

A GUIDEBOOK ON BEST PRACTICES IN RUNNING LIVE CLIENT CLINICS FOR THE ACADEMIC AND NON-ACADEMIC COMMUNITY

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VODIČ ZA NAJBOLJE PRAKSE U VOĐENJU KLINIKA SA ŽIVIM
KLIJENTIMA ZA AKADEMSKU I NEKADEMSKU ZAJEDNICU

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KLIJENTË TË VËRTETË PËR KOMUNITETIN AKADEMIK DHE JO-AKADEMIK



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ENEMLOS

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Introduction

The international project "Legal clinics in the service of vulnerable groups: improving the employability of law students through practical education" (ENEMLOS) represents one of the most important pillars in the realization of quality practical teaching at the law faculties of the University of Montenegro, the University of "Hasan Pristina", the University of "Hadži Zeka", and "Kadri Zeka" University. The concept of "living clinics" is of great importance for the proper orientation of the education of lawyers in Montenegro, because it strengthens professional capacities and competitiveness on the labor market.

The collection of the pages conveys the valuable long-term experiences of our colleagues from partner academic institutions who have been collecting clinical experiences for decades and passed on their knowledge as well as the most adequate practices of clinical education. In addition to them - academic European partner institutions with representative results in the field of clinical-legal education - the Faculty of Law of the University of Zagreb, Regent University of London and the University Center for Legal Clinics in Warsaw, this monograph will also present the knowledge experiences of law faculty professors - the beneficiaries of this project.

These texts reflect the comparative best practices relevant to the achievement of key goals related to the innovation of teaching practice through the development of practical skills, the development of fruitful cooperation with other project participants, the establishment of platforms for the exchange of mutual experiences, encouraging the interest of their students, profiling according to the needs of the labor market, as well as the affirmation of humanism through education and thus the strengthening of broader social responsibility - through helping vulnerable categories to protect their rights by providing free legal advice.

Dean of the Faculty of Law
University of Montenegro
Prof.dr Aneta Spaić

Uvod

Međunarodni projekat „Pravne klinike u službi ranjivih grupa: poboljšanje zapošljivosti studenata prava putem praktičnog obrazovanja“ (ENEMLOS) predstavlja jedan od najvažnijih pilara u ostvarivanju kvalitetne praktične nastave na pravnim fakultetima Univerziteta Crne Gore, Univerziteta „Hasan Priština“, Univerziteta „Hadži Zeka“, i Univerziteta „Kadri Zeka“. Koncept „živih klinika“ je od velike važnosti za pravilno usmjeravanje edukacije pravnika u Crnoj Gori, jer se njime jačaju stručni kapaciteti i konkurentnost na tržištu rada.

Na stranicama ovog zbornika biće predstavljena kolekcija dragocjenih dugogodišnjih iskustava naših kolega sa partnerskih akademskih institucija koji su decenijama unazad prikupljali klinička iskustva i prenijeli nam svoja saznanja kao i najadekvatnije prakse kliničkog obrazovanja. Pored njih - akademskih evropskih partnerskih institucija sa reprezentativnim rezultatima u oblasti kliničko-pravnog obrazovanja - Pravnog fakulteta Univerziteta u Zagrebu, Regent Univerziteta u Londonu i Univerzitetskog centra za pravne klinike u Varšavi, ova monografija će predstaviti i sazajna iskustva profesora pravnih fakulteta – beneficijara ovog projekta.

Ovim tekstovima se reflektuju uporedne najbolje prakse relevantne za ostvarivanje ključnih ciljeva koji se odnose na inovaciju nastavne prakse kroz razvoj praktičnih vještina, razvoj plodonosne saradnje sa ostalim učesnicima projekta, uspostavljanje platformi za razmjenu međusobnih iskustava, podsticanje interesovanja svojih studenata, profilisanje shodno potrebama tržišta rada, kao i afirmaciju humanizma kroz obrazovanje i tako jačanje šire društvene odgovornosti – kroz pomoć ranjivim kategorijama da zaštite svoja prava pružanjem besplatnog pravnog savjeta.

Dekanka Pravnog fakulteta
Univerziteta Crne Gore
Prof.dr Aneta Spaić



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Prof. dr Alan UZELAC¹

Dr. Juraj BROZOVIĆ²

INCREASING EMPLOYABILITY OF LAW GRADUATES BY INTRODUCING LIVE-CLIENT CLINICS: THE EXPERIENCE OF LAW CLINIC ZAGREB

A. INTRODUCTION

The first Croatian Legal Aid Act of 2008³ introduced legal aid clinics as primary legal aid providers, alongside with administrative offices and non-governmental organizations (Art. 14 CLAA/08).⁴ This facilitated the establishment of the first live-client law clinic in Croatia at the Faculty of Law, University of Zagreb in 2010 (hereinafter: the Law Clinic).⁵ Its example was later followed by the other Croatian law faculties (in Osijek, Split and Rijeka).⁶ At present, most of legal aid clinics in Croatia follow the Zagreb model to a large extent. In the following text, the main features of this model will be briefly described.

The Law Clinic is an official part of law school academic curriculum. It is a semi-mandatory course in the fifth year.⁷ Students who stay in the clinic for one semester and perform all the required tasks, acquire 10 ECTS points, which is equivalent to one third of all points awarded in the ninth semester. However, since the Law Clinic does not only have an educational purpose, the students enrolled in different study years (second, third, and fourth) are

¹ Faculty of Law University of Zagreb

² Faculty of Law University of Zagreb

³ Official Gazette, no. 62/2008 (hereinafter: CLAA/08).

⁴ The same rule was later reenforced by the new Legal Aid Act (Official Gazette, 143/13, 98/19; hereinafter: CLAA/13).

⁵ Much of the history and the concept can be seen on its official website (<http://klinika.pravo.hr>).

⁶ See official webpages of the legal aid clinics in Osijek (<https://klinika.pravos.unios.hr/>), Split (<http://pravnaklinika.unist.hr/>) and Rijeka (<https://pravri.uniri.hr/hr/o-fakultetu/centri/153-hr/o-fakultetu/centri/1968-pravna-klinika.html>).

⁷ It is semi-mandatory because the students can also choose moot courts or internships instead of law clinics to obtain those same 10 ECTS points.

encouraged to join the Clinic already earlier, so that they can stay longer and volunteer for one or more semesters. Almost half of them choose to do it, and continue to volunteer after completion of their curricular duties in the Clinic.

Students are organized in groups that specialize for certain type of issues. The groups have from 12 to 16 members, but each group is divided into two subgroups. The focus of particular groups is on specific types of vulnerable clients (asylum seekers, children, indebted citizens, patients, victims of crime, victims of discrimination, and workers). However, in addition to special matters of their interest, each group also receives other cases, regardless of the legal field or type of client, if this is needed to secure even distribution of work and efficient processing. In such a way the Law Clinic simultaneously tries to achieve several goals: on the one side, it teaches students to apply their knowledge and acquire legal skills necessary for the labor market, and on the other side, it encourages their social sensitivity, and active dealing with the issues and problems encountered by vulnerable population.

In the Clinic, teamwork is encouraged and promoted. Initially, one or two students prepare the case and produce their draft assessment, but before it is approved, each student in the clinical group is expected to comment on the draft. Under applicable legislation, the Clinic is authorized to provide legal advice in the form of written legal opinions or general legal information (so-called *primary* legal aid).⁸ It is not allowed to provide other forms of legal aid, such as representation in court proceedings.

Limited scope of legal aid showed to be beneficial for the work of the Clinic. It enabled the Law Clinic to abandon strict hierarchical models, typical for law offices in the region, and to embrace the model of self-running student clinic similar to best clinical practices from Norway.⁹ Students provide legal assistance to clients on their own, subject to internal quality control through case-processing protocols and group discussions. Student mentors, chosen among the ‘older’ clinicians who were working in the Clinic for at least two semesters, supervise and approve legal assistance provided in the form of general legal information. When written legal opinions are issued, prior to their release they are sent to academic and external mentors (lawyers with required

⁸ Former Art. 14 CLAA/08; Arts. 6 and 9 CLAA/13.

⁹ See *JussBuss Oslo* (<https://foreninger.uio.no/jussbuss/english/>).

experience and law degree) for further supervision and review. Academic mentors are chosen among the law school teachers who volunteered to assist the Clinic; external mentors are mainly former clinicians, younger attorneys or other lawyers who expressed their willingness to participate in the quality control mechanisms of the Clinic on pro bono basis.

The rest of clinical activities are carried out autonomously by students, with limited or no interference of academic staff. Current clinicians decide on their own on the enrollment of new colleagues and their placement in specific clinical groups. Most of training activities for new students are carried out by student mentors. Clinicians interview the clients, decide whether to take on the case or not, and generally supervise and administer the work of the Clinic and deal with case management and statistical monitoring. Since some of those activities require close coordination and continuing work, four student administrators oversee the everyday activities in the Law Clinic.¹⁰ Providing legal aid in ongoing cases is only a part of clinical activities, as students also engage in interaction with the community by outreach, street-law, and other projects. A lot of these activities are undertaken in partnership with the partner non-governmental organizations and local municipalities.¹¹

After twelve years, our experience showed that the chosen clinical concept was a success. The Law Clinic Zagreb provided legal services to around 15.000 clients. According to data from the clinical database, more than a third of them are coming back for another advice, thus proving their satisfaction with the provided services.¹² From the establishment of the Clinic in 2010, more than 1.200 students and more than 100 academic and external mentors have been involved in its activities.¹³ The number of clinicians who work in the Clinic

¹⁰ Those are the only students that receive a symbolic remuneration for their activities. Other students are volunteers exclusively.

¹¹ Their activities are described in a separate chapter within this guidebook (see Aras Kramar/Preložnjak).

¹² The statistics are available in the special CMS-based database (so-called *Klinikarij*). It was also created by students in 2012.

¹³ At the beginning very few lawyers and other legal practitioners were eager to engage in supervision of clinical work, so most of the supervision was done by young teaching assistants and assistant professors. As the years went by and more and more students were engaged in the work of the Law Clinic, practitioners started to appreciate the role of the Law Clinic within the society. Now there are more external than academic mentors, which can probably be attributed

was stable over recent years, about 100 students per semester. But, until recently, there was no systematic study of student satisfaction with their clinical experience, and the correlation of that experience with their future employment: whether working in the Clinic positively affects the employability and performance of former clinicians at their future workplace. To fill in that gap, we decided to conduct a survey among the clinical alumni and submit it to objective analysis. This paper presents the results of the empirical research conducted in 2020-2021 period.¹⁴ It is our hope that the positive results presented *infra* will inspire and encourage all those interested in the establishment of similar clinical programs in the region.

B. EMPIRICAL RESEARCH

I. Goals and methodology

The aim of the research was to assess to which extent clinical education at the Law Clinic:

- expanded the understanding and knowledge of rules and practices usually acquired within the study of mandatory legal subjects,
- facilitated the development of general and specific legal skills of students, and
- reflected on their position on the labor market after graduation.

An additional goal was to investigate the students' perception of the position the clinical program should have within the law school curriculum.

At the time when the survey was conducted, total of 879 students had been engaged in the work of the Law Clinic, of which at least 552 had graduated. The online survey, consisting of twenty questions, was sent to 500 respondents, selected in *MS Excel* by random selection (RAND function). The

to the fact that many clinical alumni wish to continue their clinical work after they graduate, thus sacrificing their leisure time for greater good.

¹⁴ The research was conducted jointly with a former student administrator – Ema Basioli, and published within the paper A. Uzelac, J. Brozović, E. Basioli, *Utjecaj prakse u Pravnoj klinici Pravnoga fakulteta u Zagrebu na zaposlenje nakon završetka studija*, in: L. Belanić, D. Dobrić Jambrović (eds.), *Zbornik koautorskih radova nastavnika i studenata sa znanstvene konferencije Unaprjeđenje kvalitete studiranja na pravnim fakultetima u Hrvatskoj*, 2021. pp. 69-89. This paper shows summary of the most important findings relevant for the partners within the ENEMLOS project.

surveyed participants had one month to fill in the questionnaire. Total of 238 participants responded to the call. The response rate was thus 47.6%, which was sufficient for representativeness of the sample, making the margin of error less than 5 % ($p < 0.05$).

After a set of general questions defining the general characteristics of the sample, all other questions in the survey were of closed type with pre-set answers showing the level of agreement with each statement (1 – totally disagree, 2 – partially disagree, 3 – neither agree nor disagree, 4 – partially agree, and 5 – totally agree). Therefore, Likert scale was used as it is typical for social sciences.¹⁵ This method enabled us to evaluate twelve hypotheses:

1. The experience in the Law Clinic helped respondents to understand the functioning of legal rules in practice and to apply the knowledge acquired during the study.
2. Experience in the Law Clinic assisted the respondents in mastering the subjects which they had not encountered before joining the Law Clinic.
3. Volunteering at the Law Clinic distracted the respondents from passing exams and fulfilling other student duties.
4. The experience in the Law Clinic helped the respondents in the employment, i.e. the employer takes into account and appreciates their clinical experience.
5. Experience in the Law Clinic helps the respondents in everyday work and performing daily tasks within the current position.
6. In the Law Clinic, respondents acquired the communication and social skills necessary for working with clients that still benefit them today.
7. In the Law Clinic, respondents acquired the structured legal writing skills.
8. The Law clinic contributed to the respondents' understanding of ethical values in the relationship between clients and representatives.
9. In general, the Faculty of Law, University of Zagreb should put more emphasis on learning through practice, instead of classical lectures.
10. It is important that students achieve additional goals during student training, such as helping vulnerable groups of citizens.

¹⁵ J. T. Croasmun, L. Ostrom, *Using Likert-Type Scales in the Social Sciences*, J Adult Educ 40(1), 2011.

11. The clinical practice should be mandatory for all students.
12. Volunteering at the Law Clinic is something to recommend to younger colleagues.

II. Results

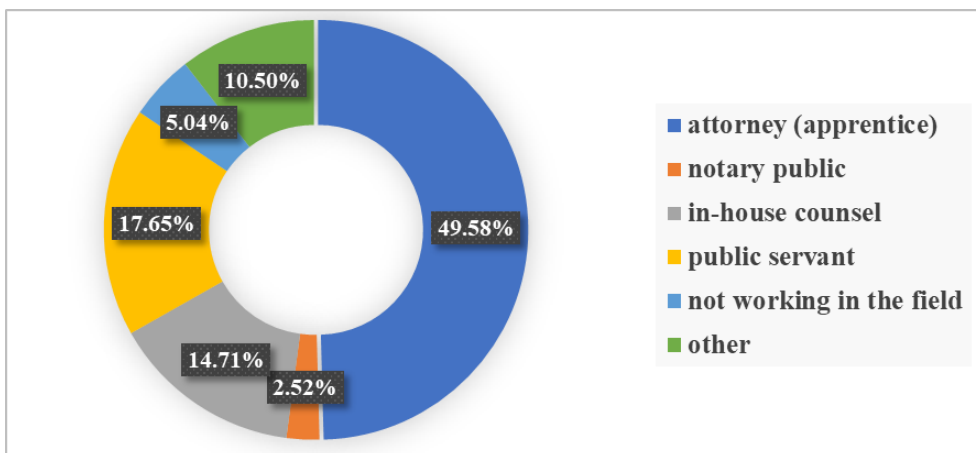
1. The general characteristics of the sample

The first part of the survey assessed the general characteristics of respondents, inquiring about their gender, age, employment duration, number of previous employments, as well as their current position/occupation. In order to see how devoted they were to the clinical idea, the respondents were also asked about the number of semesters engaged in the work of the Law Clinic, the year of study in which they joined it, and their level of activity.

In line with the general trend at Faculty of Law, most of the respondents were female (71%), as opposed to smaller number of their male colleagues (29%). When their age is concerned, they mostly belonged to the age group from 28 to 30 years (40.76%), but almost one third of them (28.99%) was between 25 and 27, and the same number of them (28.57%) was 31 or older. Only several respondents (1,69%) were 24 or younger.

Since we are not aware of any statistics observing the employment of law graduates, it was useful to discover in the general part of the survey that the relative majority of respondents had been employed from one to two years (27.31%), or in a slightly smaller percentage from two to three years (26.05%). A considerable number of respondents had worked from four to five years (19.33%) while only 14,71% had worked for less than a year and 12,61% had worked for more than five years. Since more than half of respondents had worked for three years or less, one would not expect too many changes of employers. It would, however, seem that only 40.34% of respondents had not changed their job, while relative majority changed it workplace at least once (43.70%). Approximately same number of respondents changed their job twice (7.14%) and three times (6.72%). Only 2.1% of respondents changed their jobs five or more times. Although one cannot draw definitive conclusions from these findings, it seems to indicate the labor market in the legal field had been rather fluid.

Almost half of respondents were employed as an attorney or apprentice (49.58%). The other half identified either as the public servants (17.65%), in-house counsels (14.71%), or public notary apprentices (2.52%). Interestingly, some of them worked outside the profession (5.04%) and some could not find themselves in any category (10.50%). One can only speculate whether the considerable fluidity of the labor market indicated above is correlated to the fact that most of law graduates worked in law offices as attorneys or their apprentices (see *Graph 1*).



Graph 1 – Current position/occupation

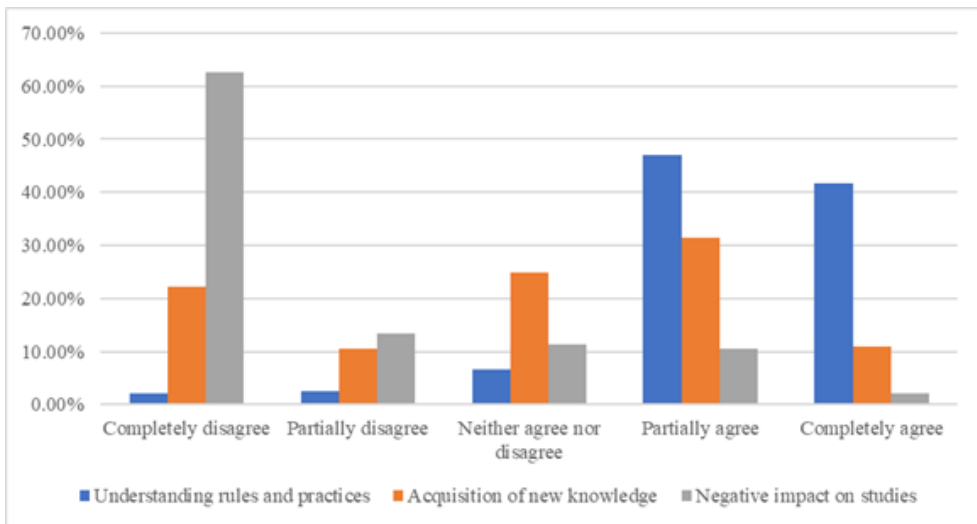
In observing their clinical experience, it would seem less than one third of respondents stayed in the Law Clinic only one semester (30.25%), while the relative majority stayed two semesters (42.02%). A considerable number of respondents volunteered three semesters (15.55%). Several of them stayed four semesters (9.66%), but the clear minority stayed there for five or more semesters (2.52%). These results seem to be in line with the finding that almost half of respondents joined the Law Clinic in their fourth year of study (47.48%) and almost a third in their third year (28.75%). Only 22.27% of respondents joined the Law Clinic in their fifth year when the Clinic is officially scheduled as an option to fulfill their practical teaching course requirement. Only 1.68% of respondents joined the Clinic in the second year and – as expected – none joined in their freshmen year. A total of 33.61% of respondents indicated that they had performed special student duties in the Law Clinic, either as student mentors, student administrators, members of the PR team, or members of the editorial board of the *Pro bono* newsletter. This confirmed the relevance of our

sample, as it reflected the usual ratio of more ambitious and average students in the Law Clinic.

2. Student evaluation of the clinical experience

The second part of the survey investigated the correlation between the clinical experience and the success of students in their study on one hand and employment on other hand. The final part sought to explore the position that the clinical legal education might have within the general curriculum.

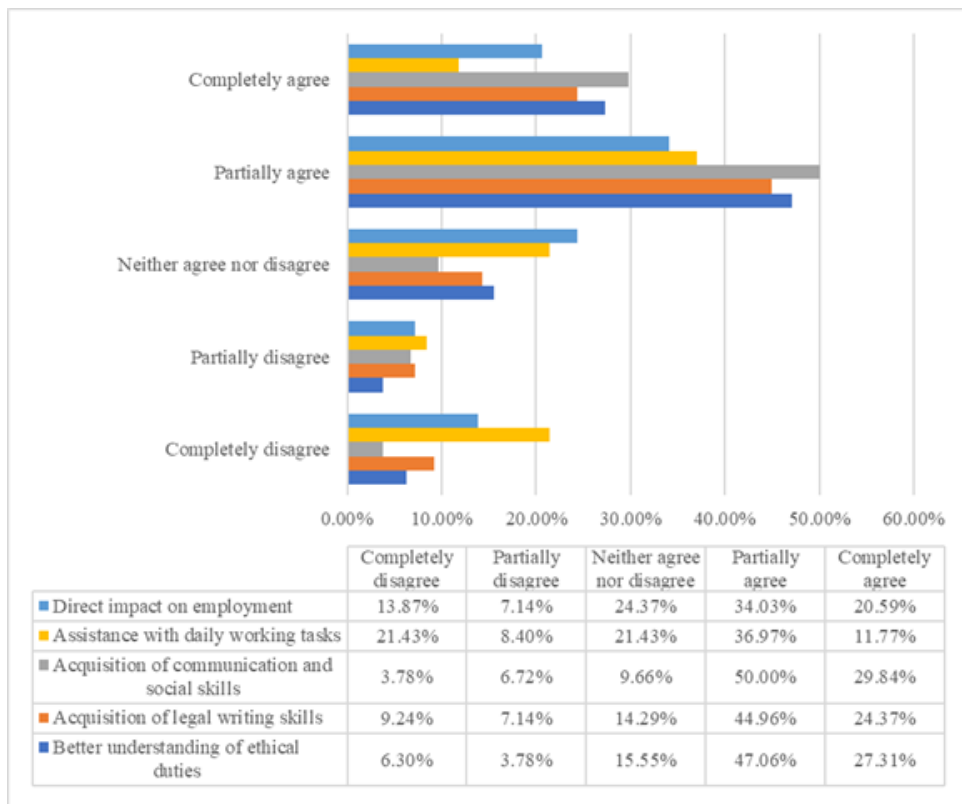
Evaluating the impact of clinical practice on their study of law, total of 47.06% of respondents partially and 41.60% fully agreed that their experience in the Law Clinic helped them to understand the functioning of specific legal rules and practices taught to them in mandatory courses of their study. Furthermore, 42.44% of former law students at least partially agreed that their clinical experience helped them in acquiring new knowledge. At the same time, as many as 62.61% of respondents disagreed at all that their clinical experience had a negative effect on taking exams and fulfilling other student duties (see *Graph 2*). The respondents thus confirmed that the goals of our clinical program had been met and, more importantly, that their fulfilling had not represented a hindrance in the successful completion of the studies.



Graph 2 – Impact on the studies

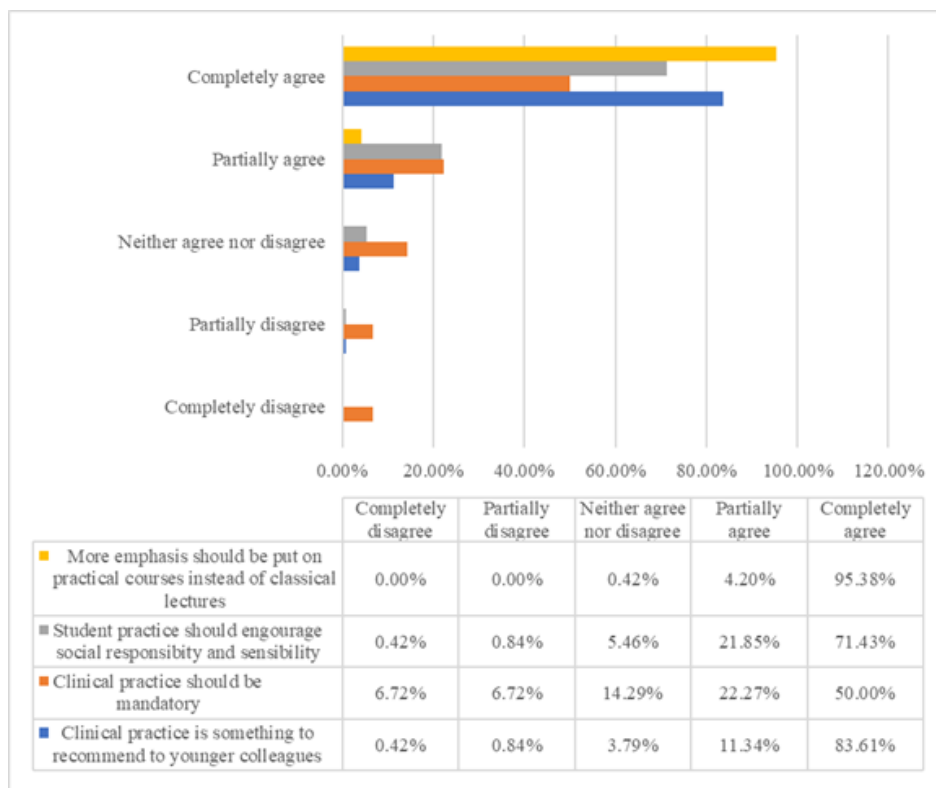
Turning to the impact of clinical experience on employment, only 21.01% of respondents completely or partially disagreed that the Law Clinic had

not helped them with their employment, i.e. that the employer did not take into account and appreciate such volunteering experience, while more than half of them at least partially agreed with this statement (54.62%). Within the current workplace, almost half of respondents (48.74%) at least partially agreed that the clinical experience helped them in their performance of daily tasks. When it comes to the acquisition of legal skills, the vast majority of respondents at least partially agreed that the Law Clinic assisted them in acquiring necessary communication and social skills required for future employment (79.84%). Similar number of respondents at least partially agreed that the clinical experience helped them to develop practical writing skills (69.23%) and to better understand ethical duties in lawyer-client relationship (74.37%). It would seem we thus confirmed, at least in the eyes of clinical alumni, that the Law Clinic often directly, and in any case at least indirectly, affects the employment of law graduates (see *Graph 3*).



Graph 3 – Impact on employment

Their satisfaction is perhaps clearer in their answers to the last series of questions. Almost all respondents (95.38%) completely agree that the Faculty of Law, University of Zagreb should put more emphasis on learning through practice instead of classical lectures, whereas no respondents completely or partially disagreed with that statement. Furthermore, again, the vast majority of respondents (71.43%) at least partially agreed that it is important that the practical learning achieves additional goals, aside from educational ones, such as helping vulnerable groups in the society. This confirmed that the students internalized the founding ideas of our Law Clinic. When it comes to their direct assessment of the position the clinical practice should have within the curriculum, half of the respondents (50.00%) completely agreed that clinical practice should be mandatory for all students and additional 22.27% of respondents partially agreed with that statement. It is thus not surprising to note that as many as 83.61% of respondents confirmed they would recommend clinical practice to their younger colleagues (see *Graph 4*).



Graph 4 – Position of the Law Clinic within curriculum

C. CONCLUDING REMARKS AND A WORD OF ENCOURAGEMENT

The respondents in our survey confirmed the usefulness of live-client clinics and the success of clinical model established at the Faculty of Law, University of Zagreb. Specifically, we can conclude that the knowledge and skills acquired at the Law Clinic helped our students not only in their studies, but later in their career and their first employment as well. More importantly, they became better lawyers who better understand their social role and responsibility. Or, to summarize the findings again, our research results in respect to clinical experience at Zagreb University are that former student-clinicians:

- appreciate the skills and knowledge acquired in the Law Clinic;
- express opinion that clinical practice helped them to understand theoretical subjects;
- think that clinical practice did not have any negative impact on fulfillment of other student obligations;
- consider that clinical experience has positive impact on their employment;
- find that the acquired skills and knowledge help them to perform better in their current job; and
- support and recommend the Law Clinic and plead for extension of practical learning in the law school curriculum.

What are the messages for future clinical programs which already have been or are expected to be developed within the ENEMLOS project?

It is not difficult to conclude that those law schools in the region who consider the establishment of law clinics should be encouraged to do so. But the question is not only whether to have a law clinic, but how to have it. The selection of clinical model is, in our opinion, the key to success of clinical education program at any law school. The presented results of our research are applicable to the model adopted at Zagreb Law School only. Some other clinics, established under different assumptions and under different organizational structures, would probably be evaluated quite differently. While we cannot exclude the possibility of success of alternative models, we would recommend using positive experiences which are approved in practice. Insofar, our firm

opinion is that any clinic in the region should, in order to succeed, fulfill a set of conditions.

The first one is the sustainability of the clinical program. The law clinic should become a permanent program of the educational institution, not a timely (and financially) limited project-based one. This requires law clinic as a separate course, or even a separate unit or entity within the university.

Law clinic should be an integrated course, not the plurality of associated or adjunct ‘clinics’ of particular chair or courses. In other words, in principle there should be only one clinic at each educational institution, instead of multiplicity of competing ‘clinics’ which do not reach a critical mass and confuse their potential users. This may require changes in the law curriculum, which is admittedly a challenge, albeit not an unsurmountable one.

The clinic will be sustainable only if it enjoys a positive assessment among students, or – in best case scenario – on the passion and enthusiasm of all those who work in it. They should get credits for their work, but this is not all. The volunteering and independent student initiatives should also be encouraged. Willingness to commit to clinical work for more than one semester may be a well-chosen admission criterion. This is probably why clinical practice should remain an elective course.

Student activism does not imply that the teaching staff should remain passive. Quite on the contrary, it should give the directions to the students and supervise their work. However, learning and skills development can be best facilitated if the students are the ones doing most of the work. The teaching staff should also find a way to trust their students. Afterall, they all share joint responsibility for the given advice. Teaching staff should participate in the initial training of student clinicians, but peer learning should not be underestimated. Our experience tells us that when soft skills are in question, no one prepares the students better than their peers who encountered similar situations in their dealing with clients.

Finally – let us end with a word of encouragement. The Law Clinic started with a sincere belief that students craved for clinical practice, but also that our society truly need clinical work as a tangible contribution to citizens’ access to justice. It would seem our perception was not misleading. In 2010, in the first semester of our work, only one case was received, but in the following

semester more than a hundred clients knocked at the doors of the Law Clinic requesting legal assistance. Nowadays, between 1.500 and 2.000 cases are received and more than a hundred students join the Law Clinic on yearly basis. A journey of a thousand miles truly begins with a single step. One should certainly not fear of taking it. In context of legal education, the benefits of a live-client clinical model, both for students and the society, supersedes any challenges which might arise along the way.

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Prof. dr Barbara PRELOŽNJAK²

CLINICAL LEGAL EDUCATION AND IMPORTANCE OF COOPERATION WITH NON-GOVERNMENTAL SECTOR, STATE BODIES AND ENTITIES

1. INTRODUCTION

Clinical education is unique regarding the learning outcomes that are to be achieved, which concern the preparation of students for ethically aware and professional quality legal practice based on social justice.³ In order to achieve the afore mentioned goal, clinical education in law studies can be organized in such a way as to enable students to acquire professional qualifications that are needed in the labor market. As clinical programs differ from each other in the models of preparing students for work in practice, law schools are free to choose a model that will enable students to learn practical knowledge and skills that are valued in the labor market. Thus, students can acquire professional qualifications by providing citizens with free legal aid services in all or only certain legal areas, and in a wider or narrower geographical area. Considering the above, we distinguish between three basic models of clinical education for students: the Individual Service Model, the Specialisation Model, and the Community Model.⁴

The best running models of law clinics indicate the importance to explore potential partnerships with organisations from the state, non-state and private sectors (first of all with other legal aid providers, attorney-at-law offices, NGOs etc.). Alongside the question of visibility of the real-client clinic, members of the partner organisations can participate as supervisors of students,

¹ Faculty of Law University of Zagreb

² Faculty of Law University of Zagreb

³ D. Blázquez-Marín, Bologna Process and the Future of Clinical Education in Europe - A View from Spain, in: F. S. Bloch (ed.), *The Global Clinical Movement*, Oxford, 2010, p. 115.

⁴ E. Winkler, *Clinical Legal Education - A report on the concept of law clinics*, pp. 17-19, http://law.handels.gu.se/digitalAssets/1500/1500268_law-clinic-rapport.pdf (25/10/2022).

in the training of students and in the quality control procedure of law clinics. Furthermore, the real-client clinics in practice run different community engagement projects and policy work activities. In that respect governmental bodies and/or non-governmental organisations might be a good partner.

In the first and second part of the paper models of clinical legal education and the best running real-client clinics will be discussed (see Sec. 2. and 3. below). Then follows the part on Streetlaw and various community engagement projects, as well as on the importance of partnerships with organisations from the state, non-state and private sectors taking into account best practices in conducting real-client clinics (see Sec. 4. and 5. below).

2. MODELS OF CLINICAL LEGAL EDUCATION

2.1. Model of individual services

Clinical education organized according to the model of individual services enables students to gain practical experience through involvement in the work of legal clinics that provide traditional legal services to poor citizens.⁵ The educational goals of this model are general, since the education of students is not focused on the specific legal needs of the community, so professional competences are acquired through work on solving various legal problems that citizens face.⁶ In other words, clinical legal education focuses less on the needs of the community and more on the professional competencies that are essential in legal practice.⁷ The model of individual services was designed in the United States of America and is still represented there.⁸ For example, clinical education at the Dutch universities in Amsterdam and Maastricht was organized according to the same model.⁹

⁵ Cf. *ibid*, p. 17.

⁶ Cf. *ibid*, p. 18.

⁷ *Ibid*.

⁸ *Ibid*, p. 17.

⁹ R. J. Wilson, *Practical Training in Law in the Netherlands: Big Law Model or Clinical Model, and the Call of Public Interest Law*, *Utrecht Law Review*, 2012, pp.182, 184-185.

2.2. Specialisation model

Clinical education organized according to a specialised model, in contrast to the model of individual services, enables students to learn by working on specific legal problems of citizens.¹⁰ With this model, students learn that they can analyse and solve similar legal problems in different ways.¹¹ The advantage of this model is that students can devote themselves to a legal issue in a certain legal area, always studying it from a new or different perspective.¹² This model of clinical education is characteristic of legal clinics in Western, Central and Eastern Europe.¹³ According to the model of specialisation, for example, German legal clinics were established at the universities in Hanover and Heinrich-Heine in Düsseldorf.¹⁴ In these clinics, students provide assistance to a certain category of citizens (e.g. students, victims of human trafficking, people with disabilities, etc.) or in cases where the value of the dispute does not exceed a certain amount (e.g. 700 euros).¹⁵ The Norwegian legal clinic Juss-Buss, which was founded with the aim of providing assistance in the field of labor law, asylum seeker law, family law and enforcement law, operates in a similar way.¹⁶ Based on the same model, clinics were also established at the Spanish universities of Tarragona and Carlos III in Madrid, where students learn by solving legal problems of citizens in the areas of asylum rights, environmental protection rights, children's and women's rights, and social rights.¹⁷ For example, in Italy and France, students are taught practice in clinics

¹⁰ E. Winkler, *Clinical Legal Education - A report on the concept of law clinics*, p. 18, http://law.handels.gu.se/digitalAssets/1500/1500268_law-clinic-rapport.pdf (25/10/2022).

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*, p. 12.

¹⁴ *Ibid.*, p. 14; M. Angelari, *Raising the Bar for Legal Education in Western Europe*, 2013, <https://www.opensocietyfoundations.org/voices/raising-bar-legal-education-western-europe> (11/11/2022).

¹⁵ *Ibid.*

¹⁶ E. Winkler, *Clinical Legal Education - A report on the concept of law clinics*, p. 19, http://law.handels.gu.se/digitalAssets/1500/1500268_law-clinic-rapport.pdf (25/10/2022); J. T. Johnsen, *Nordic Legal Aid*, *Maryland Journal of Contemporary Legal Issues*, 1994, pp. 301, 328.

¹⁷ D. Blázquez-Marín, *Bologna Process and the Future of Clinical Education in Europe - A View from Spain*, in: F. S. Bloch (ed.), *The Global Clinical Movement*, Oxford, 2010, pp. 129-131.; R. J. Wilson, *Practical Training in Law in the Netherlands: Big Law Model or Clinical Model, and the Call of Public Interest Law*, *Utrecht Law Review*, 2012, p. 843.

by working on cases in the areas of human rights protection, migrant rights and enforcement law.¹⁸ In Eastern European countries, clinical legal education is focused on specific legal problems of post-socialist countries.¹⁹ Thus, students in clinics provide legal assistance to refugees, minorities, women, children, the unemployed and convicts.²⁰

2.3. Community model

Clinical education based on the community model allows students to acquire professional competences by helping a certain category of citizens or in a certain type of legal problem in a wider geographical area.²¹ Since the clinics cover a wider geographical area, they take on cases that require urgent resolution.²² Such clinical education provides students with the opportunity to gain experience in recognising the real needs of the social community, so students often take on non-traditional roles as lawyers, such as the role of "law teacher".²³ The value of the model is recognised in the British education system, where students have the opportunity to acquire professional competences by raising the awareness of the social community about the rights and obligations of citizens and ways of achieving their protection (so-called Street Law).²⁴

¹⁸ M. Angelari, *Raising the Bar for Legal Education in Western Europe*, 2013, <https://www.opensocietyfoundations.org/voices/raising-bar-legal-education-western-europe> (11/11/2022).

¹⁹ D. Aksamovic; P. Genty, *An Examination of the Challenges, Successes and Setbacks for Clinical Legal Education in Eastern Europe*, *International Journal of Clinical Legal Education*, 2014, pp. 428-430.

²⁰ E. Winkler, *Clinical Legal Education - A report on the concept of law clinics*, p. 12, http://law.handels.gu.se/digitalAssets/1500/1500268_law-clinic-rapport.pdf (25/10/2022); M. Angelari, *Raising the Bar for Legal Education in Western Europe*, 2013, <https://www.opensocietyfoundations.org/voices/raising-bar-legal-education-western-europe> (11/11/2022).

²¹ *Ibid*, p. 18.

²² *Ibid*, p. 16.

²³ *Ibid*, p. 19.

²⁴ *Ibid*, p. 21.

3. CLINICAL LEGAL EDUCATION IN CROATIA

Practical work experience in the profession is an important feature that contributes to the faster employment of lawyers.²⁵ Croatian lawyers work on tasks of a high level of complexity, to master which it is necessary to have general and professional competencies such as the ability to work under pressure, analytical thinking, the ability to apply, interpret laws and other legal acts, and draft legal documents.²⁶ Also, the level of general and professional competences affects the speed of employment of lawyers after completing their studies.²⁷ In order to acquire general and professional competences on time, it is necessary to create conditions for students to have practical work experience in the profession during their studies. The importance of practical education is recognised at Croatian law faculties, which teach students practice through practical exercises, simulated trials (moot court), internships and legal clinics.²⁸

3.1. Models and methods of clinical legal education in Croatia

The development of Croatian clinic models and practice teaching methods follows global trends. In Croatia, clinics were established based on the model of all three analysed models of clinical education, giving students the opportunity to acquire the general and professional competencies required of lawyers on the labor market during their studies. Students acquire competencies through work on various legal problems of citizens, providing them with legal assistance in a wider geographical area with the mentoring support of teachers and legal practitioners.

Based on the example of Anglo-American legal clinics, at the Faculty of Law University of Rijeka, Legal Clinic for Civil Law was founded, which aims

²⁵ T. Matković; J. Ogresta; K. Grubišić; Z. Zrinščak; I. Rimac, *Zapošljivost i razvoj karijere osoba koje su diplomirale na Pravnom fakultetu Sveučilišta u Zagrebu između 2004. i 2010. godine*, Zagreb, 2015.

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ <https://www.pravos.unios.hr/integrirani-preddiplomski-i-diplomski-sveucilisni-studij-pravo/>; http://pravri.uniri.hr/files/studiji/diplomski/Integrirani_hr/1.4.%20Popis%20modula_predmeta.pdf; <http://www.pravst.hr/program.php?p=18&s=40>; <https://www.pravo.unizg.hr/studij/integrirani-pravni/peta-godina/pravna-klinika> (14/11/2022).

to connect studies and practice.²⁹ Students master clinical practice with the help of teachers and legal practitioners such as lawyers, judges, state attorneys and notaries public.³⁰ In the framework of the course, classes are conducted in such a way that students, under the supervision of teachers and/or legal practitioners, analyse one or more hypothetical cases, going through all the stages of the regular procedure that would be conducted in that case.³¹ Students are expected to solve the assigned case in small groups, compile a file and present it.³² In addition, students are obliged to do part of the practical classes in the offices of legal practitioners.³³ Although students learn from hypothetical legal problems within the course, it is possible for them to get involved in working on real legal problems of citizens.³⁴ For example, part of the students took on work on cases related to the law of non-profit organisations and participated to a lesser extent in the work of the RI-Centre's legal consultancy.³⁵

At the Faculty of Law University of Rijeka as part of the "Praxis iuris" project in 2021 the Legal Clinic - Center for free primary legal assistance was established with the aim of providing free primary legal assistance from law students under the supervision of expert associates and teacher-mentors in accordance with the Law on Free Legal Assistance.³⁶ Students provide legal aid to economically vulnerable categories of citizens in the area of protection of fundamental human rights, prohibition of discrimination, labor and social law, civil and civil procedural law, enforcement law, administrative and administrative procedural law, and family law.³⁷ The Clinic cooperate with numerous civil society associations, and one of the main goals is to connect students with employers.³⁸ The legal clinic can also participate in other activities close to its basic purpose, such as professional and scientific projects, educating

²⁹ S. Barić, *Pravna pomoć i neprofitne organizacije u RH – s posebnim osvrtom na iskustva RI-Centra i Klinike Pravnog fakulteta u Rijeci*, Zbornik Pravnog fakulteta Sveučilišta u Rijeci, 2004, p. 950

³⁰ *Ibid.*

³¹ *Ibid.*

³² *Ibid.*

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Pravna klinika – Centar za besplatnu primarnu pravnu pomoć*, <https://pravri.uniri.hr/hr/o-fakultetu/centri/153-hr/o-fakultetu/centri/1968-pravna-klinika.html> (14/11/2022).

³⁷ *Ibid.*

³⁸ *Ibid.*

the public on legal topics and presentations at gatherings, forums and round tables.³⁹

At the Faculty of Law, University J. J. Strossmayer in Osijek, students are given the opportunity to learn about the practical aspects of the legal profession, such as the preparation and writing of documentation, analysis of legal facts, practical study of positive legislation and the application of theoretical knowledge in practice.⁴⁰ Clinical teaching is focused on the legal areas of commercial and civil law, civil procedural law, and the law of civil society organisations with an emphasis on associations.⁴¹ Students gain practical knowledge and experience under the constant supervision of lawyers, judges, and teachers of the faculty.⁴² In a similar way, clinical teaching takes place in law clinic “Osijek Pro bono” and “BIOS - business incubator”, where students learn through teamwork, providing citizens with legal information and advice.⁴³ The fundamental goal of “Osijek Pro bono” is provision of free legal aid to economically vulnerable categories of citizens while “BIOS - business incubator” offers the integration of the legal and economic professions into one educational entity, which, in addition to educating students, would provide citizens with assistance in starting and maintaining low-profit activities.⁴⁴ The work of students in both clinics is supervised and advised by mentors from the ranks of teachers, legal practitioners and as well as several renowned Osijek lawyers and judges.⁴⁵

Since 2014 at Faculty of Law, University of Split students are also given the opportunity of practical training through the provision of free legal information and advice to citizens in various legal problems.⁴⁶ Students acquire competences under the supervision of teachers, legal practitioners from private legal professions and civil society associations and the Ministry of Justice.⁴⁷

³⁹ *Ibid.*

⁴⁰ See <https://klinika.pravos.unios.hr/> (23/11/2022).

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ Z. Jelinić, *Integrirano kliničko obrazovanje studenata prava i ekonomije - prikaz projekta Pravno-ekonomske klinike Pravnog i Ekonomskog fakulteta u Osijeku*, *Pravni vjesnik*, 2014, p. 289.

⁴⁴ Cf. *ibid.*, p. 287.

⁴⁵ *Ibid.*

⁴⁶ <http://pravnaklinika.unist.hr/> (14/11/2022).

