

Queen's Law Virtual Symposium

Session 1: Expanding our Understanding of the Transformative Impact of Reflective Practice (June 22, 2026)

(Michele Leering, moderator) I'm pleased to welcome you to the first session, expanding our understanding of the transformative impact of reflective practice. In this session we've gathered speakers who have more of a theoretical orientation to thinking about reflective practice and law. I'll be introducing each of them very briefly. I did want to tell you that this is the way we're hoping to handle things. Everyone's abstracts for this event have been on our Symposium Series website for months, and you can still access them there, they're also in the detailed programme now. So we're only going to briefly introduce people, with really one sentence about where they're from. Even though I'd like to go on and on about how amazing they are and the work they do, we're not going to do that, you'll have to look at their abstracts in more detail on the website. We'll be following the order in your short agenda or detailed agenda. Our speakers in this session have been given 12 to 13 minutes to present. They'll receive a two-minute oral warning before their time is up. That will be me interjecting, so I'm not meaning to be rude, it's just the agreement we've made, given the nature of this virtual presentation, it's just the easiest way to remind people.

For those of you who've joined since Sharry made the opening remarks, welcome, just to let you know, there's a Padlet feature, a collaborative bulletin board, where we can contribute our reflective questions and answer the ones already there. During this session, you're free to use the chat feature to put in any comments or observations and see what other people are writing while we're here. The Q&A is restricted to questions you'd like us to ask of our speakers as they come up, if you're directing one to a particular speaker, please put it in there. It's most likely, in the interest of time, that I'll be the one reading out the questions, I'll curate them depending on how many we have. The speakers are also aware of some questions I've prepared in advance.

And, as I've mentioned, this is being recorded, so you'll be able to hear more about it later.

So welcome to our presenters. I'll introduce each with one sentence, then move to the next when they present. Gemma Smyth is the first to speak on "*Reflective Practice: Pathways Through Uncertainty*." Gemma, you are welcome to put your slides up and start sharing your screen. Gemma is an Associate Professor, and also the Director of externships and a class-action Academic Director at the University of Windsor. Welcome, Gemma. Thank you so much.

4:16 (Gemma Smyth)

Thanks, Michele, and thanks everyone for being here, especially during the World Cup. Michele, a huge congratulations to you for pulling this together, we would not be having these conversations about reflective practice without you, and there's a truly incredible group of people speaking over the next couple of days, who I deeply admire, and I'm really excited to learn from each of you. So this talk is titled "*Reflective Practice and Pedagogies of Uncertainty in Clinical and Experiential Legal Education*."

The talk is inspired by the clinical and externship program students I've worked with over the years.

Michele was just talking about encouraging a clarity of purpose when discussing reflective practice, so, drawing from her work, this is primarily a vehicle for the facilitation of professional learning, and more specifically, quoting from her work, "managing and growing from shifts in values or perceptions brought on by disorienting or disruptive learning experiences." End quote. Later I'll touch a bit on the possible transformative benefits of reflective practice, although, pursuant to Dean Flood's comments, I do also have a yoga mat in the background here.

In this talk I frame disorienting or disruptive learning experience through the lens of uncertainty. Many others have observed this already; uncertainty is a core component of life in a post-digital age. How information is transmitted, how learning takes place, how students find and interpret information, it's all changed.

So, on the left we have a monk reading a text that's being copied down by the children around him. The monk might be reading from the only text available in their community, and the only way to have a copy of that text is to faithfully transcribe it as the monk reads. On the right, we have a photo of an installation by an artist called Metronome. Here she's reworking the mass of visual information we're exposed to daily, magazines, television, smartphones, the internet, and the real world. So we've gone from a context of having very little written information,

to having more than we could consume in thousands of lifetimes. This shift, I think, calls for new approaches, quite different from what we might have required 500 years ago.

One major contextual change is the increasing amount of uncertainty in information transmission, and hence in the learning process more generally. Turning to legal education specifically, we can consider uncertainty in a few contexts. One is the still-dominant case method, typically applied in a stand-up lecture in a law school. Moving to the right, we might have a lecture with some active learning, perhaps, as Michele was talking about. We might work with simulations, where students are placed in role in a moot, a negotiation, a mediation, a client interview, and so on. At the rightmost part of the slide is clinical and applied legal education, where students work with clients facing real legal issues, and we might also include here land-based learning, or other courses that require students to get out of the classroom and into the context of people's lives and communities. So moving from left to right, we see increasing degrees of uncertainty and complexity.

In the case method, there is uncertainty built into legal reasoning, "it depends" is a very frustrating answer for many students and my colleagues alike. In a simulated context, uncertainty arises in the written facts, but also the social, cultural, maybe economic context of the simulated client or the fact pattern. What students do or say in the moment adds uncertainty, and students are required to act in the moment, in changing circumstances. And then, in applied legal contexts, often a clinic, uncertainty ramps up significantly: clients have changing circumstances, other actors are involved, institutions, life events are unpredictable, as are adjudicators, lawyers on the other side, and so on. So, shown on the right, we move from learning as problems to be solved, to problematic situations characterised by uncertainty, disorder and indeterminacy.

And I think the urgency of reflective practice also increases as we move from the case method to applied legal contexts.

I think many of us assign critical reflections to students in clinical and externship programs, I know there are regulators here who might require some form of reflection as well. In these reflections, students link uncertainty to a wide range of problems: lack of confidence, freezing or being unable to move forward when thinking of supervision, not reporting mistakes such as missed deadlines, having trouble speaking to clients and adapting to changing circumstances, impostor-ism, and so many other issues. And these problems are reflected in the literature on uncertainty, both in law and other disciplines. In fact, Barbara Fister argued that uncertainty is being weaponised to undermine everything from climate change to democracy. The solutions students sometimes propose to work through uncertainty are often quite task-oriented, as if resolving uncertainty is achieved through prescriptive steps, or "how to" solutions. And I think, maybe ironically, this approach can reinforce the idea that uncertainty can be solved, or that logic alone provides a pathway to resolution.

