter only contains examples of some of the more noteworthy differences between my home and host institutions. A further complication is that many of the issues are related, making them somewhat difficult to separate.

5.2 Administrative Resources

A first and obvious difference relates to administrative resources. The level of administrative support is significantly higher at Moritz, as compared to my home institution. This means that many practical issues, including some aspects of course administration, that I would normally take care of on my own is handled by

¹⁴ See for an introduction <http://moritzlaw.osu.edu/briefing-room/faculty/teaching-innovation-group-builds-on-colleges-commitment-to-teaching/>.

¹⁵ See further chapter 6.2 below.

¹⁶ See chapter 5.8 below.

administrative staff. This enables the faculty to concentrate more on teaching, and less on administration.

5.3 Differences in Academic Background and Career Path

Another obvious distinction between the home and host institutions is connected to the career path. As the JD degree is a postgraduate education most teachers do not hold a PhD, but proceed directly to a tenure-track position.¹⁷ While teaching is definitively part of the evaluation to attain tenure my personal impression is that, just like in Sweden, the emphasis is clearly on scholarly production.¹⁸

However, there are other reasons to believe that teaching is given special consideration. The fact that courses typically belong to a single instructor,¹⁹ or at least are perceived as belonging to a single instructor, would seem to emphasise the importance of teaching. Having “your own courses” could create a closer connection to teaching, and it makes it all but impossible to reduce the teaching obligations to scattered lectures on many different courses.

5.4 Student Population and Teacher/Student Relations

As already mentioned above the JD program is a postgraduate education. Consequently, all students already hold a degree in another subject before coming to law school. However, while this is certainly a different approach as compared to legal education in Europe, I personally did not perceive a difference in the approach of the students. Rather, the US students displayed the same (very high) level of skill, analytical ability and maturity as my Swedish law students do when taking elective courses. Naturally, the US legal education is shorter, and it could be argued that the students acquire the fundamental legal skills quicker. However, as the two educations differ so fundamentally, in particular when it comes to the number of mandatory courses, comparisons are tricky at best.

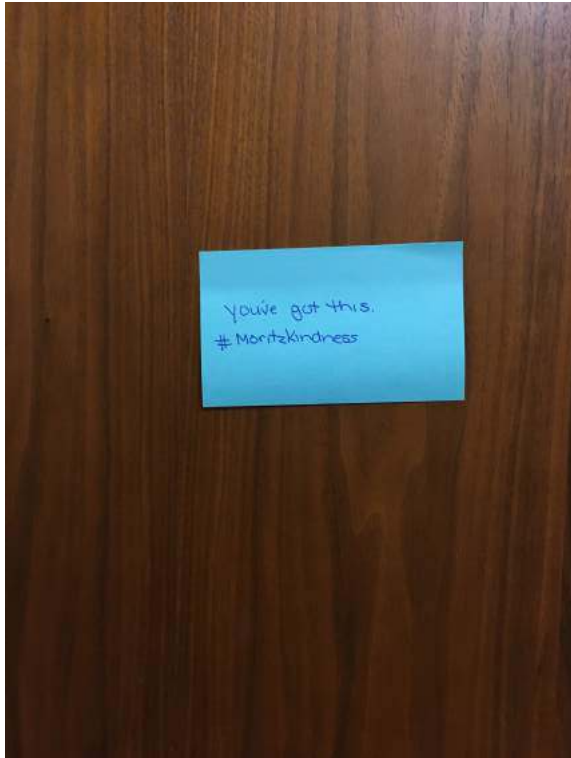
Teacher/student relations on the other hand clearly depart from Swedish tradition. On the one hand, teacher/student relations are markedly more formal at the host institution, with the students traditionally using the honorific Professor rather than the first name of the teacher. For a Swede, this is clearly exotic. On the other hand, the student/teacher relationship also appears to be closer, in the sense that teachers are encouraged to take an interest in the students and their personal development while at law school. The latter is arguably related to factors such as relatively smaller class sizes and the existence of tuition, but also part of a more general emphasis on interpersonal skills. For example, one of the program learning goals at Moritz explicitly relates to interpersonal skills and professionalism, and includes skills such as “motivating others; influencing others; working as a team;

¹⁷ For an overview of the tenure system see e.g. Michael S. McPherson and Morton Owen Schapiro, “Tenure Issues in Higher Education”, *Journal of Economic Perspectives*, vol. 13, 1999, pp. 85-98.