⁴⁷ *Ibid.*

At the Faculty of Law, University of Zagreb students since 2009 are trained to provide legal aid in Zagreb Law Clinic through organised teamwork on cases of citizens who turn to them for legal assistance.⁴⁸ The main purpose of Zagreb Law Clinic is provision of primary legal aid and as well the practical education of future lawyers.⁴⁹ Students gain practical experience working on courses in the so-called resident clinic - on the premises of Zagreb Law Clinic, but also by providing free legal assistance to citizens in other parts of Croatia. Students learn by working with real cases, on real legal problems from different legal areas such as labor law, civil law, asylum law, enforcement law, family, and children's law, and the like.⁵⁰ In this way, they gain an insight into the way law works in real life.⁵¹ At Zagreb Law Clinic, teamwork is encouraged, and students are given space for their own initiative.⁵² In addition to the educational purpose, Zagreb Law Clinic advocates that through its work a useful service is provided to all who turn to it for legal assistance.⁵³ In this way, it contributes to the general awareness of law students for volunteer work on topics of general interest (so-called pro bono work), as well as to the acquisition of special knowledge and skills in neglected legal disciplines that concern specific topics of public importance.⁵⁴

Zagreb Law Clinic has been involved in the system of free legal aid since the beginning of its activities, and with certain projects it has tried to actively involve students in its reform and design.⁵⁵ Zagreb Law Clinic cooperates with about fifty organisations from the state, non-state, and private sectors.⁵⁶ In the state sector, it cooperates, for example, with the offices of the Ombudsman, the Ministry of Internal Affairs and the Ministry of Justice.⁵⁷ In addition, cooperation agreements were concluded with local administration and self-government units, of which the agreement with the City of Zagreb can be

⁴⁸ Preložnjak, B., *Clinical legal education in Croatia – from providing legal assistance to the poor to practical education of students*, International Journal of Clinical Legal Education, 2013, pp. 376-377.

⁴⁹ *Ibid.*, p. 374.

⁵⁰ *Ibid.*, p. 377.

⁵¹ *Ibid.*, p. 375.

⁵² *Ibid.*, p. 378.

⁵³ *Ibid.*, p. 375.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ <https://klinika.pravo.hr/o-nama/vanjski-suradnici-i-partneri> (14/11/2022).

singled out.⁵⁸ In the so-called non-governmental sector, Zagreb Law Clinic cooperates with associations that fight for human rights and minority rights, such as the Citizens' Committee for Human Rights, BaBe, Transparency International Croatia, the Croatian Law Center, the Center for Peace Studies, the Croatian Association for Reconciliation, etc.⁵⁹ Zagreb Law Clinic also cooperates with associations and organisations for environmental protection and public health, such as Green Action and the "Andrija Štampar" Institute.⁶⁰ Excellent cooperation has also been achieved with numerous other providers of free legal aid, such as the Sisak Civil Rights Project, which since its inception has been helping to train students for independent work on cases.⁶¹ Zagreb Law Clinic also has partners among private legal professions.⁶² Special mention should be made of the cooperation with individual lawyers who teach students the topics of legal work and ethics, and with law firms that help in mentoring and training students.⁶³

4. STREETLAW PROJECTS

Models of clinical legal education may include different activities and projects such as Streetlaw projects. In this type of project a student work as a member of a team. In addition, the team educates community groups about an area of law or legal rights issues relevant to members of the group.⁶⁴ The idea of law students going onto the street to educate community groups about an area of law has been taking place since the early 1970s.⁶⁵ Streetlaw Inc in the United States is responsible for coordinating such Streetlaw activities.⁶⁶

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ See V. Kemp, T. Munk & S. Gower, *Clinical legal education and experiential learning: Looking to the future*, Manchester: the University of Manchester, the School of Law, 2016, p. 2; K. Kerrigan, What is clinical legal education and pro bono?, in: K. Kerrigan & V. Murray (eds.), *A student guide to Clinical Legal Education and Pro Bono*, Basingstoke, Hampshire: Palgrave Macmillan, 2011, p. 2.

⁶⁵ V. Murray, Presentations, in: K. Kerrigan & V. Murray (eds.), *A student guide to Clinical Legal Education and Pro Bono*, Basingstoke, Hampshire: Palgrave Macmillan, 2011, p. 213.

⁶⁶ See <https://www.streetlaw.org/> (21/11/2022).

Streetlaw projects tends to focus more on general legal issues than on individual client problems.⁶⁷ Therefore, Streetlaw does not involve providing legal advice. This type of projects aims to make members of community groups better informed and capable of making decisions about enforcement of their legal rights. It is more about teaching and community activism than providing legal services.⁶⁸

Streetlaw programmes can be varied. In the clinical legal education literature examples are youth workers, schoolchildren, carers, prisoners, protesters, business people, fellow students etc.⁶⁹ The Iuss-Buss Legal Aid Clinic in Oslo runs such community engagement projects involving legal awareness-raising activities. A good example of this method of working for the community is a project focused on education of prisoners about their rights.⁷⁰ Furthermore, the Iuss-Buss Legal Aid Clinic has developed *The Prisoner's Handbook*, as a result of the project dealing with prisons and prisoner's rights.⁷¹

The Zagreb Law Clinic, an example of a real-client clinic in the region, has developed Streetlaw and other community engagement projects. The project aimed at educating the homeless people in local libraries on their legal issues is a successful model of this method of working for the community. The project was run by the Zagreb Law Clinic. It tried to make the homeless people better informed and more capable about enforcement of their social insurance rights.⁷² In addition, the Zagreb Law Clinic also participated in various

⁶⁷ See in V. Murray, Presentations, in: K. Kerrigan & V. Murray (eds.), *A student guide to Clinical Legal Education and Pro Bono*, Basingstoke, Hampshire: Palgrave Macmillan, 2011, p. 214.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ For the Iuss-Buss Streetlaw projects and outreach work, see <https://foreninger.uio.no/jussbuss/english/About%20us/outreach-work/> (21/11/2022).

⁷¹ See Jussbuss Legal Aid Clinic, *The Prisoner's Handbook, Juss-Buss' guide to prison matters*, 7th ed, Oslo: Jussbuss Legal Aid Clinic, 2020, <https://foreninger.uio.no/jussbuss/saksomrader/fengselsrett/brosjyrer/prisonershandbook.pdf> (21/11/2022).

⁷² See more in A. Mihajlović, *Suradnja Pravne klinike s Pribvatilištem za beskućnike Caritas Zagrebačke nadbiskupije i Uredom pravobraniteljice za osobe s invaliditetom*, PRO BONO, Bilten Pravne klinike u Zagrebu, No. 7, 2016, pp. 75-76.

community engagement projects (lectures to medical practitioners in psychiatric hospitals, training assistants for children with diabetes etc.).⁷³

Best practices in conducting real-client clinics show the importance of cooperation with the non-governmental sector, state bodies and entities while establishing and planning Streetlaw and other community engagement projects. Streetlaw projects are generally prepared in consultation with the community groups. Namely, Streetlaw presentations must be relevant to members of the community group. In that respect governmental bodies and/or non-governmental organisations might need the education and legal awareness-raising for their beneficiaries. In addition, local partners can help with premises, which are more adapted to their beneficiaries (for example, persons with disabilities, older citizens etc). Practical examples can varied as the community groups and areas of law:

- education focused on asylum seekers about immigration matters, the right to accommodation and other social welfare issues;
- education focused on persons with disabilities about social welfare and health issues;
- education focused on a certain group of patients (for example, in children hospitals, in psychiatric hospitals etc.)
- education focused on victims of domestic violence about social welfare issues and the right to accommodation;
- education focused on children and their rights, especially the right to maintenance;
- education focused on Roma people or other minorities about their rights;
- education focused on youth workers;
- education focused on students and their right (for example, the right to scholarships), etc.⁷⁴

⁷³ See in J. Brozović, *Zagreb Law Clinic: 10 years of transformations*, PRO BONO International edition, Official Newsletter of the Law Clinic of the University of Zagreb Faculty of Law, No. 2, 2021, p. 8.

⁷⁴ For literature, see footnote 67 to 71 above.

When talking about the sustainability of real-client clinics in the long term, Streetlaw and other community engagement activities can raise the visibility of clinic in the local community. Students might also prepare leaflets and other PR material as well as advice sheets. On the other hand, this method of working of real-client clinics has a true social justice goal – to help the disadvantaged social groups.

5. OUTREACH PROJECTS, POLICY WORK AND IMPORTANCE OF PARTNERSHIPS WITH ORGANISATIONS FROM THE STATE, NON-STATE AND PRIVATE SECTORS

In addition to Streetlaw, real-client clinics run different community engagement projects in practice. In that respect governmental bodies and/or non-governmental organisations might be a good partner. For example, the Zagreb Law Clinic organised various humanitarian action to help some marginalised social groups.⁷⁵ Alongside with humanitarian actions, the Zagreb Law Clinic participates in the community by providing legal aid to citizens outside the City of Zagreb.

The biggest increase in the number of cases of the Zagreb Law Clinic was the result of the so-called mobile clinic project. Namely, around ¼ of the clients come within this mobile clinic project of the Zagreb Law Clinic.⁷⁶ This is the result of the joint effort of the Zagreb Law Clinic and partners (primarily, local municipalities and NGOs) and with the use of local media. The Zagreb Law Clinic has achieved cooperation with 15 municipalities and with local

⁷⁵ See B. Milinković & A. Dujmović, *Big hearts of the Law Clinic for the little hearts in the Children's Hospital – Law Clinic's charity fund raising a success*, PRO BONO International edition, Official Newsletter of the Law Clinic of the University of Zagreb Faculty of Law, No. 1, 2015, pp. 65-67; P. Laginja, *The Law Clinic's charity Christmas party, Let's bridge our differences by being humane!*, PRO BONO International edition, Official Newsletter of the Law Clinic of the University of Zagreb Faculty of Law, No. 1, 2015, p. 68.

⁷⁶ For statistical data, see M. Katinić, *Ten years of outreach projects*, PRO BONO International edition, Official Newsletter of the Law Clinic of the University of Zagreb Faculty of Law, No. 2, 2021, pp. 16-17.

NGOs as well, and organised visits to most of them.⁷⁷ In a total of 7 rounds per year, students go outside the City of Zagreb, in more remote (rural) parts of Croatia where there are no law clinics or NGOs, providing legal aid.⁷⁸

The comparative models of law clinics indicate the importance of policy work activities. Law clinics can be a powerful stakeholder, in cooperation with organisations from the state, non-state and private sectors, in the planning, drafting and implementing reforms and normative acts. As an example from practice, the Zagreb Law Clinic was included in some legislative process and proposals (the law concerning the state funded legal aid system, and the law on indemnification of war rape victims).⁷⁹ Furthermore, the Zagreb Law Clinic has initiated various debates and participated in discussions and roundtables about legislative projects relevant for its beneficiaries. The Centre for Democracy and Law Miko Tripalo (Croatia) honoured the Zagreb Law Clinic with an award for its contribution to the development of democracy and freedom of the press in 2017.⁸⁰

In the context of policy work and cooperation with organisations from the state, non-state and private sectors, practical examples of activities can be as diverse as the community groups (for example, debates, discussions and roundtables, legislative projects relevant for asylum seekers, persons with disabilities, victims of domestic violence, Roma people or other minorities etc.).⁸¹

⁷⁷ See J. Brozović, *Zagreb Law Clinic: 10 years of transformations*, PRO BONO International edition, Official Newsletter of the Law Clinic of the University of Zagreb Faculty of Law, No. 2, 2021, p. 9; see also M. Katinić, *Ten years of outreach projects*, PRO BONO International edition, Official Newsletter of the Law Clinic of the University of Zagreb Faculty of Law, No. 2, 2021, pp. 15-16.

⁷⁸ See in J. Brozović, *Zagreb Law Clinic: 10 years of transformations*, PRO BONO International edition, Official Newsletter of the Law Clinic of the University of Zagreb Faculty of Law, No. 2, 2021, p. 9; M. Katinić, *Ten years of outreach projects*, PRO BONO International edition, Official Newsletter of the Law Clinic of the University of Zagreb Faculty of Law, No. 2, 2021, pp. 15-16. See also J. Kovilić, *What is the Law Clinic?*, PRO BONO International edition, Official Newsletter of the Law Clinic of the University of Zagreb Faculty of Law, No. 1, 2015, p. 7.

⁷⁹ See J. Brozović, *Zagreb Law Clinic: 10 years of transformations*, PRO BONO International edition, Official Newsletter of the Law Clinic of the University of Zagreb Faculty of Law, No. 2, 2021, pp. 8-9.

⁸⁰ *Ibid.*, p. 11.

⁸¹ For policy work activities of real-client clinics, see more in O. Hammerslev, A. Olesen & O.H. Rønning, *Juss-Buss [Law Bus]: A Student-run Legal Aid Clinic*, in: O. Halvorsen Rønning

The best practices of comparative models of law clinics indicate the importance to explore in the local context, from the establishment of the law clinic, potential partnerships with other legal aid providers (first of all, attorney-at-law offices, NGOs etc.). In addition to policy work and advocacy, members of the partner organisations can participate as supervisors of students, in the training of students and in the quality control procedure of law clinics. Furthermore, the students from law clinic can be placed in these organisations for practical work.⁸² The Zagreb Law Clinic is an example of a real-client clinic with various, developed clinical legal activities, particularly those in cooperation with partners (state bodies, NGOs, attorney-at-law offices).

The Zagreb Law Clinic is an optional credit course in the fifth year of the study programme.⁸³ Students work on real client cases. In addition, the students of Zagreb Law Clinic are involved in the existing law work outside the faculty (particularly, in partner organisations with which the Clinic has the cooperation agreements). Up to now, the Zagreb Law Clinic has the cooperation agreements with around 50 NGOs, state bodies and local municipalities.⁸⁴

6. CONCLUDING REMARKS

Law schools are free to choose a model of clinical legal education that will enable students to learn practical knowledge and skills that are valued in the labor market. Best practices in conducting real-client clinics indicate that the existing clinics combine various clinical legal activities. Namely, there are successful models of real-client clinics with rich cooperation in the existing law work with attorney-at-law offices, local and national governmental bodies or

& O. Hammerslev (eds.), *Outsourcing Legal Aid in the Nordic Welfare States*, Cham: Palgrave Macmillan, 2018, pp. 157-158, 161-162.

⁸² For types of clinical schemes, see more in K. Kerrigan, What is clinical legal education and pro bono?, in: K. Kerrigan & V. Murray (eds.), *A student guide to Clinical Legal Education and Pro Bono*, Basingstoke, Hampshire: Palgrave Macmillan, 2011, pp. 1-3; H. Brayne, N. Duncan & R. Grimes, *Clinical Legal Education. Active Learning in your Law School*, London: Blackstone Press Limited, 1998, pp. 12-16.

⁸³ See <https://www.pravo.unizg.hr/studij/integrirani-pravni/peta-godina/pravna-klinika> (22/11/2022).

⁸⁴ For cooperation agreements of the Zagreb Law Clinic, see <https://klinika.pravo.hr/ot-nama/vanjski-suradnici-i-partneri> (21/11/2022).

agencies, and/or the non-governmental sector, and with additional Streetlaw and other community engagement projects. A successful example in the region is the Zagreb Law Clinic, as can be seen from the paper.

When planning the law clinic concept and clinical legal activities, it is recommended to consult widely not only with the University management, academic staff and students, but also with the community. Law clinics can be powerful stakeholders in the planning and implementing of reforms and policy work.

Best practices in conducting real-client clinics show the importance of cooperation with the non-governmental sector, state bodies and entities while establishing and planning Streetlaw and other community engagement projects. Streetlaw projects are generally prepared in consultation with the community groups. In that respect governmental bodies and/or non-governmental organisations might need the education and legal awareness-raising for their beneficiaries. In addition, local partners can help with premises, which are more adapted to their beneficiaries (for example, persons with disabilities, older citizens etc).

Furthermore, it is important to explore in the local context the potential partnerships with other legal aid providers (attorney-at-law offices, NGOs etc.). Alongside the question of policy work and advocacy, members of the partner organisations can participate as supervisors of students, in the training of students and in the quality control procedure of law clinics. In addition, the students from law clinic can be placed in these organisations for practical work.

Filip CZERNICKI, PhD¹

**HISTORY OF THE POLISH LEGAL CLINICS PROGRAM
STANDARDIZATION OF LEGAL CLINICS ACTIVITY IN
COMPARATIVE STUDY**

Abstract

The legal clinics program, which was growing fast in Poland, has reached a phase in which forward thinking and consolidation of objectives became of great importance. For this very reason, at the turn of the year 2001 and 2002 the legal clinics and the people involved in the clinical movement decided to call into being the Polish Legal Clinics Foundation, which would take on the duty of strengthening the structure, and constructing a platform for cooperating and shaping the future of the clinical movement. The objectives assumed provide not only for ensuring financial stability of the clinical movement, but also to constitute a forum that would bring together the efforts to standardize legal clinics activity, enhance the clinics' position in the academic and legal community, and would search for a formula to inscribe legal clinics into the Polish legal system.

It should be noted that there has been significant progress in the past 20 years in the development of legal and civic counseling in Poland and in the world. Along with this progress, often, but unfortunately not always, considerations were made in the field of standards, as well as the quality and efficiency of the services provided. These changes were enforced by state institutions that decided to license all counseling activities in a given state, or by sponsors supporting the development of networks of counseling organizations such as law clinics or civic counseling offices. Interestingly, the standards created were created in each network on their own, detached from the practice and experience of other institutions or organizations.

¹ Attorney-at-law, President of the Polish Legal Clinics Foundation

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The legal clinics program, which was growing fast in Poland (27 clinics have been established over a period of eight years), has reached a phase in which forward thinking and consolidation of objectives became of a great importance. For this very reason, at the turn of the year 2001 and 2002 the legal clinics and the people involved in the clinical movement decided to call into being the Polish Legal Clinics Foundation, which would take on the duty of strengthening the structure, and constructing a platform for cooperating and shaping the future of the clinical movement. The objectives assumed provide not only for ensuring financial stability of the clinical movement, but also to constitute a forum that would bring together the efforts to enhance the clinics' position in the academic and legal community, and would search for a formula to inscribe legal clinics into the Polish legal system.

1. History in outline

The first Polish legal clinic was established at the Law Faculty of the Jagiellonian University in Kraków on October 1, 1997. Prior to that, a conference on the clinical teaching of law organized by the American Embassy and the Polish office of the Organization for Security and Cooperation in Europe was held at the Jagiellonian University. In the beginning of the year 1998 the Faculty of Law and Administration of the Warsaw University started a lecture entitled "Legal clinic" thus calling to life a second legal clinic in Poland.

The European Law Students' Association ELSA Poland has also had considerable influence on the development of the law education system. In May 1998 in Szczecin, ELSA organized a conference entitled "Reform of Legal Education. The Development of the Idea of Legal Clinics", which saw a serious discussion concerning the development of clinical teaching in Poland. The seminar served well to publicize the idea, as it was organized together with the National Convention of the Polish Lawyers' Association and the National Convention of the Law Faculty Deans. The Szczecin meeting gave an impulse to the development of the idea of the clinical movement in Poland. At present clinics operate at all of the state owned law faculties placed in the following

cities: Kraków, Warsaw, Białystok, Toruń, Poznań, Lublin, Rzeszów, Katowice, Opole, Słubice, Gdańsk, Wrocław, Łódź, Olsztyn and Szczecin.

On June 11, 2001 during a meeting of the representatives of all Polish legal clinics it was first proposed to establish a foundation. In accordance with the agreed working time schedule, in the fall of that year, a foundation statute was drafted by a team of the Legal Clinic of the Jagiellonian University in Kraków, which was then submitted to all the legal clinics for consultation.

In December 2001 three representatives of the Polish legal clinics were invited to participate in a study visit to the Republic of South Africa, where the clinical teaching program had been successfully developing for the past 30 years. The visit was designed and organized by the Public Interest Law Initiative (PILI) (now: PILnet²) affiliated at that time with the Columbia University in New York and financed by the Ford Foundation. The trip resulted in the devising of a strategy for the development of the Polish legal clinics program based on the experience of the Republic of South Africa, and consequently in the establishment of the Legal Clinics Foundation.

With the financial, logistical and professional assistance of the Stefan Batory Foundation (in particular the legal program headed by Grzegorz Wiaderek) the plan to establish the Foundation was realized over a period of one year. On February 15, 2002 the founders appointed (unanimously) Łukasz Bojarski (the Helsinki Foundation for Human Rights) Chairman of the Foundation Council, and the other three founders, i.e. Katarzyna Hebda (Secretary of the ELSA Lawyers Society), Dr. Magdalena Olczyk (Office of the Ombudsman) and Jakub Bogatyński (the Stefan Batory Foundation) members of the Foundation Council. Furthermore, the founders passed the Foundation statute³ and elected the members of the Board: Filip Czernicki – President of the Board, Dr. Izabela Kraśnicka of the University of Białystok, Dr. Piotr Girdwoyń of the Warsaw University, Dr. Paweł Wiliński of the Adam Mickiewicz University in Poznań, and Attorney-at-Law Filip Wejman of the Jagiellonian University in Kraków. The founders (at the onset of the Foundation's activities they were the only members of the Foundation Council) established the Foundation by a notary deed dated February 28, 2002.

² <http://www.pilnet.org/>

³ <http://www.fupp.org.pl/en/foundation/statute>

The Foundation was registered in the National Court Register on June 3, 2002. On June 30, 2002 the Foundation Council passed Regulations for the Foundation's financial management, standards, a yearly financial plan, and the composition of the Advisory Board. Since the establishment of the Foundation, the Board met one time a month on the average, collectively making all the operational and strategic decisions.

2. The Foundation's Objectives and Means of Their Attainment

Apart from the task of financing legal clinics in Poland, the Legal Clinics Foundation serves to strengthen the potential of the clinical program for the future. For this purpose efforts are made to standardize and to maintain adequately high functioning standards of clinical education. In accordance with the statute, the Foundation achieves its objectives in particular through: supporting cooperation between clinics, supporting international cooperation in the field of practical legal education, organizing trainings, conferences, presentations, publishing activity, collecting and processing statistical data about the clinics' activities, collecting and disseminating know-how in the field of clinic organization, propagating the idea of free of charge legal assistance.

One of the Foundation's first projects was the organization of the Fifth Regional Conference of Clinical Law Teaching which was held on November 15-16, 2002 in Warsaw and concerned itself with the development of the idea of legal assistance in our geographical region. The conference was organized by the Open Society Justice Initiative, the Columbia Law School's Public Interest Law Initiative and the Polish Legal Clinics Foundation in cooperation with the Szpitalna NGO Center, and it was sponsored by the Open Society Institute. The main topic of the conference were the prospects for development and the devising of a strategy for the future of the legal clinics program. The participants focused on the analysis of the various legal clinic models, they made an attempt to develop a method to support them and to strengthen existing clinics. Approximately 70 people participated in the conference from countries such as: Albania, Angola, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Lithuania, Latvia, Macedonia, Mongolia, Mozambique, Romania, Russia, Slovakia, Turkey, Ukraine, Uzbekistan, Hungary. Lectures were given by guests

from Hungary, the Czech Republic, Argentina and the USA. Representatives of legal clinics operating in Poland were also present, among representatives from: Kraków, Białystok, Toruń, Rzeszów, Lublin, Szczecin, Poznań, Łódź and Warsaw.

In December 2002 the first meeting of the legal clinics representatives was organized under the auspices of the Foundation at the Szpitalna NGO Center. In December 2002 representatives of the Foundation participated also in the “European forum of citizens' advice services” conference held in Brussels. In April 2003 a seminar was organized entitled: “Lawyers in *pro-bono* work.”

During the first years after its incorporation, the Foundation focused on fulfilling its duties relating to providing financial and professional support to legal clinics. A wide-scale fund-raising campaign was undertaken. It resulted in the obtaining of means to finance the First Polish Legal Clinics Conference (held between October 24 and 26, 2003) and the publishing of the first in Poland and the region textbook on the clinical teaching of law (translated also into English). Furthermore, the Foundation obtained valuable in-kind donations which were allocated to the most needing clinics as a result of a competition (two second-hand computer sets from the Baker & McKenzie law firm, Lex Omega software from Polskie Wydawnictwa Profesjonalne publishing house, fifteen sets of Legalis legal information software from Wydawnictwo C.H. Beck. publishing house).

In the year 2003 the first edition of a grant competition targeted at the legal clinics which had met the accepted operational standards was held. The grants for which the clinics applied were used to finance the employment of persons in charge of the clinic secretary offices, to cover administrative and office overheads and to purchase fixed assets. **For the past almost twenty years of activity the Foundation granted legal clinics with financial means of the total value of appr. 200 000 USD and in-kind donations of the total value of over 745 000 USD.**

Apart from grant-related activities, the Foundation undertook a number of educational and other activities aimed at strengthening the legal clinics. As early as in the beginning of the year 2003 a web portal was inaugurated: www.fupp.org.pl, which is intended as a channel of communications and of

disseminating knowledge on the legal clinics movement. The Internet website contains information not only on the Foundation itself but also about related programs and the activities of the legal clinics. Current information is moreover distributed through the kliniki@googlegroups.com newsgroup.

After consultation with the Stefan Batory Foundation, the Helsinki Foundation for Human Rights and the Polish-American Freedom Foundation, the Legal Clinics Foundation prepared an activation program and a program to propagate the idea of *pro publico bono* work among practicing lawyers. Within the framework of that program nearly 20 meetings were held with the largest law firms in Poland, the President and the members of the Presidium of the Bar Council, and the President and the Presidium of the National Council of Legal Advisers. These meetings instigated broad interest in the issue of involvement of lawyers in *pro publico bono* work and the possibility of patronage of the Bar Council and the National Council of Legal Advisers of the next notable initiative of the program, namely, the “*Pro bono Lawyer*” Competition. A few dozen nominations were submitted to the competition, 35 of which were qualified for consideration by the Competition Jury. At a first session held on March 3, 2004 in which the following members of the Jury participated:

- Professor Andrzej Zoll – the Ombudsman,
- Professor Marek Safjan – President of the Constitutional Tribunal,
- Professor Roman Hauser – President of the Supreme Administrative Court,
- Attorney-at-Law Andrzej Kalwas – President of the National Council of Legal Advisers,
- Attorney-at-Law Zenon Klatka – Vice President of the National Council of Legal Advisers,
- Attorney-at-Law Stanisław Rymar – President of the Bar Council,

a winner was selected. The winner was Szczepan Styranowiski, a retired judge from Olsztyn, nominated by the Olsztyn division of the Polish Committee for Social Welfare. The Jury also decided to honor seven persons. The official announcement of the competition results was made on March 29, 2004 in the seat of the “*Rzeczpospolita*” daily – the co-organizer of the competition. The

winner received a statuette funded by the Minister of Justice, and diplomas were presented to the honored persons. Since then the Pro Bono Lawyer Competition has been organized annual for 10 years already.

It is also worth mentioning that the Board of the Foundation coordinated visits of many guests from abroad, who visited Poland to research the development of the clinical program in Poland. In the past years we the Foundation Board organized visits for delegation coming from: Ukraine, Czech Republic, Moldova, Uzbekistan, Kazakhstan, China, Russia, Serbia, Belarus, Georgia, Japan, USA, Slovakia, Albania, and Thailand. Those guests visited Poland to learn not only of the development of the clinical movement but also the activities and the role of nongovernmental organizations as such.

Another important step was a series of clinic visitations. All clinics welcomed the members of the Foundation Board and at the same time declared to have many questions and concrete issues they wished to discuss. These meetings were an opportunity to discuss the requirements to meet operational standards, to consult on solving current organizational and formal problems, as well as to build a stable position within the faculty structure. The cycle of meetings with the clinics enhanced clinic management skills and strengthened the clinics' position for the future.

One of the main achievements of the Foundation is **professionalization and standardization of clinic activities**. This has been the key objective through the first 10 years of the Foundation's activity. Reaching this objective strengthened the position of the individual clinics and secured them with a stable future and appreciation within the legal community. This objective was accomplished also through subsidizing trainings, conferences, seminars and publications.

Thanks to the actions undertaken by the Board of the Polish Legal Clinics Foundation the organizational potential and independence of the individual clinics has been achieved pretty fast. Also strengthening of the network of legal clinics and the contacts between them has been achieved by conducting trainings, conferences, exchanges and preparing publications that were perfecting methods and regulations governing the clinics operations.

Another tool used in that respect was the comprehensive reporting system that resulted in better management and allows for on-going monitoring

and research into the social needs in respect to the services rendered by the clinics. Additionally, we obtain information on the efficiency and effectiveness of our actions.

3. Standardization Of Legal Clinics Activity In Comparative Study

As part of this research paper, I reviewed selected solutions of Polish and international practices in the field of accepted standards in the context of assessing the quality and effectiveness of counseling. First of all, it was necessary to answer the question: how to measure the effectiveness and quality of counseling? And secondly: what criteria and measures to use?

In order to answer the above questions, I conducted an expert opinion on the models of legal and civic counseling standards available in Poland, with particular emphasis on such provisions that would be related to the methodology for assessing the effectiveness and / or quality of counseling.

In the next part of the study, I referred to the standards and practices that are known to me and applied around the world in the field of testing the effectiveness and quality of legal and civic counseling. Unfortunately, the material in this area is very difficult to access, and most counseling institutions do not publish reliable information in this regard. For the most part, I had to rely on the information and studies that I had on my own, as well as on the news that I acquired during direct conversations and exchange of correspondence with people dealing with counseling in various parts of the world.

Unfortunately, the shortcomings of publicly available information indicate a limited interest in this subject and the lack of a developed methodology, especially in the field of measuring the effectiveness and quality of counseling. It is true that this topic is more and more commonly discussed at international conferences and meetings of people interested in and dealing with the issues of counseling, but no model solutions have been developed so far.

3a. Standards of counseling in Poland

In Poland, counseling organizations operating on a national scale and those operating for the longest time mostly have developed their own operating standards and have appropriate documents for ordering and constant quality control and reliability in working with clients.

The standards are held by such organizations as the Women's Rights Center Foundation, the Polish Legal Clinics Foundation⁴, the Committee for the Protection of Children's Rights, the Association for Legal Intervention, the Association of Friends of Integration, and the Association of Citizens Advice Bureaus.

Individual organizations have regulated the basic principles of functioning, including the rules concerning the work of advisers, clients' rights and the internal organization of the office. However, when thoroughly analyzing the applicable standards, it can be clearly stated that organizations do not follow strict and written principles of quality and efficiency verification. It was usually assumed that the quality and effectiveness of the counseling services had to be guaranteed by suitably prepared and trained counselors. It is them who bear the main responsibility for the reliability of the information or advice provided. It is probably commonly believed that advisers must be professionals in their work, and thus the organization has full confidence in the quality of the services provided, and therefore does not need to examine the reliability or effectiveness of the advice provided. For example, the provisions of the standards can be cited:

- Union of Citizens Advice Bureaus: "Advice in Citizens Advice Bureaus may be provided by a full-time office employee or a volunteer trained by Union of Citizens Advice Bureaus trainers in the field of civic counseling. A detailed record of the necessary qualifications and skills of employees and Citizens Advice Bureaus volunteers can be found in the description of individual positions (appendix to the Citizens Advice Bureaus standards)."

⁴ <http://www.fupp.org.pl/en/legal-clinics/standards>

- Polish Legal Clinics Foundation: "The activities of the Clinic are managed by the guide's manager, who is an independent researcher. He supervises the content of the legal assistance provided by the Clinic. The Head of the Clinic may entrust activities in the field of supervision over students to other academics or doctoral students of the university."
- Association for Legal Intervention: "If necessary, and especially in difficult or complicated cases, a lawyer should consult another lawyer. Persons inexperienced in providing advice are provided with substantive supervision."
- Association of Friends of Integration: "In complicated cases, the lawyer on duty may decide to get acquainted with the materials in more detail outside of the office hours. Decisions in this matter are made by a lawyer."
- Committee for the Protection of the Rights of the Child: "Complying with the Principles creates the presumption of honestly fulfilling one's obligations. The person serving the client is obliged to introduce himself and indicate his qualifications to provide legal aid."
- Women's Rights Center Foundation: "A person providing legal advice is obliged to comprehensively analyze the problem that the client is addressing and present the possibility of solving it as well as the legal consequences of specific actions."

However, when it comes to definitions, most organizations have not attempted to clarify the basic concept categories.

In autumn 2005, the Polish Legal Clinics Foundation, in cooperation with the Polish Association of Legal Education and the Association of Citizens Advice Bureaus, and thanks to a grant from the ProBonus Fund, implemented a project entitled: "It's worth doing well. Developing common standards for legal and civic counseling". The project was summarized on November 18, 2005 during a seminar, when the results of four workshops were presented, during which representatives of a group of non-governmental organizations developed standards for providing information and legal advice to citizens.

As a result of four full-day workshops, it was possible to prepare a coherent set of 10 rules of conduct for organizations providing legal or civic

counseling. It was decided that these standards would be disseminated to as many guidance organizations as possible and among donors supporting the activities of such organizations in order to encourage the greatest possible number of organizations to use them.

A team of representatives of the following non-governmental organizations worked on the development of the standards: the Women's Rights Center Foundation, the Polish Legal Clinics Foundation, the Helsinki Foundation for Human Rights, the Committee for the Protection of Children's Rights, the National Emergency Service for Victims of Domestic Violence "Blue Line", the Polish Association of Legal Education, Network Supporting Organizations Non-governmental SPLOT, the Association for Legal Intervention, the Association of Friends of Integration and the Association of Citizens Advice Bureaus.

The broadest possible promotion was an extremely important aspect of this project. The first stage of disseminating the standards was their presentation at a seminar summarizing the implementation of the project, attended by representatives of non-governmental organizations operating in the field of legal and civic counseling, and sponsors - recruited from both non-governmental organizations (foundations) and public institutions providing support of this type activities (government and local government offices). The standards were then published in the press in the form of small brochures and distributed to guidance organizations and made available on the websites of the implementing organizations.

It is worth noting that this project also clearly defined the three terms most often used in the context of counseling:

Legal information - means providing the client with information about the generally applicable law in Poland or the practice of its application, in particular by: providing and discussing relevant provisions, providing model legal letters, handing out an information leaflet or brochure.

Legal advice - this is specific information, applicable in a specific case, based on data and materials provided by the client, provided by a lawyer or law student under appropriate supervision; legal advice may consist in drafting a legal letter, including a procedural letter, and in supporting the client in his proceedings before an administrative authority or court.

Citizens' advice - consists in searching for various possibilities of solving a problem in the possessed information resources, presenting possible solutions and their consequences to the client, supporting the client in choosing a method of proceeding with respect for his independence in making decisions and, if necessary, drawing up an action plan together with the client.

The standards developed jointly by non-governmental organizations were later a model and inspiration for the adoption by the Social Dialogue Commission for specialist counseling of the City of Warsaw Office of "Standards for providing counseling by non-governmental organizations in Warsaw"⁵. The standards have been adopted as a binding document that should be followed by non-governmental organizations providing specialist counseling for city residents. It was also assumed that these standards should be translated by each organization into individual standards, rules or internal regulations that define the specificity of advice, clients and the work order of a given organization.

3b. Standards of counseling in the world

There are actually only a few types of counseling institutions known in the world, they are:

- institutions established by the state, whether central or local,
- non-governmental organizations dealing with broadly understood legal advice or specialized and dedicated to a narrow group of clients,
- organizations dealing with civic counseling and
- law clinics that may be located at universities or based on non-governmental organizations.

Most of these institutions have their own internal regulations that regulate the standards of providing advice and thus provide a certain guarantee of reliability and quality of the services provided. And although almost each of these organizations (whether operating independently or within a network) has

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https://um.warszawa.pl/documents/59210/11115002/kds_poradnictwo_standardy_prowadzenia_poradnictwa.pdf/3cc0a612-6381-0c0b-6978-00913e3c8021?t=1634498363760

its own standards, unfortunately it can be said with certainty that they are completely different and often do not fit together completely.

Most of the source materials relate to data from non-governmental organizations and the law clinic movement that is developing very dynamically around the world and currently operating on all continents. Without having data on system solutions carried out by governmental and local government institutions, I cannot, be able to relate to the solutions that may have been adopted by these institutions.

The main source of information that is publicly available are the websites⁶ of counseling organizations and institutions that provide technical and substantive support for counseling. Unfortunately, few organizations have these websites run reliably and updated on a regular basis. For example, it can be indicated that none of the organizations in Eastern Europe I know publish their standards on the Internet in English⁷.

Secondly, it is true that some umbrella organizations prepare reports on their activities, but when such a report is published, it usually describes only the functioning of the organization itself, and not the entire network. Interestingly, the Polish Legal Clinics Foundation is probably the only in the world umbrella organization that looks after law clinics, which annually publishes a full statistical analysis presenting the results of the work of all clinics in a given country⁸.

When analyzing various types of counseling, it should be emphasized that the main division is the division into legal counseling provided by state institutions, non-governmental institutions and law clinics, and civic counseling provided only by non-governmental organizations.

The model of citizen guidance comes from Great Britain and has achieved a very high level of development in the UK. Citizens Advice Bureaux (CAB)⁹ data shows that there are currently 412 Citizens Advice Bureaux, 26,000 advisers, including approximately 20,000 volunteers. In London alone, there are

⁶ <https://www.saulca.co.za/services>, <http://www.babseacle.org/>,

⁷ <http://www.pili.org/>, www.justiceinitiative.org, <http://lawworks.org.uk/>, <http://www.gaje.org/>, <http://www.abanet.org/rol/>

⁸ <http://www.fupp.org.pl/en/?id=raporty>

⁹ <https://www.citizensadvice.org.uk/>

over 9,000 advisers affiliated to some 80 organizations such as law centers and Citizens Advice Bureaux. London offices serve approximately 150,000 people annually¹⁰.

Citizens Advice Bureaux also follow their own rules and standards which, in short, boil down to these principles: advice is free, independent, confidential and impartial. It ensures equal access to law for all citizens and ensures non-discrimination. The primary goals are to provide clients with advice on all necessary matters and to contribute to the improvement of people's quality of life.

Regarding the standards of the services provided, it can be read that the CAB is constantly improving the quality of its services. Recent efforts have been made to develop organizational standards to define the level of service that can be expected from a CAB, efforts have been made to improve the speed of customer service and the handling of correspondence and complaints. Internal quality control was also extended and training in customer service over the phone was conducted. Unfortunately, the data published on CAB websites do not show the methods of quality testing or the full standards of the internal work organization of the offices.

Although Internet sources do not allow to fully and accurately compare the standards and methods of operation. At the same time, I know from experience that the advice provided by specialized state institutions or law clinics is similar or identical to professional advice, while citizen advice is advice provided on the basis of standardized sets of answers and is of ad hoc advice - as a rule, they are oral responses and are deprived of in-depth legal analysis.

Against the background of the above-described European experiences - the practice and standards of counseling described and functioning in the USA differ greatly from the level and experiences known from the Old Continent. It should be emphasized that the standards of legal advice are very well developed and improved over the years in the United States. These types of documents in the USA have several dozen pages and are not only a very detailed description

¹⁰ <https://www.gov.uk/government/statistics/a-guide-to-legal-aid-statistics-in-england-and-wales>

of the requirements, but also guidelines that facilitate their interpretation and understanding.

So let's start with the ordinance of the National Legal Aid & Defender Association (NLADA)¹¹ describing the standards of the right to defense, including comments, related standards, annotations and institutions.

For example, here are two Standards:

Standard 13.12 Workload for a Public Defender: The workload of a public defense lawyer should not exceed the following values: the number of crimes considered by a given lawyer per year should not exceed 150, and offenses (excluding road traffic) per lawyer per year not more than 400; in juvenile cases, the court entrusts advocates with no more than 200 cases per year; under the Health Assistance Act, each lawyer may not consider more than 200 cases per year; and no more than 25 appeals per year. For the purposes of this Standard, the term “case” means one fee or set of charges relating to the accused (or other client) in one court in one set of proceedings. If the Public Defender decides that he has an excessive workload related to the number of cases examined and additional cases, he or she obtains the right to bring the case to court.

Training of advocates and committee members must be systematic and comprehensive. Defense lawyers should be trained in the same way as in the case of training for prosecutors and judges. An intensive initial training program should be established at national level to ensure that all lawyers have basic defense skills to ensure effective representation.

A training program for lawyers should be established at national level to conduct intensive training programs aimed at imparting basic skills to new defense lawyers and lawyers working in defense matters.

Each State should establish its own program to train defenders in their assigned defense policies and practices.

Each barrister's office should establish its own program geared towards new employees and advocates, and for new team members involved in the provision of defense services.

¹¹ <https://www.nlada.org/>

The rules adopted in the USA by the American Bar Association (ABA) are also of great importance. And so, the ABA Assembly of Delegates adopted a resolution on August 7, 2006 on "Provision of Legal Aid in Civil Matters"¹² and recommended its implementation by all entities providing legal aid in civil matters for the poor. It is worth quoting selected excerpts from these standards. Interestingly, each Standard has been described on at least a few pages and, in addition to a short definition, also has a detailed description with a binding explanation / interpretation of a given regulation, and some of these provisions also have a recommendation regarding the method of evaluation and testing the implementation of a given standard. Let me quote just some of them related mostly to the issue of quality of legal aid services:

Standard 4.4 on Race Equity, Disability Diversity, Cross-Cultural Sensitivity, and Cultural Humility “*A legal aid organization should ensure that its staff and governing body has the awareness, attitude, skills, knowledge, and resources necessary to provide assistance in a culturally competent manner and in order to be responsive to, and aligned with, the interests of those people most affected by poverty, racism, discrimination, and other forms of structural oppression.*”

I would like to add that the proposed evaluation of this standard assumes: “It is important for a legal aid organization periodically to assess the degree to which it is successfully reaching out to and serving its diverse communities. Cultural responsiveness is an ongoing process; it is not something that is achieved once and is then complete. It should examine rates of utilization of all its services by the diverse populations in its service area, including persons with disabilities, in comparison to their percentage of utilized services by the overall low-income population. It should also assess the degree to which it has been effective in providing services, including the commitment to establish organizational cultural competence, and should involve a commitment to maintain it through periodic reassessments and adjustments. Evaluation should also include usability testing of online resources, along with an assessment of its internal operations and whether they are adequately supporting staff in the areas of cultural humility and competence and understanding racism and its impacts. ”

¹² https://www.americanbar.org/groups/legal_aid_indigent_defense/resource_center_for_access_to_justice/standards-and-policy/updated-standards-for-the-provision-of-civil-legal-aid/

Standard 4.4 on Effective Use of Technology: “A legal aid organization should utilize technology to support efficient operations and the provision of high-quality and responsive services. Organizations should remain informed and educated about technology tools and systems used by courts, administrative agencies, and others in ways that impact clients, or that clients are required to use when accessing courts or other services. Wherever possible, organizations should strive to participate in the creation of technology tools used by courts and agencies and work toward integration of technology systems with justice system partners to create efficiencies and seamless experiences for clients while also preserving confidentiality of information. Further, information security and data protection are of paramount importance to legal services organizations and organizations should maintain strong practices around information security, backup, and disaster recovery.”

Standard 4.11 on Organization Evaluation: “A legal aid organization should regularly evaluate the efficiency and effectiveness of its operations and infrastructure in supporting high-quality advocacy, including identifying new or emerging needs. Data, including client feedback, should be regularly compiled and analyzed to support this evaluation.”

Standard 5.5 on Case Files: “A legal aid organization should regularly evaluate the efficiency and effectiveness of its operations and infrastructure in supporting high-quality advocacy, including identifying new or emerging needs. Data, including client feedback, should be regularly compiled and analyzed to support this evaluation.”

Standard 5.8 on Client Complaint Procedure: “The legal aid organization should establish a policy and procedure for individuals to complain about a denial of service or about the quality and manner of assistance offered including any reporting obligations under the Rules of Professional Conduct.”

Standard 6.1 on Ensuring Delivery of High-Quality Legal Services: “A legal aid organization should ensure that its staff provides high-quality and effective legal assistance to the clients and communities served. This duty extends to all areas in which the legal aid organization's staff provides assistance, including, but not limited to, full representation, limited-scope representation and brief services, advice and counseling, advocacy, and through community legal clinics and legal education efforts.”

Standard 6.2 on Characteristics of Staff: *“A legal aid organization's staff and leadership team should be diverse, well-qualified, and competent, sensitive to people impacted by poverty and their legal needs and committed to providing high-quality legal services. Diversity includes having staff and leadership at all levels who may be disabled, LGBTQ+, bilingual, come from historically underrepresented groups, and have lived experience in common with that of the communities the organization serves.”*

Standard 6.3 on Assignment and Management of Cases and Workload: *“A legal aid organization should assign and manage cases and individual workloads for practitioners and other staff to promote competent, high-quality representation and legal work.”*

Standard 6.6 on Training: *“A legal aid organization should provide access to ongoing and comprehensive training for all personnel. Training topics should include, at a minimum, substantive legal topics; ethics, legal representation, and trial skills; and training to ensure competence in current technology used in providing legal services.”*

Standard 6.7 on Providing Adequate Resources for Research and Investigation: *“A legal aid organization should ensure the availability of adequate resources for appropriate legal research and factual investigation.”*

4. Conclusions from the study

As presented above, counseling can be divided, according to the systematics I have proposed, into several groups, depending on the service provided or the provider. At the same time, it can be hoped that all organizations and institutions dealing with counseling are familiar with the notion of standards and standardization of services provided.

Unfortunately, the research material turns out to be very sparse and difficult to analyze. The standards of guidance have been adopted in most guidance organizations in Poland, which, interestingly, are mostly not available on the Internet, while the standards of guidance organizations abroad are available in English only in countries where this language is the official language. American sources bring a huge mine of experience and possible solutions, hence these studies may be the best point of reference and a model to follow in Europe.