Jeffrey Lipshaw wrote that "the hardest thing about thinking like a lawyer is overcoming the very desire to be rational in the face of uncertainty." So, the central question I hope to pose in this talk is: what if an essential component of working through uncertainty requires an emotional-cognitive reflective framework, more than a substantive or procedural approach?

I'll propose one model that addresses these aspects, relational frame theory, and there are many others. This particular approach allows for the possibility that fruitfully working with uncertainty can lead to many positive outcomes, including improved mental health, creativity, and constructive inquiry, and so on. These are all derived from the literature on uncertainty, but they're also reflected in the literature on the benefits of reflective practice in law.

In her literature review on uncertainty in pedagogy, Lorenzo Maria Coppola found several themes that exemplify, I think, the shift in how we frame uncertainty in a modern context. I'll just highlight a couple, due to time. "Training for uncertainty is possible and essential." She writes: "Training for uncertainty is, in fact, the only possible training in the post-digital context, and the most fruitful goal in transforming students' subjective perception of uncertainty." So, we'll focus on the latter aspect of her findings for the remainder of this talk.

So, how might we transform students' subjective perception of uncertainty?

I'll pinpoint one particular approach, there are scholars I admire greatly, such as Susan Brooks, who have written much more extensively about relational lawyering. There are Haudenosaunee scholars, such as Dr. Beverly Jacobs, who has framed a holistic vision of lawyering, this is just, you know, maybe a tiny strawberry in the dish, from the dish-with-one-spoon teaching. The original framing of RFT is far more detailed, but I'll set out a few core aspects of this approach, for an audience who might have gone to law school to avoid math and science, myself included. Steven Hayes, the clinical psychologist who innovated this concept, argued that people make associations between objects and ideas that aren't necessarily true.

Here's one example, drawn from the work of Peter Lang. A person goes for a walk in a wooded area, alone, many of us have done this and can picture the scenario. The person sees a quick movement out of the corner of their eye, panics, and runs away.

So, let's break this down. A snake, on its own, isn't necessarily dangerous, sometimes they are, most often they are not. A wooded area isn't inherently dangerous, and being alone isn't inherently dangerous. There aren't necessarily snakes in a wooded area, but it's possible a person associates snakes with a negative experience, they might assume there are snakes in this wooded area, and they might be more nervous being alone. So if a person is exposed to any single one of these events, all of these associations are actively activated. We know that movement in the woods has so many possible explanations, but the person's associations activate fear, running, and maybe eventually avoidance of wooded areas altogether.

So, RFT focuses on consciously separating yourself from the context, and challenging learned assumptions, and there are, again, many ways this can be done, including through various modes of reflective practice. I'll turn to one example in a clinical legal education context, drawn from a very common kind of situation, familiar to any clinic lawyers, including Michele, around the table. They can sometimes seem ridiculous to non-clinical academics or very seasoned lawyers, and in fact, there's some research in medicine demonstrating that what is considered "uncertain" varies significantly based on knowledge and stage of career, which makes sense.

Here's the scenario: during a follow-up interview, a client who had been denied social benefits begins sobbing. The law student, Kai, becomes very upset, leaves the office, and gets the staff lawyer to come talk with the client. The next day, Kai is assigned to conduct another intake, they become agitated, and then say they can't meet with the client. Thereafter, they call in sick and try to avoid meeting with clients as much as possible. Eventually, they decide they will never practise in an area such as child protection, family, immigration, or criminal law, the clients are just too difficult to deal with.

Let's apply RFT to this common example. Kai has an experience with a client that, for them, is shocking. Kai might have come into the interview with previous associations, high emotion is bad, it's difficult to control, it might be culturally unacceptable. Kai might experience fear or panic, leave the interview room, and then ultimately undermine the client relationship. Kai might become fused with their thoughts, meaning their experience with this client becomes associated with "clients being difficult", perhaps, at a future careers event, avoids case work related to that area entirely. We hear all the time, "I can't work in family law," or other areas, "fill in the blank, because the clients are too emotional." And indeed, I think this is contributing to a crisis in these areas of law, and in clients' ability to find legal representation.

So here, RFT proposes consciously separating self from context. Kai is going to feel discomfort; this is just a thought. Crying isn't inherently something to be feared. Kai might be coached to separate the client's experience from their own, that Kai can't control a client's emotions. And I wanted to now return to the positive implications of uncertainty: perhaps crying is actually a sign that the client is comfortable enough to cry. These emotions are a helpful guide to let you know the impact of the client's situation. Perhaps it leads to curiosity about other potential legal issues that are going on, what other income supports might be available, where to refer the client for social work and mental health supports. I think it also informs systemic advocacy.

So, from a supervisory perspective, encouraging RFT might mean: acknowledging difficult emotions; separating the student's self from the situations they encounter; clarifying a student's true values and passions; separating self-worth from failure; encouraging present-moment awareness; unpacking bias. And these learning outcomes are more reflective, I think, of the transformative approach to reflective practice articulated by Michele earlier in her talk.

As such, I think RFT is one reflective process, among many, to uncover positive, and perhaps transformative, aspects of uncertainty.

Thanks so much.

(Michele Leering) Thank you so much, Gemma, it's so fascinating to hear that. And obviously lots of positive feedback on your talk there. Please, everyone, feel free to put questions, we're going to do them all at the end, so if you have questions for Gemma, please put them in. I know I'm looking forward to getting that PowerPoint when it's ready, so thank you so much for sharing that.

So now we're going to move on to Tim Casey. As I've mentioned, for those of you who might have just joined, people's abstracts are in the detailed programme, and also on the website, along with their detailed bios. So we're just introducing people very briefly, in the interest of time, although, as I've said, I'm dying to say more, but I'm restraining myself, because that's the rule I've got to follow.

