

KELLEHERS AUSTRALIA

n-House Briefing Memorandum

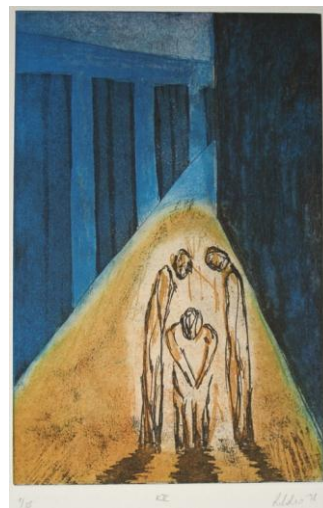
Legal Education

The law is a powerhouse for social change and coherence. Some, however, are forced to beg admittance at its gates. Kafka's book *The Trial* explored this notion, as did the Orson Welles film based on Kafka's book [[Orson Welles' *The Trial*](#)].

Members of Kellehers Australia legal team have used two teaching innovations to examine 'gatekeeper' notions in the law. Their outcomes demonstrated the power of student energy when placed proximate to injustice. Law students have a powerful and unique window and a capacity to re-imagine the legal knowledge hierarchy that can lead to creative approaches.

The first concept was an advocacy program, developed by Mr Hubert Algie (himself a law clerk and student) at Victoria University. The program actively engaged students to generate advocacy skills through practice, providing a compass for less confident students to navigate this often hostile environment. Each session welcomed a senior legal professional from among the diverse areas of contemporary legal practice to provide face-to-face input and feedback to students. Critically, the program provided a safe 'padded wall', non-competitive and non-judgmental environment. Students shared an anti 'spoon feed' attitude, seeking a direct path from improved advocacy skills to addressing injustice.

The second concept was an 'on country' Indigenous Clinical Legal Practice program. The course, offered at RMIT University, was initiated, designed, taught and assessed by the Aboriginal Elder. The 'lecturer' merely shaped the Elder's approach to curriculum essentials. It is understood to be the first of its kind in Australia. The Elder's goal was to highlight students' awareness of injustice to Aboriginal people. He believed that his People have imposed upon them a system that their experience does not teach them to learn or respect. The lawyer's goal was, whilst teaching key elements of clinical legal professional practice, to encourage students' strategic thinking beyond existing legal paradigms, demonstrating the importance of superior legal knowledge and clinical skills if one is to benefit clients and society generally through legal practice. The course focussed on 'test' case issues potentially involving major law reform elements. Both Elder and lawyer considered this essential because resistance to change and legal costs place obstacles to 'test cases'. The 'test case' context also motivates the student to develop the highest order skills, with serious law reform issues at stake and relies upon their ability to find skilled, creative solutions. The course demonstrated the fundamental importance of the 'on country' experience. Students prepared a Brief to Counsel involving extensive factual review and difficult legal analysis, involving team workload allocations and dynamics. The Brief to Counsel ultimately became a vital part of a subsequent Federal Court 'test' case. The project demonstrated the strength of Aboriginal/ non-Aboriginal collaboration 'as equals' in creating new perspectives and methods in legal education and the importance of continuing to find new ways for Aboriginals to participate and educate in Australian law.



Original etching variation in blue by the German artist Elke Rehder, depicting Franz Kafka's *The Trial*

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