Interestingly, the scope of cases subject to standardization is very different, and the effectiveness of their enforcement is directly proportional to the methods of restriction for breaking them adopted in a given system. As the majority of institutions implementing guidance standards, unfortunately, do not have effective methods of their enforcement, therefore most of the implemented rules remain largely "on paper". In this context, the system adopted in the USA deserves recognition, where activity in accordance with the standards of legal counseling constitutes membership in a legal corporation, and compliance with such standards by e.g. law clinics determines the accreditation of a given university by ABA (no accreditation automatically means that it is not possible to accept a graduate of a given university to a corporation).

One of the basic questions that should be asked in the context of the conducted research is the meaning and justification for which different types of advice are listed. Well, in my opinion, such a distinction is perfectly justified and correct. With the correct understanding of the difference between legal and citizen advice, a picture of the standards and requirements for individual types of advice should immediately crystallize. At the same time, it is necessary to be fully aware that the statistics for both categories of advice do not match each other because they are incomparable. At the same time, the second definition division I proposed (depending on the provider: office, organization, university) is fully comparable and should be analyzed.

When examining the issue of quality verification, the speed of providing advice and clarity of advice to the client - and thus the issue of effectiveness, the following should be emphasized:

- it is common practice to adopt standards of legal or civic counseling, which may also contain provisions relating to the provision of adequate quality of services provided,
- the basis of the work of counseling organizations is the trust in the legal profession (sometimes this also increases trust in young adepts who are still learning this profession), and thus it is assumed that the advice checked by a lawyer is of appropriate quality, although
- some organizations and institutions in the event of failure also introduce appropriate standards of protection, whether by requiring the client to submit a declaration of non-recovery, whether it is a declaration of the

organization disclaiming liability for the actions of advisers (who are not their employees), or by entering into insurance contracts from civil liability.

I must emphasize that I have not come across a methodology or extensive rules for testing the quality of advice provided so far, and a generally accepted rule in the world is to abandon the subsequent examination of the quality of advice provided in order to ensure the appropriate substantive preparation of advisors and confidence in the reliability of their work.

Summing up this report, it should be noted that there has been significant progress in the development of legal and civic counseling in Poland and in the world. Along with this progress, often, but unfortunately not always, considerations were made in the field of standards, as well as the quality and efficiency of the services provided.

These changes were enforced by state institutions that decided to license all counseling activities in a given state, or by sponsors supporting the development of networks of counseling organizations such as law clinics or civic counseling offices. Interestingly, the standards created were created in each network on their own, detached from the practice and experience of other institutions or organizations.

Summarizing the issue of defining civic and legal counseling, I believe that it should be considered generally closed. The experience and practice to date shows that individual entities have sufficiently precisely defined their scope of activity through their own standards.

Unfortunately, the above opinion cannot be repeated in the case of conducting research and analytical activities related to measuring the effectiveness and quality of the provided advice. It should be said with a high degree of probability that such activities are consciously not implemented, or they are implemented in a way that is definitely unsatisfactory.

The cure for this neglect may be, in the first place, linking the quality and effectiveness of the counseling institution's operation with standards, and for better enforcement of these norms, it is necessary to simultaneously introduce rules for the enforcement of these principles. Linking, for example, the requirements of sponsors of guidance organizations with the principles of

verification and quality assessment should be the first step towards caring for quality. The American experience described by me probably best proves that integrated actions in both directions can ensure the success and continuous improvement of counseling organizations.

Experience from other industries shows that the best method of quality measurement is, firstly: periodic, random and reliable quality control (which should be done by impartial experts), and secondly: conducting regular surveys on customer satisfaction with the advice obtained. However, in order to have appropriate comparative material, it is necessary to expect from the organization also reliable statistics and periodic reporting - without such data collected regularly for a long time - it is not possible to conduct analyzes and research.

The conclusion that can be drawn from the above arguments leads to the recommendation of urgent and in-depth addressing the issue of effectiveness and quality of the provided advice. Without resolving this issue, further subsidizing of counseling is doomed to slow degradation - because the growing scale of the provided counseling must negatively affect the quality of counseling. It becomes necessary to undertake analytical and study works on techniques and tools for researching effectiveness, and thus improving the quality of services provided.

5. Epilogue

Our courts provide free of charge legal assistance only within legal proceedings before a court of law. Free of charge legal assistance may be obtained only since the year 2016 in pre-trial procedure, but reaches only very limited group of citizens. Legal clinics and organizations of the third sector assumed till now this duty. It is probably for this very reason that legal clinics observed a huge demand for their services and win great appreciation. A thousands of people on the average obtain assistance of legal clinics every year.

The hitherto research demonstrates that approximately 150,000 people obtained legal assistance as a result of the work of legal clinics in Poland in the past over 20 years. The recipients of these services are representatives of the weakest social groups, such as the unemployed, the homeless, pensioners, disabled people, crime victims, women in crisis, foreigners and refugees. Nearly

25,000 students participated in the program so far, supervised by up to 350 faculty members and practicing lawyers.

On the basis of its program the Polish Legal Clinics Foundation has the opportunity to support and organize a new perspective for the legal clinics in Poland, in which they train the new generations of lawyers using the latest educational methods and, at the same time, they play a complementary role in the state administration system, educating citizens about their rights and duties.

Dr hab. Izabela KRAŚNICKA¹

LEGAL ETHICS IN THE POLISH CLINICAL LEGAL EDUCATION

Introduction

Teaching legal ethics has become part of the legal education throughout the world and throughout the legal cultures represented in it. This chapter aims to introduce the readers to the history and the present of legal ethics teaching through the lenses of clinical legal education (CLE) in Poland.

The first part outlines the origins and early history of the Polish clinical legal education. The second one deals with the modern history of CLE and the establishment of the Legal Clinics Foundation. The next part is dedicated to the idea of implementing legal ethics training into the clinical legal education programs through the standards developed by the Legal Clinics Foundation. Finally, the last part shows results of the survey carried out in 2020 to analyse the most recent situation of legal ethics education at the Polish law schools and in their clinical programs.²

1. The origins of the clinical legal education in Poland

The first mention of the clinical teaching method in legal studies in Poland dates to the pre-World War I times and the book written by Szymon Rundstein, member of the Warsaw bar association, well-recognized scholar, author of several significant publications in the field of constitutional law, international law and theory of law.³ His work entitled *‘Leal studies and sketches’* was published in 1904 and aimed to discuss the issues that the legal knowledge

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² The survey data was collected with highly appreciated assistance of mgr Monika Winckiewicz from the Student Legal Clinic operating at the Faculty of Law, University of Białystok.

³ Maciej Marszał, ‘Kilka uwag na temat prawa w państwach totalnych w poglądach Szymona Rundsteina (1876-1942) (2012) *LiX Annales Universitatis Mariae Curie-Skłodowska Lublin-Polonia* 59; Albert Meszorer, ‘O Szymonie Rundsteinie’ (1958) 2 *Palestra* 89.

should address as a result of current social changes, because - as he wrote – ‘the lawyer should think about the screaming and flagrant antagonisms of social life’⁴. The last chapter titled ‘*Modern teaching of law*’ contained a subchapter dedicated to ‘Legal clinics’ where the author analysed the legal clinic project (free of charge legal advice provided by the law students to the poor members of the community under professional supervision by the faculty member) designed by German professor Frommhold but then widely criticized and rejected by German lawyers and scholars who (according to Rundstein) claimed there were no interesting cases dealt with in such a ‘legal clinic’ project, that students should not provide legal advice themselves and that the clients will not be eager to share their life problems with young people.⁵ Rundstein rightfully rejected those arguments by stating that professional legal life is not about interesting cases but about everyday life issues, that students would have the supervision and clients would be informed about confidentiality of the procedure. He strongly argued in favour of the project and claimed that the clinical legal education established a new turn in the legal pedagogy and once it finds a fertile ground, it will become an essential supportive institution at the law faculties.⁶

The idea of clinical teaching in law was again brought to the public attention in the pre-World War II era by Czesław Znamierowski. In his article published originally in 1936 Znamierowski called for adoption of the ‘clinical’ model of teaching operation used at medical schools and argued that ‘Democratic equality before the law is seriously threatened by the fact that legal assistance may only be purchased at a market price. Dubious is the value of rights and claims that cannot be exercised. Therefore, free of charge or inexpensive legal advice is clearly a democratic necessity’.⁷

⁴ Szymon Rundstein, ‘*Studia i szkice prawne*, Lviv 1904, Słowo wstępne <https://pbc.gda.pl/dlibra/doccontent?id=3878>

⁵ Ibidem 229-235.

⁶ Ibidem 235.

⁷ Czesław Znamierowski, *Poradnie prawnicze in O naprawie studiów prawniczych* (1938). Original text published on October 6, 1936 in “*Gazeta Polska*” newspaper. The English translation of the essay can be found in: Łukasz Bojarski, ‘The Aim of the Legal Clinics’ in Dariusz Łomowski (ed), *The Legal Clinic. The Idea, Organization, Methodology* (C.H. Beck 2005), 30-2. See also: Edwin Rekosh, ‘Construing Public Interest Law: Transnational Collaboration and Exchange in Central and Eastern Europe’ (2008) 13 *UCLA Journal of International Law and Foreign Affairs*, footnote 89.

Due to the outbreak of the World War II and the establishment of the communist regime (with full control over the educational programs and allowing no novelty) in the post-war era, the idea had to wait for over 60 years to become a reality. Clinical legal education was introduced by American professionals and supported with American funds in Central and Eastern Europe (CEE) in late 1990s⁸.

2. The modern history of Polish clinical legal education

Establishing CLE in Poland was based on the traditional ideas of clinical education which served two main goals: to implement a practical element into the legal education and to promote the *pro bono* activity combined with social responsibility among future lawyers.⁹

Poland became a definite leader in the CEE region with two strong clinical programs opening at the Jagiellonian University Faculty of Law and Administration in Krakow in 1997 and at the Warsaw University Faculty of Law and Administration in 1998.¹⁰ Both clinics were supported by the Ford Foundation strongly engaged in the reestablishment of democratic values in this part of the world.¹¹ The idea was immediately followed by rapid growth of

⁸ On the development of clinical legal education in Central and Eastern Europe see: Maxim Tomoszek, 'The Growth of Legal Clinics in Europe – Faith and Hope, or Evidence and Hard Work?' (2014) 21 *International Journal of Clinical Legal Education* 93; Mariana Berbec-Rostas, Arkady Gutnikov, Barbara Namysłowska- Gabrysiak, 'Clinical Legal Education in Central and Eastern Europe: Selected Case Studies' in Frank Bloch (ed), *The Global Clinical Movement. Educating Lawyers for Social Justice* (Oxford University Press 2011) 53-67; Richard Wilson, *The Global Evolution of Clinical Legal Education. More Than a Method* (Cambridge University Press 2018) 180-204; Edwin Rekosh, 'The Development of Clinical Education: A Global Perspective – International Experience, the History of Legal Clinics' in Dariusz Łomowski (ed) op. cit. 43-5

⁹ Izabela Kraśnicka, 'Legal Education and Clinical Legal Education in Poland' (2008) *Journal of Clinical Legal Education* 52.

¹⁰ Maxim Tomoszek, 'Legal Clinics and Social Justice in Post-Communist Countries' in Chris Ashford, Paul McKeown (eds) *Social Justice and Legal Education* (Cambridge Scholar Publishing 2018) 224-225; Kamil Mamak, Katarzyna Julia Kowalska, Ewelina Milan, Paweł Klimek, 'The Past, Present and Future of Clinical Legal Education in Poland' (2018) 25 *International Journal of Clinical Legal Education* 89.

¹¹ The Ford Foundation recognized that communist regime "bred widespread distrust of the legal system". Ford Foundation Grantees and the Pursuit of Justice, <https://www.fordfoundation.org/media/1707/2000-fordfoundation-grantees-and-the-pursuit-of-justice.pdf>. Katarzyna Ważyńska-Finck, 'Poland as the Success Story of Clinical Legal Education in Central

other law faculties getting interested and involved in the adoption of the method (and looking for funding opportunities), often with invaluable assistance and support provided by the representatives of the US clinical programs.¹²

In 2002, with tremendous financial and organizational support from the Public Interest Law Initiative, the Polish Legal Clinic Foundation (Fundacja Uniwersyteckich Poradni Prawnych – FUPP) was established with a mission to build, unify and then coordinate the network of legal clinics operating in the country and to promote the *pro publico bono* engagement of lawyers and became a national organization advocating for the clinical legal education.¹³

The Foundation has managed unify and assist legal clinics by providing financial support (through annual grant competitions during the first eight years), as well as the clinical know-how (through trainings, workshops semi-annual and annual conferences¹⁴, publishing series of textbooks on CLE or providing clinics with access to the on-line legal data bases¹⁵) and environmental recognition (through cooperation with the Ombudsman Office, bar associations, Ministry of Justice and biggest law firms in Poland). FUPP has also carried out several national and international projects and trained clinicians from other countries, manage to run the KLINIKA journal dedicated to CLE.

and Eastern Europe. Achievements, Setbacks and Ongoing Challenges’ in Alberto Alemano, Lamin Khadar (eds), *Reinventing Legal Education. How Clinical Legal Education is Reforming the Teaching and Practice of Law in Europe* (Cambridge University Press 2018) 44.

¹² Leah Wortham, ‘Aiding Clinical Education Abroad: What Can Be Gained and The Learning Curve on How to Do So Effectively’ (2006) 12 *Clinical Law Review* 615; Richard Wilson, ‘Legal Aid and Clinical Legal Education in Europe and the USA: Are They Compatible?’ in Rønning O. Halvorsen, O. Hammerslev (eds) *Outsourcing Legal Aid in the Nordic Welfare States* (Palgrave Macmillan, 2018) 275.

¹³ Margaret Martin Barry, Filip Czernicki, Izabela Kraśnicka, Mao Ling, ‘The Role of National and Regional Clinical Organizations in the Global Clinical Movement’ in Frank Bloch (ed) *The Global Clinical Movement: Educating Lawyers for Social Justice* (Oxford University Press 2010) 279-295

¹⁴ There have been over thirty National Legal Clinics Congresses organized and hosted by law faculties throughout the country: <http://www.fupp.org.pl/kliniki-prawa/konferencje>

¹⁵ The C.H. Beck Publishing House has become an engaged and dedicated partner supporting the Legal Clinics Foundation. Each clinic in Poland has free charge access to the Legal Information System “Legalis” software. The list of all textbooks prepared by the Polish clinicians in cooperation with the C.H. Beck is available at the Foundation’s website: <http://www.fupp.org.pl/kliniki-prawa/publikacje/ksiazki>

¹⁶ One of the key achievements was the design and enforcement of ‘Standards of the Polish Legal Clinics’ Activity’, so the Polish legal clinics would operate based on twelve quality measures essential for the most effective legal aid.¹⁷

The development of the clinical legal education in Poland was rightfully labelled as a ‘success story’.¹⁸ The success, especially during the first fifteen years of the CLE operation in Poland can be reflected in some example significant statistical data arguments.¹⁹

The success arguments start with strong structural network of the clinics throughout the country. Twenty-five clinics were established and accredited by the Foundation over a ten-year period since late 1990s. There are currently twenty-seven FUPP-accredited legal clinics operating at the law schools across Poland including seventeen clinics established at public university law faculties and ten clinics established at the non-public law schools.²⁰

The number of cases accepted by the clinics in Poland had grown steadily until 2011/2012 (with the highest number reaching 13379 opinions issued in one academic year) and was accompanied by growing numbers of

¹⁶ Foundation history and mission available at: <http://www.fupp.org.pl/en/foundation/history-mission>

¹⁷ Standards of the Polish Legal Clinics Activity available at: <http://www.fupp.org.pl/en/legal-clinics/standards>

¹⁸ Katarzyna Ważyńska-Finck, ‘Poland as the Success Story of Clinical Legal Education in Central and Eastern Europe. Achievements, Setbacks and Ongoing Challenges’ in Alberto Alemano, Lamin Khadar (eds), *Reinventing Legal Education. How Clinical Legal Education is Reforming the Teaching and Practice of Law in Europe* (Cambridge University Press 2018) 44-55; Marta Skrodzka, Joy Chia, Eddie Jones, ‘The Next Step Forward — The Development of Clinical Legal Education in Poland Through a Clinical Pilot Program in Bialystok’ (2008) 2 *Columbia Journal of East European Law* 56.

¹⁹ At the same time it must be noted that the most recent data shows a significant and on-going decrease in numbers of cases handled by the clinical students and decreasing number of students and faculty members involved in the program. The data has been collected by the Polish Legal Clinics Foundation since its establishment in 2002 and is available at the Foundation’s website: www.fupp.org.pl

²⁰ There are total of twenty public university law faculties functioning presently in Poland. Two of them have legal clinics operating without FUPP accreditation (both are relatively young ones). Two other public law faculties do not offer clinical legal education in any form. It should be noted that one public university has two clinics established at two faculties. The number of non-public schools offering legal education is difficult to estimate precisely. Warsaw itself has over ten schools providing master degree in law programs. The total number accounts for around twenty-five.

students accessing the program (with highest numbers of 2026 students working in the legal clinics in one academic year).

Most of the clinics have been adopted as part of the law school curricula, with certain numbers of ECTS assigned and teaching hours counted toward the faculty work plans. The national bar associations have been supportive to the programs and are not regarding them as competition. Clinical students and teachers organize conferences, share experience, publish textbooks, develop new teaching methods including interactive ones that have been hardly used in the Polish legal education before. Legal clinic became an element of the law school rankings and since 2016 there is a separate, national legal clinics ranking published annually by the Rzeczpospolita newspaper.

The peak of the development and growth was reached eight years ago and since then the number of cases has been dropping along with the number of students and faculty members involved in the clinical programs. The latest data collected for the 2018/2019 shows total of 4414 number of cases and 1636 of students in the clinical programs. These numbers accounts for a 66% decrease in cases and 20% decrease in student enrolment comparing to the peak numbers 2011/2012.

Full explanation of such decline deserves a separate evaluation, as it is connected to various factors, but there are three main arguments, all of them resulting in a greater access to justice for the Polish citizens.

Firstly, in 2005 new law was introduced opening access the legal profession to more candidates who could apply for the admission to the obligatory apprenticeship programs²¹ and in 2010 first group of the law school graduates massively entered the legal professions overwhelmingly rising the number of practicing lawyers. The rise has continued to appear in the following years.²²

²¹ For details of the reform see: Izabela Kraśnicka, 'Polish Legal Education in the Light of the Recent Higher Education Reform' (2012) Michigan State Law Review 701.

²² According to the statistics collected by the Ministry of Justice the number of candidates annually entering the apprenticeship programs for advocates and legal counsels (compulsory to obtain the license to practice) has grown from 293 (advocates) and 760 (legal counsels) between 2000-2004 to respectively 1876 and 2519 between 2006-2105. Michał Masior, 'Analiza wpływu zmiany regul dostępu do zawodu adwokata i radcy prawnego na jakość usług prawnych' in

Secondly, around the same time the common use of Internet allowed to provide on-line legal information and legal advice.²³

Finally, a tremendous reform of the access to justice system was introduced in Poland in 2015 by the Free Legal Aid and Education Act and allowed citizens to get free of charge legal advice from professionals²⁴. The state has eventually taken the burden. Despite energetic campaign ran primarily by the Legal Clinics Foundation, legal clinics were left outside the new system.

3. Legal ethics training as a standard in the Polish legal clinics' programs

The Standards of the Polish Legal Clinics' Activity (Standards) were drafted by the Board of the Legal Clinics Foundation back in 2002 as such task was assigned to it in § 26 p. 2 of the Legal Clinics Foundation's Statute. The final version of the Standards was adopted by the Council of the Foundation in accordance with § 26 p. 3 of the Statute.²⁵

The Standards designed instruments necessary for the valuable and professional conduct of the clinical services (limited to the rules applicable when legal advice is provided and with exclusion of the court representation of the clients which is not allowed for students under Polish law). They concern reliability of provided services (explained in detail below), supervision over students (with maximum number of students under supervision of one faculty member/practitioner), confidentiality of services (how it should be guaranteed), protection of the documents (what kind of protection lockers should be used),

Justyna Szumniak – Samolej (ed) *Współczesne wyzwania w zakresie funkcjonowania przedsiębiorstw. Perspektywa badawcza młodych naukowców* (Oficyna Wydawnicza SGH 2017) 47.

²³ Between 2001 and 2010 the percentage of population using the Internet in Poland grew from 9.901 to 62.32 (eventually up to 77.54 in 2018). World Bank Indicator: <https://data.worldbank.org/indicator/IT.NET.USER.ZS?locations=PL>

²⁴ Szymon Szmak, 'Provision of Legal Services in Poland – Free Legal Aid and Legal Expenses Insurance as Selected Objects of the Recent Regulation' (2016) 4 Insurance Review 117.

²⁵ The Statute of the Legal Clinics Foundation available at: <http://www.fupp.org.pl/en/foundation/statute>. The revision only of the approved Standards was conducted in 2014.

organization of the secretary (how many hours per week should it operate), etc.²⁶

The Standards are to serve as a mechanism of the legal clinics' accreditation granted by the Foundation which is necessary to obtain funds from the Foundation. The Legal Clinic Foundation's Statute clearly states that financial support from the Foundation is subject to the clinic's compliance with the Standards (§ 25 p. 8 of the Statute). In other words, only clinics that adopted the Standards and carry out their activity in accordance with these requirements receive the Foundation's accreditation and as a result, can apply for the financial support from the Foundation.

Members of the Board of the Foundation travelled around the country to visit all the legal clinics and to verify their functioning against the Standards. Positive report from such visit constituted basis for the accreditation granted to the legal clinic

The importance of professional legal ethics in the clinical education has been recognized as one of the fundamental elements of this teaching method. The recognition came naturally as part of the American influence that had laid grounds for the Polish CLE development. Already in the second issue of the *KLINIKA* journal (published in 2000), Leah Wortham, one of the most engaged supporters of the clinics in Poland wrote an article on the importance of teaching professional responsibility in the legal clinics.²⁷

The Board of the Legal Clinics Foundation also realized that legal ethics was not a course taught regularly at the Polish law schools. In fact, in 2001/2002 only one Polish law faculty had 'legal ethics' as an obligatory

²⁶ The Standards of the Polish Legal Clinics' Activity: <http://www.fupp.org.pl/en/legal-clinics/standards>

²⁷ Wortham argues, based on the US experience and based on the answers she got from the group of CEE scholars that teaching legal ethics is a significant element of CLE. She explains how teaching ethics in clinics should be modified and adjusted to the specificity of clinical course, by providing possible elements of such course. Leah Wortham, 'Teaching Professional Legal Responsibility in Legal Clinics Around the World' (2000) 1 *KLINIKA* 195 (article printed in English and in Polish). See also: Ann Thanaraj, 'Understanding How a Law Clinic Can Contribute Towards Student's Development of Professional Responsibility' (2016) 23 *International Journal of Clinical Legal Education* 89; Ann Cody, 'What does Legal Ethics Teaching Gain, if Anything, from Including a Clinical Component?' (2015) 22 *International Journal of Clinical Legal Education* 1.

element of their students' curriculum²⁸ and an elective course appeared at another law faculty in 2003/2004²⁹.

The very first Standard on the list of Standards for the Polish Legal Clinics' Activity deals with reliability of the clinical work and reads:

Legal clinic provides reliability of its services.

- A. At least once a week (according to the academic calendar) seminars are held to discuss cases being currently worked on by the clinic or its organizational units.
- B. The clinic does not allow its students or supervisors to be overburden by the number of cases in a way which could threaten the quality of the clinical service. The director of the clinic sets a maximum number of cases to be taken by one student at a time.
- C. **The clinic provides its students with a training regarding ethics of the legal profession**, client interview and legal writing.

As a result, each legal clinic in Poland, among other requirements, had to find its way to train the students in the field of professional legal ethics.

The visits organized by the Legal Clinics Foundation revealed various approaches to the realization of the standard.

Some clinics implemented short (3-5 hours) workshops or seminars conducted by invited representatives of the legal profession. There were projects implemented to improve the legal ethics training through the use of interactive methods.³⁰ Some clinics immediately went further and adopted their internal codes of professional conduct.³¹

The professional ethics became a topic for discussion during the national conferences that gathered representatives of the clinics. In 2011, during

²⁸ Anna Korzeniewska – Lasota, 'Nauczanie etyki prawniczej na studiach prawniczych' (2015) 17 (4) *Studia Elckie* 374.

²⁹ Hubert Izdebski, Paweł Skuczyński, *Etyka zawodów prawniczych. Etyka prawnicza* (LexisNexis 2006)10.

³⁰ Małgorzata Wysoczyńska, 'Zagadnienia etyki prawniczej w nauczaniu klinicznym studentów z perspektywy doświadczeń Studenckiego Punktu Informacji Prawnej 'Kliniki Prawa-Kliniki Praw Dziecka' WPiA UŁ', (2011) II *KLINIKA* 5.

³¹ 'The Deontological Code of the Warsaw University Legal Clinic' in Dariusz Łomowski (ed) *op.cit.* 241-4.

the XV National Legal Clinics Congress special legal ethics workshops were conducted resulting in the Draft of the Polish Legal Clinics Ethics Code.³²

Representatives of the Polish academia have argued for the necessity of legal ethics education in general and in particular in clinical programs as part of the lawyering skills developed through this teaching method.³³ Even an idea of ‘Legal Ethics Clinic’ was developed as proposal for practical legal ethics education.³⁴ Eventually, a group of clinical supervisors wrote a textbook specifically dedicated to legal ethics which serves as a compendium of ethics for legal professionals at different stages of their carrier - as students, post-graduate trainees and licensed professionals.³⁵

Certainly, over the course of the first decade of the new millennium, the significance of legal ethics trainings and knowledge had been widely recognized and accepted in the clinical legal environment in Poland. The lack of courses in the regular law school curricula has been partly replaced by the legal clinics’ ethical trainings and with time the law schools started implementing legal ethics courses into the regular study programs.

Study conducted in the academic year 2013/2014 showed that eight out of then sixteen Polish public law schools offered legal ethics or ethics course – in various forms (as an obligatory or elective lecture or seminar, with varying

³² The draft of the Code was published in: Projekt Kodeksu Etyki Klinik Prawa w Polsce, *KLINIKA II* (15) 2011, p. 32-33.

³³ Hubert Izdebski, Paweł Skuczyński (eds), *Edukacja etyczna prawników: cele i metody: materiały z konferencji 8 czerwca 2009* (Fundacja Instytut Etyki Prawniczej 2010); Elżbieta Łojko (ed), *Etyka prawnika. Etyka nauczyciela zawodu prawniczego* (Wydawnictwo Uniwersytetu Warszawskiego 2006); Barbara Namysłowska-Gabrysiak, Fryderyk Zoll, ‘The Methodology of Clinical Teaching of Law’ in Dariusz Łomowski (ed) op.cit. 186-207.

³⁴ Author of the chapter suggests that legal ethics education could use some of the clinical teaching methods. Namely that courses dedicated to legal ethics could be more practice-oriented, that there could be separate section within the legal clinic or even an additional legal clinic dedicated to ethical problems, where not real, “live” clients would bring the cases but where ethical problems could be created and students would learn how to solve them. In addition, moot court simulations could be used in such sections/clinics. Finally, the author argues that within such section/clinic students could be involved in research activities dedicated to ethics. Łukasz Bojarski, ‘Klinika etyki prawniczej – propozycja’ in Hubert Izdebski, Paweł Skuczyński (eds), *Edukacja etyczna prawników: cele i metody: materiały z konferencji 8 czerwca 2009* (Fundacja Instytut Etyki Prawniczej 2010) 83-100.

³⁵ The book (published in Polish and English) includes proposals for active methods on teaching legal ethics, and sample scenarios for class teaching on legal ethics. Małgorzata Król (ed), *Professional Legal Ethics – in theory and case studies* (C.H. Beck 2013).

number of hours and ECTS assigned to the course).³⁶ As noted above, a decade earlier only one school had been offering such course, so statistically, over the course of ten years, a significant increase could be observed. It was certainly not a satisfying one in terms of the obvious need.

4. Legal ethics and legal clinics in 2020

The survey was conducted throughout the law schools in Poland between January and March 2020. Due to the COVID-19 outbreak, gathering of the material directly from all of the legal clinics in Poland was extremely difficult as the law schools were closed and legal clinics suspended their functioning, therefore the research material collected from the clinics was supplemented with information gathered from the law faculty websites, phone calls and conversations with the legal clinics’ supervisors. It resulted in full data from seventeen (out of total of twenty) public law faculties with clinical programs approved by the Legal Clinics Foundation. In addition, four non-public school-based clinics also responded to the survey.

The results originating from the public schools are presented in the table.

PUBLIC SCHOOL BASED CLINIC	“Legal ethics” (or similar) course in the curriculum	Form: Lecture/ Seminar /Class	Total# of hrs/ECTS ³⁷	Mandatory / Elective	Year of study	Additional legal ethics training at the clinic
LC1	X (Ethics)	L	15/3	E	5	Yes/Once a year 3-hour training
LC2	X (Legal ethics and bioethics)	L	45/6	E	1-5	No
LC3	X (Legal)	L	30/4	E	5	Yes/Once every semester

³⁶ Korzeniewska-Lasota (n 5) 377.

³⁷ Number of hours provided for the stationary students. Non-stationary students have the same study program, but the number of hours and ECTS differs.

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	ethics)					
LC4	X (Ethics)	L	30/3	M	1	No
LC5	X (Ethics of legal professions)	L	30/4	M	5	Yes/Once a year 1,5-hour training
LC6	X (Legal ethics)	L	30/3	M	2	No
LC7	X (Ethics)	L	30/5	E	1	No
LC8	X (Legal ethics)	L+C	30/4	E	1-5	Yes/15-hours lecture on ethics of the legal profession
LC9	X (Legal ethics)	L	30/2	M	1-2	No
LC10	X (Ethics for lawyers)	L+C	30/1	M	1	No
LC11	X (Legal ethics)	L	15	M	2	No
LC12	-	-	-	-	-	No
LC13	X (Legal ethics)	L	30/3	E	1	No separate training, legal ethics elements are included in general training for the students
LC14	X (Legal ethics)	L	20/3	E	5	No separate training, legal ethics elements are included in general training for the students
LC15	X (Legal ethics)	L	30/6	E	1-5	Yes/ legal ethics component as a separate part within the general clinical training
LC16	X (Ethics of the legal professions)	L/C	30/4	M	3	No
LC17	X (Legal ethics)	L	30/3	M	4	No

NON-PUBLIC SCHOOL BASED CLINICS	„Legal ethics” (or similar) course in the curriculum	Form: Lecture/Seminar/ Class	Total# of hrs/ ECTS ³⁸	Mandatory/Elective	Year of study	Additional legal ethics training at the clinic
LC18	X (Legal ethics)	L	30/2	M	1	Yes/each student entering the clinic has additional legal ethics training
LC19	X (Legal ethics)	L	30/4	E	1	Yes/ 3 hours of additional training seminar
LC20	-	-	-	-	-	Yes/5 hours training
LC21	X (Ethics of the legal professions)	L	26/4	E	1-5	Yes/within training concerning dealing with the client

The following observations can be drawn from the data:

- (1) Out of seventeen law schools only one does not offer any course on legal ethics or ethics in general.
- (2) At nine law faculties the course is titled ‘legal ethics’, at two – ‘ethics of legal profession’, at one – ‘ethics for lawyers’ and two law schools offer a course on ‘ethics’.
- (3) In eight of out sixteen schools offering such course it is a mandatory requirement for the students. The remaining eight programs treat legal ethics as an elective course.
- (4) Thirteen law schools formatted the course as a lecture, three courses provide for lectures and classes within the course.³⁹

³⁸ Number of hours provided for the stationary students. Non-stationary students have the same study program, but the number of hours and ECTS differs.

³⁹ In the Polish higher education system, each subject can be taught in variety of forms. Typical division provides for lecture (usually non-obligatory attendance, professor lectures the entire group of students assigned for the course) and class (designed to be more interactive form of teaching, with 20-25 students in class).

- (5) The average number of hours dedicated to legal ethics course is 30. In two cases it is 15, in one case it is 20 and in once case the course has total of 45 hours.
- (6) The number of ECTS points assigned to the course oscillates between 1 and 6 depending on the number of hours in the course.
- (7) The course is offered at various stages of legal education – between the first and the fifth (final year) of the law degree program.
- (8) Five legal clinics offer additional legal ethics training for the students in the clinical programs, two clinics underlined that legal ethics elements are included in the general training course for the new members of the clinic. Ten clinics do not offer any additional legal ethics course.

Conclusions

Over the course of twenty years, legal ethics education at Polish law schools has changed significantly but only because the starting point was non-demanding (one law school offered the legal ethics course in 2001/2002). When we take a closer look at the situation, it is still far from satisfying.

Since there are no centrally designed standards for legal education, the curricula are drawn individually by the schools' authorities. Unfortunately, legal ethics are taught as an obligatory course only in half of the law schools throughout the country.

Entrance exams to the apprenticeship programs for the professional bar associations (advocates, legal counsels, judges, prosecutors) do not encompass legal ethics issues, nor the final bar exams do so.

It seemed that the CLE programs would help and they did to some extent. It is the clinical teachers who argued for the necessity of legal ethics education. A group of them wrote an excellent text book on legal ethics teaching using a case study method.⁴⁰ But, as the survey reveals, only a few legal clinics offer additional ethics courses and it seems that the focus on

⁴⁰ Malgorzata Król, *Etyka zawodów prawniczych. Metoda case study* (C.H. Beck 2011). The same team from the Legal Clinic operating at the Faculty of Law and Administration at the University of Lodz published a book on Polish legal ethics in English: Malgorzata Król (ed), *Professional Legal Ethics – in Theory and Case Studies* (C.H. Beck 2013).

professional ethics has generally not been grounded well in the Polish CLE programs, with couple of exceptions in the oldest, biggest clinics in Poland. More attention should still be paid to legal ethics education during the five-year master law program taught at every Polish law faculty. If there is room for courses dedicated to philosophy, history, sociology, there should be a space for an obligatory course dedicated to most important elements of professional attitude.

In addition, since clinical education is facing such an intensive decrease of cases, there is more time in CLE program that could be devoted to practical training in professional legal ethics, so the educational component of clinical education would serve to fill the still existing gap and would provide future lawyers with clear, strong, well-trained skills to deal with ethical questions that will undoubtedly appear in their relations with clients and in the relations with each other as professionals. Lawyers' choices should be of special importance for their understanding of the legal orders and fundamental, constitutional principles shape the system and push it to the right (or wrong) directions.

The ending though should be based on the hope that when another, planned survey of this kind is run in the next couple of years, the final results will prove the above conclusions to be voices from the past.

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**CLINICAL LEGAL EDUCATION: A NEW PERSPECTIVE
FOR THE STUDENTS AT THE UNIVERSITY OF
MONTENEGRO FACULTY OF LAW**

1.

Clinical legal education is an interactive work method present at many law faculties including the University of Montenegro Faculty of Law in Podgorica. Two main goals are accomplished through clinical legal education.

The first goal is to teach students how to master legal skills and legal practice, contribute to the raising of legal awareness, promote ethical principles of the legal profession and professional responsibility, as well as to enable students to develop their individual and creative opinions. In this manner, a lawyer with a complete legal education is formed, which is crucial for their later engagement.³

The second goal is to provide free legal help to the clients who are not able to hire and pay a professional, people from the vulnerable groups, as well as to the governmental and non-governmental organisations. In general, through clinical legal education, equality among the parties can be satisfied, as equal access to justice entails a more stable and healthy society and is one of the imperatives of the rule of law and a legal system. As much is proclaimed in the European Convention for the Protection of Human Rights and Fundamental Freedoms (access to justice).

Clinical legal education differs from the traditional methods acquiring legal knowledge. More traditional teaching activities focus on lessons regarding specific legal disciplines, case law, and jurisprudence. In other words, the professor gives a lecture, and students listen. On the other hand, in legal clinics,

¹ Faculty of Law University of Montenegro

² Faculty of Law University of Montenegro

³ See Hurder Et All, Clinical Anthology Readings for Live - Client Clinics 5 (1997).

students give advice, offer their opinions, represent clients pro-bono, all under the mentorship of their professors or other legal professionals (from a wide range of legal backgrounds). In addition to the work with live cases, clinical legal education also includes numerous simulation exercises, use of written material, classroom discussions, use of games, brainstorming, video tapes, small groups, individual counselling, student training by both academic and non-academic mentors, etc.⁴ In legal clinics, students learn through practice: how to plan, work, and think. Some of these methods are present at the University of Montenegro (UM) Faculty of Law. At the very beginning of live case practice at our faculty, students worked together as a team on the first case, which concerned the issue of citizenship. Legal opinion was provided to the suppliant according to the previously agreed upon opinions of the group that worked the case, and the case was successfully resolved.

Clinical legal education can be conducted in different forms. The choice of the form depends on the curriculum of the faculty, and requires support of faculty members and students, as well as that of administration of the faculty and university. Moreover, support of the government is also important, particularly when it comes to legal decisions which affirm live case practice. Of course, when it comes to the legislative texts, the law concerning pro-bono legal help and its supporting acts, are also important.

There are several basic models of legal clinics. Based on the place where the clinic is located, they can be classified as in-house clinics or out-house clinics. The former are based at the law faculty of a university. Professors or practitioners take part as mentors, the clients are received at the faculty, students work with them and receive a certain number of points for successful work at the clinic. This model is present at the UM Faculty of Law. Out-house clinics, operate within the framework of non-governmental organisations. As a rule, in these clinics, students receive clients, and mentors can be both professors and experienced practitioners. For example, this model exists in the Association of Students with Disabilities of Montenegro. Legal clinics can also be sorted into those that work with live cases and those that work on cases that are simulations of real events. Regardless of the model of the legal clinic, a common thread is the interactive method of work, focus on mastering legal

⁴ See Feidman, Simulations: An introduction, 45 J. Legal Educ. 469 (1995).

skills, development of professional consciousness and responsibility, ethical principles, and that the legal help is provided pro-bono.⁵ Also, in all of them, both academic and non-academic mentors constantly supervise student work, grading them and providing feedback.

The goals of legal clinical education entail mastering of legal skills. These include: interview and conducting an interview, counselling, familiarising with the case, strategizing, examining the facts, negotiation, case research, written submissions, summarising the case, representation (writing, speaking, discussion, examination, media skills and ethical responsibilities), case management, respecting timeframes, cooperation, evaluation, critical thinking, proper judgement, creativity. The representation of specific skills in education, primarily depends on the choice of programme, methods, monitoring, grading, and receiving feedback, i.e., whether the clinic exclusively provides legal counsel and opinion, or if it also offers legal representation. It should be stressed that these skills are not present in classical instruction at law faculties and that they contribute to forming well-rounded, competent, and ethically trained future lawyers. At the UM Faculty of Law, the legal clinic offers only legal counsel and opinions.

Legal skills can be made available to the students at the clinic itself within a certain number of classes per week. At the Faculty of Law in Podgorica, both academic and non-academic mentors from Montenegrin justice system, teach students specific legal skills twice a week. In addition to this, at some clinics it is a prerequisite that students complete certain courses in order to work there. For example, for the purposes of working at the legal clinic dealing with human rights, a course instructing the students in basic notions of human rights, the rights of refugees, asylum seekers, etc., as well as the Convention for the Protection of Human Rights and Fundamental Freedoms, would have to be organised beforehand, in case this subject is not included in the curriculum. When it comes to the International Law Legal Clinic at our faculty, a mandatory course in Master's studies, and formerly in Specialisation studies, the long-standing cooperation between the Faculty of Law and UNHCR (United Nations Refugee Agency) in Montenegro, and the realisation

⁵ See Lerman, Professional and Ethical Issues in Legal Externship, 67 *Fortham L. Rev.* 2295 (1999).

of project “International law clinic practice improvement,” should be noted. The cooperation, i.e., the project, has resulted in fifteen generations of students successfully attending and completing the International Law Legal Clinic, and hence earning the UNHCR diploma. The dean of the Faculty of Law and the representative of UNHCR signed the agreement in 2021, extending the cooperation efforts in conducting the Clinic until academic year 2024/25. According to this Agreement, the Clinic will be implemented once per academic year. The Faculty of Law will organise and execute theoretical instruction for the International Law Legal Clinic - refugee law, once a week over the course of two months of implementation of all future clinics. On the other hand, UNHCR will organise a visit for the students to at least one refugee camp in Montenegro during each of future clinics as well as cooperation with their Legal centres.

A key element in clinical legal education is supervision. Whether the mentor is a professor or practitioner, they must be able to supervise student work. In this way, the effects of supervision are two-fold. Student work is higher in quantity, quality, and ethics, to the benefit of the client. On the other hand, the mentor develops their own moral and professional responsibility towards the client. When it comes to supervision, two models are in use. The first (directive) entails that mentor provides detailed information to the student with regards to what they should do, and is always present when they do work for the client. The second model (non-directive) entails a mentor who is available to the students for help and instruction, which enables the students to make decisions for themselves. This latter model is the one present at our Faculty of Law. Whichever of these models is employed, it is important that the mentor can consult with the student, observe their relationship with the client, ask questions, and provide feedback. Supervision can be conducted in small groups, in the classroom, or during shared meetings with clients and other participants. In any case, the supervisor provides help to the student, follows their work, and takes special care to make sure client’s interests are not hurt.⁶

There are three phases in the process of supervision. The first is planning, during which the mentor discusses the case and steps that need to be taken, with the student. The second phase involves the student working on the

⁶ See Hoffman, *The Stages of the Clinical Supervisory Relationship*, 4 *Antioch L. J.* 301 (1986).

case, for example, interviewing, writing the statement, giving legal counsel. At some faculties, a mentor is present during this phase, while at others, the counsel is conducted only between the client and the student. At our faculty, interview is conducted only between the student and the client. The third phase is evaluation and possible critique, during which, mentor and student re-examine their activities and consequences of those actions, critically analyse possible oversights and mistakes, and stress that which the student learnt while on that case. The value of this process for the students and their later engagement as a licensed lawyer needs not be stressed.⁷

Important part of clinical legal education is evaluation and feedback.⁸ The mentor, either academic or non-academic, needs to provide feedback on student work and the grade they received. In this manner, students can evaluate their own work, see how much mentor guidance helped them, and if it was possible to resolve the problem in some other way. Feedback is also important for the mentors, as it informs them on what the student wants to do and the manner in which they plan to do it. Student work is constantly evaluated, not just by the mentors but by other students as well. Mentor and other students can track student progress through video tapes, audio recordings, examining the notes student took while working on the case.⁹ In this way, new experiences are gathered, which is important for students who work similar cases and who need to select the solution that would best satisfy the needs of the client. Learning from previous mistakes will help the student not make similar ones in the future, but also boost their confidence, which is necessary for them as future lawyers. Moreover, students' confidence can be boosted by inspiration, motivation, ability to predict what is likely to happen.

Each criticism should be affirmative for the student. Mentor should be precise while providing the criticism, in other words, they should let the student know what they are evaluating. The mentor should repeat to the student what

⁷ See Feeley, Training Field Supervisors to Be Efficient and Effective Critics of Student Writing, 16 *Clinical Law Rev.* 217 (2009).

⁸ See Hess End All, *Techniques For Teaching Law 261* (1999).

⁹ At Columbus School of Law, at CUA, video recordings of students and clients are used for analysis in shared class, and examined both by other students and then clinician professors, as well as by the very student speaking on their grade and replying to the feedback. Before working with live case clients, students preform talk simulations, for which they also receive a grade and feedback information. In this way, students are prepared for live case clients.

they have done, using student's vocabulary. They should also instruct the student on how to interview the client through examples, emphasising open-ended questions and letting the student know that close-ended questions should be avoided as they do not yield adequate responses. It is best to ask open-ended questions in the beginning of the interview, if and when discussing topics the client is reticent to speak on, which are important to uncover in order to provide adequate counsel. In this manner, student will get more information from the client, they will hear the whole story, feel the client's emotions and understand what is important for them in the case.

Clinical work teaches students ethics and professional responsibility, which is not readily available in classical education, especially in Western Balkans countries.¹⁰ A clinic is a place for learning about and resolving ethical dilemmas, through which the students form a sense of professional responsibility and ethics, necessary traits of each law graduate.¹¹ Beside the afore mentioned, at a clinic, students gain virtues such as a love for justice, responsibility, and dedication to the client. Through clinical legal education, students become responsible for their client's actions and have an opportunity to immediately implement moral standards of legal profession into their practice with cases they receive at the clinic. By applying law, students find out which values are important for society, and they learn to dedicate themselves to the constitution, law, truth, justice, righteousness, and ethics.¹² Learning through live cases, in which the theoretical knowledge and legislation are applied, is much more important and interesting than the classical instruction, a prerequisite for the students to prepare and apply the theoretical knowledge in practice. This type of clinical legal education is very much present at the UM Faculty of Law.

Through clinical legal education, the quality of education at law faculties is also improved. It increases student motivation, as well as their efforts to dedicate more attention to their studies in order to learn more. Of course,

¹⁰ Professional Responsibility and Law Ethics is a compulsory subject at the Columbus School of Law in D.C., as well as in most other universities in the US.

¹¹ See Chavkin, *Clinical Legal Education, A Textbook for Law School Clinical Programs* 25 (2002).