Tim is a professor from practice and director of curricular admissions at the University of California, Los Angeles, UCLA. Yeah, there we go. So, he's going to be speaking to us about *"Refined Reflection: A Second Look at Models of Reflection,"* which, as we know from his abstract, builds on his prior, oft-cited work from 2014. Take it away, Tim, looking forward to hearing your presentation.

18:07 (Tim Casey)

Well, thank you very much. As I'm just sharing my screen here, I want to say thank you to Michele and Sharry for your outstanding guidance and leadership in putting this together. I'd also like to thank Dean Flood for supporting the conference, and the efforts of Michele, Sherry, Natalie and Yashica, and the other members of the organising committee, you've done a fantastic job in bringing us all together, and we're delighted to be here.

I'm going to be talking about what I call refined reflection, connecting different theoretical frameworks.

The background of this is essentially a second look at what I started, what I published in 2014, which is essentially an overview of how reflection can work, and a model of reflection. What I'm doing with this presentation today is looking forward and looking back. The looking-back part is to look at other theoretical frameworks that also have to do with reflection, and the looking-forward part is to think about what work we might need to do moving forward.

So, I'm going to be talking about four converging frameworks that promote reflective practice. Many of you are familiar with some, if not all, of them, but I want to draw connections between them that might not be obvious. The four frameworks are: David Kolb's learning style inventory; Anders Ericsson's theory of deliberate practice; Laila Hlass and Lindsay Harris's work on critical lawyering; and then we'll also look back at the stages-of-reflection work that I've done previously. Starting with these four theories in one integrated design: we have four theories that emphasise the importance of structured reflection in the development of competency and professional identity.

When my students ask me, "Why do we have to do reflection, this isn't a psychology course, it's too touchy-feely, why do we have to do this?", frequently my response is that reflection is what I call the self-improvement algorithm. If you engage in reflection, you're able to improve your performance through that reflection, and, as a side note, you also might improve yourself, your own ways of thinking, even outside of a professional context.

So, looking at these four theories, I think each of them adds to our understanding of why we should engage in reflection, and how reflection can increase our capacity, whether professional or personal. The first is David Kolb's work on experiential learning. Kolb's experiential learning work emerges from a cycle of concrete experience and reflective observation, combined with abstract thinking and then active experimentation. Anders Ericsson's deliberate practice tells us that structured and repeated rehearsals with immediate feedback can build expert skill. Laila Hlass and Lindsay Harris's work on critical lawyering brings us intersectional, anti-racist principles that are grounded in reflection, and offers insights on both power and professional identity. And finally, the stages-of-reflection model provides a model for how novices can develop reflective capacity.

Looking back at Kolb's experiential learning cycle, this is really one of the foundational frameworks for understanding experiential learning. Kolb posits that learning, at least experiential learning, follows a specific cycle. Typically, it starts with concrete experience, this is where the novice, or the student, is exposed to some experience. The question, as Gemma noted, is how to make sense of that, how to make sense of that disorienting moment, that conflict, what they're experiencing. So the first step is what Kolb calls reflective observation. Reflective observation gives the student a chance to review and look back at the experience, and to think about it in a moment separated from the experience itself. This happens after the experience, when emotions are calm, when the student can actually gain insight into what they did, decisions they made, emotions they felt. And it leads to the third stage, abstract conceptualisation, where the student is thinking about how to integrate these observations with the experience. It's a very theoretical point in the process, deep, analytical thinking, and that leads to insights that can be developed through active experimentation. In the active experimentation phase, students try to implement what they've learned through the previous stages, starting with the concrete experience, developed further by reflective observation and abstract conceptualisation. New insights are developed through this active experimentation, and then implemented in subsequent experiences, and then, in Kolb's cycle, that new subsequent experience starts the cycle again. So we go from active experimentation to a new experience, and then a new reflective observation, and a new abstract conceptualisation, and so on.

For Kolb, the learning cycle is almost like a double helix that continues to develop as the student engages in more and more experiences. What's key to Kolb's cycle is that reflective observation is not optional, it's not a throwaway, it's actually the necessary mechanism through which experience becomes learning, so the reflective component of Kolb's cycle is critical.

An example of how we might use or observe Kolb's learning cycle is a structured experience where students are asked not only what they did, or what assumptions they made, but why, why did they make certain decisions, what assumptions, what identity dynamics, what kind of power relationships might have shaped the decisions students made in a certain situation. An example of an exercise might be a client interviewing exercise, where we could either have a live client or a simulated client, an actor playing the role, and the student would engage in the experience, then be asked to reflect on it, and then be able to further abstract and conceptualise what they might need to do to make the experience better, and then experiment with another exposure to an experience, and start the cycle again.

Moving on to Ericsson's theory of deliberate practice. Ericsson and his colleagues were writing, in the early '90s, about reflective practice and this idea of deliberate practice. The ideas Ericsson brings to the table are: number one, that consistent repetition is critical, so students should be confronting similar challenges across multiple encounters, it's not enough to do it one time and say, "Oh, I did my client interview, now I'm done, I got that." The second thing critical to deliberate practice is structured feedback, experts, meaning teachers or practitioners, can organise feedback around specific and named competencies. This requires significant work on the part of teachers or practitioners, to come up with rubrics or very detailed components of a specific skill, and to relate that performance back to the student. Students should have an opportunity to self-assess before receiving feedback, but structured feedback is really critical to the student's development. And the last is calibrated difficulty. Ericsson and colleagues posit that students should confront increasing levels of difficulty and complexity in performing different tasks. Overall, the experience must be combined with reflection on the part of students, and feedback on the part of teachers.

