

Clinical Education, the lessons learned from practical applications

Albanian issues, East Europe and the advanced international practices on Clinical Education

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Abstract

While studying the law, for the students is very important to be in touch with legal issues and the real needs of the society. A legal clinic, also called a law school clinic or law clinic, is a program organized through a law school that allows students to receive law school credit as they work part-time in real legal service atmospheres.

In legal clinics, students perform various tasks just as an attorney would do in the same job position, such as doing legal research, drafting briefs and other legal documents, and interviewing clients. Many jurisdictions even allow students to appear in court on behalf of clients, even in criminal defense. Legal clinics is part of the academic law program in the most of the law faculties all over the world and it has a great impact in the community's life. Throughout legal clinics students not only get the opportunity to be part of an important experience, but also they can be effective and help the people in need with their work.

This paper aims to bring attention to the importance of clinical education in the formation of young lawyers and how one can learn from experience. There will be discussed important issues about legal clinic, the objectives and its mission, how to apply it and the benefits legal clinic brings not only for the academic area but also for the society.

Keywords: legal clinic; benefits; clinical methods; development; pro bono service

What is legal clinic?

Law clinics is a teaching method intended to teach the students fundamental skills and values of practicing attorneys by representing clients under faculty supervision. The clinic practice includes a wide range of subjects. Law students advocate before state and courts to represent their client's interests. Legal clinic teaches the law students the habit of reflection, value of collaboration and gives important lessons about what it takes to make justice a reality in the lives of those who can not afford to pay a lawyer.

Two of the objectives of legal clinics ought to be distinguished: the educational and the social one. The latter objective consists in the clinics delivering legal assistance to persons who require such service but can not afford to pay for it.

A legal clinic is a facility run by a law school to provide free services to the public while training their students in clinical law practice. Law students work at a legal clinic for school credit and to gain experience in handling real legal problems. Legal clinics are popular in many different countries, and can make a great difference to local communities by offering pro bono services to those that cannot afford to hire a lawyer.

Some educational experts believe that, like medical students, legal students may learn better when given opportunities to put their skills to practical use. By allowing students to meet with clients, file claims, do case research, and manage real cases, a legal clinic helps ingrain the knowledge gained in classrooms into the practice of future lawyers. Students usually work under heavy supervision, and are rarely permitted to argue oral cases in court. Nevertheless, they have the opportunity to work closely with the clients throughout the span of the case, acting much as a professional lawyer would.

Legal clinics may offer a variety of different surfaces, and may specialize in different areas of the law. Some specialties may include tax law, immigration law, criminal law, environmental law, family law, and basic community civil legal services. A large law school in an urban area may operate several legal clinics throughout the city, giving students the opportunity to test out their interest and ability in different areas of the law.

Because of the benefits one can have while practicing law in legal clinic, this new subject has been implemented in our Law Faculty, in University of Tirana. Although we are in our first steps we hope that legal clinic will be an important and successful project with a lot of benefits for our students and for the community too.

The development of clinical education in East Europe

Clinical education is growing with big steps in the countries of East Europe. Because of its advantages and the benefits that legal clinic offers not only for the students but also for the society, the law faculties has implemented it as an important part of the academic program. Poland is one of the first countries of East Europe that has made legal clinic part of their law faculties program. Every year are organized conferences and seminars in order to promote the legal clinics methods and the benefits. The clinical professors of our faculty have been part of these organizations and tend to implement the new methods in legal clinic in Albania.

There are many reasons for the rapid growth of clinical legal education programs in the region, but one of them is that law faculties in Central and Eastern Europe are

increasingly operating in crisis mode. Applications are growing in number each year in almost exponential fashion. In many respects, this represents a healthy development for law faculties, but it also puts pressure on them to accept increasing numbers of applicants each year, in turn placing tremendous strain on the existing system of apprenticeship. This not only limits the number of law students that can eventually become members of the bar, it means that for the majority of law students, exposure to the practical side of lawyering is limited to a short, mostly pro forma practicum experience, if anything.¹

Another engine of growth has been the tremendous need in the region for legal assistance to those who cannot afford to hire a lawyer. While there are limits to what a student is permitted to do on behalf of clients according to national legislation, students can do a lot to fulfill the unmet legal needs in society. Students can provide legal information, clarify legal issues for individuals with legal problems, conduct legal research, counsel and in some cases representing individuals before administrative or other instances. Primarily for this reason, a number of donors, such as the Ford Foundation and the Soros network of foundations, have provided initial funding to legal clinics in East Europe. We can mention USAID in Albania that have given an important assistance in building and developing legal clinic in our law faculty.