¹² See Critchlow, *Professional Responsibility, Students Practice, and the Clinical Teachers Duty to Intervene*, 26 *Gonz.L.Rev.* 415 (1991).

critical thinking is also developed, which can help students master numerous legal disciplines taught at the faculty of law.¹³

Clinical legal education should also be a signpost, helping students choose the type of work they will do after graduating. While working at a legal clinic, students discover their capabilities and at the same time have an opportunity to improve the skills they did not sufficiently develop in the course of their studies, with the help of mentors from the clinic (both academic and non-academic). In this manner they gain a more comprehensive education and gain professional qualities as future lawyers, and they are directed at areas of law in which they can contribute most to the highest standards of legal profession.¹⁴

Establishing clinical legal education at a faculty of law necessitates numerous tasks and sets goals which can differ in some environments. It can be established at the initiative of the faculty itself, with the help of the university, with the tendency to become part of the curriculum. Legal clinics at the UM Faculty of Law are recognised as a part of the curriculum and Master studies programme, but they have been focused on specific segments of clinical legal education without working with live cases. Ministry of education can also insist on establishing clinical legal education. In some environments, it can be established by some professors who have the support of competent individuals in the justice system. It can also be established as a part of a project, as is the case at UM Faculty of Law in which legal counsel and work with live cases was initiated through a project. Clinical legal education can also be initiated by specific international organisations. However, funding presents a problem, with concerns regarding whether the clinical legal education should be funded by the university, the project, or aid from international organisations, and how to proceed once the aid stops.

In the process of establishing clinical legal education at our faculty, the attention was directed at several segments:

1. the areas covered by the clinic
2. whether there are qualified mentors for those areas

¹³ See Weinstein Et All, The Role of Creative Thinking in Problem Solving and Legal Education, 9 Clin. L. Rev. 835 (2003).

¹⁴ See Sandefur Et All, The Clinic Effect, 16 Clinical Law Review, 81, 2009.

3. who should the clients be
4. how to select students and award them for working at the clinic
5. which cases to process
6. how to deal with the clients
7. how to supervise and dedicate to ethical dilemmas
8. how to regulate numerous administrative issues

The area of law covered by the clinic is to be selected based on the area of expertise of the mentors, both academic and from the justice system. Lessons at the clinic differ from those in classical instruction, as, in addition to the theoretical knowledge, practical knowledge is required.¹⁵ In the case that practitioners without prior teaching experience are hired as mentors, it is necessary to train them in interactive teaching methods and clinical pedagogy in order to achieve the highest quality of work at the clinic. On the other hand, in the case that mentors are academic staff without prior experience in teaching practical subjects, it is best that they work together with practitioner mentors. Through the ENELMOS project, UM Faculty of Law satisfied this condition. Areas of law for which free legal counsel is provided are the following: civil, criminal, civil procedure, criminal procedure, corporate, obligations, family, inheritance, administrative, international, human rights, labour, constitutional, financial, and environmental. The role of each clinician entails specific qualifications. In addition to the theoretical and practical knowledge, clinicians need to be able to take criticism from their colleagues and students and display interest in researching educational and legal problems that arise within clinical legal education. As a part of this project, training of academic and non-academic staff and students facilitated visits and observations of legal clinics at faculties of law in Zagreb, London, and Warsaw, as well as workshops at which clinicians from these institutions held training sessions for participants, providing necessary practical knowledge and help for a high-quality and satisfying work with vulnerable groups.

¹⁵ See Sullivan ET All., *Educating Lawyers: Preparation For The profession of Law* 14 (2007).

The choice of clients is also a significant component of legal clinical work. Client can be any citizen in need of legal aid, or vulnerable groups (those in poverty, victims of domestic violence, refugees, asylum seekers, people with disabilities, etc.). UM Faculty of Law chose to provide help to the vulnerable groups for the time being. However, this does not mean they would turn away other citizens. In either case, work with vulnerable groups will take precedence over the work with other citizens.

Selection process of students that will work at the clinic varies from one clinic to another. A common theme is a specific number of students and educational and academic prerequisites for working at a legal clinic. Students can work differently, depending on the volume of engagement. In the case that a clinic has a legislative possibility, students could also work as legal representatives in court. Other clinics might only provide legal opinions and counsel. Regardless of the clinic in question, there need to be clear rules for work at the clinic, both organisational and administrative, such as the hours a student spends at the clinic, note logging, responsibility, maintaining contact with the clients, work with mentors both academic and non-academic, classroom participation, etc. UM Faculty of Law Legal Clinic provides legal counsel, information, and opinions to the citizens.

Accordingly, each clinic should have its own policies that would be codified in a handbook, workbook, two-pager, or leaflet, which would cover: the organisation, set goals, classroom work, and the process of student selection.

A very important topic in the practice of each clinic is obtaining clients. This can be achieved in several ways: formal and informal contact, arrival at the clinic, via a phone call or email, through the non-governmental sector, or through arrangements with the justice system. Moreover, media representation of the clinic is an important factor, be that through print, TV, billboard, or through the justice system. Each legal clinic should have its own website, on which the clients can find all the necessary notices about the work at the clinic, as well as appropriate contact email addresses. UM Faculty of Law has provided all the afore listed ways to contact and learn about the legal clinic. Justice system has made a special contribution to the promotion of the legal clinic through participation in the ENELMOS project as a partner.

When it comes to the cases to be processed at the clinic, special attention needs to be paid to ensure that they fall within the scope of counsel given by the legal clinic, the level of importance for student education, services the clinic would be able to provide to the client, and whether there might be some conflict of interests. A clinic should determine the number of hours students spend working, either on the daily or on the weekly basis, and inform future clients about this on the website, or provide this information via other electronic channels. At UM Faculty of Law, the legal clinic operates during the work days both in before and afternoon.

Students who work at these clinics, can still, despite guidance of professors and practician mentors, make mistakes as they are not professionals and have not yet graduated. In order to minimise and avoid these mistakes, it is necessary to create a plan of student supervision which would include the following: enable a needed space of trust between students and clients, measures to prevent any kind of conflict of interests, provide a sufficient number of students working at the clinic so that their activities can be supervised by the mentors, decisions on who can be a mentor, what their experience and knowledge should be, and ensure that ethical standards and professional responsibility are followed through.¹⁶

Clinical legal education encompasses numerous administrative questions. An appropriate space needs to be provided, either at the faculty or elsewhere. The space needs to be large enough and ensure privacy for the student-client meetings. Clinical work requires equipment as well, including computers, printers, phones, databases, internet, etc. UM Faculty of Law has provided the necessary space, as well as equipment and databases through the ENELMOS project. Offices of the legal clinic are located within the faculty building with a separate entrance in order to protect client privacy.

Keeping several kinds of records, which are in use daily, is very important for the operation of the legal clinic. It is important for a legal clinic to have brochures they can give to the clients and which are made available within the justice system as well, for example, at the court, the prosecutor's office, notaries, public enforcement offices, etc. This is of great importance in order

¹⁶ See Ziegler, *Developing a System of Evaluation in Clinical Legal Teaching*, 42 *J. Legal Educ.* 575 (1992).

for the clients to learn about the work of the legal clinic. Documents of a legal clinic include: student and mentor statements of confidentiality, a questionnaire for the client that gathers information about them, a form by which a case is taken at the legal clinic, as well as the one by which it is rejected as it is not adequate for the clinical work, form by which a case is closed once it is finished, as well as specific handbooks regarding office work. Each legal clinic needs to have certain documents which state particular activities took place, such as: a register for scheduling the student-client meetings, case registry, personal dossier for each client, journal of student activity for each individual student, plan of weekly schedules for client work. Which of these records will be kept at a particular clinic depends on the chosen model of realisation of the clinic.¹⁷ Most of these documents dealing with providing legal counsel can be found at the UM Faculty of Law Legal Clinic.

When it comes to the domestic normative framework with regards to the system of free legal aid to the vulnerable groups, it should be noted that the right to a fair trial was made adequately available to this category of persons. Provision of the article 21 of the Constitution of Montenegro guarantees the right to legal help to natural persons who are not able to exercise the right to judicial protection without jeopardizing the necessary support of themselves and their family according to their financial situation. Provision of article 5 states that achieving free legal help based on the Law does not limit legal help to services, non-governmental organisations, and other organisations founded in accordance with the law. Free legal help is provided by: 1) lawyers on the list of the Bar Association of Montenegro, 2) free legal help service operating within the Basic court (offering only legal counsel). Free legal help entails providing the complete or partial means necessary for legal counsel, written materials, representation in the legal procedure, State prosecutor's office and Constitutional Court, as well as for out of court settlements and enforcement proceedings. The right to legal help entails a right to the exemption from litigation costs (except for costs of defender and authorised representative which can be exercised according to other laws).

¹⁷ See Ogilvy, Wortham and Lerman, *Learning from Practice, A Professional Development Text for Legal Exten* 199 (1998).

A Montenegrin citizen or another person legally residing in Montenegro can exercise the right to receive free legal help. Thus, other than by Montenegrin citizens, this right can be exercised by the person without citizenship (apartheid) legally residing in Montenegro, and the person seeking asylum in Montenegro; a foreigner with permanent residence or approved temporary residence and other persons legally residing in Montenegro; other persons in accordance with approved and confirmed international treaty. Free legal help can be exercised if the person is: 1) a beneficiary to financial aid in accordance to the Law of social and child protection; 2) a child without parental care; 3) a person with disabilities; 4) a victim of domestic violence or human trafficking; 5) a person of poor financial and material conditions. In this process, the financial situation of the applicant is determined based on their income and assets, as well as income and assets of their family members. A person is considered to be of poor financial conditions if they do not have assets and their monthly income and combined monthly income of their family members does not surpass the average income in Montenegro in the month preceding the one in which they submitted the application for free legal help by over 30 percent for one member, or by 15 percent of average income for each of their family members. Family members are considered to be spouses or common-law spouses and their children, adopted children and other relatives residing with them in a family unit, who are financially dependent on them.

In light of the above, Montenegrin Law regarding free legal help does not recognise legal clinics established within Law faculties as potential providers of free legal help. At the moment, changes and amendments to the Law regarding free legal help are being drafted, and they allow for legal clinics to be considered as providers of free legal help. This will enable UM Faculty of Law Legal Clinic to continue working upon conclusion of the ENELMOS project.

As was made clear above, clinical legal education provides numerous advantages to the students seeking complete legal education, representing a new component and perspective given to the students on their way to earning a legal degree, which is also sought after in the highly selective labour market. The Law Faculty of University of Montenegro has recognised all the afore mentioned advantages of clinical legal education and has produced all the prerequisites for the realisation of a high-quality and beneficial legal programme. A practical component is present in this programme, otherwise often missing from many

other legal disciplines taught in the classical manner. UM Faculty of Law collaborates with all of justice system precisely through the development of the practical component of legal education, which has proven highly beneficial in the ENELMOS project. Clinical legal education contributes to the development of critical and creative thought, mastering legal skills, creating professional responsibility, and respecting the principles of legal ethics. At the moment Montenegro is going through deep and fast transformations and it is precisely the skills of critical and creative thinking that facilitate all this. Of course, the help provided to the vulnerable groups that allows all equal access to justice is always present. Students of UM Faculty of Law have recognised all the advantages of clinical legal education, as attested by the presence of great interest and motivation to learn, and not just receive a certain number of points. UM Faculty of Law will continue the legal clinic programme even after the ENELMOS project is closed, and they will have their own institutional framework and stand as a recognisable feature of our faculty.

2.

Clinical legal education at UM Faculty of Law began in the year 2000. From the very beginning when this approach was introduced into our curriculum, we relied on the expansive experience from other countries. American Bar Association - Central and Eastern Europe Legal Initiative (ABA CEELI) has helped us create the programme through seminars and bringing expert clinician professors from this field recognised as such in the US. The first guest of the faculty was professor Peter Hoffman, who held a lecture for our professors and judges of the Supreme Court who were interested in working at the clinics. In 2001 school year, professor Kevin Ruser from the University of Nebraska Faculty of Law, visited our clinics, spoke to the clinics' superintendents about future cooperation, and held several lectures for the students. He exhaustively explained the essence of clinical education in the US and illustrated one of the active live cases for the students. Professor Ruser visited the Supreme Court where he spoke to the judges Vuković and Durutković and discussed with them some of the issues they encounter and offered helpful suggestions regarding on how to improve the clinical programme. In 2003, professor Ruser together with two students from the

University of Nebraska Faculty of Law, visited our faculty again, and two of our professors and two graduates made a visit to Nebraska in return. Professor Alicia Henderson from Nebraska also visited the criminal clinic and spoke to her peers Radulović and Tomković, and was welcomed by the president of the Supreme Court of Montenegro, Damjanović. Another guest was student Paul Batler, also from the University of Nebraska. Two of our professors, Biljana Đuričin and Snežana Miladinović, visited the University of Nebraska Faculty of Law in Lincoln. These visits were a part of linking efforts between our Faculty and the Faculty in Nebraska by ABA CEELI office in Montenegro.

Another guest of the legal clinics was professor Thomas Speedy Rice from the Gonzaga University in Washington, who actively participated in our programme. His helpful advice, comments, and recommendations, were very welcome, especially his training sessions of students and professors clinicians during which he relayed experiences from clinical legal education in the US. He prepared our team for the regional competition in Bar as well as for the international competition Gessup in Washington D.C. Professor Rice has also donated a number of books to the Centre for Legal clinics library. Through his contribution and cooperation, he left an indelible mark on the UM Faculty of Law.

Through ABA CEELI office in Montenegro, our professors have participated in regional conferences in Budva, Skoplje, and Rijeka. At these conferences they got to learn about innovations in this method of education, share experiences with their regional peers, as well as attend lectures held by distinguished American clinician professors. Through the Open Society Fund office in Montenegro, they were also able to participate in some of the conferences that presented accomplishments in this area. Thanks to the Fund, our professors Đuričin and Mandić have visited clinics in Warsaw and Krakow, which are among the best and oldest in Europe, as well as visit the Legal Clinics Foundation in Poland and speak to its director Dr. Filip Cernitski... In 2003, professor Biljana Đuričin was a participant of GAJE conference in Krakow, the theme of which was further improvement of clinical legal education. ABA CEELI and FOSI have provided us with logistical, professional, and financial help. USAID, together with ABA CEEELI offices in Belgrade and Podgorica, also made a significant contribution to the improvement of clinical work and donated 10 000 USD worth of equipment intended for the clinic classroom.

American Consulate in Podgorica also offered their help and financed professor Đuričin's participation in the conference at the Catholic University in D.C., with the topic of Participation through Practice. These results would be difficult to achieve without such support, and for this reason we greatly appreciate the help our donors provide.

One of the leading clinicians, professor Leah Wortham from the Catholic University in D.C. also visited the legal clinics. Professor Biljana Đuričin was a guest professor at the Catholic University, as well as a very active participant in legal clinics that work with live cases.

In 2003, the Law Faculty established the Centre for Legal Clinics as a unit within the Law Faculty, through great commitment of the then-dean Vukčević. The Centre published two books as well as a Legal Clinic Bulletin. Three American professors made contributions for these works.

UM Faculty of Law has made clinics a part of the curriculum at specialisation studies through these projects. Through curriculum reforms, legal clinics were made compulsory subjects at Masters studies modules. These clinics practice numerous externship programmes, but do not work with live cases.

In 2019, UM Faculty of Law successfully applied for the project "Legal Clinics in Service of Vulnerable Groups: Improving Student Employability Through Practical Education" (ENELMOS). This is one of the largest projects for UM Faculty of Law and it is supported by Erasmus+ Building Capacities in the Field of Higher Education. The project is to take place over four years. An exquisite partnership with regards to logistics was established with office of Erasmus programme for Montenegro for the purposes of this project.

Three eminent EU institutions successfully dealing with clinical legal education, especially when it comes to the live case work, are involved with the project as well. These institutions are University of Zagreb Faculty of Law, Regents University in London, and University Centre for Legal Clinics in Warsaw, and they will provide the insight on best education and practice in the area of clinical legal education present in the EU and USA.

UM Faculty of Law is realising this project together with academic partners from Kosovo, and non-academic institutions of Montenegro and

Kosovo. Among the institutions participating in the project there are Faculty of Law in Podgorica, Priština, Gnjilan, and Peć; Bar Associations of Montenegro and Kosovo; Montenegrin Supreme Court, Supreme State Prosecutor's Office, Notary Chamber, Chamber of Public Enforcement Agents; ARS Centre of Montenegro and the Basic Court of Gnjilan.

On the one hand, this project establishes a long-term cooperation with non-academic institutions of the justice system. They will contribute to the realisation of stated goals through education and rich legal experience. Moreover, their participation will open the door to other kinds of cooperation, which is highly beneficial for the University as a knowledge basis because it is not possible to have a high-quality education without practical results. Successful cooperation with justice system did take place previously, but this project will bring in new components. On the other hand, the established cooperation between the institutions of higher education will have an impact on the mobility of students and academic staff, as well as the labour market, and it will improve the possibilities for obtaining and sharing practice.

Key goals of the project are to modernise and guide existing teaching practices, especially in the applied legal disciplines; to improve the capacities of faculties of law; to gain new and develop existing skills; to establish a long-term and sustainable cooperation with judicial institutions of the countries participating in the project; spark student interest and motivation; improve law student employability; and enable the wide community, especially the vulnerable clients, to protect their rights through free legal counsel.

Work with live cases as a model of clinical education also satisfies the requirement of higher education established by the present Law Regarding Higher Education, which prescribes 25 percent of the teaching process of each subject at all levels of studies to be conducted as practical instruction. However, this model of clinical education is currently an elective form of teaching at the UM Faculty of Law, as engagement at the Legal Clinic is at a chose-to-participate basis for the students of Master, Specialisation and Undergraduate studies. These students apply to participate in the Clinic, and in doing so they compensate a certain number of points for the subject as a part of which they are applying to take part in the clinical work (20 points for the appropriate subject at Masters level, or 10 points for the appropriate subject at undergraduate level). Moreover, the number of students that can be selected

during one semester is limited, so the primacy is given to Masters studies students taking the positive law subjects, while the criteria for admission consist of undergraduate grade average as well as the inclination for practical studies. Of course, in order to ensure that practical education becomes a regular feature of Faculty of Law curriculum and thus compulsory for all students, it is necessary to facilitate clinical work even after the ENELMOS project is completed. In doing so, the Legal Clinic would supplant the current, more traditional clinical subjects based on simulated cases.

The realisation of the ENELMOS project is currently taking place and allowing for the students to work with live cases and provide clients free legal help in the form of counsel and relevant information, to the shared satisfaction of both students and their academic and non-academic supervisors. The participants in this project are best positioned to speak to its significance.

“Participation in this project will has provided us with insight into the significance of clinical education for law students and enabled us as mentors to help them gain important practical problem-solving skills through practical work and support. I believe that we will continue to contribute to the clinical education of students through future collaborative work, and that ultimately, we will help meet the needs of vulnerable groups and provide them with adequate legal protection.” Mr Vidak Latković, president of Chamber of Public Enforcement Agents

“Speaking from the student perspective, as well as a someone who witnessed the first generation of the clinical work and participated in it, I can say that this is the programme that truly was envisioned with a broad view and built on a humanitarian basis. Our main goal is to provide legal help to those in our society who are not able to exercise and protect their rights on their own, due to poor material conditions, together with our mentors, who are among the most called-on experts in our country. In this manner, we are contributing to their sense of equality in a society with dominant financial inequality, as well as legal security, which is our primary goal. Looking back at the cases and experiences we had so far, I can say that we have always approached them as a “team.” Final legal opinion is provided following the previously agreed-upon opinions among the members of group. This was the practice from the very first case at the clinic, dealing with the citizenship issue of a person (the one seeking legal help). The case was successfully resolved with the help our team-

work and it can be seen as an additional motivator for our desire to satisfy justice in each specific case. In order to improve our competence and expertise, mentors have organised lectures concerning different legal topics. These are held by lawyers, notaries, prosecutors, judges, and other legal experts, with the goal of familiarising us with problems and cases most common in practice, as well as instructing us on how to give our contribution by providing legal help in those cases. As a student who regularly attends lectures, I can say that these were truly useful and very interesting. Given that so far, we were not engaged in a large number of cases, I hope that there will be a rise in the them in the upcoming period. Considering that we almost just started working and that we have only recently started working on improving the promotion of the clinical work, so a rise in the cases is to be expected. In addition to the previously mentioned goal, while working at the clinic, I also participated for the purpose of gaining practical experience before finding work in the legal profession. I believe that this would be equally beneficial to all students.” Ksenija Popović, student

“University of Montenegro Legal Clinic has implemented the basic characteristics of the Zagreb model of clinical legal education. Current methodology of clinical practice guarantees students the necessary autonomy at work, without excessive insistence on the hierarchical organisational structure. One of the beneficial circumstances is the fact that all students were included in the first case and that they solved it while in communication with their academic mentors.” Marija Bojović, student

“I took part in the ENELMOS project in this as well as the previous semester. I appreciate the very idea of its establishment and work methodology. I believe that it is of highest importance for the students to have an opportunity to engage in practice and provide legal help, even at the undergraduate studies. Considering the fact that the project is rather new, for now it has a greater theoretical than practical significance. However, after observing the work of professors engaged in the project, I am certain that it will gain momentum and make an impact on the work and education of future students at the Faculty of Law.” Tamara Kontić, student

UM Faculty of Law Legal Clinic is recognised by the students, helped by academic and non-academic mentors’ efforts, and as such should be one of the significant landmarks, of not only our Faculty, but also of the wider community.

In the words of a well-known US Supreme Court Justice, Ruth Bader Ginsburg, “Negotiation workshops, legal clinics, and computer simulations spread legal education and create lawyers, more educated and sophisticated, like never before.”

Doc. Dr. Velibor KORAC¹

Doc. Dr. Rajka ĐOKOVIĆ²

THE METHODOLOGY OF OPERATION OF THE LEGAL CLINIC OF THE FACULTY OF LAW OF THE UNIVERSITY OF MONTENEGRO

I About the Legal Clinic of the Faculty of Law of the University of Montenegro

The Legal Clinic at the Faculty of Law of UoM was put into operation at the end of May 2022 as a result of the ENEMLOS Project. There are currently no founding acts on the Legal Clinic which is, *inter alia*, established on the basis of a mutual agreement among all the professors who teach the subjects for which the students working at the clinic receive additional points.³ There is no curriculum of the legal clinic, as it is not a separate subject at the Faculty. In respect of the students chosen to work at the clinic, the activities are graded in such a way that the students are awarded a certain number of points (20 points out of 100 for students on their master studies and 10 points out of 100 for students on their undergraduate studies) for one of these subjects or any other subject from the third year of university that they have selected themselves. The Legal Clinic has not yet been regulated by a general normative act, so the team of professors involved in the work at the clinic makes individual decisions regarding organizational and other issues related to the functioning of the Legal Clinic. This is actually a pilot project.

The first organizational task to be completed was the selection of students who would work at the Clinic. Two questions which arose from this task were: 1) how to choose the students (procedure and criteria) and 2) from

¹ Faculty of Law University of Montenegro

² Faculty of Law University of Montenegro

³ There is an intention to form a Center for Legal Clinics under the umbrella of the University of Montenegro. The goal of the Centre would be the inclusion of students from other law faculties in Montenegro. It is necessary to implement a procedure that would end with a decision of the Senate of the University of Montenegro.

which years of study to choose students. There were thoughts that it would only be master students, however, this concept fell back partially. Namely, it was decided that, beside the master students, the third year undergraduate students, who are at their final year of the bachelor studies, should also be included. This decision was motivated by the fact that students who have not yet completed undergraduate studies can, in cooperation with senior colleagues, adequately provide legal aid and thus create a base for further development of the Clinic – bearing in mind that these students will later become master students who have experience in working at the Clinic. It was decided that a public call should be made in order to select the students for work at the Clinic among the ones who would apply. After the public call for the selection of students for work at the Legal Clinics, 36 candidates applied, 27 of which were admitted to work at the clinic. After conducting an interview with the candidates, the students were selected. In addition to a grade point average being required as one of the main criteria for admission, some other qualities of students were also assessed, such as their motivation to work at the clinic, attending practical classes, enthusiasm for this type of work, willingness to assist the persons who need the help of others, etc.

After the selection of candidates, meetings with them were organized and the selected students were trained to work in clinics. The conduction of the training was based on the experiences and good practices of our Project partners. One part of the training was aimed at the communication with future clients, and the other part was aimed at resolving specific disputes. The focus was on gathering facts and skillfully asking questions, in order to prepare the factual basis of the case as well as possible. All this with the aim at faster and more efficient legal assistance of high quality in solving legal problems.

Forms for the receipt of cases were prepared, as well as declarations of confidentiality and the manner of processing of the accuracy of data with clarification on the duty of secrecy, privacy instructions. In addition, forms with key issues for employment disputes and disputes concerning enforcement proceedings were prepared. This is important because these are urgent procedures, which are characterized by limited periods and in the event of their failure, clients lose their right to take action.

2.

The function of legal clinics is dual: 1) educational – innovative form of teaching law students who are preparing for the law profession through the "learning by doing" and 2) social – law faculties enable marginalized individuals and social groups to use free legal aid, and thus enable the exercise of the right to access to court, i.e. the exercise of justice.

Clinical education is an effective tool that enables the involvement of the full range of necessary legal skills and enables the most complete and optimal introduction of students into the sphere of legal practice.⁴ Clinical programs' mission is to humanize the legal profession and shape the social consciousness of the professionals.⁵

The objectives of the legal clinic are:

- 1) To provide legal aid to persons from socially disadvantaged groups
- 2) To rise the level of practical knowledge, skills and abilities of law students
- 3) To build and develop the legal culture
- 4) To introduce it into the educational process of practical education
- 5) Cooperation of the Faculty of Law with judicial authorities and other bodies involved in the administration of justice (which allows students to communicate with practitioners)

Is the UoM Faculty of Law adequately preparing its students to practice law? If not, what can we do to enable the students to be better prepared for practice?

The students should develop and improve certain types of legal skills by working at the Clinic. Some of these skills are:

1. Solving a legal problem (a lawyer should be able to identify a problem, offer a solution or a way to solve it, set up and implement a plan on how to achieve it). A group of students working at the Clinic will have the opportunity to learn about the facts of solving real-life legal problems during the interaction with a live client. Students, naturally,

⁴See F. Zoll, B. Namysłowska-Gabrysiak, *The Methodology of clinical teaching of law*, in: *The Legal Clinic. The Idea, Organization, Methodology*, Warsaw 2005, 189

⁵F. Zoll, B. Namysłowska-Gabrysiak, *The Methodology of clinical teaching of law*, and: *The Legal Clinic. The Idea, Organization, Methodology*, Warsaw 2005, 186.

become active participants and they are responsible for solving the problems by themselves. Academic and non-academic staff should enable students to independently set the problem and offer the manner in which it should be solved. The academic and non-academic staff should have a passive role at the beginning and a guiding role at the end of the problem-solving process. The issue on how to regulate the mutual relation between an academic mentor (professor) and a non-academic mentor (e.g., a lawyer), as well as their relation to a group of students (usually three students) who are solving a specific case, is yet to be solved. After the students prepare a written opinion, academic and non-academic mentors should both be involved in the process of its evaluation and assessment.

2. Legal argumentation and analysis (lawyers should be familiar with legal principles, norms and regulations in order to analyze and apply them in their work). Legal argumentation (for or against a particular legal position) is learned best through solving particular cases. In cooperation with mentors, students should formulate a legal problem and define concepts for its solution by applying the already acquired theoretical knowledge. Students should offer an argument based on the acquired knowledge within a specific field. Students need to be guided by mentors at this stage.
3. Research. Lawyers must know the nature of legal rules and regulations in order to effectively conduct the research that is necessary in solving a legal problem. Legal regulations (legal and subordinate legal norms) are best learned through solving a specific problem. Practical operationalization of norms will result in students' better remembering a particular legal concept through a specific real-life case than while they study regularly at university. Before giving an opinion, students should independently conduct a research of a specific legal concept or legal rule (read the relevant textbook literature, monographs, articles or commentaries on the law). That being done, students can examine the factual situation in the best possible way and give legal argumentation on how to solve a particular case.

4. Clarification of the facts of the case. Clarification of the true facts is a necessary prerequisite for providing adequate legal advice. It should be emphasized that clarification does not entail establishing facts, i.e. whether a fact stated by a client is true or not. The clarification is directed at the lawyers who should by asking additional questions encourage the clients to present all factual material that may be relevant in order to clarify the facts. This is particularly evident when clients use legal formulations and qualifications whose legal meaning they know nothing about. In addition, students should be aware of some limitations in this domain. Namely, in certain situations clients will try to conceal facts or present different facts that do not go to their favor.
5. Communication. Lawyers must be able to communicate effectively both orally and in writing. Clinical practice enables students to develop and improve an important segment of any legal profession which is communication with clients. Oral communication skills are developed in direct contact with clients, who are often persons with a lower level of education and who are not lawyers. Also, drafting a written legal opinion enables students to master the skills of written communication.
6. Consulting. Giving advice (oral or written) is the main objective of students' work at the clinic. In fact, any lawyer is perceived as someone “who can give legal advice” for a legal problem. Mastering the skill of giving legal advice (written or oral) will be largely supervised by academic and non-academic mentors. In this regard, the lawyers will play an important role since they will control the advice that should be given to the client in the final stage. In the context of giving advice, it is important to note that Montenegrin students who work at the clinic, unlike students from some other countries, do not have the opportunity to represent clients before courts and other authorities. This fact, that the legal aid is limited, must be presented to the client at the first meeting with them.

II Organizational and functional requirements of the Legal Clinic *de lege ferenda*

1. Normative regulation

A general act (rulebook) which would regulate organizational and other issues of this form of acquiring knowledge and skills that students need for practice after completing their studies should be adopted for further operating and functioning of the Legal Clinic for providing free legal aid to live clients. The internal organization of the Legal Clinic, the procedure and criteria for the selection of students, the assessment of work (giving points in accordance with the workload clinical workers-students share) and specialization within the Legal Clinic, the method of receiving and handling the case, the method of checking the quality of work, the method of financing and other issues are to be regulated. Since there are no grounds for the operation of legal clinics that would provide free legal aid to live clients in the current Law on Free Legal Aid, an amendment to the Law should be initiated first. Namely, lawyers are the only persons authorized to provide free legal aid *de lege lata*. Accordingly, full-time professors of the state university cannot practice law. This legal framework has not been a hindrance to the operating of clinics so far, as the Bar Association of Montenegro is one of the non-academic partners in the ENEMLOS Project. The participation of lawyers as mentors in practice and professors as academic mentors represents an advantage for students who work at the clinic because they are demonstrated the solutions that are based on the theoretical background and practical experience, that is: "The pedagogy of clinical legal education provides a particularly suitable vehicle for these interactions and for integrating theoretical studies of law and practical training of lawyering skills and values for students."⁶ In addition, the need to provide legal aid to vulnerable groups is increasing due to global circumstances and therefore legal clinics do not represent competition to lawyers, but the contrary.⁷

Namely, legal clinics represent the domain of cooperation between the Faculty of Law as an educator and the judiciary and the economy as employers

⁶Peter A. Joy, Shigeo Miyagawa, Takao Suami & Charles D. Weisselberg. *Building Clinical Legal Education Programs in a Country Without a Tradition of Graduate Professional Legal Education: Japan Educational Reform as a Case Study*, Clinical Law Review vol. 13, p. 431.

⁷Maja Marta Martonja, Josip Kovilić. *Interview with Prof. dr. Alan Uzelac, founder and director of the Law Clinic*, Pro bono-International October 2015 number 1, p. 33.

of graduate law students, and this cooperation "bridges the gap between the university and the professional world" as Bartoli vividly points out.⁸ Interaction between high education and employers is a necessary segment of monitoring the needs of modern society and it becomes concrete through legal clinics. It should also be noted that the legal clinics of the Faculty of Law are peculiar for their broad base of cooperation with almost all segments of judiciary. Namely, non-academic partners in the Project, apart from the Bar Association, are engaged from different legal professions - Chamber of Public Executors of Montenegro, Notary Chamber of Montenegro, Supreme Court of Montenegro, Mediation Center of Montenegro, Supreme Court and Supreme State Prosecutor's Office of Montenegro, as well as non-academic partners from Kosovo - Basic Court of Gnjilane and Bar Association of Kosovo. Thus established cooperation with the judiciary through clinical education also represents the implementation of the legal obligation of the Law on Higher Education in accordance with which practical teaching is an obligatory part of the teaching process. The fulfillment of this legal obligation is checked through the procedure of accreditation and re-accreditation of a study program through a special standard.

2. Organizational requirements of the clinic

- a) Academic staff. For the efficient and sustainable operation of the Legal Clinic, it is necessary to clearly select "clinical professors", i.e. to identify a professional and trained teaching staff who will be dedicated to the work at the clinic. The teaching staff should, in addition to regular teaching activities, be included as academic mentors in cases from practice. The status of teachers working at the clinic is to be defined, because clinical work should not be started without proper recognition of the teaching workload and/or some kind of compensation.
- b) Clearly set objectives of clinical legal education. The legal clinic should be designed as a response to the current conditions in Montenegro and the capacities of the UoM Faculty of Law. As opposed to the present model, a kind of specialization and focus on specific objectives will be

⁸Clelia Bartoli. *Legal clinics in Europe: for a commitment of higher education in social justice*, Diritto and Questioni Pubbliche May 2016. p. 10.

- necessary in the future. In addition, the Legal Clinic should have its own place within the educational system (mandatory or facultative element).
- c) The scope in which the Law Clinic operates. Whether the clinic has precisely determined the areas that will be the focus of its work or not also influences the sustainability of its work; As well as whether it will operate only within the provision of legal aid in civil disputes, which is a common tendency, or it will expand its field of action to other fields (such as some fields of public interest, human rights, special focus on certain social groups). Comparative experience shows that there are two models: one where the legal clinic is not specialized and deals mainly with civil law and the other where the legal clinic is specialized with more narrow specializations. Priority should be given to specialization within the Legal Clinic in compulsory clinical courses in specialist or master studies (obligatory law, real law, family law, etc.) by analogy. The specialization could include providing advice to small and medium-sized enterprises, opinions and advice on environmental issues, as well as issues related to the protection of patients' rights. Thus, each group of students would work with a target group of live clients who need help in a particular field. This also implies the adoption of a clinical training program for students who are specializing in a certain field.
- d) Focus on students-clinicians. This requirement is aimed at a uniform system of the selection of students, which is based on clear criteria. Clinician students should be selected within a specific period of time and for a specific period of time (with the possibility of re-enrollment).⁹ The manner of evaluation of the students' work at the clinic through academic credits is also very important. It is necessary to achieve uniformity in this field, bearing in mind that the curriculum of the Legal Clinic of the Faculty of Law of UoM *per se* does not exist. In respect of the students chosen to work at the clinic, the activities are assessed in such a way that the students are awarded a certain number of points (20

⁹Students currently working at the clinic were selected after the interview, which was preceded by a public call (advertisement). The selection criteria were: average grade, desire to work at the clinic, demonstrated enthusiasm and willingness to participate in the provision of legal aid and thus participate in the realization and protection of human rights in Montenegro. After the procedure, 27 students were selected in the summer semester, and 30 students in the winter semester.

points out of 100 for students on their master studies and 10 points out of 100 for students on their undergraduate studies) for any subject from the third year of studies that they have selected themselves. Within the requirements concerning students, it is necessary to establish an effective system for students-clinicians' work assessment.¹⁰

3. Functional requirements

- a) Maintain the existing system of cooperation with non-academic partners. The current work of the Legal Clinic of the Faculty of Law UoM is characterized by an exceptional connection with the judicial authorities and other authorities involved in the administration of justice. Namely, the system based on the fact that lawyers, judges, prosecutors, notaries, public enforcement officers and alternative dispute resolution center are involved in working with students (through various types of training) is praise worthy. In order for the clinic to work effectively, it must have strong connections in the legal profession outside of the university. Conditions to continue the successful cooperation with the Bar Association, the Supreme Court, the Supreme State Prosecutor's Office, the Notary Chamber, the Chamber of Public Executors and the Center for Alternative Dispute Resolution should be provided.
- b) The provision of continuous students-clinicians' training by non-academic partners. In addition, it is worth considering the introduction of some kind of students-clinicians' meetings. The continuous holding of these meetings in the organization of the students themselves can contribute to developing a sense of cooperation, developing various skills and abilities of students, raising self-confidence and, ultimately, education, because students often offer useful problem solving techniques from their own experience.

¹⁰ For now, the system of grading and rewarding students does not exist, bearing in mind that the Law Clinic has so far had only one case that has been analyzed by all students who are divided into groups.

III Models of work of clinics and clinics of the Faculty of Law in Podgorica

The models of work of legal clinics are different, and the authors today often make the difference between "live-client" clinics, "externship clinics" and clinics that give priority to simulation.¹¹ The first type of clinic is related to the university where it has been founded and is based on working with live clients with the supervision of professors.¹² The "Externship" model, as the name suggests, implies that lawyers and judges, i.e. legal professionals from different fields, are involved in working with students at clinics.¹³ In clinics that run simulations, students do not come into contact with live clients. Depending on who the users of the clinics are, clinics can be "individual clinics"- clinics that deal with individual cases, i.e. problems that are not predetermined and, accordingly, the clinic has a wide field of action. Then there are "community clinics" in which the activity is aimed at helping a certain group of persons, as well as "specialized clinics" that deal with predetermined legal problems.¹⁴

In accordance with the project orientation, the legal clinics of the Faculty of Law in Podgorica can be considered as "live client" clinics that are located at the Faculty of Law, which organizes them and provides a personal substrate in the form of academic staff and students, as well as material – rooms for the work of the clinic. When it comes to the users of the clinic, in accordance with the project, they are persons who are considered vulnerable due to their suffering peculiar violations of their rights. Clinics are currently specialized in fields that are very flexibly observed in practice in order for a wider circle of persons to receive legal aid.

The ENEMLOS project includes three academic partners that will share their experience with Montenegrin partners - the Faculty of Law of the University of Zagreb, the Foundation of the Legal Clinics of Poland, Regent's University of London. Representatives of these institutions have held trainings intended for teachers of the Faculty of Law, as well as non-academic partners. In addition, academic staff and non-academic partners have conducted study

¹¹Clelia Bartoli. *Legal clinics in Europe: for a commitment of higher education in social justice*. Diritto and Questioni Pubbliche May 2016. p.35

¹²Ibid.

¹³Ibid.

¹⁴Ibid.

visits to partner institutions in Zagreb, Warszawa and London. Different origins, organization as well as the role of partner institutions determined the domains of their influence. Namely, the clinics of the Faculty of Law in Zagreb have been a model of organizing our clinics, bearing in mind that the concept of work, organization and goals coincide with those defined through the project. In addition, the similarity between Montenegrin and Croatian legal and educational system has influenced the Zagreb model to be set as a model that will be adapted to Montenegrin circumstances and needs. Considering many years of experience, a high degree of student involvement as well as a significant number of clients, the clinic of the Faculty of Law in Zagreb is the "leader" in clinical education in this part of Europe.¹⁵ Besides, it has been empirically confirmed that the experience the students gain by working at this clinic has a positive effect on their employment, the performance of work tasks in the workplace, as well as easier learning during studies.¹⁶ When it comes to the Polish Foundation of Legal Clinics, it should be borne in mind that it is considered as the "most structured reality in Europe"¹⁷ bearing in mind that it represents an organization that brings together legal clinics in Poland and which is "an umbrella under which there has been a professional network with well organized exchange of information, created ways of learning from each other (national journal, twice yearly organized trainings, mailing lists, web page) as well as given the Foundation authority to represent their rights and work in favor of the whole network."¹⁸ As clinical education is present at most law faculties in Montenegro, this type of organization can be a positive form of connection among them. Finally, the experience gained in London builds on the educational role of clinics and the improvement of employment opportunities for graduate lawyers. Employability focused learning outcomes, which are the focus of the strategy for better employment of graduate students, confirms the importance of legal clinics in which the social and professional skills necessary for employment are acquired.

¹⁵A. Uzelac, J. Brozović, E. Basioli, The Impact of Practice in the Legal Clinic of the Faculty of Law in Zagreb on Employment after Completion of Study. Proceedings of co-authored papers of teachers and students from the scientific conference Improving the quality of study at law faculties in Croatia. 2021, p. 71.

¹⁶Ibid, 76.

¹⁷Clelia Bartoli. Legal clinics in Europe: for a commitment of higher education in social justice. Diritto and Questioni Pubbliche May 2016. p.35

¹⁸Ibid, p. 65.

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**CLINICAL LEARNING AT THE FACULTY OF LAW OF THE
UNIVERSITY OF PRISHTINA TOWARDS THE NEW MODEL: A
TRANSITION FROM THE FULL-CURRICULAR MODEL TO THE
HYBRID "LIVE CLINIC" MODEL**

1. Introduction

This paper elaborates on the reconceptualization of clinical learning in the Faculty of Law, based on its policy documents, including the way clinical learning is integrated into the new curriculum of the Faculty of Law, the implementation of which will start in the year 2023 after receiving the accreditation decision from the competent institutions. The paper also elaborates on the mechanisms and measures the Faculty of Law has taken so that the new model of clinical learning is implemented efficiently and effectively, trying to provide a perspective of how clinical learning has been and will be in the Faculty of Law from the year 2023.

The paper aims to shed light on the way the Faculty of Law has built the mechanisms for creating a new model of clinical learning, based on the pro bono legal assistance of students and live clinics, supported by the institutional mechanisms of the labor market, which element was missing in the applied clinical learning model until the year 2022.

In the framework of the paper, relevant sources related to its topic, accessible on the Internet, are cited. Most of the cited sources are official internal documents, drafted and approved by the Faculty of Law.

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2. The beginning of the reconceptualization of clinical learning, and the transition from the curricular model to the hybrid model of the development of clinics

The application for more than ten (10) years in the Faculty of Law, of a clinical learning model that centered on the development of the learning process in the classroom, based on the contribution of the carriers of clinical courses (subjects), and without institutional support from the actors of the labor market, laid down the real need of opening serious discussions for the creation of a new model of clinical learning which brings the student closer to the labor market and to the actors of professional practice. Evaluating the need and priority setting for the review of the curriculum, reflected in the Program of the Dean's Office 2020-2024², on December 23 and 24, 2021, the Faculty of Law organized a professional workshop in which the representatives of all departments of the Faculty of Law participated. Under the framework of this workshop, a Document of Principles for the process of accreditation and reaccreditation of programs was drawn up. The reconceptualization of clinical learning was one of the main issues that were set as a priority in the Document of Principles.³ Also, within the framework of the Document of Principles, the issue of clinical learning was formulated in the form of a principle that would serve the Faculty of Law to guide in finding the best way to accommodate clinical learning in the new curriculum to be applied from the year 2023. Related to clinical learning, the Document of Principles defines, among others: "*Within the process of revising the Basic Studies Curriculum at the Faculty of Law, the reconceptualization of clinical courses should be done, and these courses should be developed in cooperation with the relevant labor market institutions in the public and private sectors. This includes a student certification program in the clinical courses, based on a document – Program of the Dean's Office, prepared in consultation with the practice professors and experts.*"⁴

During the reaccreditation process and the need for a reconceptualization of clinical learning, in order to organize a process of

² Program of the Dean's Office, 2020-2024, p.8, <https://juridiku.uni-pr.edu/page.aspx?id=1,59>. Accessed December 24, 2022.

³ Document of Principles/Conclusions of the process of Accreditation/Reaccreditation of the programs of the Faculty of Law, December 23 and 24, 2021, p.2, drawn up by the professional workshop held in Brezovica and approved by the Council of the Faculty of Law, March 9, 2022.

⁴ Ibid, p.3.

assessment as objectively as possible of the curriculum change, the Faculty of Law has asked the Council of Europe for help by providing professional expertise for the review analysis of the bachelor's degree studies curriculum. The Council of Europe has sent to the Faculty of Law an Accompanying Letter⁵ notifying of its support for the review of the Basic studies curriculum of the Faculty of Law, through the engagement of three experts, who have drawn up the analysis of the curriculum revision.⁶

Of course, based on the Council of Europe experts' analysis, and on the priorities of the Faculty of Law itself, it has been decided to reconceptualize the clinical learning in the Faculty of Law to create another clinical subject model, enabling the students, in addition to lectures in class, to develop cases with officials from the labor market, respectively judges, prosecutors, and lawyers. This re-concept clinical learning model is reflected in a policy document prepared by the Dean's Office, through which the new clinical learning model is analyzed and presented, based on the European best practices. This document, among other things, offers a perspective of the clinical subject model which will be implemented in the new curriculum of the Faculty of Law and will be a hybrid model, combined with three main elements: the theoretical lectures of the professors of clinical courses; the participation of judges, prosecutors, and lawyers in the clinical learning, as well as the involvement of students participating in the clinical courses, in providing pro bono assistance to the community (citizens) in need.⁷

In the framework of the document of reconceptualization of clinical learning, a special dimension to which importance is given is the support of the Faculty of Law clinical learning through international projects. In this aspect, the policy document of the clinical learning reconceptualization emphasizes: "Currently the Faculty of Law is part of the Erasmus+ program, more precisely of the clinical learning dedicated project⁸: *"Legal Clinics in service of vulnerable groups: enhancing the employability of law students through practical education"*, in which

⁵ Accompanying Letter for the Assessment of the bachelor's degree studies curriculum of the Faculty of Law in Prishtina, The Council of Europe, March 28, 2022.