If we move to Laila Hlass and Lindsay Harris's model for critical lawyering, there's a seminal article from 2021, on critical interviewing. What they did in that article was coalesce and synthesise ideas of critical lawyering. It incorporates intersectional and anti-racist principles into reflective practice, in order to address issues of power and structural inequality, and they applied this theory very specifically to the skill of client interviewing. For those of you not familiar with the article, I highly recommend it, they also produced a series of videos that I continue to use in teaching, which allow students to see what an interview might look like, and then to criticise, evaluate, or reflect on how a given performance occurred. Students can do this in a way that avoids the problem of students feeling anxious about their own performance, using the videos provides a third-party, non-intrusive way to criticise and analyse things that happen in interviewing, through this lens of intersectionality and anti-racist principles. So this model integrates reflective practice by having students assess not only their technical performance, but also the assumptions and power dynamics that shape their approach to each encounter. In some ways this is very similar to

some of the models and stages I'll talk about in a minute. The reflective capacity is not treated just as a value-neutral skill, but as a practice rooted in relational accountability.

Moving on to framework four, the stages-of-reflection model that I wrote about some time ago. The stages are essentially: competence, does the student evaluate or perform the task competently? Differentiation, are there different ways to accomplish the goal? Internal context, what are the experiences, preferences, biases or characteristics that shape the student's own approach to the lawyering or task at hand? Then we move to the later stages: external context and societal context, looking at preferences, biases and other aspects of the performance that don't reflect directly on the student. So it's not about the student self-reflecting, it's about the student reflecting on the overall experience and expanding to externalities and critically examining the assumptions and values that shape legal practice.

Just a few quick examples of questions you might ask in the earlier stages,

(Michele Leering) Sorry to interrupt, two minutes, Tim.

Thank you. In the earlier stages, the questions focus on: What would a competent lawyer do? Are there different ways to meet the goal? What choices did I make, either consciously or subconsciously? In the later stages, the questions might be: How might the preferences and biases of others affect the outcome? What structural impediments might exist to my client's outcome? And how has my thinking evolved?

How do these four pillars work together? Kolb's concrete experience leads directly into the deliberate repetition from Ericsson. The stage model of reflection from my work can give us questions and specific ways these pillars can work together. And finally, critical awareness, I think that's a fantastic outcome, and I derive that specifically from the work of Hlass and Harris. So each framework incorporates a cycle: Kolb moves from concrete experience to reflective observation to abstract conceptualisation, and finally to active experimentation; Ericsson describes a feedback loop between student and teacher; my model provides a pathway to development; and Hlass and Harris describe a critical awareness.

Together, these four frameworks position reflective capacity, not just technical skill, as a central outcome of legal education.

Finally, in terms of next steps, in my view, what we need to think about are measurable outcomes. Can we integrate these theoretical frameworks, Kolb, Ericsson, Hlass and Harris, and Casey, into experiences or exercises that can actually measure the development of reflective capacity? Skill acquisition might be measured behaviourally, reflective development might be measured developmentally, professional identity might be measured longitudinally.

This is where I need your help, and we need to help each other, I think we've started to engage in the empirical process, but I really think that's where we're going to be going in the future. Thank you very much, and I look forward to questions. And, Michele, I think I'm right at time.

(Michele Leering) Yes, super, thank you so much, Tim, that was fascinating to see you put those four together. I can't wait to hear more, and possibly future discussions with those of us who care about theoretical development. It also got me thinking, when you cited Hlass and Harris, those could be good examples for a curated collection of articles that are really important, on the website, if people are interested, I'll talk about that later. But those contributions, and how you've pulled them together in addition to your presentation, could be really helpful. So, thank you so much for that.

Now, questions please, everyone, into the Q&A would be great, and also please feel free to put comments in the chat during this event. Now we're going to move to Dustin's presentation.

Dustin is a lecturer at the University of Sherbrooke, and he also co-founded a learning design company, and he's going to be speaking to us about reflective practice, moral imagination, and the rule of law. Looking forward to this. I'm just going to start my timer again. Welcome, welcome, Dustin.

34:55 (Dustin Gumpinger)

Oh, thank you, Michele, I just wanted to echo the thanks from my colleagues, this is a tremendously well-organised event, I'm just really blown away, so thank you very much. I want to just jump right into it.

Reflecting on poignant literature can help us preserve the rule of law.

In recent years, the phenomenon of "autocratic legalism" has been observed, whereby autocrats with legitimate democratic mandates are using the law to undermine the rule of law, and there's an emerging body of scholarship showing the role that lawyers actually play in this process, lawyers use their legal training to develop, draft and defend legal changes that subvert the rule of law. The most top-of-mind example, as this image alludes to, is the roughly 60 unsuccessful lawsuits brought in battleground states to overturn the 2020 US presidential election. Analysing that example, Professor Cummings proposes a few reasons why lawyers do this, including ideological commitments to zealous advocacy, individual motives like money and power, commitments to political and social causes, and, in some cases, as shocking as this is, commitments to authoritarianism itself.

Unsurprisingly, then, there are calls to adapt legal education to try to strengthen the commitment to the rule of law. But more moral and ethical knowledge doesn't seem to be the answer, nothing suggests these lawyers had not learned or understood the rule of law; rather, when push came to shove, they just placed other loyalties ahead of this key principle of legal morality. So what I'd like to do is explore a promising method for strengthening law students' moral commitment to the rule of law, specifically, reflection on our affective responses to what I'm calling "poignant novels." I see this as a promising avenue, and to do this I'm going to draw on philosopher Richard Rorty's work, to provide a philosophical articulation of *affective aesthetic reflection*, an area that's really under-theorised in legal education.

I want to situate my approach within the broader literature. It's well situated within the literature on teaching applied ethics, a business ethicist, for example, shows that Rorty can help us reflect on the implications of our moral outlooks. This approach also fits well with the emerging literature on reflective practice and law, particularly Dr. Leering's work, she discusses how emotional methods of reflection, including those involving literature, can be used in self-critical and integrative reflection, and illustrates how reflection can build on our moral intuition, our commitment, and our empathy. She writes of the importance of reflection for a profession particularly given that we're committed to the rule of law. So let's now look at Rorty and his concept of the moral imagination.