Yet another attractive aspect of clinical legal education is that it encourages critical thinking and the development of analytic skills, because students must solve real problems stemming from actual cases. Especially in an environment in which the legal system is going through a rapid transformation, as in East Europe at the current time, these analytical skills are essential to a lawyer's capacity to work within an unstable and constantly changing legal environment. They are equally essential to the scholarly goal of identifying gaps between theory and practice.²

For the above reasons and many others, clinical legal education has proven to be attractive to a small minority of law professors and their Deans. And it has been extraordinarily attractive to a much larger number of students who have experienced the excitement of helping to solve the real legal problems of individual clients.

The clinical method

Much of the value of clinical legal education comes directly from the exposure of law students to clinical practice.³ Clinical teachers must guide and consolidate this powerful experiential learning opportunity without undercutting the strength of the experience

¹ Legal Clinics and Law Students: Rocks and Cement for Better Legal Education- John S. Bradway, Professor of Law at Duke University, fq 15.

² The legal clinic- The idea, organization, methodology – The legal clinic Foundation, Warsaw 2005, fq 45

³ Clinical anthology. Readings for live-client clinics- A.J.Hurder, F.S.Bloch, S.L.Brooks, S.L.Kay, Anderson Publishing Co, Cincinnati, Ohio, fq 50

by falling back on traditional norms of student-teacher interactions. To improve the clinic's benefits for the students clinic teachers may use different methodologies. The important thing is that the methodology used should be effective and specific for the students.

Universities exist to expand and promote knowledge and to educate students in ways that will serve their future lives and the societies in which they live. Universities aspire to more than transferring a body of unchanging content to students and more than producing students proficient in particular tasks. University faculty employ their years of study in a critical perspective on the subject matter they teach and about which they write. Faculty build and test theories about why things are as they are, what consequences flow from those conditions, and what might be predicted from different ways of doing things. Their broad and deep knowledge allows them to provide a cognitive map of a subject for students, but faculty also seek to develop a critical facility such that students can apply, question, and evaluate concepts as well as absorb and retain them. Legal clinics offer an effective way for law schools to further such goals for the university.⁴

While legal clinics provide valuable service to clients, their primary justification within the university's framework is their enhancement of the university's goals of student education, furthering knowledge through research, and service to society through education and scholarly inquiry.

In legal clinic it is very important to cooperate with professors and other professionals such as lawyers, judges and other persons that work for the justice. The legal clinic teachers should be devoted and supervise permanently their students while they are performing their tasks. They should explain them how to perform their work, who they can consult with, what are their duties and their responsibilities and other important issues that seem difficult for the young lawyers.

Their methods should teach the students how to learn from experience and how should they manage their difficult tasks. Learning from experience is the key of practicing law, in order to provide not only a valuable experience but also a beautiful one.⁵ There are a lot of learning techniques that should be applied in legal clinics. We can mention here; exercises, role playing, field work, seminars, counseling, free legal aid offered for the clients, interviewing the clients and other specific tasks. The assumption is that the more active the learner's role is in the process, the more he is probably learning. But the learning process is an individual process too. The law students should know how to improve their skills, how to evaluate the opportunities and how they can be more effective during their legal work. An important role here plays the reflection of

⁴ The legal clinic- The idea, organization, methodology – The legal clinic Foundation, Warsaw 2005, fq 35.

⁵ Learning from practice – J.P.Ovigly, Leah Eortham, Lisa G. Lerman, vëllimi II, fq 45.

the work done during a day. Reflecting can be very useful to improve and to learn new skills too. If one student reflects on what he has seen during his day, what mistakes he has done, the work of others and their collaboration, he has more chances to learn from that experience and to avoid making these mistakes another time. If he is passive during his work, he does not make questions or does not involve himself in specific work, he will have very little opportunities to learn from practice and to gain benefits from that experience. A student like this would have to wait a lot of time to grow professionally.

In order to improve their skills and to learn from practice a great role here have the clinical professors, which have specific duties to work and collaborate with their students. Students in clinical courses work on legal issues in real-world settings. While representing clients, working on cases, and serving as interns, students get great first-hand experience and learn how to practice law. Clinics and internships integrate skills, theory, strategy, and law, building a bridge between the classroom and the profession.

Areas of legal clinic

Legal clinic can be applied everywhere, in every field of law, and is an irreplaceable part of the legal education of every student. But there are some specific fields of law where clinic is very important and is part of clinic classes offered by different universities all over the world. Clinical legal studies exist in diverse areas such as immigration law, environmental law, intellectual property, housing, criminal defense, criminal prosecution, human rights and international criminal law. Clinics sometimes sue big companies and government entities. This has led to push-back in courts and legislatures, including attempts to put limits on who clinics can sue without losing state subsidies.