⁶ Prishtina Faculty of Law Curriculum Review, sent with the Accompanying Letter, dated March 28, 2022.

⁷ Reconceptualization of clinical learning at the Faculty of Law (Analysis), February 2022.

⁸ For more about the project, see the website of the Faculty of Law - Office for Clinical Studies.

implementing partners, in addition to the local and regional ones, such as the University of Montenegro, are other highly ranked Universities, such as the *University of Zagreb*, *The Polish Legal Clinics Foundation*, *Regent's University London*, etc.⁹ Also, in the framework of international support, the Faculty of Law has found support from the project "*Expanding and Improving Practical Legal Education in Kosovo*" with one of the most prestigious universities, UC Hastings College of Law ("UC Hastings"), supported by the American Embassy in Kosovo.¹⁰

The reconceptualization of clinical learning in the Faculty of Law, among other things, had as its main goal the change of the model of clinics from a pure curricular model to a hybrid model, enabling the students to provide pro bono legal assistance, and contact through institutional mechanisms the actors of the labor market, respectively judges, prosecutors, and lawyers, who will be part of the clinical learning. Such a reconceptualization has also laid the need for the creation of technical mechanisms enabling the best organization of clinical learning in the Faculty of Law within the new curriculum, which will start to be implemented in the year 2023, after passing the new accreditation process to take place during 2023.

3. The mechanisms created by the Faculty of Law for the implementation of the new clinical learning model

Within the framework of the implementation of the new model of the conception of clinical learning, the Faculty of Law has taken concrete steps to create the mechanisms that will enable the more efficient implementation of this new model. The steps taken regarding the creation of mechanisms that will enable the easier implementation of clinical learning, according to the new model, are:

1. Creation and functionality of the Center for Clinical Studies;¹¹

⁹ Reconceptualization of clinical learning at the Faculty of Law (Analysis), February 2022.

¹⁰ Meeting with the delegation of the UC College of the Law (San Francisco) from the University of California (implementation of the project supported by the American Embassy). Accessed December 23, 2022.

¹¹ Draft Regulations for the Establishment and Operation of the Center for Clinical Studies at the Faculty of Law 2022.

2. Creation and functionality of the Advisory Body of the Faculty of Law;¹²
3. The conclusion of Agreements with the Labor Market Actors, which enable their involvement in clinical learning at the Faculty of Law.¹³

Even though the Faculty of Law has taken in 2013 concrete steps to create the Office of Clinical Studies,¹⁴ with the support of USAID, the reconceptualization of clinical learning by the Faculty of Law has laid the need for this mechanism to be established at the level of the Center. The University of Pristina internal regulations determine that the Governing Council establishes the Centers, as organizational units within the University of Prishtina.¹⁵ Starting on this basis, the University of Pristina Faculty of Law has drawn up a Draft Regulation for the establishment and functioning of the Center for Clinical Studies, which determines the manner of establishment, the internal functioning, and the scope of the center for clinical studies. It has already been submitted for approval to the Governing Council of the University of Pristina.¹⁶ The Draft Regulation clearly defines the scope of the Center for Clinical Studies of the Faculty of Law, which will be operationalized, after its approval by the Governing Council of the University. The scope of the Center for Clinical Studies includes the following issues:

1. Researching issues related to clinical learning.
2. Organization of clinical learning activities, within the program, including all clinics.
3. Organization of extra-curricular activities of clinical learning, in cooperation with the labor market.

¹² Decision of the Council of the Faculty of Law on the creation of the Advisory Body, dated September 30, 2022.

¹³ Agreements were concluded between the Faculty of Law and the Judicial Council of Kosovo, the Prosecution Council of Kosovo, and the Free Legal Aid Agency.

¹⁴ The USAID Mission in Kosovo and the University of Prishtina Faculty of Law signed a Memorandum of Understanding for the establishment of the Office of Clinical Studies at UPFL, April 18, 2013, http://www.drejtesia-ks.org/index.php?cid=1,9,301#player_tab. Accessed December 24, 2022.

¹⁵ Regulation on personal income of academic staff, allowances according to functions, and other compensations at the University of Pristina, no. 2/543, dated October 22, 2022, Article 11.

¹⁶ Draft Regulation for the establishment and operation of the Center for Clinical Studies, submitted for approval to the Governing Council of the University of Prishtina in December 2022.

4. Organization of special clinical learning programs, according to Article 99 of the Statute.
5. The organization, creation, and accreditation of new programs, under level 6 of the National Qualifications Framework (NQF), based on the needs of the labor market.
6. Coordination of activities with the actors of the labor market, such as the Judicial Council, Prosecutor's Office, and the Chamber of Advocates of Kosovo, etc.
7. Organization of clinical learning and pro bono legal assistance, within the Faculty of Law curriculum, through Faculty students and in cooperation with labor market actors.
8. Coordination and support in the implementation of international projects related to clinical learning.
9. Maintaining, cultivating, and updating contacts with external actors of the labor market, such as local and international institutions, and civil society, related to clinical learning.
10. Coordination of all activities related to clinical learning within the Faculty of Law.¹⁷

One of the steps taken by the Faculty of Law, to create mechanisms for the implementation of the new model of clinical learning, is the re-functionalization of the Advisory Body of the Faculty of Law, which was newly created with the approval of the Faculty of Law Council.¹⁸

The creation of the Advisory Body is based on the Senate of the University of Prishtina Regulation No. 1/437 of May 18, 2018, on supplementing and amending the Regulation No. 163 of January 15, 2015, on the establishment and principles of operation of the Advisory Body of the University of Prishtina academic units, has decided to establish the Advisory Body (Board) dedicated to clinical learning (legal clinics).

The Advisory Body, by its very naming, will have the role of advisor and coordinator of partners engaged in the clinical learning framework, with a leading role from the Faculty of Law, and based on the members' goodwill, and

¹⁷ Ibid, article 5.

¹⁸ Decision of the Council of the Faculty of Law on the establishment of the advisory body, dated September 30, 2022.

the dedication of the Faculty and the University in the establishment of the higher education quality in the field of its activity.

This (Advisory) Body, for its function, will ensure compliance with the highest professional principles and standards defined between the parties, and its members will perform the work voluntarily and without remuneration, to fulfill the mission and vision defined by the University of Prishtina and the academic unit, in compliance with the accountability of members foreseen for their work and commitment in achieving the defined goals. Part of the Faculty of Law Advisory Body will be the labor market factors influencing the realization of clinical learning, such as the Judicial Council of Kosovo, the Prosecution Council of Kosovo, the Chamber of Advocates of Kosovo, the Free Legal Aid Agency, the Chamber of Notaries of Kosovo, the Tax Administration of Kosovo, the private sector representatives, Chamber of Private Enforcement Agents of Kosovo,¹⁹ etc.

Also, to take measures for the most efficient implementation of the new model of clinical learning, the Faculty of Law has concluded a Cooperation Agreement with the Judicial Council of Kosovo,²⁰ the Prosecution Council of Kosovo,²¹ and the Free Legal Aid Agency,²² and is in the process of finalization of the Agreement with the Chamber of Advocates of Kosovo. All these (basic) agreements have an important role in helping the Faculty of Law to develop clinical learning according to the hybrid model, enabling the students of the Faculty of Law to conduct live legal clinics, through the provision of legal assistance pro bono. The dimension of the provision of pro bono legal assistance by the Faculty of Law is particularly part of the Agreement with the Free Legal Aid Agency, according to which the students of the Faculty of Law

¹⁹ Ibid.

²⁰ The Memorandum of Understanding between the Faculty of Law and the Judicial Council of Kosovo, signed on November 18, 2021, <https://juridiku.uni-pr.edu/page.aspx?id=1,35,1079>. Accessed December 24, 2022.

²¹ The Memorandum of Cooperation between the Faculty of Law and the Prosecution Council of Kosovo signed on 09.09.2022, <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1153>. Accessed 24.12.2022.

²² The Cooperation Agreement between the Faculty of Law and the Free Legal Aid Agency, signed on October 17, 2022, <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1173>. Accessed December 24, 2022.

offer this assistance through this Agency²³, conforming the status of the mobile office that the Faculty of Law will have within the Free Legal Aid Agency.²⁴ On the other hand, the agreements of the Faculty of Law, with the Judicial Council of Kosovo and the Prosecution Council, foresee the possibility of including prosecutors and judges in the process of clinical learning, especially this will be done within the framework of special programs, in the criminal and civil clinic. The Faculty of Law is currently working with the central governing authorities of the University of Prishtina to find the internal form of how judges and prosecutors will become part of clinical learning, respectively special programs.

As above, the mechanisms elaborated in this section of the paper aim to organize clinical learning in the most efficient and effective way, so that the level of learning and students' learning is satisfactory, and the students are more practically prepared for the labor market.

4. Incorporation of the new clinical learning model into the new curriculum of the Faculty of Law

Within the framework of all the actions undertaken for the reconceptualization of clinical learning at the Faculty of Law, the incorporation of the new model of clinical learning into the new curriculum of the Faculty of Law has been done. The models of clinical learning were drafted based on the one of the University of Zagreb Faculty of Law,²⁵ and those of the Universities in Poland, operating in close cooperation with "Polish Legal Clinics Education",²⁶ which we explored during our study visits within the Erasmus+ ENEMLOS project, and as the main basis have been and very helpful in addressing the concrete path to follow further in the implementation of the

²³ The Faculty of Law, through the Agency for Free Legal Aid, based on an internal competition announced on September 8, 2022, has selected the first four (4) students, who are being trained by this agency, for the provision of free legal aid and the same ones are engaged in the office for clinical studies. <https://juridiku.uni-pr.edu/page.aspx?id=1,37,1152>. Accessed December 24, 2022.

²⁴ Ibid.

²⁵ Study visit carried out at the Faculty of Law, January 19-21, 2022.

²⁶ <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1130>

"Live Clinic" model. We concluded the study visits within the project [ENEMLOS] with a visit to Regent's University London.²⁷

To accredit the new program in basic studies, the Faculty of Law has established the Working Group for the basic studies curriculum restructuring and revision,²⁸ as well as the Working Group for the drafting of the self-evaluation report of the basic studies program (bachelor).²⁹ The self-evaluation report presents the way clinical education is incorporated into the new bachelor studies curriculum, expected to be accredited in 2023.³⁰

In the new Faculty of Law curriculum, the following clinical courses, seven (7) in total, are planned:

1. Criminal Clinic
2. Civil Clinic
3. Labor Clinic
4. Fiscal Clinic
5. Administrative Clinic
6. Constitutional Clinic
7. Human Rights Clinic
8. EU Law Clinic.³¹

Above mentioned clinical course programs are mainly based on the *pro bono* assistance model and the development of real cases in cooperation with the labor market actors. Only the first weeks of the clinical courses programs are expected to be general, while the rest is a practical part, based on a real case and supervised by the professor of the relevant clinical course.³² Students who are involved in clinical courses for the provision of *pro bono* assistance are exempted from an elective course of the corresponding semester, starting from the second semester of the second year to the second semester of the fourth

²⁷ <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1134>

²⁸ Decision of the Faculty of Law, no. 09/138, dated March 22, 2022.

²⁹ Decision of the Faculty of Law, no. 09/149, dated May 5, 2022.

³⁰ The Self-Assessment Report of the Bachelor Program of the Faculty of Law, which will be submitted to the Kosovo Accreditation Agency (AKA) version of November 14, 2022.

³¹ *Ibid*, p. 130.

³² See: Labor Clinic and Fiscal Clinic Syllabus, which will be sent for evaluation in the accreditation process.

year".³³ This program of providing *pro bono* assistance to the community (citizens in the economic and social condition who qualify for this assistance) includes all clinics as separate sections: Civil Clinic, Criminal Clinic, Labor Clinic, Fiscal Clinic, Human Rights Clinic, Administrative Clinic, EU Law Clinic, etc.

In this program, in the provision of *pro bono* assistance in the above clinics/sections is included a certain number of students (*engaged on a voluntary basis, after the announcement of the call by the Faculty of Law, and those selected earn credits and are released from an elective course in the corresponding semester*). The students work in the clinics (provision of legal services *pro bono*, including giving of legal opinions, *amicus curiae*, etc.) is mentored by the respective course professors (who have a special commitment within the clinics), as well as by the experts of practice. This program of clinics for *pro bono* assistance within the Office/Center for Clinical Study is based on the program of reconceptualization of clinical learning and the functionalization of the Office/Center for Clinical Studies as a permanent office of the Faculty of Law (Program 2020-2024), on the consultations with partners (on practical implementation), and on the analyzed models, implemented in other countries".³⁴

The Criminal and Civil Clinics, as separate clinics or certification programs will be part of the new curriculum of the Faculty of Law. The certification programs will be programs dedicated to students in the last year of studies (the fourth year) of the Faculty of Law, in the first and second semesters.

"Participation in the special certification programs within the Criminal Clinic and/or Civil Clinic is an extracurricular activity offered by the Faculty of Law (Center for clinical studies) in cooperation with partners in order to develop the practical skills of students in the 4th year. As stated, the Criminal Clinic and Civil Clinic are offered as separate certification programs, allowing students to choose whether to participate in these two separate practical skills-

³³ The Self-Assessment Report of the Bachelor Program of the Faculty of Law, which will be submitted to the Kosovo Accreditation Agency (AKA), version of November 14, 2022., p. 130.

³⁴ The Self-Assessment Report of the Bachelor Program of the Faculty of Law, which will be submitted to the Kosovo Accreditation Agency (AKA), version of November 14, 2022, p. 131.

building programs. For these two programs, students are provided with a certificate, and additional credits/ECTS. Certificate programs are not mandatory but are an option for all fourth-year students, without any restrictions.

The certification program from the Criminal Clinic is organized in the 1st semester, while the Civil Clinic program is organized in the 2nd Semester (*where family and inheritance law is also included in the program*). The implementation of this program includes lawyers, prosecutors, judges, etc. as well as the Faculty of Law professors. If the students wish to be included in the certification programs in the 4th year (first and second semesters), they must declare it at the end of the 3rd year (in the months of May-June), so that the faculty has the correct list and of the number of students to plan the organization of certification courses/programs in the following academic year, in cooperation with partners (*which means the involvement of judges, prosecutors, lawyers, etc.*).³⁵

As can be seen, the certification programs are another model that is held only in the criminal and civil fields, and the curriculum of these clinics will be drawn up in cooperation with the Judicial Council, Prosecution Council, and the Chamber of Advocates since part of the discourse in these special programs will also be judges, prosecutors, and lawyers.

As mentioned above, the hybrid model or the new model of clinical education of the Faculty of Law has several characteristics which are:

1. All clinical courses are integrated into the basic studies program (bachelor's).
2. Unlike the clinical courses of the past curriculums, more clinical courses have been created in the new curriculum model.
3. In clinical courses according to the new model, priority will be given to *pro bono* legal assistance of students, under the supervision of the course professors and in cooperation with institutional mechanisms, especially the Free Legal Aid Agency.
4. Students will have the opportunity to be part of the clinical courses from the second year and consequently, this creates the possibility for a

³⁵ Ibid, p. 134.

student to follow more than two clinical courses or offer *pro bono* assistance in more than two clinical courses, in different academic years.

5. In the framework of the new clinical learning model, certification programs that will be held in cooperation with judges, prosecutors, and lawyers have been incorporated, and the number of their students will be limited and determined based on public announcement a year in advance.

5. Conclusions

In 2021, the Faculty of Law began to analyze the possibility of reconceptualization of clinical learning, with the sole purpose that its graduate students have a greater connection with the labor market and can touch the practical work during their studies. In the context of such a new approach to reconceptualization, a new hybrid model of clinical learning was created, where students will have the opportunity to attend clinics from the second year, and within the clinics will have the opportunity to provide *pro bono* assistance, based on real cases that will be dealt with in cooperation with the Free Legal Aid Agency. This model, as such, is described as a hybrid because the syllabuses of clinical courses have been developed according to the model, where part of them will be theoretical, while the greater part will be based on real cases resulting in the provision of legal aid *pro bono* for real parties. This will enable students to have contact with real parties and face the legal arguments and the development of the case, which will greatly help in their professional formation and preparation for the labor market.

Part of the new model of clinical learning will also be the certification programs from criminal and civil clinics, in the development of which, in addition to subject professors, from the Faculty of Law, judges, prosecutors, and lawyers will also participate, depending on the respective weeks of the development of the program as well as the topic dedicated to the respective week. Of course, this hybrid model will be supported by the Center for Clinical Studies which, in cooperation with the management of the Faculty of Law, will organize the entire process of clinical learning, including the development and maintenance of constant contact with the actors of the labor market and other potential partners. This center is intended to be led by a coordinator and will be

the "driving engine" of the new clinical learning model at the Faculty of Law. The Faculty of Law has reasonable expectations that the new clinical learning model will be more efficient and will help students in their professional development, due to the practical and comprehensive aspect of student inclusion in more clinical courses, starting from the second year of bachelor studies. The new clinical learning program will begin to be effectively implemented in the year 2024, since the same one will start in the year 2023, after the approval decision of the Kosovo Accreditation Agency. A model of clinical learning, centered on the student's practical work, creates reasonable expectations for the success of Law Faculty students in the labor market and more adequate preparation for the legal profession.

References:

1. Accompanying letter for the Assessment of the Bachelor curriculum of the Law Faculty Prishtina, The Council of Europe, March 28, 2022.
2. Document of Principles/Conclusions of the process of Accreditation/Reaccreditation of the programs of the Faculty of Law, December 23 and 24, 2021, drawn up by the professional workshop held in Brezovica and approved by the Council of the Faculty of Law, March 9, 2022.
3. Draft Regulations for the Establishment and Operation of the Center for Clinical Studies at the Faculty of Law, 2022.
4. The USAID mission in Kosovo and the University of Pristina Faculty of Law signed a Memorandum of Understanding for the establishment of the Office of Clinical Studies at UPFL, April 18, 2013, http://www.drejtesia-ks.org/index.php?cid=1,9,301#player_tab. Accessed December 24, 2022.
5. The Cooperation Agreement between the Faculty of Law and the Agency for Free Legal Aid is signed, 17.10.2022, <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1173>. Accessed December 24, 2022.
6. The Memorandum of Cooperation between the Faculty of Law and the Prosecution Council of Kosovo signed September 9, 2022, <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1153>. Accessed December 24, 2022.

7. The Memorandum of Understanding between the Faculty of Law and the Judicial Council of Kosovo, signed on November 18, 2021, <https://juridiku.uni-pr.edu/page.aspx?id=1,35,1079>. Accessed December 24, 2022.
8. University of Prishtina Faculty of Law Curriculum Review, sent with the Accompanying Letter, dated March 28, 2022.
9. Program of the Dean's Office, 2020-2024, p.8, <https://juridiku.uni-pr.edu/page.aspx?id=1,59>. Accessed December 24, 2022.
10. Self-evaluation report of the Faculty of Law, 2017-2022, part of the basic studies program.
11. The Self-Assessment Report of the Bachelor Program of the Faculty of Law, which will be submitted to the Kosovo Accreditation Agency (AKA), version November 14, 2022.
12. Reconceptualization of clinical learning at the Faculty of Law (Analysis), February 2022.
13. Regulation on personal income of academic staff, allowances according to functions and other compensations at the University of Prishtina, no. 2/543, dated October 22, 2022.
14. The Labor Clinic and Fiscal Clinic Syllabus, which will be sent for evaluation in the accreditation process.
15. Meeting with the delegation of the UC College of the Law (San Francisco) from the University of California (implementation of the project supported by the American Embassy), <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1163>. accessed on 23.12.2022.
16. Study visit carried out at the University of Zagreb - Faculty of Law (January 19-21, 2022).
17. Decision of the Faculty of Law, no. 09/138, dated March 22, 2022.
18. Decision of the Faculty of Law, no. 09/149, dated May 5, 2022.
19. Decision of the Council of the Faculty of Law on the creation of the advisory body, dated September 30, 2022.
20. Decision of the Council of the Faculty of Law on the establishment of the advisory body, dated September 30, 2022.
21. <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1130>.

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**CLINICAL LEARNING AT THE FACULTY OF LAW OF THE
UNIVERSITY OF PRISHTINA IN THE PERIOD 2006-2022, FROM
THE PILOT MODEL TO THE CURRICULAR MODEL, AND THE
JOURNEY TOWARD RECONCEPTUALIZATION**

1. Introduction

This paper deals with the past journey of clinical learning at the Faculty of Law of the University of Prishtina, from the beginning of its creation with the first indices having started in the year 2006, until the year 2022, when ends the application of the current curriculum of which the clinical learning was a part. The paper clearly reflects the steps followed by the Faculty of Law from the moment when it began to apply the legal clinics until now when initiatives for reconceptualization of clinical learning are taken, aimed at creating a model which will make students more connected with practice and labor market actors, which represents a new model of clinical learning to be applied in the year 2023 and beyond.

The paper is developed mainly considering the historical method and based on data collected by students. Also, it uses public sources and internal, unpublished ones constituting official documents of the Faculty of Law elaborated for the first time in the framework of this paper.

The paper, through its sections, highlights several stages of the clinical learning history the Faculty of Law has passed through, beginning with the clinical learning first developed as a pilot project aftermath made part of the accredited curriculum, and recently starting the reconceptualization, with the aim of creating another clinical learning model.

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2. On the clinical learning, in general

Clinical learning (legal clinic) was born as a learning method to help students in the practical learning of law and was later developed in the form of free legal aid, as a separate (additional) part of the work, along with the academic aspect. More precisely, legal clinics offer practical experience to the faculty of law students, as well as various legal services to mainly vulnerable layers of the population that cannot afford paid professional legal assistance.²

Legal clinics in the academic spectrum (within the faculties), offer pro bono work in several fields of law, thus enabling free legal services for clients.³ In this direction, students make their contribution through research work, drafting legal documents, or meeting with clients, and the clinic's professors and/or the field professionals, in most cases lawyers, mentor the work of students designated in their cases.

Today there is an obvious development and improvement of academic programs in the faculties of law. They are being adapted and programmed in accordance with the best international experiences and the socio-cultural or economic changes of a country. In any case, the aim is their improvement and provision of the best academic programs for students, in the effort of creating lawyers capable and ready to face the challenges of the profession and of the time as well.

Experience has proven that studying theoretical courses only is not sufficient in preparing students capable of the labor market. Consequently, it is necessary that the acquired theoretical knowledge is concreted by practice, aiming closer knowing and full understanding of the law, in which the legal clinics - clinical learning undoubtedly plays a key role. It is understood, from their very concept, that legal clinics are a law implementation in practice in non-profit purpose, serving the public interest.

²James E. Moliterno, *Legal Education, Experiential Education, and Professional Responsibility*, 38 *Wm. & Mary L.Rev.*71 (1996).

³Daniel Barrow, Louise Glover and Tamara Hervey, *European Journal of Legal Education* Vol. 1, No. 1, May 2020, p.117–154.

3. The beginning of clinical learning at the Faculty of Law of the University of Prishtina

The first indices of clinical learning within the Faculty of Law - University of Prishtina, date from the academic year 2005/06, when the relevant project was supported and backed by USAID, ABA ROLE⁴, and other donors, aimed at putting in function the implementation of practical programs from this new form of learning for students. This support had come thanks to the Faculty of Law effort for a reform, offering new scientific research courses, etc.⁵

The process was developed in a systematic way, in the creation of clinical courses from different branches, starting from the most basic ones (from criminal law and civil law). In the framework of these clinics realized by the Faculty of Law, with the support of ABA ROLIT, about 83 students benefited.⁶ The author of this paper, during his studies in the academic years 2006-2009, among other things, had the opportunity to benefit from the USAID and ABA ROL supported clinical learning, gaining specific qualifications from the clinics of criminal law and civil law, as well as the legal writing.⁷ Within these clinics, in both clinics (criminal law and civil law), participants of the program were judges and prosecutors of the relevant field, since the program was combined with practical cases, and its end included a mock trial for a particular case. Participating students have had, within the program, the opportunity to attend court sessions for certain cases, to monitor the work of lawyers, and to attend certain sessions of the work of state prosecutors.

Benefiting from the support of ABA ROLIT, the Faculty of Law in the 2008-2009 academic year curriculum, in the in the third year's winter semester introduced two (2) courses: Legal Methodology and Legal Ethics.⁸ The program

⁴ABA ROLE: American Bar Association.

⁵The University of Prishtina Faculty of Law introduces new courses, December 2008.

⁶Ibid.

⁷The certificates of the author of this paper, issued by the USAID/ABA ROLE program, within the criminal and civil legal clinics, during the year 2009.

⁸The University of Prishtina Faculty of Law introduces new courses, December 2008,

of these two courses was drawn up by Professor Emeritus John Van Doren⁹, while the courses would be jointly taught by him and the Professors of the Faculty of Law.¹⁰

In the cooperation and support to the Faculty of Law, ABA ROLIT also published the Handbook of Legal Ethics and Professional Responsibility, where, in its Introduction, the Director of ABA/Initiative for the rule of law in Kosovo, emphasized:

"On behalf of the American Bar Association, Rule of Law Initiative (ABA) in Kosovo, I am pleased to present the Handbook of Legal Ethics and Professional Responsibility developed by the working group of legal experts in Kosovo. The attached Handbook and our ongoing work with the Faculty of Law to develop a contemporary law curriculum is part of our ongoing efforts to improve legal education in Kosovo, including the introduction of Criminal and Civil Clinics, Legal Methodology, and Trial Advocacy courses, and legal clinic with a real client".¹¹

This shows dedication and support given to the Faculty of Law, concerning the legal clinical courses.

In fact, as can be seen in the historical prism, clinical learning at the Faculty of Law started in a partial and gradual way, from which a number of students had initially benefited in the clinics developed as an extra-curricular activity, and then in the academic year 2008-2009 the first step was taken for certain clinical courses, important for the legal profession, to become an official curriculum part of the Law Faculty.

Looking from the historical prism of the development of clinical learning at the Faculty of Law of the University of Prishtina, it should be noted

https://www.americanbar.org/advocacy/rule_of_law/where_we_work/europe_urasia/kosovo/news/news_kosovo_pr_ishtina_law_school_introduces_new_courses/ , last accessed on December 21, 2022.

⁹Ibid.

¹⁰Prof. Osman Ismaili, Prof. Avni Puka, and Prof. Emine Abdyli. See: The University of Prishtina Faculty of Law introduces new courses, December 2008,

https://www.americanbar.org/advocacy/rule_of_law/where_we_work/europe_urasia/kosovo/news/news_kosovo_pr_ishtina_law_school_introduces_new_courses/ , last accessed on December 21, 2022.

¹¹Handbook of Legal Ethics & Professional Responsibility, ABA ROLE, USAID, University of Prishtina, April 2008, p.2.

that the first development phase of clinical learning can be considered one of the ABA ROLIT supports (2006), which gave the students an opportunity to benefit from the clinical courses organized. However, it should be mentioned that this form of organization of the clinics did not operate within the official curriculum, but it has begun to be gradually integrated into the program of the Faculty of Law, only in the academic year 2008-2009, with introduction of first courses, originating from an international support process to the clinical learning.

In context of the steps taken, on April 18, 2013, the Faculty of Law signed a memorandum for the establishment of the Office of Clinical Studies. In the framework of the USAID official communiqué, the program for Lawyers in Kosovo, among other things states:

"The USAID Mission in Kosovo and the University of Prishtina Faculty of Law sign a Memorandum of Understanding for the establishment of the Office of Clinical Studies at UPFL." This office will: a) coordinate all clinical courses; b) ensure uniform acceptance of practical training knowledge through all legal clinics; c) serve as a practical research center for students and Faculty; and d) promote exchanges for curriculum development and sustainability at all levels of master's programs. USAID supports Iliria College through the Kosovo Lawyers Program, with KLP and NCSC as implementation partners".¹²

Even the Office of Clinical Studies had its own coordinator¹³, and as such had functioned as a pilot project supported by USAID and NCSC¹⁴, with the aim of advancement of clinical learning at the Faculty of Law.¹⁵

¹²The USAID mission in Kosovo and the University of Prishtina Faculty of Law signed a Memorandum of Understanding for the establishment of the Office of Clinical Studies at UPFL, April 18, 2013, http://www.drejtesia.ks.org/index.php?cid=1,9,301#player_tab, last accessed on December 24, 2022.

¹³ Coordinator of the Office of Clinical Studies, which had functioned as a full project at the Faculty of Law (2013), with the support of USAID/NCSC, was Prof. Avni Puka.

¹⁴National Center for State Courts.

¹⁵NCSC/KLP expert Prof. Kevin Ruser met with the Vice Dean of the University of Pristina Faculty of Law Prof. Qerim Qerimi and with the Coordinator of the Office of Clinical Studies Prof. Avni Puka, <http://www.drejtesia.ks.org/?cid=2,9,300> last accessed on December 29, 2022.

Based on these flows in the development of clinical learning at the Faculty of Law, the history of the development of clinical learning can be divided into three main phases:

1. The first phase, or the phase when the clinical learning was developed as a pilot project, with the international support of ABA ROLE.
2. The second phase, or the phase when the clinical learning is fully integrated into the Faculty of Law curriculum.
3. The third phase, or the phase of the clinical learning reconceptualization within the Faculty of Law 2023 curriculum, is aimed at creating a new model of clinical learning.

4. Transition from the pilot model of clinical learning to the full-curricular model

The first phase of clinical learning at the Faculty of Law has been more testing in the form of a pilot project, which enabled students to benefit from this new way of learning the legal profession. The clinical learning organized in the criminal and civil clinics has brought benefits to the students. The benefit has been multidimensional because due to gaining practical knowledge, students had the opportunity to visit courts, prosecutor's offices, and lawyers' offices, and get their experience in concrete cases.¹⁶

Based on impact of the clinical learning, based on the international support of ABA ROLIT, concrete actions were taken to introduce clinical courses into the accredited curriculum of the Faculty of Law. In this case, the Faculty of Law made a leap, moving from the piloted model of clinical learning to the model of introducing clinical courses within the accredited curriculum. Thus, in the year 2010 curriculum, accredited until the year 2012, the Faculty of Law introduced the following clinical courses as part of the curriculum: *Civil*

¹⁶From the paper author's experience, while attending the criminal clinic, students have had the opportunity to monitor murder court hearings and also to simulate a real case, with students dividing the roles within the process, based on the course papers provided by the judge participant of the clinical learning in 2008-2009 academic year. Such a thing also happened within the civil clinic, where relevant hearings were monitored, in the fields of Family Law and Inheritance law.

*legal clinic; Legal clinic for family and inheritance law; Criminal legal clinic; Fiscal legal clinic.*¹⁷

Also, clinical courses at the master's level included constitutional and administrative clinics.¹⁸ At this time, there is no accurate data if there was any estimate of the students and the number of students involved in the clinical courses that were part of the academic years 2010-2012 curriculum.

The curricular model¹⁹ of clinical courses at the Faculty of Law has continued further with other accredited curriculums, including the one for the academic years 2017-2022. Within the Faculty of Law accredited curriculum for the academic years 2017-2022, the following clinical courses have been integrated for Basic studies: *Legal clinic from family law and inheritance law; Civil law legal clinic; Criminal law legal clinic; Fiscal legal clinic.*²⁰ While, within the master's studies curriculum, the following clinical courses were integrated: *Constitutional clinic; Administrative clinic; Criminal legal clinic; Civil legal clinic.*²¹

Unlike the academic year 2010 curriculum, in the academic year 2017 curriculum, the Faculty of Law had integrated a larger number of clinical courses, including master's studies in the constitutional-administrative section, criminal section, and civil section. In fact, within the framework of the master's program in the criminal and civil fields, there has been a redoubling of clinical courses since the criminal clinic was taught as a subject at both levels of studies. This approach is certainly related to the argument of the need for the advancement of knowledge in the criminal and civil clinic, at the level of master's studies as opposed to those of Basic studies.

What characterizes the clinical courses within the Faculty of Law curriculum of the academic years 2017-2022 is the fact that, as clinical courses, the same were developed according to the concept in the classroom, and

¹⁷The accredited program of the Faculty of Law 2010-2012.

¹⁸Ibid, part of the master's program in Constitutional Law and Administrative law.

¹⁹This model refers to the case when clinical learning at the Faculty of Law was made part of the accredited curriculum and clinical learning takes place in the classroom, by the holders of clinical courses.

²⁰See the Faculty of Law Self-Assessment Report, 2017-2022, part of the Basic studies curriculum.

²¹ Ibid, part of the Master studies curriculum.

without the institutional support of the actors of the practice.²² Such a thing had also happened in the previous curriculum of the Faculty of Law, respectively that of the year 2010. The fact that the clinical courses in the Faculty of Law, over the years, have been taught only in the classroom, does not mean that they lacked the element of practice, but the same is not done officially or through any institutional mechanism, but by the professors of the subjects voluntarily.

It should be emphasized that the professors of clinical courses have continuously made efforts and succeeded in bringing competent persons from the judicial system, prosecutorial system, or other relevant institutions to the students.²³ Likewise, in the syllabuses of clinical courses, in each week of treatment of a relevant topic from the clinical field, a case study has been discussed, from the side of the relevant institutional practice, which has included the scope of clinical courses.²⁴

The clinical learning model fully integrated into the curriculum of the Faculty of Law, especially in the 2017-2022 academic years curriculum, had the following characteristics:

1. It included clinical courses only from civil, criminal, fiscal, and family and inheritance fields in the Basic studies curriculum.
2. In the Master studies curriculum, criminal and civil clinical courses were doubled.
3. Constitutional and administrative clinics were integrated only into the Master studies curriculum.
4. The clinics are developed according to the classroom model and without the support of the practice, according to a stable and permanent mechanism, but only based on the voluntary efforts of the professors of clinical courses.

²² See the Syllabus of clinical courses in the Faculty of Law, in the 2017-2023 academic years curriculum.

²³It is worth highlighting the civil, criminal, fiscal legal clinic and the one from family and inheritance law.

²⁴See the Syllabus of the clinics: Civil, Criminal, Fiscal and that from Family and Inheritance Law, within the framework of the accredited program plan 2017-2022.

It is important to mention that, during the period 2010-2022, after the Faculty of Law made the clinical courses part of the official curriculum, other extra-curricular activities have also been developed that have supported the clinical learning, such as the Refugee clinic, which is carried out in cooperation with UNHCR²⁵ and the CRPK²⁶ program, clinic which has been held as an extra-curricular activity since the academic year 2016/2017 and continues to this day, from which so far, have benefited about 150 Faculty of Law students, who had the opportunity to follow professional practice during the eight (8) weeks of holding this clinic. The uniqueness of this clinical course for the year 2022 has to do with the fact that according to the new curriculum, which will begin to be implemented from the year 2023, this course will be held within the Human Rights clinic, which itself includes a separate section dealing with refugee law.²⁷

5. The effect of the curricular model of clinical courses in the Faculty of Law

The application of a full curricular model of clinical courses, where students have followed the same only within the Faculty of Law (in the classroom) and without the possibility of combining with any official practice in the relevant institutions, remains one of the key issues of this model that has been applied to the Faculty of Law, from 2010 to 2012. The idea that clinical

²⁵"Today, UNHCR Office of the Chief of Mission in Prishtina together with the Faculty of Law and Civil Rights

Program - Kosovo (CRPK) organized the event of the closing ceremony of the Legal Clinic "International Protection - Refugee Law" for the 2022 Academic year. This was the sixth, successfully implemented Legal Clinic, organized by UNHCR and its legal aid partner, CRP/K, within the framework of an agreement with the Faculty of Law in Prishtina, aiming at providing law students an opportunity to enhance knowledge on International Protection of refugees and stateless persons. Sixth-generation students who benefited from the "International Protection - Refugee Law" course received certificates at the end of the closing ceremony. The event was held with the participation of the UNDCO Head of Office/Team Leader, the UNHCR Chief of Mission, the CRPK Executive Director, Authorities, Professors, and students of the Law Faculty. UNHCR wishes the best to the students during their academic and career growth". Posted on the official page of UNHCR Kosovo, on the Facebook social network on December 8, 2022.

²⁶ Civil Rights Program Kosovo.

²⁷The Self-Assessment Report of the Bachelor Program of the Faculty of Law, which will be submitted to the Kosovo Accreditation Agency (AKA) version of November 14, 2022.

learning is combined with more practical aspects has been one of the main indicators of why steps forward have been made, in the reconceptualization of clinical learning, towards a more advanced model centered on the student's professional practice.²⁸

Regarding the impact of clinical learning on students, within the framework of the paper²⁹ presented by Professor Querkin Berisha, in honor of the 20th anniversary of legal clinics in Poland, organized by the University of Szczecin, the Faculty of Law of the University of Prishtina has collected data from students to evaluate the effect that the curricular model of clinical courses has to have in the Faculty of Law.³⁰

Among the answers given by the students,³⁰ on whether they attended any of the clinical courses at the Faculty of Law during their studies, 91.1% of them answered that they attended a clinical course.³¹ This proves at the same time their interest in clinical courses within the curriculum of the Faculty of Law.

Regarding the effect that the Faculty of Law clinics had on the students who attended them, in the relevant questionnaire, the students answered as follows:

1. 57.7% of the students answered that the clinics have influenced a better understanding of the positive law.
2. 54.7% of students think that the clinics have influenced their preparation in a better application of the positive law.
3. 40.2% of students think that the clinics have helped them develop argumentative and implementation skills.
4. 57.5% of students think that the clinical courses have helped them in learning to draft practical documents and relevant papers.

²⁸Cooperation between UNHCR and the Faculty of Law of the University of Prishtina "Hasan Prishtina" December 8, 2022, (additional clarifications), sent through the official email dated December 7, 2022.

²⁹Querkin Berisha, Paper "Legal Clinics from Kosovo Perspective: the way forward", presented on December 3, 2022, on the 20th anniversary of legal clinics, at the conference organized by the University of Szczecin, in Poland.

³⁰The questionnaire was organized with the students of the Faculty of Law of Basic Studies, November 23-25, 2022.

³¹179 students of the Faculty of Law participated in the questionnaire.

5. 33.5% of students answered that the clinical courses helped them to better prepare for the labor market.³¹

Answering to the posed question on how they feature the impact the clinical courses made on them, the students shown in percentages assessed the positive impact by the following grades:

1. 50.8% of students said it had an excellent impact.
2. 30.7% of them said it had a very good impact.
3. 15.1% of them said it had a good impact.³²

Meanwhile, in the students' assessment of how practical the clinical courses were, 63.7% of them answered that the clinical courses were practical.³³ This testifies that not all students have evaluated clinical courses as courses that are developed with a practical prism in mind. In this aspect, 98.3% of students expressed that the clinics at the Faculty of Law would be more efficient if students were given the opportunity to provide legal advice to clients in the form of pro bono legal assistance for citizens.³⁴

In general, it can be concluded that the clinic model promoted within the program during the years 2010 and 2017-2023 has been positively evaluated by the students and that the students were generally satisfied with the way the clinical courses were carried out by the holders of these courses.

The evaluation of the students, for the clinical learning and the clinical courses, in addition to their expression through the completed questionnaire, was also evident in the meetings held for the evaluation of the program and the clinical learning. It should be stressed that, in the meetings held by the Faculty of Law, the main demand of the students has been that the clinical learning be redesigned to provide more clinical courses and to have included responsible persons from the labor market, as well.³⁵

³¹ Ibid, first question.

³² Ibid, question four.

³³ Ibid, sixth question of the questionnaire.

³⁴ Ibid, question seven.

³⁵ Meeting with the students of the Faculty of Law, for the evaluation of the program of the Faculty of Law and clinical learning, held online on April 13, 2022.

6. Identification of the need for a change of the clinical learning model, and the reconceptualization and the Program of the Dean's Office 2020-2024

In these years with the clinical courses being a part of the curriculum in a necessary and visible way, it has been observed that the students, in addition to the academic framework, also need the interweaving of doctrine with practice, so that these courses are taught by competent persons from practice (judges, prosecutors or lawyers) and this would help them to connect with the practice and the job market for lawyers.

As defined in the Program of the Dean's Office (2020 - 2024)³⁶, the Faculty of Law aspires to be an academic and student community, which enjoys a high competitiveness in the academic and learning market, and at the same time enjoys special respect in the professional labor market, and cooperates with the elite law schools, for exchange of the academic personnel and international students. A constant work is continuing for this.

Among the main objectives foreseen (in the program), are those concerned with the provision of a development perspective, which in itself contain four (4) components: the internationalization, the establishment of the scientific research structure, the communication with the public, and above all, the academic activation of the students, which (component) is interrelated to the part of clinical learning, where students are expected to have a very important role. Especially in the implementation of the "live clinic" model, where the students of the Faculty of Law will be able to provide legal assistance, or free legal services for different members of communities of society, who for certain reasons (mainly economic), cannot pay lawyers for the protection of their rights. Among other things, in the Program of the Dean's Office, regarding the issues of legal clinics, it is determined that one of the priorities of the Faculty of Law for the period 2020-2024 is the "*Strengthening of the elements of "building the skills" in the existing curricula of the Faculty of Law, including the components*

³⁶Program of the Office of the Dean, on the website of the Faculty of Law, 2020-2024. <https://juridiku.uni.pr.edu/page.aspx?id=1,59>, last accessed on December 24, 2022.

*of clinics, the practical work, the engagement in judicial and professional simulations, and the argumentation seminars*³⁷.

With the aim that the students of the Faculty of Law get closer with the labor market, through the practical part of learning, as well as to gain more practical skills of lawyers, the Office of the Dean, in the four (4) year governing Program, has foreseen the creation of the Office for Clinical Studies, as a mechanism for the implementation of the clinical learning, and for the reconceptualization of the clinical learning as well.³⁸

As can be seen, the Faculty of Law had followed a path, in which for a long time was applied the full curricular model of clinical learning for which, according to the evaluation of the students, the Program of the Dean's Office for the academic years 2020-2024, has decided to do a reconceptualization, in order to create a model of the clinical learning that allows students a closer connection with the institutions of practice, in the field of justice.

7. Conclusions

As it was emphasized during the elaboration of the sections of the paper, the Faculty of Law, as far as clinical learning is concerned, has gone through three main phases of the development of clinical learning.

The first phase of clinical learning has been more of a phase of piloted actions, with the support of international partners, such as ABA ROLE and USAID. In the framework of this phase, a certain number of students have had the opportunity to attend clinical certification courses, especially in the fields of criminal law, civil law, and legislation drafting. However, the number of students who attended these clinical courses was limited and very small compared to the total number of students that the Faculty of Law had during the academic years 2007-2010.

From a partialized model, according to an *ad hoc* integration policy, the Faculty of Law moved to the model of placing some clinical courses within the Bachelor program, and this effort was made for the first time in the year 2009,

³⁷Program of the Dean's Office, 2020-2024, p.8, <https://juridiku.uni-pr.edu/page.aspx?id=1,59>, last accessed on December 24, 2022.

³⁸Ibid, p. 8.

while a full integration of clinical courses into the curriculum was made in the year 2010 and continued with the other accredited programs until the year 2022. The main characteristic of the full curricular model of the development of clinical courses was the fact that they were held only by the professors of the Faculty of Law and supported the model of holding the clinical subject and developing practical exercises in the classroom. In the framework of this model, it should be mentioned the continuous noble effort of the professors of clinical courses to combine the clinical subject with institutional visits, as well as with inclusion of the practical persons in the framework of the lectures, within the framework of certain weeks, in the capacity of guests. However, this has only been the individual work of the professors holding the clinical courses and has not been based on a stable and permanent institutional mechanism.

The application for a long-term full-curricular model laid the need for a reconceptualization of clinical learning, which reconceptualization began with the Program of the Office of the Dean, for the academic years 2020-2024. This program constitutes the basic document that has built the first indices for a new model of clinical learning, in order to allow the students of the Faculty of Law of the University of Prishtina, a stronger connection with the practical part of justice institutions and the labor market.