Rorty argues that our moral commitments stem from our ability to imagine the actual and possible pain, suffering, and humiliation of other people. Imagining what it's like to be in their situation, their shoes, is what generates sympathy and compassion, we recognise the vulnerability in others, and in doing so we actually recognise our own vulnerability, and the contingency of our own standpoint. In doing this, we expand our moral perspective. The way we increase the moral imagination is through experiences that affect our beliefs, experiences that influence our sentiments or feelings, rather than increase our knowledge, especially ones that sensitise us to cases of cruelty and humiliation, that move us to empathise with others' suffering and pain. Rorty says that moral education should focus on affecting our feelings, because of those premises, if it does, our ability to identify with others is going to increase, and our moral commitments to others will intensify. In particular, Rorty says teaching through stories that detail specific pain and humiliation is particularly effective, poignant novels, as Rorty calls "sensitive novels", but he's not using "sensitive" in a pejorative sense, which is why I like to use the term "poignant" instead.

Poignant novels have been especially good at detailing the painful effects of social practices and institutions on others, and those novels have been a really important vehicle for moral progress. One example he gives is Charles Dickens, and how Dickens arguably had more impact than anyone else in alerting people to the plight of the English working class. Rorty also points to the birth of the modern novel more broadly, in the 18th century, as a point that helped the development of human rights by allowing people to empathise with members of different social groups. Rorty is not the only one who has made this point, for example, historian Lynn Hunt, in her book *Inventing Human Rights: A History*, points to this very fact as well. These stories are what set us up for moral reflection, for Rorty, they impel us to, quote, "step back, look critically at our previous mindset, and try to change it, to sort out the implications and limitations of our mindsets." In this way, we become better people morally.

Let's look at an example. My example here is Ken Follett's 2017 historical novel *A Column of Fire*. This book is set in 16th-century England, a time of religious conflict between Protestants and Catholics, a time of really heavy

polarisation, which is one of the reasons I selected it. The novel highlights how the rule of law is the bedrock of a free society, protecting us from extremist ideologies. It starts during the reign of the ultra-Catholic Queen Mary Tudor, who sought to reverse the English Reformation and restore Catholicism. The narrative is driven by the prominent Protestant Willard family, in the fictional town of Kingsbridge, England. At the time, people outed as Protestants are tortured until they recant, or burned at the stake if they refuse, so it's pretty high stakes to be a Protestant. The conflict in the novel is anchored by the Fitzgeralds, a prominent, fiercely Catholic family, who are, let's call them, the business rivals of the Willard family. The Fitzgeralds' only son, Rollo, the primary antagonist of the story, is a fanatical Catholic lawyer. The family patriarch, Sir Reginald, was made the Receiver of Customs at Combe Harbour, a nearby harbour, by Mary Tudor, because of nothing other than his religious loyalties. That same port is relied on by the Willard family for their import-export business. So, knowing about the Willards' reliance on Combe Harbour, Sir Reginald, with Rollo's help, leverages his political sway and legal tactics to ruin the rival Willards. Using his position, he coerces the Willards into loaning him their entire fortune, for a high-risk shipping investment. In exchange, because it's a high-risk loan, he pledges the most valuable piece of property in Kingsbridge as security. The problem is, at the time, charging interest on a loan was usury, which was a crime, but the laws were largely circumvented and rarely enforced in commercial towns like Kingsbridge. So what Reginald does is offer the Willards the use of the collateral during the loan and promises to rent it back to them at a high price, all is well and good. Trouble is, the Fitzgeralds default on the loan, the high-risk investment falls through, and then they refuse to transfer the collateral to the Willards. At the ensuing trial, Rollo, again, the family lawyer, disingenuously advances the argument that the contract is illegal and unenforceable. He argues that the rent, which his father actually suggested, is a concealed form of interest. We're told that the law on usury is a very grey area, but Rollo presents it as very straightforward, he calls the local bishop as an expert witness and given that usury is also considered a sin at the time, this is seen as truly expert testimony, suggesting the case is clear-cut. Rollo doesn't, however, disclose his family's promise to sell the land to the bishop, at below market value, if they win the case. The court goes on to accept the bishop's testimony, despite evidence that the bishop himself regularly circumvents usury laws in his own business dealings, so the court rules the contract void. It seems like the Willards are going to lose just their interest, but Rollo, urging the court to go further, has it enforce the rarely imposed Act of 1552, holding that the Willards actually have to lose both their interest and the principal of the loan, and, in addition, pay fines and a ransom, at the Queen's pleasure. The Willards are basically destroyed financially because of this. The novel's young protagonist, Ned Willard, thereafter dedicates his life to Princess Elizabeth and her vision of promoting religious tolerance. When she eventually becomes queen, Ned becomes a spy for her secret service. The Fitzgeralds themselves eventually experience a reversal of fate when Elizabeth starts equating Catholicism with treason.

So, Dr. Leering explains that we can and should integrate the different forms of reflection, and *A Column of Fire* invites many avenues of reflection that support Rorty's goal of cultivating the moral imagination, more specifically, it opens up to reflective practice that could cultivate a commitment to the rule of law.

I'll suggest a few ways this might be possible.

A key aspect of reflection, on Rorty's account, entails Leering's self-reflection, or Casey's "internal stage", here we interrogate our intuitive moral reaction to the story. Was it sympathy for the Willards and the loss of their fortune, for example? We then look at what shaped that intuition, in relation to our own standpoint, experiences, worldviews, behaviours, values, beliefs, interests, characteristics, and so on. Another aspect is what Professor Casey calls the "external stage" of reflection, or what Rorty calls "putting yourself in other people's shoes", we consider the preferences, experiences, worldviews and biases of other people. Reflecting on the lawyer Rollo in this story shows the contextual pressures of legal practice, financial incentives, the religious polarisation of English society, the ideology of advocacy, family pressure, the Catholic faith, and even what we might think of as the Catholic cause, in a "cause lawyering" sense. If we reflect on the Willards, it cultivates compassion, it shows how the law is a lived thing, how it causes humiliation and suffering.