¹⁸ See e.g. Kenneth Lasson, “Scholarship Amok: Excesses in the Pursuit of Truth and Tenure”, *Harvard Law Review* vol. 103, 1990, pp. 926-950.

¹⁹ Naturally, this is a simplification. Clinics, for example, are typically team-taught. Clinics are discussed further in chapters 5.7 and 6.4 below.

and relating to people who differ culturally, economically, linguistically, or in other ways".²⁰ Naturally, the Swedish legal education also includes goals related to professionalism and working as a team,²¹ but I think it is fair to say that the emphasis in the Swedish education is still firmly on legal skills, rather than general and interpersonal skills. Such skills are in many ways given a more prominent place in the US legal education, as discussed further below.²²



A small example of teacher/student interactions – encouraging post-its, scattered across Moritz at exam time

5.5 Campus Life and Athletics

Another obvious difference concerns campus life and college athletics. The Columbus branch of the Ohio State University consists of a large campus area, like many US universities. Due to the fact that many students live in university housing on campus the area is full of people and activities even in the evenings.

Sports play a major role at US universities, in a way that is distinctly different from the European experience. Pride in and affection for one's alma mater often seems to be manifested in support for the university sport programs. OSU fields teams in a great number of sports, including tennis, ice hockey, fencing, basketball and gymnastics. Pride of place is normally reserved for the football team, the Ohio State Buckeyes,²³ who attract crowds of 100.000+ for their games at the famous Ohio

²⁰ <http://moritzlaw.osu.edu/about/about-moritz/vision-mission-goals/>.

²¹ See e.g. <http://www.umu.se/utbildningsplan?currentView=program&code=SYJUR>.

²² See chapter 5.7 below.

²³ Go Bucks!

Stadium (the Horseshoe).²⁴ I was lucky to be able to attend some of the home games and I can attest that it is a very special experience.



A view from the "nosebleed seats" at the first home game of the season

5.6 Teaching Environment

The practical teaching environment, including technological aids, is essentially analogous to the Swedish conditions. However, courses at Moritz typically take place in a single room, at given times. For example, my own, above-mentioned course, met twice a week, Tuesdays and Thursdays in room 347. Furthermore, the students normally sit in the same place every time. These details are in my view telling of a different approach, what I would call the "one teacher, one course, one room" approach. The practical arrangement of students sitting in the same place for each class makes it possible for the teacher to ask questions to specific students, even in a large group.

5.7 Curriculum and Clinical Emphasis

Given the structure of the JD program, with only about one year of mandatory courses, more emphasis will be put on elective courses as compared to the Swedish law program. Consequently, Moritz has a most impressive number of elective courses, over a wide spectrum of legal subjects. However, the overall direction of the courses is more important than the volume. A distinguishing feature, as compared to Swedish legal education, is the preeminence of clinics.

²⁴ <http://www.ohiostatebuckeyes.com/facilities/ohio-stadium.html>.

Moritz has a long tradition of clinical education, where classroom education is combined with practical legal work for real clients. This enables the students to gain hands-on legal experience and to practice interpersonal and practical skills.²⁵

Moritz offers seven different clinics: The Civil Law Clinic, the Criminal Defense Clinic, the Entrepreneurial Business Law Clinic, the Criminal Prosecution Clinic, the Mediation Clinic, the Justice for Children Clinic and the Legislation Clinic.

The clinics are of particular interest from a Swedish perspective, as will be discussed further below.²⁶

5.8 Academic Freedom as Distinction and Explanation

A key aspect when discussing differences and similarities between the home and host institutions is the idea of academic freedom. Academic freedom is a distinction in itself, but also an explanation for a host of practical and pedagogical differences.