References:

1. Cooperation between UNHCR and the Faculty of Law of the University of Pristina "Hasan Prishtina", December 8, 2022, (additional clarifications), sent through the official email dated December 7, 2022.
2. The Certificates issued by the USAID/ABA ROLE program to the author of this paper, within the Criminal Law Clinic and Civil Law Clinic, during the year 2009.
3. Daniel Barrow, Louise Glover, and Tamara Hervey, *European Journal of Legal Education* Vol. 1, No. 1, May 2020, 117–154.
4. *Handbook of Legal Ethics and Professional Responsibility*, ABA ROLE, USAID, University of Pristina, April 2008.
5. James E. Moliterno, *Legal Education, Experiential Education, and Professional Responsibility*, 38, *William & Mary Law Review* 71 (1996).
6. The USAID mission in Kosovo and the University of Pristina Faculty of Law signed a Memorandum of Understanding for the establishment

- of the Office of Clinical Studies at UPFL, April 18, 2013, http://www.drejtesia-ks.org/index.php?cid=1,9,301#player_tab, last accessed on December 24, 2022.
7. NCSC/KLP expert Prof. Kevin Ruser met with the Vice Dean of the University of Prishtina Faculty of Law Professor Qerim Qerimi and with the Coordinator of the Office of Clinical Studies Prof. Avni Puka, <http://www.drejtesia-ks.org/?cid=2,9,300>, recently accessed on December 29, 2022.
 8. The accredited Program of the Faculty of Law 2010-2012.
 9. Program of the Dean's Office, 2020-2024, p.8, <https://juridiku.uni-pr.edu/page.aspx?id=1,59>, last accessed on December 24, 2022.
 10. The Questionnaire organized with the students of the Faculty of Law of the Basic studies, dated November 23-25, 2022.
 11. Qerkin Barisha, Paper "Legal Clinics from Kosovo Perspective: the way forward", presented at the Conference organized by the University of Szczecin, in Poland on December 3, 2022, on the 20th anniversary of legal clinics.
 12. The Self-Assessment Report of the Bachelor Program of the Faculty of Law, to be submitted to the Kosovo Accreditation Agency (AKA) version November 14, 2022.
 13. Syllabus of clinical courses in the Faculty of Law, in the 2017-2023 program.
 14. Meeting with the students of the Faculty of Law, to evaluate the Curriculum of the Faculty of Law and Clinical Learning, held online on April 13, 2022.
 15. The University of Pristina Law School Introduces New Courses, December 2008 https://www.americanbar.org/advocacy/rule_of_law/where_we_work/europe_eurasia/kosovo/news/news_kosovo_prishtina_law_school_introduces_new_courses/, last accessed on December 21, 2022.

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TEACHING AND LEARNING METHODOLOGY IN THE LEGAL CLINICAL EDUCATION PROGRAMS IN THE PUBLIC UNIVERSITIES IN KOSOVO

1. Introduction

Initially, the legal clinics were introduced to the legal education system of Kosovo, in the University of Prishtina, Faculty of Law, through the support of donors, in particular USAID, and were implemented in cooperation with the Rule of Law Initiative of the American Bar Association. In the beginning, they were presented as *ad hoc* courses in the form of simulated legal clinics (in Civil Law, and Criminal Law), jointly instructed by the staff of the Faculty of Law of the University of Prishtina, as well as by the legal professionals (lawyers and judges). And the legal clinics were incorporated gradually as part of the Faculty of Law of the University of Prishtina curricula, at the beginning as elective subjects. At that time, in the academic year 2004/2005, the Faculty of Law of the University of Prishtina was the only Faculty of Law in Kosovo within the public institutions of higher education. Legal clinics were a new methodology introduced in the legal education system of Kosovo. Later, the legal clinics were introduced into the curricula of law faculties of other public universities established from the year 2010 onwards, some of which had previously been established as branches or Faculties of the University of Prishtina.²

The most advanced form of implementation of legal clinics, which has existed continuously since the beginning of the implementation of legal clinics in the year 2005, has taken place and continues to be implemented at the Faculty of Law of the University of Prishtina. However, despite its progress in

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implementation, it is important to mention that the implementation of legal clinics has not fully achieved the initial goal as designed by the University of Prishtina and supporting donors. The initial idea was to further develop the legal clinic courses into "live clinics" or live clinics where students would work with actual clients in real cases under the close supervision of professionals to learn legal analysis and interpretation, develop legal writing skills, learn how to interview the clients, learn how to negotiate and mediate on their behalf where appropriate, learn how to develop a case, learn how to incorporate ethical practices into their activities, as well as in the classroom discussion and the fieldwork. The inclusion of legal clinics in the curricula has improved the legal education at the University of Prishtina and other public universities, focusing more on some practical aspects of the teaching methodologies, especially on legal analysis and interpretation, developing the legal writing skills, analyzing, and discussing the hypothetical cases, the classroom instruction in some cases with participation of the judges/lawyers in some legal clinics. In this regard, the legal clinics have provided the students with important practical knowledge and skills but have not fully achieved their original objective.

This paper analyzes the clinical learning programs at the Faculty of Law of the University of Prishtina, and other public universities within which there are law faculties, with a focus on analyzing the content of programs and the methodology of teaching/learning, as well as their comparison with the content of clinical teaching in other universities in Europe. For this purpose, this paper has taken as a basis and analyzed the other authors' studies and works that define legal clinics and provide analysis of the legal clinical education systems in other legal systems.

2. Clinical Learning as a contemporary approach to justice learning

It is difficult to provide a unique definition of legal clinics. This is due to the fact of different theoretical perspectives and the context of the development of clinical teaching within a jurisdiction. Therefore, clinical learning is defined in different ways, often taking as a basis only elements of the context in which law schools realize a certain form of legal clinical learning. Although there are many definitions of legal clinics, a particular definition of clinical legal education used by Richard J. Wilson is among the most

comprehensive definitions of clinical legal education. This definition consists of five elements which are as follows:

- "(1) provision by students of real legal services to actual clients with real legal problems;*
- (2) students are responsible for their decisions in cases but are closely supervised, with carefully controlled caseloads, by an attorney licensed to practice law in the relevant jurisdiction, preferably a professor who shares the pedagogical objectives of clinical legal education;*
- (3) the clients served by the program are generally people, groups, or organizations that are unable to afford the cost of legal representation or come from traditionally disadvantaged, marginalized, or otherwise underserved communities;*
- (4) academic credit is awarded commensurate with effort in clinical cases; and*
- (5) casework by students is preceded or accompanied by a credit course in the skills, ethics, and values of the practice, as well as the necessary doctrinal knowledge related to the field of practice s of the clinic."*³

According to this definition, the focus is on *"student learning within the law school program through experience in the role of a lawyer with a real client, using the model of planning, doing and reflecting"*.⁴ This definition of clinical teaching is also referred to by other authors, who consider it one of the most complete definitions of legal clinical teaching. However, as will be noted below, not all clinical learning models are unique, and the fact that they do not contain any of the elements mentioned above does not make them any less important.

The beginnings of the development of modern clinical teaching have their basis in the legal education system in the United States of America.⁵ Consequently, the elements of the above definition are mainly based on the American system of clinical teaching, and the legal education systems in Europe have embraced an adapted form of clinical teaching that contains such elements. Undoubtedly, clinical teaching in Universities in Europe, including the methodology of its development, has been supported and influenced by the

³ Wilson, Richard J., *The Global Evolution of Clinical Legal Education: More than a Method*, Cambridge University Press, 2018, p.10.

⁴*Ibid.*

⁵As far as the clinical learning development history in the U.S.A. is concerned, see Giddings, Jeff, Burrige, R., Gavigan, Sh. A. M., Klein, Catherine F., "The First Wave of Modern Clinical Legal Education: The United States, Britain, Canada, and Australia" In Bloch, Frank S. (Ed.), *The Global Clinical Movement: Educating Lawyers for Social Justice*, Oxford Scholarship, 2010.

American System and initially also by American funds. Clinical teaching in Law Faculties in Europe emerged much later as an innovative form of teaching and learning. And, it has positively influenced the professional legal culture of lawyers. In this direction, there is an increasing trend in the development of clinical teaching programs in European universities, especially in the last twenty years⁶, and therefore advancement of clinical teaching throughout this period. Therefore, clinical learning as such can still be considered a current and developing event in the European legal education systems.⁷ The social circumstances of societies in transition have also dictated the need to develop such practical programs that bring innovation and focus on the development of knowledge and practical skills among students. In most cases handling real cases and working with real clients. Thus, legal clinics, in addition to having a significant role in the legal education of students, also play an important social role.⁸ The legal clinical education programs differ considering the context of the national legal framework, which in some legal systems has created greater flexibility for the inclusion of the legal clinics as providers of legal aid, while in other legal systems, including Kosovo⁹, such a legal framework has been more restrictive.

According to Clelia Bartoli, a grouping of legal clinics in Europe by their nature can be done in live legal clinics with direct clients that are offered within the institution, externship-type clinics that are offered outside the institution and students are under the supervision of lawyers, judges, NGOs or

⁶Bartoli, Clelia, *Legal clinics in Europe: for a commitment of higher education in social justice*, 2016, p. 42 Available online at: http://www.dirittoequestionipubbliche.org/page/2016_nSE_Legal-clinics-in-Europe/DQ_2016_Legal-Clinics-in-Europe_specialissue.pdf (15.12.2022)

⁷*Ibid.*, p. 32-33.

⁸The personnel of the Faculty of Law of the University of Pristina, as part of the ENEMLOS project funded by the European Commission, visited in the year 2022 some of the Law Faculties in Poland, including the University of Warsaw, the University of Krakow, and other universities. It has been seen closely that legal clinics are playing a major social role in dealing with cases of war refugees in Ukraine.

⁹According to Law No. 04/L-017 on Free Legal Aid, supplemented and amended by Law No. 08/L-035, and Law No. 08/L-063, the Free Legal Aid Agency has the competence to provide free legal aid. Consequently, the provisions of this law do not leave much room for Law Faculties to independently offer free legal aid. However, the same can be offered in cooperation with the Agency. A more favorable legal space has been created for non-governmental organizations, which can provide authorized legal services, based on the criteria determined by the Ministry responsible for justice, with the proposal of the Agency.

similar and simulation-based clinics in which students work on real or hypothetical cases.¹⁰ Regardless of the clinical model, what each clinical program has in common is the interactive and experiential methodology that enables students to develop professional, practical, and ethical skills. Clinical teaching programs usually have clear pedagogical and assessment objectives, based on recognized models of teaching and learning. The methodology included debates and group discussions, trial simulations, analysis and use of case studies, fieldwork, and interaction with experts.¹¹

In the following part, an analysis of the curricula of public universities in Kosovo is presented, to identify the model of legal clinics which is offered in the legal education system in Kosovo, as well as the teaching/learning methodology.

3. Analysis of clinical teaching programs in the Public Universities of Kosovo

The following table shows the data of the programs of the Public Universities in the Republic of Kosovo in which clinical teaching subjects are offered. While in the following section, a general description of the profile of clinical teaching in Public Universities in the Republic of Kosovo is given, according to the curriculum applied in the year 2022. As for the data for the Faculty of Law of the University of Pristina, except for one analysis of the content of the curriculum and the methodology used in clinical teaching subjects, this paper also presents the results of a questionnaire developed with students regarding clinical teaching at the Faculty of Law of the University of Prishtina, carried out in November 2022.¹²

¹⁰ Bartoli, Clelia. Legal clinics in Europe: for a commitment of higher education in social justice, 2016, p. 35 Available online at: http://www.dirittoequestionipubbliche.org/page/2016_nSE_Legal-clinics-in-Europe/DQ_2016_Legal-Clinics-in-Europe_specialissue.pdf (December 15, 2022).

¹¹ Ibid., p. 39.

¹² Questionnaire for the Development of Clinical Teaching at the Faculty of Law of the University of Prishtina, carried out in November 2022, by Qerkin Berisha, Ph.D., Assistant Professor, Muhamet Vokri, Ph.D., Assistant Professor, and Florent Mucaj, Ph.D., Assistant Professor. This questionnaire was developed and implemented in electronic form and was sent to all students of the Faculty of Law of the University of Pristina, from whom 179 responses were received and processed, and some of their results are presented below.

Table 1: Clinical subjects in Law Faculties of Public Universities in Kosovo

University	The naming of clinical subjects	Clinical subjects: elective (E) mandatory (M)
Faculty of Law, University of Prishtina	– Civil Legal Clinic (II) ¹³	E
	– Family and Inheritance Legal Clinic (II) ¹⁴	E
	– Fiscal Legal Clinic (III)	E
	– Criminal Legal Clinic (Criminal Master) ¹⁵	E
	– Civil Legal Clinic (Civil and Property Master) ¹⁶	E
	– Administrative Clinic (Constitutional and Administrative Master) ¹⁷	M
Faculty of Law, University of Mitrovica	– Civil Legal Clinic (II) ¹⁸	E
	– Criminal Law Clinic (III) ¹⁹	E
	– Fiscal Legal Clinic (IV, Financial Module) ²⁰	E

¹³Civil Law Clinic, course syllabus, accessible at: <https://juridiku.uni-pr.edu/desk/inc/media/6AC06B3A-E598-4829-BFBB-3A42F08BF48E.pdf> (December 20, 2022).

¹⁴Family Law and Inheritance Legal Clinic, course syllabus accessible at: <https://juridiku.uni-pr.edu/desk/inc/media/2B57B2EA-7CD4-4F2C-A8B6-C6A6E56FC9F6.pdf> (December 20, 2022).

¹⁵Criminal Law Clinic (Master) course syllabus, accessible at: <https://juridiku.uni-pr.edu/desk/inc/media/1A295026-20DD-4A96-BA47-AC6853FBDE8E.pdf> (December 20, 2022).

¹⁶Civil Law Clinic (Master), course syllabus, accessible at: <https://juridiku.uni-pr.edu/desk/inc/media/9BA19899-3462-4318-AFF3-2C24E4258BAE.pdf> (December 20, 2022).

¹⁷Administrative Clinic (Master), course syllabus accessible at: <https://juridiku.uni-pr.edu/desk/inc/media/8B28821F-38D9-4652-9D2C-2C2D67439B29.pdf> (December 20, 2022).

¹⁸Civil Law Clinic, course syllabus, accessible at: https://drive.google.com/open?id=16fleR73_cvTxdT0o73bw35545uUg6vm8, (December 20, 2022).

¹⁹Civil Law Clinic, course syllabus, accessible at: https://docs.google.com/document/d/1AyBsJEUU1Dd6_-OH1gs3EPsHbxPl4DkJ/edit?usp=sharing&ouid=1122689_07463106611803&rtpof=true&sd=true (December 20, 2022).

²⁰Fiscal Legal Clinic, course syllabus, accessible at: https://docs.google.com/document/d/1rBaNjPaZlABx3qqEY2Gc-wqkTqYa0uwC/edit?usp=share_link&ouid=112268907463106611803&rtpof=true&sd=true (December 20, 2022).

Faculty of Law, University of Peja	– Civil Legal Clinic (II)	E
University of Gjilan	– Civil Legal Clinic (II) – Criminal Legal Clinic (Criminal Master)	E M
Faculty of Law, University of Prizren	/	

Source: The author based on the analysis of the clinical teaching programs published on the web pages of the Law Faculties of the Public Universities in Kosovo.

Analyzing the clinical teaching programs of the Faculty of Law of the University of Prishtina, and of other Public Universities in Kosovo, the content profile of the clinical teaching programs is presented below:

- *Analysis and legal interpretation.*
- *Development of legal writing skills.*
- *Analysis and discussion of hypothetical and real cases.*
- *Case simulation.*
- *Teaching in the classroom and some cases by judges/lawyers, in some of the legal clinics.*

From the table above it can be seen that the Faculty of Law of the University of Prishtina develops the largest number of clinical teaching subjects. This is natural given the fact that the Faculty of Law of the University of Prishtina is the first Faculty of Law in Kosovo within the framework of public universities that have incorporated clinical teaching subjects within its program plan, initially as a pilot project since the year 2005, and further continuously as part of the regular program of the Faculty of Law. Initially, the civil and criminal clinical subjects were included, and aftermath other clinical subjects.

From a look at the goals that existed at the beginning of the implementation of clinical teaching at the Faculty of Law of the University of

Prishtina when the piloting of clinical teaching began for the first time in the academic year 2004-2005, it is observed that the clinical teaching aimed to establish legal clinics with real clients. And the goal of the Faculty of Law of the University of Prishtina was to help students through legal clinics to develop their knowledge in legal analysis and interpretation, legal writing skills, client interviewing skills, negotiating, and mediating on behalf of clients where appropriate, developing cases, the inclusion of ethical practices in students' work activities, classroom instruction and discussion, as well as fieldwork. Consequently, the main goal was to develop clinical programs with real clients. However, these goals about the intended results for students have only been partially achieved because the legal clinics included in the programs of the Faculty of Law of the University of Prishtina, but also of other Universities in Kosovo, were not developed in the form of legal clinics with real customers. This has caused the clinical teaching incorporated in the curriculum of Law Faculties of Universities in Kosovo not to reflect the content of legal clinical teaching with real clients in many universities of other countries in Europe, as discussed in the second part of this paper. Consequently, the clinical learning programs that have been applied in the legal education system in Kosovo, including the Faculty of Law of the University of Prishtina, have not enabled students to provide real services to clients, which would develop a high degree of accountability and decision-making regarding the cases. At the same time, this has made it impossible to develop the skills of academic staff regarding the methodology of teaching and supervising students in legal clinics with real clients.

However, considering that the teaching methodology developed within the curricular clinical teaching at the Faculty of Law of the University of Prishtina has been much more practical compared to other courses that are mainly of a theoretical nature, the same has been positively evaluated by the student's side.²¹ From the Questionnaire with students of the Faculty of Law of the University of Prishtina, carried out in November 2022, a high degree of

²¹Questionnaire for the Development of Clinical Teaching at the Faculty of Law of the University of Prishtina, carried out in November 2022, by Qerkin Berisha, Ph.D., Assistant Professor, Muhamet Vokri, Ph.D., Assistant Professor, and Florent Mucaj, Ph.D., Assistant Professor. This questionnaire was developed and implemented in electronic form and was sent to all students of the Faculty of Law of the University of Prishtina, of whom 179 responses were received, and processed, and some of their results are presented below.

participation and satisfaction with the content and results achieved within the clinical teaching programs is observed. Based on this research, about 90% of the responding students of the Faculty of Law of the University of Prishtina have attended at least one clinical course during their studies at the Faculty of Law. About 58% of them have attended civil legal clinics, about 45% have attended legal clinics from family and inheritance law, about 19% have attended clinics from criminal law; about 9% attended fiscal clinics, and about 8% attended constitutional-administrative law clinics.²² Students generally rated the clinical teaching as practical, with about 25% feeling that it was very practical, 64% feeling that it was a little practical, and 11% feeling that it was not practical at all.²³ Students estimated in terms of percentage that clinical education mostly helped them: in the compilation of legal papers and documents - 58%, in the better understanding of the applicable laws - 57%, as well as in the practical application of the legislation in force - 54%. Only 33% of students estimated that legal clinics have helped to better prepare them for the labor market.²⁴ However, the questionnaire was addressed to all active students at the Faculty of Law, therefore there may be an inaccuracy in the data, because the number of active students may also include students of more generations.

To provide more accurate data, in terms of the percentage of the number of students who attended the legal clinics by subject, the data from the number of students for each subject for three years were analyzed. These statistics show as well that most students have attended at least one of the clinical courses during their studies at the Faculty of Law of the University of Prishtina. It results from the analysis of data of the SEMS student management system for the academic years 2019/2020, 2020/2021, and 2021/2022, that about 48% of students attended civil clinics; about 14% attended clinics for family and hereditary law; about 14% attended clinics from criminal law, 12% attended clinics from fiscal law, and about 12% attended clinics from constitutional and administrative law.²⁵

²²Berisha, Qerkin, *Legal Clinics from a Kosovo perspective: the way forward* (December 3, 2022), presentation in International Conference of Legal Clinics in Poland, *If not a legal opinion, then what? A modern model of the legal clinic*, University of Szczecin, December 1-4, 2022.

²³ Ibid.

²⁴ Ibid

²⁵ Data on the number of students by subject, registered in clinical study subjects at the Faculty of Law of the University of Prishtina, provided by the Faculty of Law of the University of Prishtina, in January 2023.

The data from the above questionnaire allows us to assess that in the sense of learning for students, many of the methods used in the provision of clinical teaching in other universities have been applied. Therefore, each of the clinical learning programs offered by the Faculty of Law of the University of Pristina has included debates and group discussions, trial simulations, analysis and use of case studies, fieldwork, and interaction with experts. This is also observed from the content and goals that are intended to be achieved within these clinical learning programs.²⁶ However, the above statistics also allow us to understand that although clinical teaching has positively impacted the preparation of students, there remains much room to improve and adapt clinical teaching programs.

It is evident that some of the curricula of clinical subjects of other public universities in Kosovo, especially those of legal-civil clinics, have been influenced almost 100% by the content of the programs of the Faculty of Law of the University of Prishtina. One of the main factors why we have such a similarity is precisely the fact that before their independence, these Law Faculties had initially functioned as branches of the University of Prishtina and within the programs of the University of Prishtina. Another influential factor was the fact that in most of the public universities established after the year 2010, initially the teaching in clinical subjects was held by the professors at the University of Prishtina. However, some of the Law Faculties of public universities have not managed to incorporate clinical teaching subjects as regular subjects within their programs, such as the case of the University of Prizren. Considering that for other Faculties of Law, no questionnaire has been developed with students, it is difficult to assess the satisfaction and impact of the legal clinics on students who have attended them, as well as the percentage of students of these faculties who have attended the courses of clinical teaching. However, in terms of content, and the intended goals of clinical learning included in the curriculum of these courses, they do not differ from those of the Faculty of Law of the University of Prishtina.

To be noted is the very positive impact of the ENEMLOS project, funded by the European Commission, which aims to improve the quality of

²⁶See, for example, The clinical teaching program at the Civil Law Clinic, Faculty of Law of the University of Pristina, accessible at: <https://juridiku.uni-pr.edu/desk/inc/media/6AC06B3A-E598-4829-BFBB-3A42F08BF48E.pdf> (December 20, 2022).

education, increase the mobility of professors, assistants, administration, and mainly students, develop new program curricula, and increase the employability of law students through the practical education of Higher Education Institutions.²⁷ To this end, the Faculty of Law of the University of Prishtina has started implementing pro-bono legal services in cooperation with the Agency for Free Legal Aid, where students have started handling real cases with clients since the year 2022. In addition, a review of all clinical teaching programs is in process, focusing on clinics with real clients, but also on the inclusion of experts and professionals in the field as part of clinical teaching programs within the Faculty of Law of the University of Prishtina. Other law faculties that are part of the ENEMLOS project have also undertaken some actions aimed at improving the clinical teaching programs.

4. Conclusions and recommendations

The social circumstances in which Kosovo took place in the period after the year 1999, which were characterized by many social problems, problems in the field of property rights, and in general the challenges of building institutions, constituted a favorable environment for the development of clinical legal teaching in a more advanced form. Clinical teaching, in these circumstances of reforms and general social transformation, could be more easily accepted and incorporated as part of university curricula. The consequences of the 1998/1999 war, which the Kosovar society faced and continues to face, as well as the need to aid categories of society, would create a suitable environment to develop clinical teaching. Having said that, I have in mind the large number of problems related to property rights, the damage caused by the war, the rights of minorities and other vulnerable groups, as well as many families and persons who had and continue to have impossible financially afford the provision of legal aid. At the same time, all university programs in this period have gone through a reform process, which has enabled their adaptation to the new circumstances of transformation, and at the same time enabled the advancement of the practical knowledge of law students, through direct engagement in dealing with these problems.

²⁷ENEMLOS project: <http://www.fupp.org.pl/en/news/9-polski/aktualnosci/303-enemlos>

It results from the above analysis of the curricula of the Faculty of Law of the University of Pristina and other Public Universities in the Republic of Kosovo that, the inclusion of clinical teaching in the programs of all Public Universities had a positive impact. A major role in this direction has been played by the Faculty of Law of the University of Pristina, which has been the leader and is ready to include clinical teaching as a new form of teaching within its program plan. The same has been followed by other public universities that were created in the period after 2010, but also by private colleges. Donor support for such a reform should undoubtedly be thanked. The very existence of clinical legal education within these programs proves that the legal education system in the Republic of Kosovo has understood and understands the need for clinical legal education. Consequently, the focus from now on can easily be directed towards the further development of these programs and their adaptation to the best clinical teaching practices proven in other Universities in Europe.

However, from the above analysis of clinical programs in Public Universities in Kosovo and their implementation, Public Universities have not managed to use and maximize the benefits of such an appropriate momentum that existed in the initial stages of the development of legal clinical teaching. The use of such momentum would enable the development of a more advanced form of clinical teaching which would center on the provision of legal advice and/or some other form of clinical teaching which would center on direct work with clients. There have been many factors that have prevented such development, including the legal framework in force and the structural problems that have accompanied the reform processes in higher education in Kosovo. Although there were occasional early initiatives with donor support, public universities have so far failed to establish sustainable clinical learning programs in which students would provide legal advice to clients and work with real clients.

However, as noted above, the advancement of clinical learning is not something done and over. Therefore, the University of Pristina and other universities in Kosovo will be able to follow the steps of other universities in Europe by implementing good experiences and managing to benefit from the lessons of other universities regarding the implementation of clinical teaching. The implementation of the EU-funded ENEMLOS Project, which aims to advance legal clinical learning and enable the implementation of legal clinics

with real clients, could be considered a turning point, where the University of Pristina and universities other public universities in Kosovo, start thinking seriously about the advancement of clinical teaching, also benefiting from the exchange of experiences with other universities in Europe. A positive example, without a doubt, is the opening of an office for free legal aid within the Faculty of Law of the University of Pristina, which will be realized in cooperation with the Agency for Free Legal Aid.

There are several challenging legal issues in the implementation of legal clinical teaching in the Republic of Kosovo. Among these challenging issues is the inability of the academic staff of law faculties to practice the profession of lawyer. Such a thing is allowed everywhere in the legal systems in Europe, and it would be in the best interest of the students if the teachers are equipped with practical experience. At the same time, it would be an additional asset to the legal circles and to the public universities themselves that teachers could practice law. However, the implementation of legal clinics up to the level of offering legal opinions to clients, under the leadership of professors of legal subjects, I consider that there is a sufficient legal basis even in the current legislation for advocacy, but unfortunately it has not been thought of so far to be realized in practice. Another challenging issue is the creation of a clear legal basis, which will enable law faculties to independently offer free legal assistance to clients, which should be the main medium-term goal of law faculties in Kosovo.

Literature

- Bartoli, Clelia. Legal clinics in Europe: for a commitment to higher education in social justice, 2016, available online at: http://www.dirittoequestionipubbliche.org/page/2016_nSE_Legal-clinics-in-Europe/DQ_2016_Legal-Clinics-in-Europe_specialissue.pdf (December 15, 2022)
- Berisha, Qerkin, *Legal clinics from Kosovo perspective: the way forward*, (December 3, 2022), presentation in International Conference of Legal Clinics in Poland, *If not a legal opinion, then what? A modern model of the legal clinic*, University of Szczecin, 1-4 December 2022.

- Giddings, Jeff, Burrige, R., Gavigan, Sh. AM, Klein, Catherine F., “The First Wave of Modern Clinical Legal Education: The United States, Britain, Canada, and Australia” In Bloch, Frank S. (Ed.), *The Global Clinical Movement: Educating Lawyers for Social Justice*, Oxford Scholarship, 2010.
- Wilson, Richard J., *The Global Evolution of Clinical Legal Education: More than a Method*, Cambridge University Press, 2018.
- Questionnaire for the Development of Clinical Teaching at the Faculty of Law of the University of Pristina, carried out in November 2022, by Querkin Berisha, Ph.D., Assistant Professor, Muhamet Vokrri, Ph.D., Assistant Professor, and Florent Mucaj, Ph.D., Assistant Professor.
- Data from the Electronic Student Management System, for the number of students enrolled in clinical courses for the period of academic years: 2019/2020, 2020/2021, and 2021/2022 at the Faculty of Law of the University of Prishtina, provided by the Faculty of Law of the University of Pristina, Prishtina, January 2023.
- Law No. 08/L-035 on amending and supplementing Law No. 04/l-017 on Free Legal Aid, Official Gazette of the Republic of Kosovo, No. 8/2012, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=55138> (December 28, 2022).
- Law No. 08/L-063 on amending and supplementing the laws related to the rationalization and establishment of accountability lines of independent agencies, Official Gazette of the Republic of Kosovo, No. 30/2012, accessible at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=62599> (December 28, 2022).
- Law No. 04/L-017 on Free Legal Aid, Official Gazette of the Republic of Kosovo, No. 3/2012, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2803> (December 28, 2022).
- Law No. 04/L-193 on Advocacy, Official Gazette of the Republic of Kosovo, No. 20/2013, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8673> (December 28, 2022).
- ENEMLOS project, accessible at: <http://www.fupp.org.pl/en/news/9-polski/aktualnosci/303-enemlos> (December 28, 2022).
- Administrative Clinic (Master) course syllabus, Faculty of Law, University of Prishtina, available at: <https://juridiku.uni-pr.edu/desk/inc/media/8B28821F-38D9-4652-9D2C-2C2D67439B29.pdf> (December 20, 2022).

- Civil Law Clinic (Master) course syllabus, Faculty of Law of the University of Prishtina, accessible at: <https://juridiku.uni-pr.edu/desk/inc/media/9BA19899-3462-4318-AFF3-2C24E4258BAE.pdf> (December 20, 2022).
- Civil Law Clinic course syllabus, Faculty of Law, University of Mitrovica, accessible at: https://drive.google.com/open?id=16fleR73_cvTxdT0o73_bw35545uUg6vm8, (20.12.2022). https://docs.google.com/document/d/1AyBsJEUU1Dd6_-OH1gs3EPsHbxPI4DkI/edit?usp=sharing&oid=112268907463106611803&rtpof=true&sd=true (December 20, 2022).
- Fiscal Legal Clinic course syllabus, Faculty of Law, University of Mitrovica, accessible at: https://docs.google.com/document/d/1rBaNjPaZlABx3qqEY2Gc-wqkTqYa0uwC/edit?usp=share_link&oid=112268907463106611803&rtpof=true&sd=true (December 20, 2022).
- Family and Inheritance Law Clinic course syllabus, Faculty of Law of the University of Prishtina, accessible at: <https://juridiku.uni-pr.edu/desk/inc/media/2B57B2EA-7CD4-4F2C-A8B6-C6A6E56FC9F6.pdf> (December 20, 2022).
- Criminal Law Clinic (Master) course syllabus, Faculty of Law of the University of Prishtina, accessible at: <https://juridiku.uni-pr.edu/desk/inc/media/1A295026-20DD-4A96-BA47-AC6853FBDE8E.pdf> (December 20, 2022).
- Civil Law Clinic course syllabus, Faculty of Law, University of Prishtina, accessible at: <https://juridiku.uni-pr.edu/desk/inc/media/6AC06B3A-E598-4829-BFBB-3A42F08BF48E.pdf> (December 20, 2022).

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SKILLS DEVELOPMENT USING LEGAL CLINICS

INTRODUCTION

Clinics provide students with practical legal experience from appropriate persons including professors but also different lawyers to gain professional training from the education and guidance they could receive from them. So, through them, students are required to be trained in a technical aspect by breaking down the theory as well as preparing them for their skills after graduation.

In Kosovo, these clinics must be a key part not only for public Law Faculties but also for private ones because the students who graduated from these institutions prepared for their position in life after their studies. Through the legal clinics, we can reach two points, the first point is the teaching, which requires that the people who give these clinics have good and effective skills, as well as the students develop their practical skills from the teaching they receive from the staff or experts including different lawyers.

Legal clinics at the law school are programs that provide law students with opportunities to gain practical legal experience while still in their studies. These clinics are usually run by law schools and offer law students the opportunity to work on real cases under the supervision of experienced attorneys and professors.

Legal clinics in law school are usually structured as courses that law students can take for academic credit. Depending on the program, students may

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be able to participate in clinics that focus on specific areas such as criminal, civil, constitutional, financial, etc.

SKILLS DEVELOPMENT USING LEGAL CLINICS

A good cause also needs a good lawyer. A good advocate can deploy his good skills to turn an otherwise bad case to good against a weak advocate. Legal skills refer to the ability to apply knowledge of the law to solve legal problems. The basic skills that a lawyer requires are in the area of advocacy, legal drafting, negotiations, legal research, management, and verbal communication (S.K Mokidi and C.A. Agbebaku). Countries including Australia, Canada, Chile, England, India, South Africa, the United States, and Zimbabwe saw the development of clinical programs in the 1960s and 1970s. New law schools with young academics and socially active students were responsible for much of this development. Chile, India, South Africa, and Zimbabwe are examples of nations where community service imperatives and state expectations about law schools playing a substantial role in legal service delivery were central to the establishment of the early clinics (Thanaraj).

The benefits of attending a legal clinic at a law school are many. Law students can gain practical experience working on real cases, which can be invaluable when applying for jobs after graduation. They can also develop important skills, such as legal research and writing, client communication, and advocacy. Additionally, legal clinics can help students make connections in the legal community, which can be helpful when looking for work or starting their legal practice.

Clinical legal education driven through legal clinics is a legal teaching method based on experiential learning, which fosters the growth of knowledge, personal skills, and values as well as promotes social justice at the same time. As a broad term, it encompasses varieties of formal, non-formal, and informal educational programs and projects, which use practical-oriented, student-centered, problem and community-based, interactive learning methods, including, but not limited to, the practical work of students on real cases and social issues supervised by academics and professionals. These educational activities aim to develop professional attitudes and foster the growth of the practical skills of students concerning the modern understanding of the role of

the socially oriented professional in promoting the rule of law, providing access to justice and peaceful conflict resolutions, and solving social and community problems.

Legal clinics at the law school provide law students with valuable opportunities to develop their legal skills and gain practical experience in a real-world environment. By working on real-world cases under the supervision of experienced attorneys and professors, law students can gain valuable skills in legal research, writing, advocacy, client communication, and more.

In addition to these essential legal skills, legal clinics in law school can also provide opportunities for law students to develop other important professional skills, such as teamwork, time management, and project management. By working on a case or project as part of a team, law students can learn how to collaborate effectively with others and manage their time and resources efficiently.

Legal clinics at the law school can also provide opportunities for law students to develop leadership skills. As students work on cases and projects, they may have the opportunity to take on leadership roles, such as managing a team of students or leading a research project. These experiences can help students develop their leadership skills and prepare them for future roles as attorneys or in other leadership positions.

Legal clinics are courses that provide legal services to individuals who may not have the means to afford a private attorney. They often focus on assisting low-income individuals and marginalized communities and can provide a range of services, including legal advice, representation, and advocacy. One of the important points is the possibility of creating different clinics.

Legal clinics play an important role in promoting access to justice and providing legal services to underserved communities. Legal clinics are usually run by law schools or bar associations, and they provide a variety of legal services to clients who may not otherwise have access to legal representation.

The role of legal clinics can vary depending on the specific focus of the clinic. Some clinics may focus on specific areas of law, such as family law, immigration law, or environmental law. Other clinics may focus on specific populations, such as low-income individuals, refugees, or victims of domestic

violence. Regardless of their specific focus, legal clinics typically provide a variety of services, including legal representation, education, and advocacy. Legal clinics can help clients navigate the legal system, understand their legal rights, and obtain legal representation when needed. They can also provide education and training on legal issues to the wider community and advocate for policy changes to address systemic legal issues.

The European Standards for Legal Clinics were developed by the European Network for Clinical Legal Education (ENCLE), an organization that aims to promote clinical legal education across Europe. Since 2018, ENCLE is engaged in an open process to create a common set of Standards for Clinical Legal Education (CLE) in Europe. The main aim is to provide some guiding principles on CLE to law clinics in Europe. The standards provide a framework for the establishment and operation of legal clinics, to ensure that legal clinics provide high-quality legal services and education to their students (European Network for Legal Clinical Education, n.d.).

The European standards for legal clinics cover a range of topics, including the qualifications and training of clinic directors and staff, the types of legal services provided, and the supervision and assessment of student work. Some of the key standards include:

1. Supervision: Legal clinics should provide close supervision of students by qualified staff or staff members. Supervisors should provide regular information and guidance to students to ensure they are meeting standards of professional competence.
2. Qualifications: Clinic directors and staff must have relevant experience and qualifications in the areas of law covered by the clinic. They must also have experience in clinical legal education and be committed to the goals of the legal clinic.
3. Ethics: Legal clinics must operate by ethical standards, including maintaining client confidentiality and avoiding conflicts of interest.
4. Curriculum: Legal clinics should be integrated into the law school curriculum and provide students with a structured learning experience that includes both classroom instruction and hands-on experience.
5. Evaluation: Legal clinics should regularly evaluate their operations and effectiveness, using feedback from clients, students, and staff to make improvements and ensure they are meeting the needs of the

community. (European Network for Clinical Legal Education, 2013) These standards provide a useful framework for the development and operation of legal clinics in Europe, helping to ensure that they provide high-quality legal services and education to their students, while also serving the needs of the community (European Network for Clinical Legal Education, 2013).

The goals and methods we select for assessment are important. "Assessment methods and requirements probably have a greater influence on how and what students learn than any other single factor. This influence may well be of greater importance than the impact of teaching materials" (Stuckey, 2014).

Changing the assessment procedure is one of the most effective ways of changing how and what students learn. Surface approaches are induced by excessive workloads, a narrow band of assessment techniques, and undue emphasis on knowledge reproduction. Deep approaches are influenced by choice, a variety of assessment methods, project work, and an emphasis on tasks that demand a demonstration of understanding (Stuckey, 2014). Thus, legal educators, including clinical teachers, should consider carefully what we are trying to assess and how we are doing it (Stuckey, 2014).

In addition to these benefits for students, legal clinics can also provide important legal services to underserved communities. By providing free or low-cost legal services, legal clinics can help ensure that everyone has access to justice, regardless of their income or background.

Overall, legal clinics are an important component of legal education, providing students with valuable practical experience while also promoting access to justice and serving the needs of the community.

Attending a legal clinic can be a valuable component of career planning for students who are interested in pursuing a career in law. Legal clinics provide students with hands-on experience working with real clients and real legal cases, which can help students develop a deeper understanding of the legal profession and areas of law in which they may be interested.

Working in a legal clinic can also help students build a network of contacts in the legal profession. Through their work in the clinic, students can

develop relationships with supervisors, mentors, and fellow students who may be able to provide guidance and support as they move forward in their careers.

Legal clinics can also help students identify their areas of interest within the legal profession. By working on a variety of legal cases and issues, students can gain a better understanding of the types of work they find most appealing and rewarding. This understanding can be invaluable as students make decisions about their career paths and begin to explore job opportunities.

In addition to these benefits, legal clinics can also help students develop a variety of practical skills that are valuable in many different areas of the legal profession. These skills include legal research and writing, client counselling, negotiation, and trial defense. By developing these skills in the context of a legal clinic, students can show potential employers that they have practical experience and are ready to hit the ground running in their new roles.

Overall, participation in a legal clinic can be an important component of career planning for students who are interested in pursuing a career in law. Legal clinics can help students gain practical experience, build a network of contacts, identify their areas of interest, and develop valuable skills that will serve them throughout their legal careers.

The impact of legal clinics on the protection of human rights

Clinical legal education provides law students with real-life work experience, develops local legal capacity, and helps protect human rights around the world. Law clinics train lawyers and law students in the spirit of social justice and public service and provide desperately needed legal services in underserved communities (Initiative, 2009).

The Universal Declaration of Human Rights, adopted by the UN General Assembly on December 10, 1948, envisaged the equality of every person before the law. Besides, the declaration states that everyone has the right to protection against discrimination and also to the effective restoration of violated rights.

The state provides access for everyone to legal aid to effectively restore violated rights. Moreover, such access to legal aid should not depend on the

financial status of the person in need of such aid. Legal clinics of higher education institutions are an important subject in providing legal aid. Law clinics have many socially significant functions. The main function is to provide free legal aid to low-income citizens, as well as to develop students' practical skills, which they will need in their practical activity after graduation (Kivalov, 2019).

Legal clinics play an important role in the promotion and protection of human rights, especially for marginalized and vulnerable communities who may not have the means to access legal services. Legal clinics can provide legal representation, advocacy, and education on human rights issues, as well as conduct research and policy work on human rights topics.

In terms of legal representation, legal clinics can help individuals and groups whose human rights have been violated by providing them with advice, assistance, and legal representation. This may include representing clients in court, filing human rights complaints, and advocating for policy changes to address systemic human rights issues.

Legal clinics can also work to promote human rights by providing education and training on human rights issues to the wider community. This may include organizing seminars, training sessions, and public events on topics such as discrimination, access to justice, and freedom of speech.

The International Human Rights Clinic advances human rights around the world while training the next generation of advocates. Working closely with expert clinicians, law students take the lead on lawyering and advocating for human rights across a range of thematic and geographic areas, using a variety of skills that reflect the diverse modes of human rights practice. The Clinic serves as a partner and legal advisor to human rights and civil rights organizations in the United States and globally, including international, grassroots, and movement-based organizations, as well as communities and individuals directly affected by abuse (School, n.d.).

The impact of legal clinics on the protection of children's rights

Many universities, law schools, and NGOs run programs offering free legal advice and assistance. Clinical legal education has become an accepted and integral complement to traditional law school curricula. Professor Duquette argues that clinical education is uniquely able to integrate the teaching of practical skills and legal doctrine, elevating students' understanding of both. Duquette maintains that a child advocacy law clinic can teach a broad range of practical skills and benefit the hosting law school by providing an opportunity for interdisciplinary education as well as a public relations benefit, while simultaneously serving an important need in most communities for quality representation of all parties in child abuse and neglect cases (Duquette, 1997).

Legal clinics can play an important role in promoting and protecting child protection rights. Child protection involves ensuring that children are safe and free from harm, including protection from abuse, neglect, and exploitation. Legal clinics can provide a range of services related to child protection, including legal representation, education, and advocacy.

In terms of legal representation, legal clinics can help children and families who have experienced abuse or neglect by providing them with advice, assistance, and legal representation. This may include representing clients in court, presenting child protection cases, and advocating for policy changes to address systemic child protection issues.

Like many clinical programs, a child advocacy clinic links the law school and the practicing bar, narrowing the gap between the academy and the practice of law. The community service discussed above develops and enhances the law school's constituency which includes the bench, bar, and broader community. Because children are a sympathetic class of citizens, there is a high public relations benefit from a child advocacy clinic (Duquette, 1997).

Legal clinics can also work to promote child protection by providing education and training on child protection issues to the wider community. This may include organizing seminars, training sessions, and public events on topics such as child abuse, neglect, and exploitation.

In addition to these direct services, legal clinics can also conduct research and policy work on child protection issues, working to identify

systemic issues and advocating for policy changes to address them. This may include researching issues such as child trafficking, child labor, and children.

The ideal clinical program is not a fad but an element of the core curriculum that consistently achieves educational outcomes fundamental to a law school's mission.

The traditional goals of a clinic are met by a teaching style of "planning, doing, reflecting." A good clinical experience integrates general legal practice skills with the study of legal doctrine. One cannot separate theory from practice, abstract knowledge from practical skill, or understand the professional role from the experience of professional action. No matter what specialty a clinic engages in—landlord-tenant, public benefits, criminal defense, or child advocacy—the educational objectives should be to teach skills that can be applied to other areas of the practice of law (Duquette, 1997).

BARRIERS FROM LEGAL CLINICS

Legal clinics can be a valuable resource for individuals who cannot afford the services of a private attorney. However, there are several barriers to accessing legal clinics. Below we will list some of the barriers to legal clinics in Kosovo:

- 1) *Limited resources*: Legal clinics may face challenges related to limited financial and human resources. This can impact their ability to provide quality legal services to clients.
- 2) *Lack of awareness*: Many people in Kosovo may not be aware of the services provided by legal clinics. This can lead to a lack of demand for these services and may make it difficult for legal clinics to reach those who need them.
- 3) *Political instability*: Kosovo has experienced political instability in the past, and this can create a challenging environment for legal clinics to operate in.
- 4) *Cultural differences*: Cultural differences between legal professionals and clients may make it difficult to effectively communicate and understand each other.
- 5) *The Agency for Free Legal Aid* - The Agency as a state instrument, which in annual terms captures the figure of approximately 2,000

documents per year since its establishment, prevents legal clinics from handling real cases, for many reasons, the cooperation that the Agency has also built with different lawyers.

Conclusions

Legal clinics are essential resources that provide legal services and support to individuals and communities that may otherwise have difficulty accessing legal aid. Legal clinics serve a vital role in promoting access to justice and ensuring that everyone, regardless of income level, has the opportunity to receive legal assistance. They offer a wide range of services, including legal advice, representation, and education. The skills and development of legal clinics are crucial to their effectiveness in providing this assistance.

One important aspect of skills and development for legal clinics is training for clinic staff and volunteers. This training should cover legal knowledge and skills, communication skills, cultural competence, and ethical considerations.

Legal clinics should also prioritize the development of relationships with community organizations and other legal service providers. This can help clinics better understand the community's needs and provide more comprehensive and effective legal assistance. Overall, the skills and development of legal clinics are critical to their ability to provide high-quality legal assistance to those who need it most.

In addition, legal clinics should focus on continuous evaluation and improvement of their services. Regular assessment of the clinic's impact and effectiveness can help identify areas for improvement and ensure that the clinic is meeting the needs of its clients.

Legal clinics are also a source of increased effectiveness in protecting freedoms and human rights, as well as in protecting children's rights.

Legal clinics not only provide legal services, but they also serve as advocates for social justice and work toward systemic change. They often engage in community education and outreach programs, empowering individuals to understand and assert their legal rights.

However, legal clinics face significant challenges, such as limited resources and funding, and increasing demand for their services.

Abstract:

Legal clinics are the key points of the transfer of theoretical knowledge to practical ones. The educational process is closely related to them. Therefore, one of the many problems that Law Faculties in Kosovo have had is the breakdown of theories in practical terms. What is encouraging is that most of the law faculties have already incorporated it either as a compulsory or elective subject in their programs.

Given the productive results legal clinics are the most productive methods of organizing educational activities which are direct contributors to increasing the level of mastery of theoretical skills from various legal branches, including criminal, civil, or even administrative ones in a clinical aspect, acquire the ability to resolve disputes.