While reading a novel doesn't relate directly to a student's own competence, it still provokes questions about practice. The book raises questions of advising dishonest or illegal conduct or becoming a tool or dupe of a client; questions about the obligation not to mislead the court; about the clarity of murky law; about the reliability of a self-interested witness; about the nature of a contract; about counsel's own role as a witness, Rollo was a party to drafting and negotiating that contract.

A Column of Fire also welcomes what Dr. Leering calls critical reflection, reflecting on the role of law in society. It shows how the rule of law, to quote Rorty, "was a slow, fragile, contingent evolutionary achievement." The book also emphasises the critical legal studies point that the rule of law can be used to legitimate power and oppression. It also points to the practical benefits of the rule of law, the advantages of protecting minority religious rights, the law-and-economics perspective on the importance of enforcing contracts and preserving private property rights in fostering growth. There are also lurking questions about what we, as a profession, understand about the rule of law, the book shows how commitment to a client's cause, often seen as an important bulwark protecting the rule of law, can actually undermine that institution if taken too far, it makes a similar point about obsessive cause lawyering. We can also question the assumption that a lawyer should be emotionless, Rollo is someone lacking in sympathy, which shows the importance of compassion.

So, basically, an aesthetic reflective practice focused on the affective, using sentimental stories like *A Column of Fire* can be harnessed to strengthen law students' moral commitment to the rule of law. It can help ingrain in students the idea that the rule of law is something worth defending, and maybe even worth living or dying for, and the hope is that if there is, regrettably, another "stop the steal" moment, the next generation of lawyers will be motivated to take action, to be morally heroic.

Thank you, I just wanted to point out I have a few references here, as well as a couple of images I relied on.

(Michele Leering) Thank you so much, Dustin, for sharing that and applying Rorty's ideas to legal education, much appreciated, and again lots of applause for that. Very insightful, and looking forward to seeing some questions in the Q&A if people have them.

We're now going to move to Julian Webb, one of the earliest authors writing about reflective practice, I might say, the former director of the UK Centre for Legal Education, and now a professor in Australia, at the University of Melbourne. Welcome, Julian.

49:57 (Julian Webb)

Thank you, thank you, thank you, Michele, and thank you everyone. It's a great privilege and pleasure to be here, and thank you to Michele, Sherry and colleagues for putting together such a fantastic conference for us.

This particular work reflects on my very longstanding interest in reflective practice and legal ethics since the mid-'90s, and links it to some of the more recent work and thinking I've been trying to do around issues of lawyer wellbeing. My argument here is...

(

I'm having some technical trouble... no, this isn't going to work, I apologise, my slides won't run through. I thought they would, we had some problems in the run-through here. I'm working off a tablet rather than a laptop, as I'm travelling, having a conference within a conference this evening, so I apologise, I'll talk to the slides, but I may not be able to run them, by the look of it, unless... aha, hang on, now they will. There we are, got it, we worked it out.)

So, anyway, essentially what I want to do is set up a little context with you here. That context is what I think is still a relatively under-theorised and under-formalised notion of *work-based learning* that operates across a lot of legal practice CPD, in most jurisdictions I'm familiar with. That definition doesn't really cut it, and hasn't really cut it for a long time, in terms of meeting a lot of the needs of modern practice, and the boundaries between initial legal education at the academic stage, the vocational stage, and continuing education are, I think, becoming increasingly blurry, both as a matter of practice and regulation. We're looking at some proposals in Australia currently, where the vocational stage may actually be disaggregated and split between a kind of vocational training course and a more embedded, practice-based element.

I want to link these issues of effective professional education with a couple of things increasingly being described as crises in the profession, the crises of wellbeing, and relatedly, ethics. There are ways in which these are separate but also related, and my key interest is in that point of connection between organisational culture and ethical climate, a reference here to work done particularly by colleagues Stephen Tang, Viv Holmes and Tony Foley at ANU, in papers published in 2019 and 2020, and work that group and I have been involved in, for the uniform law regulators in Australia, in 2025. You'll see some data on the slide there, pointing to the things we're interested in, the increasing

wellbeing crisis in law. We see figures like, from our own research, 28% of lawyer participants telling us they've experienced workplace incivility at least weekly; only 48% of our participants experiencing their workplace as having a positive ethical climate.

And, as we know, across multiple jurisdictions, there's data from the UK cited here, Australia and Canada, that all point to very similar figures, between the high 60s and mid-70% of legal professionals reporting either actual mental ill health, or certainly the symptoms of mental ill health. The role of what we might call "ethical climate", and this isn't just professional regulation, but the idea of whether one is operating within an ethical, values-based organisation, I think is really important.

Our research, based on a survey of nearly 1,900 lawyers, points very clearly to ethical climate having independent, moderating effects on a range of lawyer experiences, in terms of psychological distress, positive wellbeing, so not just ill-being, and what we sometimes call "the flight from law," people's intentions to change employment. **1:55:45** Work, not just ours, but across a number of jurisdictions, also highlights a number of risk factors to both wellbeing and possibly ethical climate, in terms of heavy workloads, time-based billing, adversarial professional identity, and very variable levels of psychosocial support within legal organisations. Now, what this actually points to, perhaps I should say what I want to point to, is that we're not just talking about a set of potential mental health problems for individual lawyers here, but a bundle of reasons why lawyers lack the resources to be ethical, effective practitioners. This is something I was talking about at the conference I'm at today, in terms of a kind of ontological insecurity that lawyers commonly experience within their workplaces. And the data, in many ways, points to a bunch of structural gaps between individual responses coming from organisations to deal with wellbeing and associated issues, and the organisational causes of poor ethical climate and wellbeing. As the third column in this slide shows, there are a lot of things that the standard kind of responses we're seeing from law firms fail to address, and most of those are structural.