In conversations with faculty at Moritz the idea of academic freedom was continually emphasised. At first glance the differences in this area are quite significant. Teaching and teaching administration at the host institution is significantly less rule-bound and leaves many choices to the instructor. The relative absence of rules is combined with an approach where each course “belongs” to the teacher in charge. This was certainly the attitude taken regarding my own course. The great majority of my questions regarding how a particular issue should be handled were answered with a reference to my academic freedom to choose any appropriate solution.

This freedom is reflected in the approach to teaching as well. Instead of the distinction traditionally upheld in the Swedish system between lectures and seminars many courses simply consist of classes, without further designation. This enables a mix between lecture and seminar. The students will expect to prepare for each class and the instructor can choose the appropriate balance between lecturing and student discussion for each class.

I was particularly impressed with how teachers at Moritz managed to uphold this mix even in larger groups of students. Special software, enabling the use of quizzes and other forms of quick feedback questions, certainly played a part, but so did the traditional Socratic method.

However, the differences when it comes to academic freedom should not be exaggerated. It is certainly true that fewer formal rules apply, but this does not mean that every decision is in the hands of the individual teacher. The faculty, as a governing organism, definitively plays a larger role as compared to the Swedish context. Some decisions, such as the establishment of new courses and employing new teachers, that have been centralised to a dean or head of department or similar at Swedish universities, are handled collegially at the host institution.

²⁵ See further <http://moritzlaw.osu.edu/clinics/>.

²⁶ See chapter 6.4 below.

6. Important Lessons and Action Plan

6.1 Introduction – “Ask me again later”

The final question to be addressed is what I am bringing home from my experience. This is a vital question, but it is somewhat difficult to answer at this time. It might sound a tad cheeky to say “ask me later”, but this is in my view an important point. The Teaching Sabbatical is an intense experience, and it is natural to want to achieve as much as possible during the months at the host institution. One semester is a rather short time to get acclimatised at the host institution, making it even more intense.²⁷ Furthermore, when returning to the home institution it is easy to shift all focus to the familiar tasks to be completed, and thus “move on” from the experiences at the host institution. To properly process all ideas and impressions from an intense experience time is needed, and to me it is important to keep reflecting on the semester abroad. Consequently, the thoughts and ideas presented below should be regarded as preliminary and initial only.

Obviously, many aspects of legal education cannot (and should not) be translated directly into the other system. The structural, practical and legal differences between Sweden and the US when it comes to law school are significant. In their role as public authorities Swedish universities are obviously more limited in what they can do. It is also difficult to imagine my home institution ever achieving the financial resources, and thereby the extensive administrative support that I experienced at the host institution. There are also aspects where I prefer the current approach of my home institution. One example of this is co-teaching. I found the emphasis on single instructor courses in the US to be effective, but somewhat lonely, and I missed the pedagogical discussion taking place naturally in a team-taught course.

6.2 Open Classrooms Week

As noted above I found the ability to sit in on other courses one of the most rewarding experiences of my semester abroad. Naturally, this is not the first time I have taken part of a colleague’s teaching, but I believe that it is important to establish structures that enable this activity. Given my role as a temporary visitor, and the overall aims of the Teaching Sabbatical program, I felt significant freedom to ask colleagues at the host institution to sit in on their teaching. However, I believe that many of us would be more hesitant to ask a colleague at the home institution, out of the blue, to sit in on their teaching. Consequently, we need to find methods to facilitate knowledge-sharing between teachers.

At Moritz, the above-mentioned Teaching Innovation Group sponsors an Open Classrooms Week, where all participating faculty members are invited to visit each other’s classrooms. Participation in the project is totally voluntary, and it is meant to provide inspiration and feedback, not be part of any form of evaluation. The inspiration goes both ways. The person sitting in will learn from the teacher they are observing, and the latter will benefit from helpful feedback from the person

²⁷ This ties in with a well-known discussion to extend the Teaching Sabbatical to a year. Naturally, I understand that this would not be without problems in turn, most obviously reducing the possible number of grants given.

observing. Teachers willing to open up their classrooms for visits sign up on a list, and then everyone (including those not volunteering to open up their own classroom) can visit. The week concludes with a lunch and a general discussion.