Based on the experiences of different countries, it is assumed that through legal clinics in teaching, students get training that prepares them for their life after studies, whether as professional lawyers or even as judges and prosecutors, as well as for other social, legal, and political issues.

Keywords: Legal Clinic, educational process, law faculties, experiences.

Bibliography

- The Thanaraj, A. (n.d.). UNDERSTANDING HOW A LAW CLINIC CAN CONTRIBUTE TOWARDS STUDENTS' DEVELOPMENT OF PROFESSIONAL RESPONSIBILITY. (C. University, Ed.) UK.
- European Network for Legal Clinical Education. (n.d.). Retrieved February 27, 2023, from <https://www.encl.org/events-and-news/news/european-standards-for-clinical-legal-education>
- European Network for Clinical Legal Education, r. a. (2013, 10 27). *European Standards for Clinical Legal Education*. Retrieved february 2023, from [encl.org: https://www.encl.org/upload/lg/about-us/ENCLE_statute_amendment_2015_registered_version.pdf](https://www.encl.org/upload/lg/about-us/ENCLE_statute_amendment_2015_registered_version.pdf)
- Stuckey, R. (2014, july 18). *International Journal of Clinical Legal Education*. Retrieved March 05, 2023, from <https://journals.northumbria.ac.uk/index.php/ijcle/article/view/85>
- Initiative, O. S. (2009). *Legal Clinics serving people, improving justice*. (O. S. Initiative, Producer) Retrieved 2023 March, from Justice Initiative: https://www.justiceinitiative.org/uploads/0763f81d-04c4-4f72-bd88-67f6ee89dd69/legalclinics_20090101.pdf
- Kivalov, S. (2019). LEGAL CLINICS AS AN IMPORTANT ELEMENT OF HUMAN RIGHT FOR FREE LEGAL AID CLÍNICAS DE DERECHO COMO UN ELEMENTO IMPORTANTE EN LA DEFENSA GRATUITA DE LOS DERECHOS HUMANOS. *Ius Humani*, 169-186.
- School, H. L. (n.d.). *harvard.edu*. Retrieved february 15, 2023, from <https://hls.harvard.edu/clinics/in-house-clinics/international-human-rights-clinic/>
- Duquette, D. N. (1997). Developing a Child Advocacy Law Clinic: A Law School Clinical Legal Education Opportunity. *University of Michigan Journal of Law Reform*, 31, 32.
- S.K Mokidi and C.A. Agbebaku. (n.d.). Legal Clinics and Professional Skills Development in Nigeria. *International Journal of Clinical Legal Education*(17), 44.

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LEGAL CLINICS IN LAW FACULTIES – THEIR ROLE AND IMPORTANCE IN PROVIDING FREE LEGAL ASSISTANCE

INTRODUCTION

The legal clinic is a constituent unit of an institution of higher education, respective of the Faculties of Law of these institutions organized and functioning according to the provisions of the legislation in force for higher education. Its main role is to provide primary legal aid without profit (free), according to the provisions in the statute of the institution of higher education. (Albania, 2017)

A legal clinic is a program organized within the law faculty, which gives opportunity to students of law to prepare themselves practically and in the same time to earn ECTS credits. During the practical work of the legal clinics, students perform legal tasks, such hearing of clients, increase level of legal communication, legal research, draft documents and decisions, doing different legal interviews, ect. (Fabio, n.d.)

Many jurisdictions allow students to appear in court on behalf of clients, even in criminal defense, but this is not allowed in Kosovo legislation. (Ehat Miftaraj, 2017) Most legal clinics are only open to third-year law students, although some faculties may offer opportunities for second-year students as well. Legal clinics are generally legal work that is done pro bono, that is, free legal services are provided to clients and supervised by law professors. There is usually no classroom component to legal clinics, but students receive credit for the time they spend in the legal clinic. Participating in a legal clinic is a great way for students to gain practical experience before entering the job market.

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Legal clinics are available in many areas of law, including but not limited to:

- *Community legal services*
- *Criminal law*
- *Law of elders*
- *Law on environment*
- *Family law*
- *Human rights*
- *Immigration law*
- *Tax law*

LAW CLINIC, PART OF LEGAL EDUCATION

The law clinic is a non-profit law enforcement practice that serves the public interest. The law clinic was born as a teaching method to help students in the practical learning of law and was later developed in the form of free legal aid, unrelated to the academic field. A law clinic is a type of legal education program where law students have the opportunity to gain practical, hands-on experience in the legal profession by working on actual cases or projects under the supervision of licensed attorneys or law professors. Law clinics typically focus on serving underrepresented or marginalized communities and providing legal services to those who may not have access to or cannot afford legal representation.

Law clinics are a valuable component of legal education because they allow law students to apply their legal knowledge and skills to real-world situations and learn about the practical aspects of practicing law.

In the academic sense, law clinics offer practical experience to law students in law faculties as well as various legal services in terms of extensions, mainly to the vulnerable population who cannot afford such professional assistance against payment. Academic clinics are programs usually run by clinic professors. Many legal clinics offer pro bono work in one or more areas of law, providing free legal services to clients.

This is a field of law that has spread to many law faculties, due to the advantages it brings and the new horizons it offers to students and law professors alike. It brings several innovations in many aspects of legal

education, therefore it has been seen as an integral part of it. We can never talk about a complete legal education without the presence of legal practice and the irreplaceable skills that students acquire by practicing law.

Clinical education aims to show students a certain way of learning, different from their main goal of how to think like a lawyer. The ability to transfer, the ability to generalize lessons and skills learned from a particular place and situation and apply them to a similar lesson or situation is also the heart of clinical education. (Carolyn Grose)

This goal is intended to help students make connections between their clinical experience and other legal situations they face in their careers by reflecting on the skills acquired in the clinic. One of the main applications of this goal is teaching students to recognize the choices of the moment and to be able to make deliberate choices in the face of uncertainty. (Carolyn Grose)

Law clinics can take many different forms, including civil rights clinics, environmental law clinics, criminal defense clinics, and more. They may also partner with community organizations, government agencies, or other legal service providers to expand their reach and provide more comprehensive legal services to their clients.

PURPOSE OF THE LEGAL CLINIC

The two main goals of the clinic are:

- Education about the law and the right of young people who are part of the community;
- Ensuring professional development of law students during their practice.

The purpose of the Legal Clinic is the practical training of law students of the Faculty of Legal Sciences and International Relations, through their engagement in dealing with the issues that are the object of its activity. The Legal Clinic aims for students, through the concrete legal assistance they will provide to applicants, to complete their knowledge also through the study and practical solution of concrete legal issues, whether these are judicial or

administrative. The Law Clinics offer free legal assistance for problems within the services provided by central and local public administration bodies.

The important goal of clinical education is to teach students the concepts of social justice which extends to two areas: 1. To point out to students the scope of the legal system, its place and role in society, and 2. You challenge them to think critically about the system. (Companies, 2011)

Clinics can vary from country to country and often even within a country. These differences in clinics may be the result of various socio-economic and political factors. However, despite such differences in the structure and content of the clinics, they share similarities in their mission. Most of the clinics have developed in law faculties the help clinics that follow a noble motive, that of providing free legal help to the poor.

An experience in the legal clinic may influence students in their commitment to perform pro bono services during their legal careers or to become indigent advocates. (Anna E. Carpenter)

AIM OF THE LEGAL CLINIC

The primary aim of a legal clinic is to provide law students with practical, real-world experience in the legal profession by allowing them to work on actual cases or projects under the guidance and supervision of licensed attorneys or law professors. In doing so, law clinics aim to prepare students for the demands and challenges of practicing law, while also providing valuable legal services to the community.

The Legal Clinic aims to facilitate access to justice for individuals from marginalized groups of society and the exercise of the constitutional rights of those social groups or individuals who are economically unable to afford them, as well as to train them in the best possible way in practice law students.

The students who are part of the Legal Clinic are carefully selected among the excellent students of the University. They will develop their work by being supported and supervised all the time by lecturers and experts in different fields of law. A legal clinic aims to bridge the gap between legal education and the legal profession by providing students with hands-on experience and

preparing them to become effective and responsible attorneys while also serving the needs of the community.

LEGAL CLINIC SERVICES

The Legal Clinic offers primary or emergency assistance to the individual, providing the latter with the necessary legal information for the specific case and orienting him/her regarding the actions to be taken. The main focus is professional legal advice but, according to specific situations and cases, the members of the legal clinic can also help the individual through the formulation of various administrative requests, the return of answers, the compilation or control of claims-lawsuits or other judicial materials, notarial acts, etc. (University Mediterranean, n.d.)

Specifically, the services offered by the Legal Clinic are;

- Qualified legal advice for economically disabled persons.
- Providing basic information about the rights and obligations that citizens of the Republic of Kosovo have, according to the Constitution and laws in force.
- Providing information about administrative, judicial, or mediation procedures for solving administrative problems or judicial conflicts that the applicant may have.
- Guidance of the individual in the correct identification of the legal issue, the institution to which it should be addressed or the competent court for judging the case, and the correct legal form through which the denied right or the requested service should be requested. The information will be provided in writing at a later time, according to the time required for drafting the relevant legal opinion.
- Assisting in the drafting of letters, requests, complaints, or any other necessary legal material, addressed to public administration institutions, judicial bodies, or private parties, according to the needs of the individual.

By offering these services, legal clinics can help ensure that underrepresented or marginalized communities have access to legal resources and support. This can help to address the inequalities in the justice system and

promote equal access to justice for all. Additionally, legal clinics can provide law students with practical experience in providing primary legal aid, which can help prepare them for careers in public interest law and other areas of the legal profession.

WHAT DO CLINIC STUDENTS BENEFIT MORE THAN OTHERS?

The benefits of the clinic are truly numerous. First, it helps to ensure a good and harmonious legal education for students, as it gives them the basic experiences necessary to engage in the profession. Second, the clinic often serves individuals to address critical legal issues that would otherwise go unaddressed. Third, students are very demanding as practitioners. They find ways to advance the law and the practice of law in ways that create meaningful change. The involvement of students in practice will have an important social impact on the entire community. They are inclined to seek change, highlight those areas that are problematic, and see things with a critical eye.

Top clinical professors at world universities have been asked why the clinic is a must for students. Today, more and more importance is being paid to the clinic, as an integral part of legal education, and it is even being developed and perfected in new and valuable forms for students and academic staff. In their opinions, they have expressed that the clinic is an integral part of the legal education offered to students, as it offers them some essential qualities that they cannot benefit from only acquiring theoretical subjects.

To be a part of cynicism means to touch law, to make it from abstract to concrete, to benefit and get the most out of it in short, it provides those with the basic skills, judgment, and values necessary to engage in the practice of the law. Work in the clinic is intensive. She confronts students with difficult legal issues and with clients who have gone through various hardships in their lives. It confronts them with the challenge of discovering who they are as people, who they are as students, and whom they want to be as future lawyers. (Pinard, 2012)

PROVISION OF PRIMARY LEGAL AID BY LEGAL CLINICS

Primary legal aid is provided by legal clinics set up near higher education institutions. The Free Legal Aid Office cooperates with legal clinics, according to the conditions and criteria provided in the relevant cooperation agreements for training and updating the knowledge of students involved in these clinics, on issues related to primary legal aid. (Albania, 2017)

A legal clinic is a constituent unit of a higher education institution, organized and functioning according to the provisions of the legislation in force for higher education and offering primary legal assistance without profit, according to the provisions in the statute of the higher education institution.

Legal clinics set up near Higher Education Institutions provide primary legal assistance. The Free Legal Aid Office cooperates with legal clinics, according to the conditions and criteria provided in the relevant cooperation agreements for training and updating the knowledge of students involved in these clinics, on issues related to primary legal aid.

LEGAL FRAMEWORK FOR LEGAL CLINICS

Post-secondary Vocational Programs are offered in Kosovo, by institutions of higher education and by secondary vocational schools, these are mainly regulated by the accompanying laws and by-laws (government decisions and ministerial decisions), respectively:

1. Law on Higher Education in the Republic of Kosovo, No. 04 L/-037;
2. Law on Regulated Professions in the Republic of Kosovo, No. 05 L/ -066;
3. Law on Education and Training to Grow in the Republic of Kosovo, No. 04L/-143;
4. Law on Education and Vocational Training, No. 04L/-138;

There are several Council of Ministers' decisions and ministerial instructions (by-laws), which derive from the three laws mentioned above and regulate various aspects of post-secondary VET programs. These by-laws are also part of the analysis of the current legal framework for the VET in Kosovo.

The purpose of the Higher Education Law is to create a legal basis for regulation, operation, financing, and quality assurance in higher education by European standards, as well as the role of the state and society in the development of higher education in the Republic of Kosovo.

The Law on Regulated Professions, the purpose of this Law is to define the conditions and criteria for the exercise of the regulated profession that has to do with the protection of the public interest. This law applies to any person who seeks to exercise a regulated profession in the Republic of Kosovo. The person seeking to exercise a regulated profession must have completed the relevant accredited study program or professional qualifications for that profession, which are certified by official documents, issued at home or abroad, and recognized in the Republic of Kosovo, by the legislation in force.

Criteria for exercising the regulated profession: (05L/-066)

1. To acquire the right to exercise the regulated profession, each person must:
 - 1.1. Complete relevant studies or professional qualifications;
 - 1.2. Complete professional practice;
 - 1.3. Take the state exam;
 - 1.4. It is registered in the relevant professional body.

In the framework of this law, the professional practice is also regulated, which aims at the effective acquisition of technical, practical, and ethical knowledge of the profession, through the mechanisms defined by ASHPK, according to the proposals of the relevant professional body.

Professional practice takes place under the guidance of a professional, natural, or legal person. The relevant professional body, through its structures, ensures that the practical training in a regulated profession is carried out under the guidance of an experienced professional, with at least three (3) years of relevant experience and that provides sufficient guarantees for the theoretical and practical preparation of the intern. During the professional practice, the trainee is given compensation as determined by the institution/organization where the professional practice is held. Compensation or similar evaluation rewards are given by the institution/organization where the professional

practice is held. After the successful completion of the professional practice, the candidate is issued an official document that proves that in a certain period and accordance with the specific criteria of the regulated profession, he was engaged in a professional activity, inside or outside the country, which gave him the opportunity to acquire sufficient professional practice in the field of this profession.

ASHPK, in cooperation with the relevant professional body, evaluates whether the candidate's professional experience is sufficient to exempt him from the obligation to perform the professional practice.

The Law on Adult Education and Training in the Republic of Kosovo, the purpose of this law is to regulate the entire process for the education and training of adults, as an integral part of the education system in Kosovo. MEST, in cooperation with ministries, municipalities, institutions, and other interested parties, plans the development of education and training for adults. The relevant competent institutions analyze the educational level of the population, the needs of the individual, and the labor market. Private institutions plan education and training for adults based on their needs. In the framework of this law, Article 16 also provides for the evaluation of candidates, the institutions where education and training are organized to increase at the relevant levels, evaluate the knowledge of candidates according to the standards drawn up by the Agency for Curriculum, Standards, and Evaluation. The institution forms evaluation commissions for theoretical and practical fields. The institution organizes the exams and keeps records of the results achieved. The matura exam is regulated according to the legislation in force. After the completion of the knowledge assessment process, the acquired documents, certificates, and diplomas are by the Law on National Qualifications. (Law)

The Law on Education and Vocational Training, the purpose of this law is to regulate the system of education and vocational training to the needs of the economic and social development of the Republic of Kosovo, including economic and technological changes, the demands of the labor market, and the needs of individuals towards a market economy by optimally utilizing financial, human and infrastructure resources. Article 13 of this law also provides for the Agency for Vocational Education and Training for Adults, which with the proposal of MEST, the Government establishes the Agency for Vocational Education and Training for Adults (AAAPRr): (L/-138)

The Agency for Vocational and Adult Education and Training is responsible for:

- administration and leadership of Institutions of vocational and adult education and training (LAAPRr) related to financial, human resources, construction facilities and infrastructure of all public VET institutions under its regulatory administration;
- under the supervision of AAAPRr, the relevant responsibilities of LAAPRr will be gradually transferred to schools, based on their capacities;
- coordination of studies related to education and professional training for adults;
- coordination of international projects;
- the involvement of social partners in the education and professional training of adults;
- the institutionalized participation of the private sector and social partners in vocational and adult education and training;
- supervises and coordinates the development of professional standards.

THE PROVISION OF LEGAL AID IN KOSOVO IS GUARANTEED BY THE CONSTITUTION OF THE REPUBLIC OF KOSOVO

Is the right to legal aid part of basic human rights? Is it guaranteed by the Constitution and provisions of international law? Are there binding legal norms that will provide citizens with at least a minimum standard of legal aid and what would this standard be? (Brayne, January 25, 1989)

The Universal Declaration of Human Rights provides that everyone is equal before the law and has the right without any discrimination to be equally protected by the law. (Article 7 of the Universal Declaration of Human Rights.)

The Constitution of the Republic of Kosovo guarantees the right to free legal aid for all citizens, this right is also guaranteed by the ECHR and the judicial practice of the European Court of Human Rights (ECHR), directly applicable in Kosovo.

According to Article 6 (1) of the ECHR, every person has the right "to a fair trial" in the determination of civil rights and obligations or any criminal

charges. (coe.int, n.d.) This means that an appropriate degree of 'equality of arms' should be afforded to all persons before a court. (coe.int, n.d.) Concerning criminal offenses, Article 6 (3) (c) states that everyone has the right 'to defend himself or to be assisted by a defender of his choice, or if he does not have sufficient means to pay the defender, to provide free legal aid when the interests of justice require it. (coe.int, n.d.)

According to the Constitution of Kosovo, these two international documents are directly applicable in Kosovo and have precedence over the laws of the Republic of Kosovo. (Constitution of kosovo article 22, 30 and 53, n.d.) Moreover, Article 53 of the Constitution stipulates that human rights and fundamental freedoms guaranteed by the Constitution are interpreted by the decisions of the ECtHR. (Constitution of kosovo article 22, 30 and 53, n.d.)

This provision obliges the courts in Kosovo to be guided by the judicial practice of the ECtHR. In addition, the same standards of free legal aid are embodied in Article 30 (5) of the Constitution of Kosovo, which stipulates that "Anyone who is accused of a criminal offense shall have the assistance of a defender of his choice and if he has no means of sufficient, to be provided with free protection. (Constitution of kosovo article 22, 30 and 53, n.d.)

Through the legislative process, the legislator aimed to implement and elaborate this right to legal aid in two separate pieces of legislation, namely the Code of Criminal Procedure of Kosovo (CPC) and the Law on Free Legal Aid (FLA).

CRIMINAL LEGISLATION IN THE PROVISION OF LEGAL AID

The Code of Criminal Procedure of the Republic of Kosovo in Chapter V addresses the right to free legal aid such as Compulsory defense in Article 56 and defense at public expense when the defense is not compulsory in Article 57.

Article 56 of the KPPRK determines in which cases forced protection is necessary: (08/L-032, July 14, 2022)

1. The defendant must have a defense attorney in the following cases:

- 1.1. from the first interrogation until the end of the criminal proceedings with a final decision when the defendant is mute, deaf, blind, or shows signs of mental disorders or incapacity and is thus unable to defend himself successfully ;
- 1.2. from the arrest, during the detention hearing, and during the time he is in custody;
- 1.3. from the moment of interrogation for the first time for a criminal offense punishable by at least five (5) years of imprisonment;
- 1.4. in the procedure according to extraordinary legal remedies when the defendant is mute, deaf, or shows signs of disorder or mental incapacity or life imprisonment has been imposed;
- 1.5. in all cases where the defendant seeks to enter into a plea agreement; OR
- 1.6. in all cases where the accused is judged in absentia according to Article 303 of this Code.

Article 57 of the KPPRK determines in which cases a defendant has the right to a defense attorney at public expense, where it expressly states: (08/L-032, July 14, 2022)

2. When the conditions for mandatory defense do not exist, the defendant is assigned a defense attorney at public expense at his request, if:
 - 2.1. according to his financial situation, he cannot afford the defense expenses;
AND
 - 2.2. one of the following conditions is met:
 - 2.2.1. the criminal procedure is conducted for a criminal offense for which a prison sentence of three (3) or more years of imprisonment is foreseen; OR
 - 2.2.2. the interests of justice require this, regardless of the foreseen punishment.

ROLE AND IMPORTANCE OF FREE LEGAL AID LAW AND ITS TYPES

Clinics bear full responsibility for the opinions and legal representation made by students. As was often said above, students are constantly supervised by trained and qualified academics in the role of lawyers. The sole interest of the free service is to increase public interest and voluntarily help persons in

legal and economic need, as well as to stimulate even more the work of students, and practical experimental methods. (Hertz, n.d.)

The provision of legal opinions by students, free of charge, to individuals who cannot afford to pay for consultancy, has increased not only the academic level of students but also the awareness of academics and the legal system about the importance of this education system. However, at the beginning of this work, it takes a lot of effort from both parties to achieve the most satisfactory result.

The Law on Free Legal Aid aims to ensure effective access to justice for citizens who do not have sufficient financial means. Free legal aid is offered throughout the territory of the Republic of Kosovo. Free legal aid is provided in civil, criminal, administrative, and misdemeanor proceedings.

Free legal aid is provided for the following types of services: (04/L-017, 2012)

- information and legal advice related to legal procedures;
 - the compilation of documents and all other technical assistance related to the completion of the course; AND
 - representation in civil, criminal, administrative, and misdemeanor proceedings
- Authorized free legal aid services are provided under primary and secondary legal aid.

Primary legal aid includes the following services:

3. information and legal advice related to legal procedures;
4. the compilation of documents and all other technical assistance related to the completion of the subject;
5. representation in civil, criminal, administrative, and misdemeanor proceedings;
6. protection and representation in all stages of the criminal procedure;
7. information and legal advice related to criminal proceedings;
8. information, legal advice, and assistance in mediation and arbitration procedures as provided by the laws in force.

While secondary legal aid includes these services:

- the compilation of documents and all other technical assistance related to the completion of the course;
- representation in civil, criminal, administrative, and misdemeanor proceedings.

Free legal aid providers are:

- Regional Offices;
- Mobile Offices for Free Legal Aid;
- Lawyers;
- Non-governmental organizations in cases where they enter into partnership with the Agency.

CONCLUSION

Legal clinics play a crucial role in providing free legal aid and access to justice to underrepresented or marginalized communities, while also providing law students with valuable practical experience in the legal profession. Through legal clinics, law students can gain hands-on experience in legal research, writing, and advocacy, while also learning about the ethical and professional responsibilities of the legal profession.

Legal clinics can provide a range of legal services, including legal advice, document preparation, and representation, and can also serve as a referral source for additional legal or social services. By offering these services, legal clinics can help address the inequalities in the justice system and promote equal access to justice for all.

However, legal clinics must operate within the legal and ethical standards governing the practice of law in their jurisdiction and may be subject to additional regulations or requirements based on the type of legal services they provide and the populations they serve.

Legal clinics are an essential component of legal education and the legal profession, as they prepare law students to become effective and responsible attorneys while also serving the needs of the community.

Abstract:

There are many discussions about what role legal clinics should have, and even whether they should exist or not. However, both science and practice are increasingly arguing that the role and importance of legal clinics in law faculties are managing to prepare law students much better than in law faculties where there are no legal clinics. There are many such examples on one side and also on the other side, but in general in the 21st century, the attitude and the practical result prevailing that legal clinics are managing to give measurable and very good results in the preparation of new staff. of lawyers around the world.

In the framework of this work, the comparative and analytical methods will be used as a methodology, where the comparison and analysis of the programs of the Faculty of Law at UKZ will be done - one with a legal clinic and the other without it.

This paper will manage to argue that the role of legal clinics in the Law Faculty of UKZ has brought innovation and stability as well as greater preparation for the students of this faculty.

Bibliography

1. Fabio, M. (n.d). Çfarë është Klinika Ligjore? Retrieved march 2023, from rferrit.com: <https://sq.eferrit.com/cfare-eshte-klinika-ligjore/>
2. Carolyn Grose. (n.d). “Beyond Skills Training, Revisited: The Clinical Education Spiral”, .
3. Companies, T. M.-H. (2011). STREET LAW: To understand law and legal issues. The McGraw-Hill Companies, Inc.
4. Anna E. Carpenter. (n.d). “The Project Model of Clinical Education: Eight Principles to Maximize Student Learning and Social Justice Impact”.
5. University Mediterranean. (n.d). Retrieved from <https://www.umsh.edu.al/c/57/klinika-ligjore>
6. Pinard, M. (2012). Benefits of the Law Clinic. University of Maryland i.
7. 05L/-066, L. N. (n.d). Law on Regulated Professions in the Republic of Kosovo.

8. Law. (n.d.). Law on Education and Training to Grow in the Republic of Kosovo.
9. L/-138, L. N. (n.d.). Law on Education and Vocational Training - Kosovo.
10. Brayne, C. H. (January 25, 1989). Is legal aid a human right? The Law Society Gazette.
11. Article 7 of the Universal Declaration of Human Rights. (n.d.).
12. coe.int. (n.d.). Retrieved 2023, from Article 6 of the European Convention on Human Rights, available at: European Convention on Human Rights: https://www.echr.coe.int/Documents/Convention_ENG.pdf
13. 08/L-032, L. N. (July 14, 2022). Article 56 of the Code of Criminal Procedure. Retrieved from <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2861>
14. 04/L-017, L. N. (2012, February 02). Retrieved from Law on Free Legal Aid.
15. Albania, A. o. (2017, December 14). LIGJ-nr.-111-2017 -Ligji për ndihmë juridike të garantuar nga shteti. Retrieved from <https://www.drejtesia.gov.al/wp-content/uploads/2019/02/LIGJ-nr.-111-2017-date-14.12.2017.pdf>
16. Ehat Miftaraj, B. M. (2017). Free legal aid in criminal matters and implementation of European court of human right standards by Kosovo courts. Kosovo law institute, Prishtina.
17. Hertz, R. (n.d.). Clinical Law Review. Retrieved February 2023, from A Journal of Lawyering and Legal Education: <https://www.law.nyu.edu/journals/clinicallawreview>
18. (n.d.). Retrieved from Constitution of kosovo article 22, 30 and 53: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

Prof. dr Avdullah ROBAJ¹

REASONS FOR ESTABLISHMENT OF THE LABOUR LAW GROUP WITHIN LEGAL CLINIC IN KOSOVO

1. Introduction

When observing and researching upon the way labor laws are implemented in a particular working environment, one must consider that the mere presence of the labor related constitutional and legal frameworks is solely a necessary premise for the rule of law. Of equal importance is the functioning of the different mechanisms which supervise the implementation of such constitutional and legal norms especially in enshrining a way of thinking on its public servants which would entail the latter to be consciously driven to implement such norms and to use the means in their disposal to push against those who violate such laws, whoever they may be.

Citizens of the Republic of Kosovo working in private sector can use state mechanism for free legal aid respectively Agency for Free Legal Aid in Kosovo,² in case their right to work and related have been breached by their employer and he/she has not financial means to cover expenses for legal representation. According to the Kosovo Law on Free Legal Aid,³ citizens of Kosovo with low incomes can benefit from primary and secondary legal aid provided by the Kosovo Agency for Free Legal Aid. According to the same law, the primary legal aid covers basic legal services, while the secondary legal aid means that clients will be represented in front of the court as well during judicial procedures.

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² Official Website of the Kosovo Agency for Free Legal Aid in the Republic of Kosovo: <https://anjf.rks-gov.net/page.aspx?id=2,1,1,1> (last visit 19 december 2022).

³ Kosovo Assembly (2012 & 2022). Law on Free Legal Aid. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2803> (last visit on 19 december 2022).

Based on the Law on Education in Kosovo, the Universities have the mandate to provide practical education as well and for this purpose, law faculties of some public universities including the University Haxhi Zeka are implementing the Erasmus+ project on “Enhancing the Employability of Law Students Through Practical Education (ENEMLOS).”⁴ The aim of this project is to establish the live legal clinic within the aim to increase the practical legal skills of our students by providing legal service (primary legal aid) to the live client with low incomes that cannot pay attorney. Thus, students through this legal clinic will contribute also to the community by providing primary legal aid-services. Law Faculty of the University of Haxhi Zeka has also worked on establishment of the legal clinic and has selected twenty students to be engaged in legal clinics. These students have been trained during this semester (winter semester 2022/2023) and will start working on real cases next semester of this academic year into groups. Groups of students will work on penal law, civil law, human rights law and the idea is to have a group of labor law as well. The reason of having a labour law clinic is argued below. This article presents below the data that proves the breach of right to work or right of workers in private sector in Kosovo.

2. Methodology

The research methods applied for the preparation of this paper are descriptive and analytical ones. The application of the descriptive method made possible the description of Kosovo's legislation that guarantees the right to work and the rights of workers related to insurance, trade union, health insurance, pension trust rights. These rights have been addressed by analyzing the legislation of employees in the public sector but also in the private sector as problematic. Whereas, the application of the analytical method has made it possible to analyze the reports of various organizations about the implementation of this legislation in practice, highlighting the level of implementation of this legislation through statistical data as well.

⁴ Official website of the ENEMLOS Project: <https://www.enemlos.ucg.ac.me/> (last visit 19december 2022)

3. Labor legislation, in the spirit of Kosovo's integration into the EU⁵

Similar to the other countries emerging from the split of the ex-SFRY, not only did Kosovo go through a political turmoil reflected through its ongoing aspirations for independence, but as such it experienced a shift in its economical-political system as well. Such a shift was reflected through the transformation of its economy from a centrally planned one into a market economy with direct effect on its labor market and the relationships exhibited as a consequence. The process itself left a judicial vacuum in the determining of the rights, obligations and the responsibilities in terms of labor rights and norms.

Being aware that without an adequate legislation from the specter of labor relations there cannot be a sustained social stability, the need to address and act in resolving the issues pertaining to such relations arises. Hence in aiming to establish a functional and democratic system of governing, Kosovo has issued laws from the said field seeking to tackle labor-related correlations on a national scale and in complete accordance with the international legislation. This particular approach is further established when taking into consideration the country's needs and aspirations to join international organizations including the UN⁶, EU⁷, ILO⁸, etc.

Bearing in mind that the right to work is enshrined in the Basic Human Rights and Freedoms act, the Constitution categorizes the said right as a constitutional category (The Constitution of Kosovo, Article 49). Moreover, the constitution guarantees the implementation of the international right within the framework of the national right, with the international acts having a legal advantage over the national right (The Constitution of the Republic of Kosovo, article 22).

During this timeframe, Kosovo has made efforts to draft a labor-related legislation based on the concept of social justice and the state of law, reflected

⁵ The European Union.

⁶ The United Nations.

⁷ European Union.

⁸ The International Labor Organization.

in the cultivating of basic universal values. Hence, Kosovo has instilled a legal framework in the field of

Labor rights which is in its citizen's best interest as well as the society as a whole.

To substantiate our claims, we present the legal infrastructure of the employment relationship in the Republic of Kosovo, as follows:

- Kosovo Law on Labor, 2010⁹;
- Law on Granting Permit for Work and Employment of Foreign Citizens in the Republic of Kosovo, 2009.¹⁰
- Law on Strikes, 2010,¹¹ 2012.¹²
- Law on Labor Inspectorate, 2008.¹³
- Law on Independent Oversight Board for Civil Service of the Republic of Kosovo, 2010.¹⁴
- Law on the Civil Service of the Republic of Kosovo, 2010¹⁵

⁹ Kosovo Assembly (2001). Law No.03/L –212. Online: <https://mpms.rks-gov.net/en/wpdm-package/law-no-03-l-212-law-on-labour-pdf/?wpdmdl=1378&ind=TGF3IE5vLjAzIEwtMjEyIExBVyBPTiBMQUJPVVUucGRm> (consulted on 10 february 2023).

¹⁰ Kosovo Assembly (2009). Law No. 03/L-136 on Granting Permit for Work and Employment of Foreign Citizens In the Republic of Kosovo. Online: <https://mpms.rks-gov.net/en/wpdm-package/law-on-granting-permit-for-work-and-employment-of-foreign-citizens-in-republic-of-kosovo-pdf/?wpdmdl=1370&ind=TEFXIE9OIEdSQU5USU5HIFBFUk1JVCBGT1Igv09SSyBBTkOgRU1QTE9ZTUVOVCBPRiBGT1JFSUdOIENJVElaRU5TIEIOIFJFUFVCTEIDIE9GIEtPU09WTy5wZGY> (consulted 10 february 2023).

¹¹ Kosovo Assembly (2010). Law No.03/L –200 on Strikes. Online: <http://old.kuvendikosoves.org/common/docs/ligjet/2010-200-eng.pdf> (consulted on 10 February 2023).

¹² Kosovo Assembly (2012). Law on amending and supplementing the law no. 03-L-200 on strikes . Online:http://old.kuvendikosoves.org/common/docs/ligjet/119%20Law_%20on%20amend%20the%20laq%20on%20strikes.pdf (consulted on 11 february 2023).

¹³ Kosovo Assembly (2008). Law No. 03/L-017 on amending and supplementing the law on labour inspectorate no. 2002/9. Online: http://old.kuvendikosoves.org/common/docs/ligjet/2008_03-L017_en.pdf (consulted on 11 February 2023).

¹⁴ Kosovo Assembly (2010). Law No. 2010/03-L-192 on Independent Oversight Board of Kosovo Civil Service. Online: <http://old.kuvendikosoves.org/common/docs/ligjet/2010-192-eng.pdf> (consulted 11 February 2023).

¹⁵ Kosovo Assembly (2010). Law No. 2010/03-L-149on the Civil Service of the Republic of Kosovo. Online: <http://old.kuvendikosoves.org/common/docs/ligjet/2010-149-eng.pdf> (consulted on 10 February 2023).

- Law on Private Practices in Health, 2004¹⁶, 2013.
- Law on Safety and Health at Work, 2013.¹⁷
- Law on Training, Vocational Rehabilitation and Employment of Persons with Disabilities, 2009.
- Law on Pension Funds of Kosovo, 2012.¹⁸
- Law on the Economic-Social Council, 2011.¹⁹
- Law on Trade Union Organization in Kosovo, 2011.²⁰
- Law on Insurances, 2015.²¹
- The General Collective Agreement of Kosovo, 2014.²²

4. The violation of workers' rights

The ILO²³ defines decent work as “productive work for women and men in conditions of freedom, equity, security and human dignity”. Decent work places people in the center of social development, empowers women,

¹⁶ Kosovo Assembly (2004). Law No.2004/50 on private practices in health. Online: https://msh.rks-gov.net/wp-content/uploads/2020/03/2004_50-Law-on-Private-Practices-in-Health.pdf (consulted on 10 February 2023).

¹⁷ Kosovo Assembly (2013). Law No. 04/L-161 on Safety and Health Work. Online: <http://old.kuvendikosoves.org/common/docs/ligjet/Law%20on%20Safety%20and%20Health%20at%20Work.pdf> (consulted on 9 February 2023).

¹⁸ Kosovo Assembly (2012). Law No. 04/L-101 on Pension Funds of Kosovo. Online: <https://www.atk-ks.org/wp-content/uploads/2017/11/Law-No.-04-L-101.pdf> (consulted on 9 February 2023).

¹⁹ Kosovo Assembly (2011). Law No.04/L -008 on the Economic-Social Council. Online: <http://old.kuvendikosoves.org/common/docs/ligjet/Law%20on%20social%20economic%20council.pdf> (consulted on 9 February 2023).

²⁰ Kosovo Assembly (2011). LAW No. 04/L-011 on Trade Union Organization in Kosovo. Online: https://www.ecoi.net/en/file/local/1137335/1226_1404462977_kosovo-trade-unions-law-2011-en.pdf (consulted on 10 February 2023).

²¹ Kosovo Assembly (2015). Law No. 05/L -045 on Insurances. Online: https://bqk-kos.org/repository/docs/korniza_ligjore/shqip/Ligji%20Nr.%2005%20L-045%20per%20Sigurimet.pdf (consulted on 13 February 2023).

²² Kosovo Assembly (2014). The General Collective Agreement in Kosovo. Online: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=9534> (consulted on 13 February 2023).

²³ The International Labor Organization.

men and the youth as well as gives them the right to protect themselves from exploitation by providing them with an inclusive and stable future (Transparency International Kosova, 2021: 9).

According to the Kosovo agency of statistics (Statistical yearbook, 2021), there were 81.629 people employed in the public sector in the year 2021 with the number going up to 331,761 when taking into account the people employed in the private sector as well (Statistical yearbook, 2022: 15).

Working conditions, the unfair treatment of employees, terminating contracts without a prior notice, extended working hours, working 24-hour shifts on top of having to work 12-hour shifts the following day, failing to pay pension contributions, cash salaries, workplace injuries, working during the holidays, pre-arranged or fixed job vacancies etc. are among the many violations of the workers' rights in Kosovo (The Democratic Institution of Kosovo, 2021:9).

Official data shows that a mere 28% of able-bodied workers are currently employed whereas the number of the latter currently looking for a job is 686,486 (Transparency International Kosovo, 2021: 7). The year 2018 was not a good year in terms of workers' rights as well as work safety. In the year 2018, there had been 20 safety-related deaths reported at the workplace as a result of the lack of proper working conditions and companies failing to insert proper safety regulations. Such was the case especially in the construction sector (Transparency International Kosovo, 2021: 7). In the same year, there have also been 80 work-related injuries reported in all sectors.

The nature of public sector violations is related to public vacancies, namely their use for party-based and nepotism-based employment. In the private sector, most of the violations are related to the non-implementation of the labor legislation and other legal acts

The findings of the research have ascertained the factual situation as follows:

- ② employment relationship in the Republic of Kosovo, as follows:
The commonality of the private sector is that violations of the rights of employees are still ongoing;

- ❑ The reports from KDI²⁴ and TIK²⁵ conclude that employees in the private sector do not report violations to the respective institutions for fear of losing their jobs even if they have valid employment contracts;
- ❑ Many of the employees, especially in the private sector, are not informed on which institutions are called on protecting their rights;
- ❑ According to the public documents of KDI and ICT, it has been evidenced that, in the private sector, employees were not paid regularly and on time (according to the individual employment contract), they were not allowed daily, weekly or annual vacations;
- ❑ It has been established and proven that a significant number of Private Companies that are beneficiaries of public procurements are flagrant violators of the rights of their employees;
- ❑ Despite their legal obligations, some companies from the private sector do not pay pension contributions to their employees, since salaries are paid in cash;
- ❑ Employees from the private sector point to the lack of monitoring from the Labor Inspectorate, or the lack of a response from the Labor Inspectorate in cases where work-related violations are reported anonymously;
- ❑ A chronic phenomenon during employment procedures is the announcing of public job openings to favor persons connected to the political entities that are in power;
- ❑ Excessive prolongation of judicial proceedings from the labor relationship and a significant delay in the execution of judgments.

5. Conclusions and recommendations

²⁴ The Democratic Institution of Kosovo.

²⁵ Trasparency International Kosova.

Workers' rights, in addition to being protected by the Constitution and laws in Kosovo, are also protected by various international conventions, however, the violation of these rights in Kosovo is still ongoing. Such a perception is also evidenced by our research. Thus, the law-enforcement bodies in the future must undertake concrete actions in the implementation of legality, in order to improve and advance the rights of employees. This is also due to the fact that the latest Report on Kosovo, by the European Commission, published on May 29, 2019, regarding the rule of law, ranks Kosovo as the last in the Balkans in terms of readiness to join the EU.

Therefore, based on the above-mentioned statements, the law enforcement bodies of Kosovo must urgently undertake the necessary actions as follows:

- The Labor Inspectorate should monitor employers on the ground, especially those employed in the private sector;
- The Labor Inspectorate must, in close cooperation and joint inspection with the Tax Administration and the Pension Trust, see if the taxes and contributions from these private companies are being paid;
- The Labor Inspectorate, in the event that it finds violations in companies that have acquired public procurements, must automatically notify the contracting authorities about the violations committed against employees;
- All contracting authorities in Kosovo must take into account the rights of employees in the contracted company. Special attention should be given to the salaries of the employees;
- The Ministry of Labor and Social Welfare, through its budget, must foresee the progressive increase in the number of Labor Inspectors;
- The labor inspectorate increases the number of field inspections;

- The Labor Inspectorate is to continue with issuing of awareness campaigns about the rights of employees and possible violations for employers and employees;
- The Labor Inspectorate should increase the level of transparency by making all the decisions it makes public and accessible on its website.
- The Government of Kosovo, together with the Trade Unions of the workers but also the private sector, must compile and sign the new collective agreement;
- The Ministry of Labor must create mechanisms that require private companies to have trade union bodies;
- Courts must adhere to legal deadlines and handle labor disputes with priority and efficiency.

Indeed, all these recommendations and conclusions makes clear that the establishment of the labor law clinic will contribute positively to the implementation of such rights as well.

Abstract

The right to work is a basic social and human right which as such is deeply rooted in the individual's dignity as the essential framework where all basic human rights and freedoms originate from. In the judicial sense of the word, the freedom of work and the freedom to work underline an individual's right to work or conversely, not to work. The notion in hand is greatly intertwined with the the correlation between the law of supply and demand reflected in the labor market. From a social standpoint, Kosovo has passed a number of laws deriving from the labor law by adapting the latter with the international laws and the European Union standards. This particular approach is more so logical when considering Kosovo's needs aspirations to join international organizations.

The purpose of this research is to argue the need of establishing the clinical legal education on labor law considering the limited implementation of

such legislation especially the difficulties of Kosovars to enjoy their right to work and related right in the private sector. This purpose is achieved by analyzing relevant international and national legislation, scientific work as well as statistical data and facts published in the annual reports of state bodies and nongovernmental organizations (NGOs) on the practical implementation of the European Union and the International Labor Organization labor legislation and standards in the Republic of Kosovo.

The empirical findings of the conducted research conclude that in Kosovo, the violations of the labor rights are observable and widely spread in both the public and the private sector, violations which as such are still ongoing.

Keywords: employer, employee, labor inspectorate.

References:

Analysis and Public Documents

1. ILO-International Labor Organization.
2. Statistical yearbook of the Republic of Kosovo, 2021.
3. Statistical yearbook of the Republic of Kosovo, 2022.
4. Democratic Institute of Kosovo, Report, March 2021.
5. Transparency International Kosovo, Report, March 2021.
6. Law on Free Legal Aid, Kosovo Assembly, 2012.
7. Kosovo Law on Labor, 2001
8. Law on Granting Permit for Work and Employment of Foreign Citizens In the Republic of Kosovo, 2009.
9. Law on Strikes, 2010, 2012.
10. Law on Labor Inspectorate, 2008.
11. Law on Independent Oversight Board for Civil Service of the Republic of Kosovo, 2010
12. Law on the Civil Service of the Republic of Kosovo, 2010

13. Law on Private Practices in Health, 2004, 2013.
14. Law on Safety at Work. Health Protection of Employees and Protection of the Working Environment, 2007.
15. Law on Training, Vocational Rehabilitation and Employment of Persons with Disabilities, 2009.
16. Law on Pension Funds of Kosovo, 2012.
17. Law on the Economic-Social Council, 2011.
18. Law on Trade Union Organization in Kosovo, 2011.
19. Law on Insurances, 2015.
20. The General Collective Agreement of Kosovo, 2014.

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**CRIMINAL LAW CLINIC AND ITS ROLE IN THE
DEVELOPMENT OF PRACTICAL SKILLS OF LAW STUDENTS -
THE CASE OF THE LAW FACULTY AT "HAXHI ZEKA"
UNIVERSITY IN PEJA**

1. Introduction

Taking into consideration the developments in the European Area of Higher Education, profound changes have been made even in the Republic of Kosovo in the process of Higher Education, namely in law programmes. Although Kosovo is not officially a member of the Bologna Process, it is one of the first countries to have started implementing this system in higher education. In this context, the Law on Higher Education in the Republic of Kosovo (Law No. 04/L-037) was adopted in the spirit of this process. The Law *“The purpose of the Law on Higher Education is to establish a legal base for regulating, functioning, financing, providing the quality in higher education in compliance with European standards as well as the role of state and society in development of higher education in the Republic of Kosovo.”*². The law, therefore, emphasises the necessity to apply European standards for Higher Education. In accordance with this law, *“Higher education is organized, as following:*

- First level – three (3) to four (4) years of studies by which the student reaches 180, respectively 240 /ECTS/, and obtains Bachelor Diploma.

- Second level – one (1) to two (2) years of studies after completion of the first level by which the students reach 60, respectively 120/ECTS/ and the student obtains Master Diploma.

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² Law on Higher Education in the Republic of Kosovo (Law No. 04/L-037), article 1

- *Third level – program of doctorate studies with academic and independent research scientific character.*³

Provision of a study programme in Higher Education in Kosovo is possible after meeting the quality standards (accreditation of the study programme), evaluated and decided on by the State Council for Quality⁴. The decision of SCQ derives following the evaluation by international accreditation experts. Public institutions of Higher Education are established by MEST and ratified by the Assembly of Kosovo⁵.

Bachelor law programmes are offered with a four-year system, namely 240 ECTS credits. At the UHZ Law Faculty, the General Law LLB Bachelor Programme is offered with a four-year system, namely 240 ECTS credits.