So, the question for us then is: how is reflective practice, in any way, a solution to these things?

I want to propose a solution that draws on a mix of theoretical resources, including Michele Leering's integrative model of reflective practice, and an evolution of Argyris and Schön's grounding work, work I was building off of in the '90s, around double-loop learning. What I'm proposing in this paper is that we need to think about moving from the classical model of double-loop learning into a third loop, which comprises a kind of critical and collaborative form of reflection. This slide summarises that classical double-loop model. The question for us is: what does this third loop actually look like? This is the bit I want to concentrate on in the remaining time I've got this evening.

The idea of triple-loop learning is contested, it doesn't come out of Argyris and Schön's work directly, and it's been developed in rather different ways in various strands of scholarship on professional and organisational learning. So what I'm doing is producing something of a synthesis here. But I think what most of the accounts have in common is that there is something transformative about triple-loop learning, in a way that even double-loop learning is not really, transformative of core organisational values, concepts and practices. This is really the "X factor" in triple-loop learning that I think is missing from most accounts of reflective practice, and I'm happy to be corrected on this, I'm still working on this as a conceptual project. But my answer, so far, to the "what's missing" question is that there is a lack of emphasis on institutionalised, collective reflection at the organisational level. This is where I want to make a critical connection with what I'm calling "organisational resilience", and that's a deliberate choice of words.

I am not a fan of the resilience concept when used in terms of individualised resilience, I join with Christine Parker and Richard Collier in having reservations about saying that building individual resilience is any kind of solution to an institutional and structural wellbeing problem. But I don't have the same resistance to the idea of building resilient organisations, which I think is about strengthening both ethics and wellbeing. I think this idea of institutionalised collective reflection has a family resemblance to Michele's idea of critical reflection, including that it is, in effect, a kind of systemic, rather second-order, or paradigmatic, form of reflection. But what I particularly want to stress here is the organisational level at which that reflection takes place, as well as its collective form, because I would argue that it's by instantiating reflection as an organisational practice that we start to find a basis for proper systems change and organisational resilience.

If I've got time, I'm just going to quote very quickly from one of the meta-review papers, by Quan Kang and Nikolai Nikolaidis, they say, from a practice perspective, "triple-loop learning is a framework for understanding and

fostering adaptive, innovative and sustainable systems change, specifically in the context of dealing with complex organisational and societal challenges. Triple-loop learning creates learning ecologies conducive to continuous improvement and change." So it fits with a lot of the buzzwords we have around continuous improvement, again, something I don't always buy into, but I think there are benefits to this kind of model, moving towards a continuing-competence kind of framework, and continuing improvement within organisations. Leadership, Kang and Nikolaidis emphasise, is a crucial part of this exercise.

And Gemma's just made another point I'd link to, which is that I think this does also tie in with debates in the ethics literature around the fundamental importance of building ethical infrastructure, and I would certainly make that connection as well.

My final couple of points: I think the rationale for this is that self-individualised reflection is great at developing personal professionalism, but that kind of reflection actually requires a level of psychological safety that the data tells us many practices don't yet provide. So I think there's a way in which what I'm talking about, building organisational reflective practices, and reflectively resilient organisations, is a precursor to being able to build and develop proper, individualised models of reflection within those practice settings.

My final point, in a sense, is that we can't ask lawyers to transform themselves if we don't first put the conditions in place to transform the environment in which they work, and that idea is reflected in the agenda I've highlighted in the second part of that final slide. For me, there's both a practice-development aspect to that, and a need for further research, as I spell out there. I'm not going to read out the slide, I'll stop there. Thank you very much.

(Michele Leering) Thank you so much, Julian, that is fascinating too. I'm a huge fan of triple-loop learning, so I love the way you've applied it here, and the implications it has overall, especially for critically reflective practice, the concept of triple-loop learning is wonderful, and we'll segue a bit into our panel this evening on wellbeing and reflective practice. So thank you so much for that. Again, just a reminder to everyone to put questions in, I'm beginning to think our co-panellists are going to have questions of one another too.

But now we're going to move on to Eduardo Capulong, who is a professor of law and director of experiential learning at the University of Hawai'i. Welcome, Eduardo, looking forward to your presentation.

1:05:27 (Eduardo Capulong)

Thank you very much, let me echo also the thanks to Michele, to Sharry, to the Dean, to the organising and technical team for putting this together, and to my co-panellists, and welcome, everyone. I have the luxury of being the final speaker, so what I thought I'd do is share my thoughts and some of my recent work in the context of my co-panellists' work and hope I'm able to contribute meaningfully to this conversation.

Let me provide context here by mentioning three items. One: I've long been interested in the relationship between individual practice and social or collective transformation, this idea of holding onto the possibility of a real, hopeful future, especially now, given the poly-crisis that Sharry mentioned. And in my thinking about this, which has evolved a lot, I've realised that while these two things are coextensive and constitutive of one another, they're not necessarily simultaneous or reducible to one another. There's a dialectic between individual practice and social transformation. Of course, we seek, ethically, to practise in ways that are ethical, in our quest for social transformation, but we also can't reproduce the ills of society in the process of changing the world, and yet we need to go through the process of social transformation in order to realise, or bring about, in individuals, the values that will be equal to the order we're perhaps trying to imagine. This relates, I think, somewhat to Dustin's comments about the imaginary we're all trying to achieve. That's number one.

The second thing is just this point about the poly-crisis, I think, perhaps, we can't mention this enough, how beset we are by such myriad challenges, and we're all looking for guidance, insight, inspiration, refuge, in trying to deal with what's happening in the world. My particular focus of late, as has Dustin's, has been on democracy and the rule of law, and I think reflection is quite a natural process for us to engage in as we try to figure out how to deal with what's going on.