I believe that a variety of the Open Classrooms Week would be beneficial in the context of my home department and university as well, and I will raise the issue for further discussion at the Board of Education at the Department of Law and generally at the university.

6.3 Lectures and Problem-Based Learning

The Swedish legal education is firmly based in a variety of problem-based learning, emphasising that the student is at the centre of teaching.²⁸ This is particularly natural in the teaching of law, as the students will be focusing on solving problems in their future careers as lawyers.²⁹

Naturally, changing and adapting PBL might be regarded as eroding it,³⁰ but employing the fundamentals of PBL to a program with large student groups is obviously challenging. However, one aspect of our (or at least my own)³¹ traditional adaption of PBL has troubled me for some time. There is a tendency to create a firewall between on the one hand lectures and on the other hand seminars and other forms of group exercises. The latter clearly concentrates on the preparation and activity of the students, while the former can still be fairly conventional. The very idea of a lecture, at least in its traditional format, seems to assume that the (normally large) audience are passive listeners.³² I know that I personally have been guilty of this assumption, and thereby communicated the idea to the students as well,

²⁸ See in general regarding problem-based learning Maggi Savin-Baden and Claire Howell Major, *Foundations of Problem-based Learning*, The Society for Research into Higher Education & Open University Press, Maidenhead 2004, pp. 23–34. Sometimes the concept self-directed learning (SDL) is used, see e.g. Cindy E. Hmelo-Silver, “Problem-Based Learning: What and How Do Students Learn?”, *Educational Psychology Review*, vol. 16, 2004, pp. 235-266, at pp. 253-257. For an overview of the development of problem-based learning at Swedish law schools see e.g. Mark Klamberg, “Changing regulation strategies and the teaching-learning environment of the law programme at Stockholm University”, *Juridisk tidskrift nr 1*, 2013/2014, pp. 205-217, at pp. 213-214.

²⁹ See e.g. Viola Boström, Erik Häggqvist, Lena Landström, Ruth Mannelqvist och Ulf Vannebäck, *Developing Legal Education – The Lao Context and a Swedish Approach to Problem-based Learning*, *Umeå Studies in Law No. 14/2006*, Umeå 2006, p. 36.

³⁰ See e.g. J.H.C Moust, H.J.M van Berkel and H.G. Schmidt, “Signs of erosion: Reflections on three decades of problem-based learning at Maastricht University”, *Higher Education* vol. 50, 2005, pp. 665-683.

³¹ The plural form of the first person is used in this discussion as I believe that the issue is part of a larger tradition, but it must be emphasised that this does obviously not ascribe the same approach to all instructors of law. When the discussion concerns actual implementation of the perceived tradition the experiences are decidedly in the singular form of the first person.

³² See e.g. Anna Fyrenius, Björn Bergdahl and Charlotte Silén, “Lectures in problem-based learning – Why, when and how? An example of interactive lecturing that stimulates meaningful learning”, *Medical Teacher*, vol. 27, 2005, pp. 61-65, at p. 62.

creating an expectation that no preparation or significant participation is expected at these occasions.

It goes without saying that changing the fundamental character of lectures comes with a number of challenges, practical as well as formal. Furthermore, the Socratic method, traditionally employed in the US, comes with its own potential problems.³³ However, witnessing how the faculty at Moritz engaged actively with students even in large groups was inspiring, and has stimulated further examination on my part of the possible ways of increasing student activity and the customizability of lectures. I have raised the topic at a pedagogical seminar at the Department of Law,³⁴ and I look forward to continuing the discussion both locally and with teachers from other Swedish law programs and to take part of best practices.³⁵ After engaging with the issue during the spring semester I hope to be able to implement changes to my lectures during the fall semester of 2017.

6.4 Clinics and Practical Skills

The final issue to be discussed is the consideration given to practical and interpersonal skills in the Swedish legal education. We have only relatively recently started to experiment with the teaching of more general skills as part of the legal education. My impression is that skills are, to a large extent, still seen as something “on the side”, something the students should learn outside of or after the law program, despite their obvious importance for the students aiming to practice law.³⁶ Many students actively seek such skills, for example by starting their own basic forms of clinics, but this is to large extent divorced from the actual legal education.