Here are some specific legal classes offered by law universities in Europe and in U.S.A as well:

-Entrepreneurial Law Clinic. The Entrepreneurial Law Clinic (ELC) is an innovative clinic serving entrepreneurs by offering pro bono legal and business counseling. The ELC is based on a pioneering model developed by Professor Sean O'Connor that is a hybrid of a traditional law clinic and an externship. This model allows more clients and students to interact in the ELC than in a traditional clinic. It has an important impact on economic development and provides effective access to justice from business.

Entrepreneurial Law Clinic give the students and lawyers the possibility to specialize in critical fields such as Intellectual Property (IP), corporate and securities law, and tax.

Entrepreneurial Law Clinic is offered by University of Washington, University of Nebraska etc.

- Child Advocacy Law Clinic. This Specific field of law clinic consists on pro bono legal aid, in which law students, under the supervision of experienced faculty members, represent children, parents and other parties in foster-care proceedings. In addition to directly representing families in court, law students draft statutes, conduct trainings and write articles. Child advocacy law clinic is practiced widely in University of Michigan in United States.

- Criminal Clinics. The criminal clinics provide students with experiences and skills of litigation practice. In this clinic program, students will intern in the offices of The State Attorney or Public Defender in addition to attending clinical lectures and Simulation-based classes. Students will become familiar with all kinds of court proceedings, such as first appearances, bail hearings, arraignments, pleas, sentencing hearings, and jury trials; and will put their understanding of substantive law, procedural rules, constitutional dictates, and advocacy to the test in the complex world of criminal practice.

Criminal clinic is offered by University of Florida, University of San Francisco in U.S, and is offered as well in University of Tirana, Faculty of Law.

- Environmental Law Clinic. Students in the Environmental Law Clinic have the unique opportunity to engage in the practice of law on local, state, regional, and global levels by working on critical issues that face the planet and on pressing problems that affect poor, under-represented communities. Whether countering attacks on the science behind global climate change, preventing natural gas drilling from contaminating drinking water, preserving endangered places and species, or framing a discussion about the impact of climate change on island nations, clinic students strive to find the most effective mechanisms to resolve environmental problems. Issues raised by clinic clients, as well as environmental conundrums making news around the world, expose students to a panoply of methods for addressing environmental issues. By working on litigation, policy development and implementation and regulatory reform.

- Human Rights clinic. The Human Rights Clinic bridges theory and practice, providing students with hands-on experience in ongoing projects. Students learn to work in partnership with experienced advocates and organizations engaged in human rights activism in the United States and abroad and thus contribute to effecting positive change locally and globally as they hone their professional skills.⁶

The benefits of legal clinics

While I presented legal clinic and its mission there were two important clues about legal clinic; first it helped students to practice law, to improve their skills and be

⁶ Clinical Law review- New York University School of Law. Vol. 17 / Nr. 2, Spring 2011, fq 479

effective for the society, and second, legal clinic offered pro bono legal services for people who can not afford to pay for a lawyer. Legal clinic can bring a lot of benefits for the law faculty and for the society too. More we develop legal clinic and more we take benefits from it. Here are some of the most important values and the advantages one can have from legal clinics:

- Communication Skills

Clinic students draft pleadings and discovery motions, interview and counsel clients, mediate complex disputes, and persuade an adversary or a judge- essential skills for any law school graduate. Full-time clinic faculty provide all students with extensive reviews of their written and oral performance.

- Understanding Institutions

Today's lawyers must understand how to work within complex and often overlapping administrative and regulatory systems in order to advocate effectively for their clients. Clinical experience provides students with a basis for understanding other institutional systems that they may encounter as lawyers.

- Benefiting Society

Students work on behalf of clients facing human rights abuses, environmental neglect, discrimination, and other legal problems arising from poverty and inequality. They also identify and address serious wrongs that need systemic solutions through legislative advocacy, education, conflict resolution, and community organization.

- Reflective Practice

Clinic faculty encourage students to build on their strengths, address any weaknesses, and work toward the goal of becoming lawyers with the ability to reflect upon and learn from their work as professionals.

- Professional Skills

Legal clinic provides for students not only communication skills, but also other professional skills that are very important for the legal profession. Students learn how to practice the law, how to manage different situations and how they can make solutions for their work problems. They learn to work and collaborate with other colleagues and different people with different cultures, ages and backgrounds.

Conclusions

This paper had the scope to promote legal clinic and its benefits, in order to know and evaluate it more. Legal clinic is developing in every country as a teaching and learning method too. Students need to practice law in order to become successful lawyers in

the future. This is a opportunity given by legal clinic. Legal clinic gives them the chance to help the community, to be useful with their services and their work for them who can not afford to pay a lawyer.

Legal clinic can be implemented with different methods for the students, but the important thing is that they should be comprehensive and easy for the students. It is important for them to learn not only to evaluate but also to love the clinic.

Legal clinics can be applied in every legal area but there are some specific areas where legal clinic is very important. In this paper were shown some of the most important benefits of legal clinic.

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