And then the final point of context for me is – I am particularly interested in the attacks by the Trump administration on democratic norms and the rule of law, but I'm particularly interested, these days, in the capitulation of the lawyers, the law firms, and the legal institutions in this process. Those of you following this in the United States might have noticed that there have been nine law firms who capitulated to the attacks by the administration on law firms, in particular Perkins Coie, and a couple of other firms, and these firms basically provided the administration with thousands of pro-bono hours to advance the agenda. Legal institutions, as well, have been complicit in this, you might know that the American Bar Association Council, which accredits law schools here in the United States, has been in the process of eviscerating standards on diversity, equity and inclusion, on disability, on racism, on bias and cross-cultural competency.

So, I'm really interested in this process, I think there was mention of Scott Cummings's work here, from UCLA, who's a colleague of Tim Casey's, he's been doing really great work on this.

So those are the three things I wanted to provide as context. And then, in terms of a point of departure, I am a follower of Michele's work here, in terms of integrated reflection, and critical reflection is key.

Really, this idea of expounding the boundaries of how we're thinking about all this, beyond perhaps the utilitarian, the performative, or the professional, but rather taking into account the broader and deeper universe of things, and, in particular, also bringing ourselves into the reflective process. I've done a little bit of work on bringing race into the reflective process, rather than thinking about it as somewhat racialised, gendered, etc., we really ought to acknowledge how we've been racialised, gendered, classed, in the process of our own reflection, and in the process of our identity formation. So I really appreciate Tim's work here, in revisiting his early work, to interrogate the cognitive aspects of this, and to bring in more of the critical lawyering perspective.

Okay, so that's kind of my point of departure. And that's the context for what I'd like to offer in the few minutes I have, just five points, taking advantage of reflective practice and educational learning theory, and this idea that in this period of uncertainty, as Gemma was talking about, perhaps we can think about five things.

One, and this is kind of what I've been trying to do this past year, is to use reflection to forensically examine our practice over this past year and a half. Have we shown up in the poly-crisis? How have we been changing in what we do or don't do? How are we being changed, and how are we showing up and practising, in the micro and macro spaces? Again, as Dustin talked about, we are in this period of autocratic legalism, and there's a struggle around that. I do think things are very fluid, and what we do really matters, both writ small and writ large. So one of the things I think we can use reflection for is a forensic examination of our own practice this past year and a half.

Secondly, as I've already mentioned, in terms of reflection, I am very much partisan to integrative, critical and collective reflection. I've been thinking a lot about the concept of "third space" here, Robert Putnam's work on the space in between work and home, and how those spaces can be both, as Putnam talks about, bridging spaces, this has also been theorised, of course, by Ray Oldenburg, and by Homi Bhabha in the decolonial context. But those spaces can be both homogenising and diversifying, and I'd like to think that we create those spaces not just in the artificial world of the internet, but really find those spaces, those third spaces, in the reality of the moment, in trying to really come up with bridges, and heterogeneity and diversity, in what we do, because, as we all know, what's happened on the World Wide Web has been kind of a polarisation and a homogenisation of different communities.

The third thing: I really want us to think about our role as legal professionals, and as lawyers, in the erosion of democratic norms and the rule of law. We are the guardians of the legal order, I don't think there's any higher responsibility for us than to ensure this doesn't continue to happen; there are no other people, and no other profession, charged with maintaining our norms in the way ours is. Those of you in the United States will know that in our rules of professional conduct, we have three roles as lawyers: as zealous advocates; as officers of the court; and the third is, quote, "a public citizen with a special responsibility for the quality of justice", not just ensuring access to justice, but also substantiating what justice means. So I think we need to think about it, even if we think expansively about our role, and analytically about what's happening, I think we need to be very focused on our role as attorneys and as legal professionals.

The fourth is, in the process of thinking, I really do think we need to hold onto what is possible, in terms of a transformative vision. I actually think there are cracks, apropos of Michele's quote about light seeping through the

cracks, there are cracks in this hegemon that's coming our way, and I think in those cracks, whether you're, from the left, perhaps hopeful about Mamdani and the democratic socialists now running for office, or whether you're progressive, whether you're liberal, I think what's happening is we're seeing some of those cracks, and in those cracks, and in holding onto the existing rule of law, I do think we need to hold onto, and imagine, a transformative vision of justice, and what I think Michele referred to as a future-forming reflective process.

And in that process, also, in terms of the object of reflection as a transformative vision, we also need to think about who the agents of social change ought to be, and I think that's really important, in terms of bringing in our racialised, gendered, and other selves into the reflective process, because I think reflection cannot just be the process of thinking about the other, it has to be the process of thinking about us, about who we are, and about what solidarity we can build across the board.

And then the final thing is, again, going back to where I started, I really need us to be mindful of the individual-social dynamic. I think, in the process of reconstructing ourselves, and responding to all the threats we're seeing right now, we are being changed, we are changing. And in the process of reaction, I think we need to be very, very intentional about the process of reconstructing our racialised, gendered, othered selves, because that is part and parcel of the object of transformation.

So let me just conclude by saying that, perhaps on a personal note, I've been rereading Kundera's *The Unbearable Lightness of Being*. I don't mean to be presumptuous about it, it's a great book, and in the book, those of you who might have read it or know about it will know he mentions Nietzsche's myth of eternal return, this thought exercise, that if you can imagine your life happening over and over again, ad infinitum, all the mistakes you made, all the joys you had, etc., would you do it? Would you do it again?

And the reason this speaks to me is that I really think the moment we're in requires that we ask ourselves: if you were to relive your life ad infinitum, over and over again, would you be able to stand it, or would you have done something differently? Which I think, ultimately, at bottom, is what reflection is all about. Thank you.

(Michele Leering) Thank you so much, Eduardo, that was very meaningful, I'm seeing lots of positive remarks there, and a remark about hearts and hands. That certainly spoke to me, spoke to me deeply. Thank you for that. We're now going to turn to the questions, and I know panellists may also have some questions of each other, which I'd like to encourage people to share.

THE Q & A section is omitted from the recording and the transcript