I think it is fair to say that Swedish legal education is very tied to the University as an institution. The students employ the legal method, but they do so in the relatively “protected” environment of the University. This feature also makes crucial issues such as professional values abstract and disconnected entities, not emphasised by the education.

Based on this analysis the experience with clinics at the host institution, discussed above,³⁷ is of significant interest to Swedish legal education. Our experiences with

³³ See e.g. Benjamin V. Madison III, “The Elephant in Law School Classrooms: Overuse of the Socratic Method as an Obstacle to Teaching Modern Law Students”, *University of Detroit Mercy Law Review*, vol. 85, 2008, pp. 293-346.

³⁴ Pedagogical seminar at the Department of Law, February 1, 2017.

³⁵ For an example from another discipline see the above-mentioned Anna Fyrenius, Björn Bergdahl and Charlotte Silén, “Lectures in problem-based learning – Why, when and how? An example of interactive lecturing that stimulates meaningful learning”, *Medical Teacher*, vol. 27, 2005, pp. 61-65.

³⁶ For a general discussion regarding the need for students to learn practical skills, such as interacting with clients, at law school rather than “on the street” see Jason M. Dolin, “Opportunity Lost: How Law School Disappoints Law Students, The Public, and the Legal Profession”, *California Western Law Review*, vol. 44, 2007, pp. 219-255, at p. 220.

³⁷ See chapter 5.7 above.

clinics are limited,³⁸ and further discussion is needed as to how they can best be adapted in the context of my home institution. A number of fundamental questions must be posed:

- What type of clinic would be most suitable? When discussing clinics and clinical legal education (CLE) one typically thinks of live client clinics (LCCs), where the students work with real clients, but this is not the only possible form of CLE.³⁹ LCCs are obviously the most realistic form of clinic, but some of the experiences can be replicated in a simulation, created by the faculty. Would it be preferable to use simulations as an intermediate step, before considering LCCs?
- Who should have academic responsibility of the clinic? The addition of classroom education is what separates a clinic from an externship. At the host institution clinical professors, with special occupational experience, are responsible for teaching and supervision of the clinics. Would a similar approach, i.e. hiring special instructors, be the best solution at the home institution as well, or should outside practitioners be hired to be responsible or co-responsible for the clinic? An intermediate solution would be to make use of existing faculty at the Department of Law with previous occupational experiences.
- What kind of clinics (regarding content) would be most suitable? As noted above the host institution offers a wide selection of clinics, including both a prosecution and criminal defence clinic, and a business law clinic as well. However, there is an ongoing academic discussion, in particular as regards the suitability of business law clinics vis-à-vis clinics with some form of social justice agenda.⁴⁰ This is certainly an issue that must be discussed before a clinic is launched at the home institution.
- What partners are suitable in the creation and implementation of clinics at the home institution? Certain kinds of clinics could be implemented without any external partners, but most require some form of co-operation with companies, public authorities or private organisations. An assessment must be made both as to suitability and availability of such partners in the area of the home institution.

I have scheduled a pedagogical seminar at the Department of Law to initiate a discussion of the potential of clinics. I also look forward to discussing the possible advantages of clinics with local student organisations and with teachers from other legal educations in Sweden.

³⁸ The clinic at Gothenburg university ("Rättspraktik") is presented as the first law clinic developed by a Swedish Department of Law, see <http://law.handels.gu.se/rattspraktik/vad-ar-rattspraktik->.

³⁹ See e.g. Rachel Ann Dunn, "The Taxonomy of Clinics: The Realities and Risks of All forms of Clinical Legal Education", *Asian Journal of Legal Education*, vol. 3, 2016, pp. 174-187.

⁴⁰ See e.g. Elaine Campbell, "A dangerous method? Defending the rise of business law clinics in the UK", *The Law Teacher*, vol. 49, 2015, pp. 165-175.