In the current curriculum, the Criminal Law Clinic course is offered as an elective course in the sixth semester, upon completion of which students earn 5 ECTS credits. In the academic year 2022-2023, the LLB General Law study programme has been under the process of re-accreditation, by the internal staff, and the group of experts have recommended that clinical courses are taken as core courses. In this respect, the Criminal Law Clinic course is planned to be offered as a core course in the eighth semester in the criminal law module. The group of students choosing the criminal module will follow the course of the Criminal Law Clinic. Upon the completion of the course, in addition to the acquired practical skills, students will become part of the community service and earn ECTS credits.

At the UHZ Law Faculty, with the support of the USAID (United States Agency for International Development) mission in Kosovo and the Kosovo Chamber of Advocates, the work of the Criminal Law Clinic has been organized through the "*Drejtësia vlen (Justice applies)*" project. The clinic has

³ Ibid, article 4/2

⁴ Decision-making body of the Kosovo Accreditation Agency. The Kosovo Accreditation Agency, in accordance with the Law on Higher Education, is an independent institution, responsible for internal and external quality assurance, including accreditation, re-accreditation, monitoring, validation and all other quality assurance processes in higher education institutions and their study programs in the Republic of Kosovo, in accordance with international best practices, including in particular the relevant European standards in the field of quality assurance in higher education. <https://akreditimi.rks-gov.net/en/about-kaa/>.

⁵ Law on Higher Education in the Republic of Kosovo (Law No. 04/L-037), article 9

functioned as a joint project of the three institutions mentioned above and its purpose has been to enable students to gain experience in the application of scientific knowledge and skills in practice by working in real cases with attorneys in training, including interviewing, clients' counselling, preparing letters and legal documents. The clinic involved 13 students, who were trained by judges, prosecutors and lawyers and participated in compiling legal documents. Students involved in the clinic have worked *pro bono* with lawyers selected by the Kosovo Chamber of Advocates and have helped in the preparation of documents and defence for people with difficult economic conditions. After the training, students conducted mock trials.⁶ This project helped create the initial practice for the establishment of permanent law clinics at the UHZ Law Faculty.

The real law clinic in the Law Faculty was established by decision of the UHZ Senate⁷, and was supported professionally and financially by the international ENEMLOS project. A series of activities have been developed within this project, among which online training for academic staff and study visits to the University of Zagreb in Croatia, to several universities in Poland, London and Montenegro have been pointed out. During the visits, within the project, the best practices of the operation of real law clinics were obtained, and such practices have begun to be implemented at the UHZ Law Faculty.⁸

2. Clinical Teaching as a Necessity for the Development of Students' Practical Skills

Clinical teaching has arisen as a time necessity in order to prepare students for the job market after their graduation. After graduation, the expectation is that students will have achieved a level of learning outcomes that they can apply in practice, including the skills to communicate with parties, the examination of various cases, analyses and legal reasoning, and the like.

⁶ <https://unhz.eu/30663-2/>

⁷ In the UHZ Senate decision (Decision No. 1550, dated 01.07.2021), the Commission for the Operationalization of the Clinics at the Law Faculty was created, in which the author of this paper was also elected.

⁸ In the framework of the project, the Law Faculty, in addition to gaining experience for the operationalization of the real law clinic, has benefited and has been provided with necessary equipment for performing work in the clinics.

Law school has traditionally assessed student achievement through formative essays and high-stakes summative exams focused on problem-solving.⁹ Essays and exams rarely provide the opportunity for students to demonstrate their understanding of the underlying concepts of the legal system or their capacity to communicate complex ideas to the diverse audiences they will encounter in post-graduation.¹⁰

The emphasis on exams and essays presents a challenge in designing and delivering innovative assessment that allows students to develop and demonstrate the broad range of skills they will need. Considerable care needs to be exercised in venturing into different forms of assessment.¹¹

Clinics can expose students to broader questions, such as “how law interacts with society”.¹² Clinical teaching helps students develop the skills of a lawyer, the legal analysis of cases to advise clients and to represent them in legal proceedings. Scholars Combe, also identifies the possibility of wider skill development and argues that letter-writing, interviewing and reading skills can all be improved through clinical legal education.¹³ It is not all about skills, that clinical learning can also help students understand “the meaning and application of law”¹⁴. In this respect, in addition to the competencies students will acquire, they will learn to work in groups and under professor’s supervision. By emphasizing the importance of relational competencies in legal education, we can more effectively promote well-being among our students, their current and future clients, and the culture of the legal profession.¹⁵

⁹ D. Pearce / E. Campbell / D. Harding, *Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission* (1987); A. Steel / L. Bennett Moses / J. Laurens / Ch. Brady, *Use of E-exams in High Stakes Law School Examinations: Student and Staff Reactions*, 2019, 29 LEG. ED. REV. 1.

¹⁰ H. Roberts / A. Henderson, *Designing law school assessment to meet new forms of legal practice: a model from Australia*, *Clinical law review*, Vol. 28, 14-FEB-22, p. 453

¹¹ K. Gerritsen-van Leeuwenkamp / D. 'ee Joosten-ten Brinke / L. Kesterd, *Assessment Quality in Tertiary Education: An Integrative Literature Review*, 2017, pp. 55- 94.

¹² M. Combe, *Selling intra-curricular clinical legal education*, *The Law Teacher*, (2014) 48(3), pp. 281-295

¹³ L. Lundy, *'The Assessment of Clinical Legal Education: An Illustration'* (1995) 29 *The Law Teacher*, p. 311.

¹⁴ R. Grimes, *Reflections on Clinical Legal Education*, 1995, *The Law Teacher*, pp. 169 - 171.

¹⁵ S. L. Brooks / M. A. Silver / S. Fishel / K. Wiltsie, *Moving toward a competency-based model for fostering law students' relational skills*, *Clinical Law Review*, Vol. 28, pg.372

3. Legal Basis on the Provision of Legal Aid and Advice in the Republic of Kosovo

Legal aid is an essential element of a fair, humane and efficient criminal justice system that is based on the rule of law. Legal aid is a foundation for the enjoyment of other rights, including the right to a fair trial, as defined in article 11, paragraph 1, of the Universal Declaration of Human Rights, a precondition to exercising such rights and an important safeguard that ensures fundamental fairness and public trust in the criminal justice process.¹⁶

The Republic of Kosovo has created the legal basis for the provision of professional legal services in legal proceedings taking place in various institutions. In Kosovo, the provision of legal aid and representation originates from Constitution, the Criminal Procedure Code, the Law on Free Legal Aid and the Law on the Bar. Defending the defendant in criminal proceedings is a constitutional principle. In accordance with the Constitution of the Republic of Kosovo, among the minimum rights enjoyed by anyone accused of a criminal offense is the right “*to have assistance of legal counsel of his/her choosing, to freely communicate with counsel and if she/he does not have sufficient means, to be provided free counsel*”.¹⁷ The Constitution envisages that, in cases where the parties cannot afford to pay for a lawyer, the state must provide the parties with *pro bono* defence.

The Law on the Bar is the underlying law that regulates the provision of professional legal services and representation in court proceedings and in other institutions. According to the Law on the Bar, “*Legal aid shall include: provision of legal advice and opinions; preparation of lawsuits, claims, proposals, pleadings, legal remedies and other submissions; drafting of contracts, agreements, testaments, statements, general and specific acts and other documents; representing and defending natural and legal persons, business companies and other legal entities in front of courts and other state bodies; representing natural and legal persons in their legal tasks, in amicable resolution of disputes and contested reports; performance of other legal actions on behalf of local or international natural or legal persons, based on which rights are enjoyed and freedom and other interests are*

¹⁶https://www.unodc.org/documents/justice-and-prisonreform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf (access 25 November 2022).

¹⁷ Constitution of the Republic of Kosovo, K-09042008, 09.04.2008, article 30/5

*protected.*¹⁸ According to this law, the provision of services mentioned is done by a lawyer licensed by the Chamber of Advocates. Therefore, in principle, in the first instance, the licensed lawyer is responsible for providing professional legal services, in the criminal proceedings in particular.

Based on the Criminal Procedure Code, *“The defendant shall have the right to defend himself or herself in person or through legal assistance by a member of the Kosovo Chamber of Advocates of his or her own choice.”*¹⁹

In accordance with the Criminal Procedure Code, *“Only a member of the Chamber of Advocates of Kosovo may be engaged as defence counsel, but an attorney in training may replace the member of the Chamber of Advocates. If proceedings are being conducted for a criminal offence punishable by imprisonment of at least five years, an attorney in training may replace a member of the bar only if he or she has passed the judicial examination. Only a member of the bar can represent a defendant before the Court of Appeals or Supreme Court of Kosovo”.*²⁰ Kosovo legislation envisages the cases when the defence of the accused or the defendant is mandatory, i.e. the accused party must have a defence during the conduct of the criminal court trial. The Criminal Procedure Code, article 57 envisages the specific cases when the defence counsel is mandatory.

“The defendant must have a defence counsel in the following cases of mandatory defence:

- from the first examination, when the defendant is mute, deaf, or displays signs of mental disorder or disability and is therefore incapable of effectively defending himself or herself;
- at hearings on detention on remand and throughout the time when he or she is in detention on remand;
- from the filing of an indictment, if the indictment has been brought against him or her for a criminal offence punishable by imprisonment of at least ten (10) years; and
- for proceedings under extraordinary legal remedies when the defendant is mute, deaf, or displays signs of mental disorder or disability or a punishment of life long imprisonment has been imposed.

¹⁸ Law on the Bar, Law No. 04/L-193, article 4

¹⁹ Criminal Procedure Code, Code No. 04/L-123, article 11/2

²⁰ Ibid, article 54/1

- in all cases when a defendant seeks to enter an agreement to plead guilty to a crime that carries a punishment of one (1) year or more of long period imprisonment or lifelong imprisonment, the defendant must be represented by counsel.”²¹

In cases where there is not ‘mandatory defence’; the court can still appoint ex officio counsel if the defendant is unable to pay for his/her representation and either i) the criminal offence is punishable by eight or more years imprisonment; or ii) the court finds that it is in the ‘interests of justice’ that the defendant is represented. The key distinctions between mandatory and non-mandatory cases is that in the latter, the appointment of ex officio counsel is means-tested and at the discretion of the court whereas in mandatory defence cases appointment is mandatory if the defendant fails to instruct his/her own representative.²²

*“Subject to the provisions of the present Code, if the defendant does not engage a defence counsel in order to provide for his or her defence and if defence is mandatory, an independent defence counsel having the experience and competence commensurate with the nature of the offence shall be appointed for the defendant.”*²³ In all cases, defence costs are covered by the state with the budget allocated on a periodic basis. The appointment of lawyers for representation according to the official duty, is done by the case judge, in line with the list sent by the Kosovo Chamber of Advocates.

In order to provide free legal aid, Kosovo has adopted the Law on Free Legal Aid. *“The purpose of this law is to establish a functional system for free legal aid in civil, administrative, minor offences and criminal procedure by which it shall be ensured effective approach in justice for the citizens that have no sufficient financial means.”*²⁴

The Agency for Free Legal Aid (AFLA) is established by the Law. The Agency is an independent public institution which exercises functions and responsibilities in compliance with this law. The Agency is the only institution

²¹ Criminal Procedure Code, Code No. 04/L-123, article 57/1

²² OSCE Mission in Kosovo, *The Right to Effective Representation in Criminal Proceedings and the Ex Officio Appointment System*, August 2022, p.12

²³ Criminal Procedure Code, Code No. 04/L-123, article 11/3

²⁴ Law on Free Legal Aid, Law No. 04/L-017, article 1

in the territory of the Republic of Kosovo responsible for organization and providing of free legal aid.²⁵

The establishment of the Law Clinic in the Law Faculty does not constitute a violation of the law since this clinic will assist the Agency in performing legal services. The services offered by students will be primary legal services defined by the Law on Free Legal Aid, namely article 5, item:

- information and legal advice regarding the legal procedures;
- drafting of paper-work and entire other technical aid that has to do with completion of the case;
- information and legal advice related to violation proceedings;
- information, legal advice and aid in the mediating and arbitral procedures as foreseen by the law in force;²⁶

"Haxhi Zeka" University in Peja signed a Memorandum of Cooperation with the Agency for the promotion of free legal services and the right to provide these services by the Law Clinic in the Law Faculty at this university. In this respect, the Agency and the Criminal Law Clinic in the Law Faculty will not compete with each other, but will cooperate in providing quality legal services to the interested parties.

4. Criminal Law Clinic at the UHZ Law Faculty

Clinical teaching in criminal justice, as the most important component of justice in general, is a necessity of justice programmes. Considering that criminal justice is the foundation of the justice system in the country, the course of the Criminal Law Clinic serves students to gain practical skills for compiling legal documents (criminal charges, decision to initiate investigations, preparation of the indictment, qualification of the criminal offense, types of judgments, etc.), the conduct of criminal proceedings, the course of procedural actions, the interpretation of criminal legal provisions, legal reasoning and argumentation, the role of subjects in criminal proceedings, up to the legal remedies of appealing court rulings (regular and extraordinary legal remedies).

²⁵ Law on Free Legal Aid, Law No. 04/L-017, article 19

²⁶ Ibid, article 5, paragraph 2.1.; 2.2.; 2.5., and 2.6.

The syllabus of the subject includes the key practical issues, such as: Police arrest and detention, the rights of the suspect with an emphasis on the right to professional defence, the state prosecutor's decision regarding the validity of the criminal charges, the judicial examination and the stages of its development, mock trial, the process of trial in the judicial examination, rendering and delivering the judgment and the possibility of challenging it with an appeal, the regular and extraordinary legal remedies.

The practice of providing clinical teaching at the UHZ Law Faculty has been strengthened with the establishment of the real Law Clinic, which will offer *pro bono* legal services to the parties. In addition to skills and competencies, students will prepare to communicate with parties, will face real cases, approach legal practice duty with responsibility and will contribute to the community, since the services will be *pro bono* provided.

The Criminal Justice Law Clinic provides initial advice in criminal proceedings to anyone who comes into contact with the criminal justice process. The clinic also works in collaboration with several charitable organisations to assist with looking into particular legal issues around appeal rights, campaigns to change the law, and protest support. Where someone is not eligible for legal advice via the clinic, we will signpost them on to other services. The Clinic aims to provide a public service to people who seek legal advice on crime and criminal justice-related issues and cannot obtain (for financial or other reasons) advice elsewhere.²⁷

The Clinic exposes students to the work of public defenders, teaching them how to use a range of advocacy tools to provide zealous, compassionate, and client-centred representation to those harshly impacted by the criminal legal system.²⁸

The Criminal Law Clinic offers a learning environment that focuses on lecture, class discussion, observing, mock exercises and simulations, case round discussions, feedback, reflection, and actual criminal practice experience, doing everything a public defender might do. Students will learn how to:

- Interview and counsel clients.

²⁷ <https://www.sussex.ac.uk/law/clinical-legal-education/cjlc> (Consulted on 30.11.2022)

²⁸ <https://law.udc.edu/criminallawclinic/>

- Prepare a criminal case from start to finish — develop a case theory, conduct investigation, deliver opening statements, witness examinations, and closings arguments.
- Develop strong mitigation for clients in support of release from pre-trial detention and at sentencing.
- Negotiate and forge effective working relationships with various actors in the criminal system.
- Research, write, and persuasively litigate motions in court.
- Work on teams and collaborate with community stakeholders to effect change through policy and civil litigation.
- Think creatively and broadly about ways to attack racial and economic disparities in the criminal legal system and spark criminal system transformation.

First and foremost, students will gain skills in receiving cases, communication skills for questioning and discussing with the parties, and under mentor's supervision and instruction (the professor appointed by decision to supervise the students), they will prepare the relevant document and professional examination of the case. The concrete procedural actions that will be taken during the daily work at the Criminal Law Clinic are:

- Receiving the client and discussing about his/her case;
- Information about the client's disputed case;
- Guiding the client about his/her case;
- Accepting case documents;
- Appointing students who are dealing with the specific case;
- Supervision of the mentoring professor in examining the case;
- Preparing legal analysis and review report of the case;
- Submitting the case and instructing on legal procedural actions.

Representation in court for criminal procedural cases is not done by students, as was emphasized in the previous chapter. Students, in the Criminal Law Clinic, will have the role of a legal consultant, but the case in court must be represented only by a licensed lawyer as defined by the Criminal Procedure Code.

Within the clinic, there is a coordinator appointed who will deal with managerial, promotional activities and with the supply of work material and equipment. The professor of the relevant course, in the capacity of direct supervisor, will be responsible for monitoring the work and for providing professional advice.

Within the Law Faculty, a "Handbook on the work and organization of the real law clinic" has been prepared, as well as other documents for the operationalization of the work of clinics. The handbook serves as the 'Constitution' of the work and the internal organization of the clinics, including legal status, work standards, management, work supervision, cooperation with other institutions, etc.

5. Conclusion

From what was pointed out when dealing with this paper, we can conclude that in addition to offering the course "*Criminal Law Clinic*", the establishment of the real Clinic at the UHZ Law Faculty is a reasonable decision of the governing bodies of UHZ and will bring multiple benefits to students, academic staff, the Faculty and the University, as a whole.

UHZ, namely the Law Faculty, with the establishment of the Criminal Law Clinic, has strengthened the practical work component of students, offering students opportunities to develop the skills and competencies to work as legal professionals. Students will have the opportunity to practically face real cases and to directly observe the functioning of criminal law in practice. Through the work in the Criminal Law Clinic, students are expected to develop skills in substantive criminal law (positive criminal law) and the criminal procedural part. Students become professional for interpreting criminal legal provisions, legal reasoning and argumentation, for compiling criminal legal documents, preparing legal opinions in real cases, conducting actions in criminal proceedings, for the role of subjects in criminal proceedings before the judicial system.

As part of the Criminal Law Clinic, students will be evaluated by teachers and will earn ECTS credits, and will also gain practical skills for the operationalization of the criminal justice system in the country. By acquiring

practical skills and work competencies in the field of criminal law, students are expected to easily access the labour market after graduation and practice the profession of a lawyer, prosecutor or judge.

Among the most important issues for students engaged in the Criminal Law Clinic is *pro bono* work. Providing free services will positively affect students to creating a sense of empathy, voluntarism and serve the community for the better. Such a service also contributes to the meeting of objectives of UHZ for community service.

Abstract:

The development of practical skills of law students is an indispensable task to be included in the curriculum of the LLB Law Programme. Practical skills will enable students to prepare for easier inclusion into the job market, for young jurists and for taking the state bar exam. In this respect, criminal justice, as the main branch of law sciences and justice system, is given special attention in the curriculum of the LLB Law Programme. This paper has dealt with clinical teaching in the field of criminal justice in the General Law Study Programme in the Law Faculty at "Haxhi Zeka" University in Peja (hereinafter UHZ).

The purpose of the paper is to emphasize the role and importance of clinical teaching in criminal justice and the necessity of students obtaining practical skills.

The provision of *pro bono* services by students as part of the work at the Criminal Law Clinic enables students to serve to the good of the community.

A summary of the Higher Education system in Kosovo and the background of the establishment of the Law Clinic at the UHZ Law Faculty has been given in the introduction of the paper. The paper continues with the importance of developing students' practical skills, then the legal basis of providing paid and *pro bono* legal services has been addressed. The last part is dedicated to the operationalization of the Criminal Law Clinic in the Law Faculty and the activities in the achievement of the expected results.

Keywords: Criminal Law Clinic, criminal justice, legislation, legal documents, court sessions.

Bibliography

A. Steel / L. Bennett Moses / J. Laurens / Ch. Brady, *Use of E-exams in High Stakes Law School Examinations: Student and Staff Reactions*, 2019, 29 LEG. ED. REV. 1.

D. Pearce / E. Campbell / D. Harding, *Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission*, 1987.

H. Roberts / A. Henderson, *Designing law school assessment to meet new forms of legal practice: a model from Australia*, Clinical law review, Vol. 28, 14-FEB-22

K. Gerritsen-van Leeuwenkamp / D. 'ee Joosten-ten Brinke / L. Kesterd, *Assessment Quality in Tertiary Education: An Integrative Literature Review*, 2017, 55 STUD. IN ED. EVAL.

L. Lundy, *The Assessment of Clinical Legal Education: An Illustration*, 1995, The Law Teacher 29.

M. Combe, *Selling intra-curricular clinical legal education*, 2014, The Law Teacher 48(3).

R. Grimes, *Reflections on Clinical Legal Education*, 1995, The Law Teacher 29.

S. L. Brooks / M. A. Silver / S. Fishel / K. Wiltsie, *Moving toward a competency-based model for fostering law students' relational skills*, Clinical Law Review, Vol. 28.

Organization for Security and Co-operation in Europe - OSCE Mission in Kosovo. *The Right to Effective Representation in Criminal Proceedings and the Ex Officio Appointment System*, 2022.

Normative Acts:

The Constitution of the Republic of Kosovo K-09042008, 09.04.2008

Law on Higher Education in the Republic of Kosovo, Law No. 04/L-037 (Official Gazette of the Republic of Kosovo / No. 14 / 9 September 2011, Pristina).

Law on the Bar, Law No. 04/L-193 (Official Gazette of the Republic of Kosovo / No. 20 / 31 May 2013, Pristina)

Criminal Procedure Code, Code No. 04/L-123 (Official Gazette of the Republic of Kosovo / No. 37 / 28 December 2012, Pristina)

Law on Free Legal Aid, Law No. 04/L-017 (Official Gazette of the Republic of Kosovo / No. 03 / 22 February 2012, Pristina)

Electronic Sources:

Kosovo Accreditation Agency (2022). Accessible at: <https://akreditimi.rks-gov.net/en/about-kaa/> (last consultation 12 November 2022).

United Nations (2013) UN principles and guidelines on access to legal aid [https://www.unodc.org/documents/justice-and-prison-reform/UN principles and guidlines on access to legal aid.pdf](https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidlines_on_access_to_legal_aid.pdf) (last consultation 10 November 2022).

<https://www.sussex.ac.uk/law/clinical-legal-education/cjlc>

<https://law.udc.edu/criminallawclinic/>



ENEMLOS



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KLINIČKO PRAVNO OBRAZOVANJE: NOVA PERSPEKTIVA ZA STUDENTE PRAVNOG FAKULTETA UNIVERZITETA CRNE GORE

1.- Kliničko pravno obrazovanje je interaktivan metod rada prisutan na mnogim pravnim fakultetima kao i na Pravnom fakultetu Univerziteta Crne Gore u Podgorici. Preko kliničkog pravnog obrazovanja se ostvaruju dva značajna primarna cilja.

Jedan cilj je da nauči studente da ovladaju pravnim vještinama i praktičnim radom, da doprinosi širenju pravne svijesti, popularizaciji etičkih principa pravne profesije i profesionalnoj odgovornosti, kao i da omogući studentima da razvijaju sopstveno i kreativno mišljenje. Na taj način se stvara pravnik sa kompletnim pravnim obrazovanjem što je veoma značajno za njegovo dalje angažovanje.³

Drugi cilj je da se pruži besplatna pravna pomoć klijentima koji nijesu u mogućnosti da angažuju i plate profesionalca, kod nas su to tkz. ranjive grupe, kao i da se ista pruži vladinim i nevladinim organizacijama. Generalno, preko kliničkog pravnog obrazovanja, zadovoljava se jednakost stranaka, jer jednak pristup pravdi znači više stabilno i zdravo društvo i jedan je od imperativa vladavine prava i pravne države. Tako je proklamovano i Evropskom konvencijom o zaštiti ljudskih prava i fundamentalnih sloboda (access to justice).

Kliničko pravno obrazovanje se razlikuje od tradicionalnih metoda sticanja pravničkih znanja. Kod tradicionalnih nastavnih aktivnosti, akcenat je stavljen na predavanjima o pojedinim pravnim disciplinama, zakonskim rješenjima, sudskoj praksi. Drugim riječima: profesor predaje, dok student sluša.

¹ Pravni fakultet Univerziteta Crne Gore

² Pravni fakultet Univerziteta Crne Gore

³ Vidi Hurder Et All, Clinical Anthology Readings For Live - Client Clinics 5 (1997).

Nasuprot tome, na pravnim klinikama studenti pružaju savjete, daju svoja mišljenja, zastupaju klijente besplatno, a sve to uz mentorstvo profesora ili profesionalaca iz redova pravosuđa u najširem smislu riječi. Pored rada se živim klijentima, u kliničkom pravnom obrazovanju su prisutne i brojne vježbe simulacija, upotreba pisanog materijala, rasprava u učionici, upotreba igara, brainstorming (tkz. moždana oluja), video trake, male grupe, individualno savjetovanje, obuka studenata od strane akademskih i neakademskih mentora i sl.⁴ Na pravnim klinikama studenti uče kroz rad: kako planirati, raditi i misliti. Pojedine od ovih metoda su prisutne i na Pravnom fakultetu Univerziteta Crne Gore. Na samom početku rada sa tkz. živim klijentima, na našem Fakultetu, prilikom prvog slučaja koji je bio problem iz oblasti državljanstva, studenti su radili timski. Pravno mišljenje je tražiocu pravne pomoći pruženo po prethodno usaglašenim mišljenjima u okviru grupe koja je na predmetu radila i slučaj je uspješno razriješen.

Kliničko pravno obrazovanje se može odvijati u različitim formama. Koja će se forma odabrati zavisi od nastavnog plana i programa fakulteta, pri čemu je neophodna podrška nastavnog kadra, studenata, uprave fakulteta i univerziteta. Na drugoj strani je važna i podrška države posebno kroz zakonska rješenja koja doprinose afirmaciji rada sa živim klijentima. Od zakonskih tekstova je, svakako, bitan zakon o besplatnoj pravnoj pomoći i njegova prateća akta.

Postoji nekoliko osnovnih modela pravnih klinika. Prema mjestu gdje su smještene dijele se na univerzitetske i društvene. Prve su smještene na pravnom fakultetu određenog univerziteta. Profesori ili praktičari se pojavljuju kao mentori, na fakultetu se primaju klijenti, studenti rade sa njima i studenti dobijaju određeni broj poena za uspješan rad na klinici. Ovaj model je prisutan na Pravnom fakultetu UCG. Društvene klinike rade u okviru nevladinih organizacija, po pravilu, studenti u njima primaju klijente, a mentori mogu da budu kako profesori, tako i iskusni praktičari. Ovaj model, primjera radi, postoji u Društvu studenata sa hendikepom u Crnoj Gori. Klinike se mogu podijeliti i na one koje rade sa živim klijentima, kao i na simulatorne koje rade na predmetima koji su simulacija stvarnog događaja. Bez obzira o kojem se modelu klinika radi, zajedničko im je da primjenjuju interaktivan metod rada, fokusirane

⁴ Vidi Feidman, Simulations: An introduction, 45 J. Legal Educ. 469 (1995).

su na savladavanje pravnih vještina, razvijanje profesionalne svijesti i odgovornosti, etičkih principa i pravnu pomoć pružaju besplatno.⁵ Kod svih je prisutan stalni nadzor mentora, bilo akademskih ili neakademskih, nad radom studenata, ocjenjivanju i pružanju feedbacka.

Ciljevi edukacije na pravnim klinikama podrazumijevaju ovladavanje pravnim vještinama. One obuhvataju: intervju i vođenje intervjua, savjetovanje, upoznavanje sa slučajem, strategije, ispitivanje činjenica, pregovaranje, istraživanje, pisanje pismena, sumiranje predmeta, zastupanje (vještine pisanja, govora, vođenja rasprave, ispitivanja, medije, etičku odgovornost), vođenje slučaja, poštovanje vremenskih granica, saradnje, evaluacija, kritičko razmišljanje, pravilno rasuđivanje, kreativnost. Koje će od ovih vještina biti zastupljene u edukaciji, prvenstveno zavisi od izbora programa, metoda, monitoringa, ocjenjivanja i dobijanja povratne informacije, tj. da li se klinika bavi isključivo davanjem savjeta, mišljenja ili i zastupanjem. Mora se naglasiti da ove vještine nijesu prisutne u klasičnoj nastavi na pravnim fakultetima i one doprinose stvaranju kompletnih, sposobnih i etički obučanih budućih pravnika. Na Pravnom fakultetu UCG, pravna klinika je opredijeljena na isključivo davanje pravnih savjeta i mišljenja.

Pravne vještine se mogu obezbijediti studentu na samoj klinici u okviru određenog broja časova nedeljno. Na Pravnom fakultetu u Podgorici, dva puta nedeljno, kako akademski, tako i neakademski mentori iz crnogorskog pravosuđa ih obučavaju pojedinim pravnim vještinama. Pored ovoga, na nekim klinikama se zahtijeva da studenti završe određene kurseve koji su preduslov za rad na klinici. Na primjer, za rad na klinici za zaštitu ljudskih prava, prethodno se mora organizovati poseban kurs koji bi studentima pružio osnovne pojmove o ljudskim pravima, pravima izbjeglica, azilanata i sl, kao i o Konvenciji o zaštiti ljudskih prava i fundamentalnih sloboda. Naravno, ako to nije ponuđeno u nastavnom planu i programu kao poseban predmet. Kada je u pitanju predmet Međunarodnopravna klinika, na našem fakultetu, kao obavezan predmet master, a ranije specijalističkih studija, treba pomenuti dugogodišnju saradnju Pravnog fakulteta sa Kancelarijom UNHCR-a u Crnoj Gori (Komesarijata Ujedinjenih nacija za izbjeglice) i realizaciju projekta

⁵ Vidi Lerman, Professional and Ethical Issues in Legal Externship, 67 *Fortham L. Rev.* 2295 (1999).

„Unaprijeđenje rada Međunarodnopravne klinike“. Saradnja odnosno projekat rezultirao je time da je petnaest generacija studenata uspješno pohađalo i položilo Međunarodnopravnu kliniku, te je shodno tome zavrijedilo diplomu UNHCR-a. Saradnja je produžena 2021. godine potpisivanjem sporazuma između dekanke Pravnog fakulteta i predstavnika Kancelarije UNHCR-a u Crnoj Gori, o realizaciji Klinike do 2024/2025 studijske godine. Prema ovom Sporazumu, Klinika će biti implementirana jednom u svakoj studijskoj godini. Pravni fakultet će organizovati i realizovati teorijsku nastavu iz Međunarodnopravne klinike - Izbjegličko pravo, jednom sedmično, tokom dva mjeseca implementacije svake od budućih klinika. UNHCR će, sa druge strane, organizovati posjetu najmanje jednom izbjegličkom naselju u Crnoj Gori za studente tokom svake od narednih klinika i saradnju sa njihovim Pravnim centrom.

Veoma bitan element u kliničkom pravnom obrazovanju je i supervizija. Bilo da se radi da je mentor studentu profesor ili praktičar, njemu se mora omogućiti da vrši superviziju nad radom studenta. Na taj način se postigne dvostruki efekat. Student će raditi kvalitetnije, kvantitativnije i etički u korist klijenta. Na drugoj strani, i mentor razvija svoju moralnu i profesionalnu odgovornost prema klijentu. U pogledu supervizije postoje dva modela. Jedan (direktivan) je da mentor studentu obezbjeđuje detaljne informacije šta treba da radi i uvijek je prisutan kada student obavlja bilo koji rad za klijenta. Drugi model (nedirektivan) je da mentor stoji na raspolaganju i podučavanju studenata, što omogućava studentu da sam donosi odluke. Ovaj model je prisutan na našem Pravnom fakultetu. Bilo koji od ovih modela da se primjenjuje, bitno je da mentor može da se konsultuje sa studentom, opservira njegov odnos sa klijentom, postavlja pitanja i pruža povratne informacije. Supervizija se može odvijati u okviru malih grupa, u učionici, na zajedničkim sastancima sa klijentom i drugim učesnicima. U svakom slučaju, supervizor pruža studentu pomoć, prati njegov rad i posebno se stara da se ne povrijedi interes klijenta.⁶

Postoje tri faze u procesu supervizije. Prva je planiranje, u kojoj mentor razgovara sa studentom o predmetu i koje aktivnosti student planira da

⁶ Vidi Hoffman, The Stages of the Clinical Supervisory Relationship, 4 Antioch L. J. 301 (1986).

preduzme. Druga faza je da student radi na predmetu, na primjer intervjuisanje, pisanje podneska, davanje pravnog savjeta. U ovoj fazi na nekim fakultetima je prisutan mentor, dok na pojedinim se razgovor obavlja samo u prisustvu klijenta i studenta. Na našem fakultetu intervju se obavlja samo u prisustvu studenta i klijenta. Treća faza je procjena i eventualna kritika, gdje mentor i student preispituju svoje aktivnosti, posledice koje su proizašle iz tih aktivnosti, kritički se osvrću na eventualne propuste, greške i potenciraju ono što je student naučio u tom predmetu. Ne treba naglašavati koliko je to korisno za studenta i za njegovo buduće angažovanje kao diplomiranog pravnika.⁷

Značajan dio u kliničkom pravnom obrazovanju je ocjenjivanje i povratne informacije.⁸ Mentor, bilo da je akademski ili neakademski, treba da studentu pruži povratnu informaciju kako je student radio i kakav je postigao uspjeh. Na taj način, student može da analizira svoj rad, koliko mu je preporuka koju je dobio od mentora pomogla i da je mogao problem riješiti i na drugi način. Inače, povratna informacija je značajna i za mentora, jer će čuti ono što student želi da uradi, kao i da podstakne studentove napore da to uradi kako je zamislio. Studentov rad se stalno ocjenjuje ne samo od strane mentora, već i drugih studenata. Mentor i drugi studenti mogu pratiti rad studenta preko video traka ili audio zapisa, uvidom u bilješke koje je student vodio tokom rada na predmetu.⁹ Na taj način se stiču nova iskustva što je studentima koji budu radili na sličnim predmetima neophodno potrebno da odaberu rješenje koje smatraju da će najbolje zadovoljiti potrebe klijenta. Učenje iz grešaka, studentu će pomoći da ubuduće ne napravi grešku, ali i jača samopouzdanje što će mu biti neophodno kasnije u radu kao budućem pravniku. Inače, jačanje samopouzdanja kod studenta se može postići nadahnućem, motivacijom, sposobnošću predviđanja onog što će se desiti.

Za studenta svaka kritika treba da bude afirmativna. Mentor kada je uputi treba da je konkretan, drugim riječima, treba da kaže studentu šta će

⁷ Vidi Feeley, Training Field Supervisors to Be Efficient and Effective Critics of Student Writing, 16 Clinical Law Rev. 217 (2009).

⁸ Vidi Hess End All, Techniques For Teaching Law 261 (1999) .

⁹ Na Columbus School of Law, na CUA, koriste se video snimci razgovora studenta i klijenta, koji se analiziraju na zajedničkom času, kako od strane drugih studenata, zatim profesora kliničara, kao i samog studenta koji se izjašnjava na ocjeni i odgovara na povratnu informaciju. Prije rada se živim klijentima, studenti rade simulacije razgovora i one, se takođe, ocjenjuju i dobijaju povratne informacije. Na taj način se studenti pripremaju za žive klijente.

procjenjivati. Mentor treba da studentu ponovi šta je uradio, pri čemu koristi riječnik studenta. Mentor treba da studenta uputi preko primjera i na način kako će klijentu postavljati pitanja, posebno da ta pitanja budu otvorenog tipa, i skrene mu pažnju da izbjegava zatvorena pitanja, jer od njih neće dobiti adekvatne odgovore. Najbolje je pitanja otvorenog tipa koristiti na početku razgovora studenta sa klijentom, ako i kada su u pitanju stvari o kojima se klijent ustručava da govori, a bitno ih je otkriti za pravilno davanje savjeta. Na taj način student će dobiti više informacija od klijenta, dobiće od njega cjelovitu priču, osjetiti emocije klijenta i šta je za njega bitno za predmet.

Radom na klinikama studenti se uče etikom i profesionalnom odgovornošću, što nije u potpunosti prisutno u klasičnom obrazovanju, posebno kod zemalja Zapadnog Balkana.¹⁰ Klinika je mjesto za učenje i rješavanje etičkih dilema, i preko toga se formira kod studenata osjećaj profesionalne odgovornosti i etike što je potrebno svakom diplomiranom pravniku.¹¹ Na klinici student, pored navedenih, stiče vrline kao što su pravdoljubivost, odgovornost i posvećenost klijentu. Preko kliničkog pravnog obrazovanja studenti postaju odgovorni za radnje svog klijenta i imaju mogućnost da odmah ugrađuju moralne standarde pravničke profesije u njihov praktičan rad na predmetima koje dobijaju na klinici. Primjenjujući pravo studenti dolaze do saznanja koje su to vrijednosti važne za društvo, kao i studenti se uče da se posvećuju ustavu, zakonu, istini, pravdi, pravičnosti, etičnosti.¹² Učenje preko aktuelnih slučajeva gdje se primjenjuje teorijsko znanje i zakonska pravila je za studenta mnogo važnije i interesantnije nego klasična nastava koja je preduslov da se student pripremi da teorijska znanja primijeni u praksi. Ovaj vid kliničkog pravnog obrazovanja je izuzetno zastupljen na Pravnom fakultetu UCG.

Preko kliničkog pravnog obrazovanja se poboljšava i kvalitet obrazovanja na pravnim fakultetima. Njime se podstiče motivisanost studenata, kao i njihov napor da više pažnje posvete studiranju da bi više naučili. Svakako, tu je i

¹⁰ Na Columbus pravnom fakultetu u DC obavezan predmet na osnovnim studijama je Profesionalna odgovornost i pravna etika, što je prisutno i na većini univerziteta u USA.

¹¹ Vidi Chavkin, *Clinical Legal Education, A Textbook for Law School Clinical Programs* 25 (2002).

¹² Vidi Critchlow, *Professional Responsibility, Students Practice, and the Clinical Teachers Duty to Intervene*, 26 *Gonz.L.Rev.* 415 (1991).

razvijanje kritičkog mišljenja koje studentu može pomoći i da savlada brojne pravne discipline koje se izučavaju na pravnom fakultetu.¹³

Kliničko pravno obrazovanje treba da bude i putokaz studentu koju vrstu posla da odabere kada završi pravni fakultet. Tokom rada na pravnoj klinici, studenti otkrivaju svoje sposobnosti i istovremeno uz mentorstvo profesora kliničara (akademskih ili neakademskih) mogu da pospiješe one vještine za koje se nijesu najbolje osposobili tokom studija. Na taj način stiču potpunije obrazovanje i stiču profesionalne kvalitete kao budući pravnici, kao i ujedno se upućuju na one oblasti prava u kojima mogu pružiti najviše standarde pravne profesije.¹⁴

Uspostavljanje kliničkog pravnog obrazovanja na pravnom fakultetu zahtijeva brojne zadatke i postavlja ciljeve što može da bude različito u pojedinim sredinama. Ono se može uspostaviti na inicijativu samog fakulteta uz pomoć univerziteta i imati tendenciju da postane dio nastavnih planova i programa. Pravne klinike na Pravnom fakultetu UCG su prepoznate i dio su nastavnog plana i programa master studija, ali su bile fokusirane na pojedine segmente kliničkog pravnog obrazovanja bez rada sa tkz. živim klijentima. Na kliničkom pravnom obrazovanju može da insistira i ministarstvo pravde. U pojedinim sredinama, mogu da ga pokrenu i pojedini profesori koji imaju podršku kompetentnih osoba iz pravosuđa. Može da bude i dio projekta, kakav je slučaj na Pravnom fakultetu UCG, gdje je projektom pokrenut rad sa tkz. živim klijentima i davanje pravnih savjeta. Kliničko pravno obrazovanje mogu da iniciraju i pojedine međunarodne organizacije. Ono što predstavlja problem je kako ga finansirati, da li iz sredstava univerziteta, iz projekta, pomoći od međunarodnih organizacija i kako ga nastaviti kada ta pomoć prestane.

Prilikom uspostavljanja pravnih klinika posebna pažnja, na našem Fakultetu, se usmjerila na nekoliko segmenata:

1. koje oblasti klinika da pokriva,
2. da li za te oblasti ima kvalifikovane mentore,
3. ko će biti klijenti za rad na klinikama,

¹³ Vidi Weinstein Et All, The Role of Creative Thinking in Problem Solving and Legal Education, 9 Clin. L. Rev. 835 (2003).

¹⁴ Vidi Sandefur Et All, The Clinic Effect, 16 Clinical Law Review, 81, 2009.

4. na koji način edukovati studente da rade na klinici,
5. kako odabrati studente i kako ih nagraditi za rad na klinikama,
6. koje slučajeve procesuirati,
7. kako se odnositi sa klijentom,
8. kako vršiti kontrolu i posvetiti se etičkim dilemama,
9. kako regulisati brojna administrativna pitanja,
10. obezbijediti institucionalni okvir koji dozvoljava rad studentima sa živim klijentima.

Zavisno od specijalizacija mentora, bilo da se radi o akademskim ili mentorima iz pravosuđa, klinika će opredijeliti i oblasti koje će da pokriva. Predavanje na klinici se razlikuje od klasične nastave, jer pored teorijskog potrebno je i praktično znanje.¹⁵ U slučaju da se na klinici kao mentori angažuju praktičari koji nijesu nikada bili predavači, potrebno ih je osposobiti preko treninga sa znanjem interaktivnih metoda i kliničkom pedagogijom da bi se postigao najbolji rad na klinici. Na drugoj strani, ukoliko se radi o mentorima iz akademskog osoblja koji nijesu imali kontakt sa praktičnim predmetima, najbolje je da rade sa mentorom praktičarem. Preko projekta ENEMLOS, Pravni fakultet UCG je obezbijedio ovaj uslov. Oblasti u kojima se pružataju besplatni pravni savjeti su: građanska, krivična, građanskoprocena, krivičnoprocesna, poslovna, obligaciona, porodična, nasljedna, upravna, međunarodna, ljudskih prava, radna, ustavna, finansijska, ekološka. Uloga svakog kliničara pretpostavlja određene kvalifikacije. Pored teorijskih i praktičnih znanja, kliničari treba da imaju sposobnost da prihvate kritiku kolega i studenata i da pokazuju interesovanje za istraživanje obrazovnih i pravnih problema koji se pojavljuju unutar kliničkog pravnog obrazovanja. Osposobljavanje nastavnog, neakademskog kadra i studenata u ovom Projektu je omogućio posjete i opservacije pravnih klinika na pravnim fakultetima u Zagrebu, Londonu i Varšavi, kao i radionice na kojima su kliničari iz ovih institucija održali treninge koji su učesnicima pružiti neophodno praktično znanje i pomoć za kvalitetan i zadovoljavajući rad sa ranjivim grupama.

¹⁵ Vidi Sullivan ET All., *Educating Lawyers: Preparation For The profession of Law* 14 (2007).

Izbor klijenata je, takođe, značajna komponenta pravne klinike. To mogu da budu svi građani kojima je potreba pravna pomoć, ili ranjive grupe (siromašni, žrtve porodičnog nasilja, izbjeglice, azilanti, osobe sa invaliditetom, itd). Pravni fakultet UCG se opredijelio za sada da pomoć pruža tkz. ranjivim grupama. Međutim, to ne znači da će odbiti druge građane. U svakom slučaju ugrožene grupe će imati prednost u odnosu na ostale građane.

Način izbora studenata koji će raditi na klinici se razlikuje od klinike do klinike. Ono što je zajedničko je da postoji određeni broj studenata, njihovo prethodno obrazovanje i akademski preduslovi da bi mogli da rade na pravnoj klinici. Studenti mogu po obimu angažovanosti raditi različito. Ukoliko klinika ima zakonskih mogućnosti, studenti mogu biti angažovani i za rad zastupanja na sudu. Druge klinike mogu davati samo pravne savjete ili mišljenja. Bez obzira o kojoj se klinici radi, moraju se uspostaviti jasna pravila za rad na klinici kako organizacione, tako i administrativne prirode, kao što su broj časova koje student provede na klinici, vođenje bilješki, odgovornost, kontaktiranje sa klijentima, rad se mentorom bilo akademskim ili neakademskim, rad u učionici i sl. Pravna klinika Pravnog fakulteta UCG pruža građanima pravne savjete, informacije ili mišljenja.

Prema tome, svaka klinika bi trebalo da ima svoju politiku koju će uobličiti u formi priručnika, poslovnika o radu, prospekta, flajera koji bi obuhvatao: organizaciju, određivanje ciljeva, rad u učionici, rad na klinici i sam proces izbora studenata koji će raditi na klinici.

Veoma važno pitanje u radu svake pravne klinike je kako doći do klijenata. To se može uraditi na nekoliko načina: formalnim ili neformalnim kontaktom, dolaskom na kliniku, putem telefona ili e maila, putem nevladinog sektora, ili preko aranžmana sa organima pravosuđa. Svakako, značajan faktor je i medijsko predstavljanje klinike bilo putem štampanih, tv medija, bilborda i preko organa pravosuđa. Svaka pravna klinika treba da ima i svoj sajt na kojem će se klijentu pružiti sva potrebna obavještenja o radu na klinici i gdje će se naći e-mail adresa potrebna za kontakt sa klijentom. Pravni fakultet UCG je sve gore navedene načine kontakta i upoznavanja klijenata sa pravnom klinikom ispoštovao. Poseban doprinos promociji pravne klinike je imala saradnja organa pravosuđa kao partnera u projektu ENEMLOS-a.

Kada se radi o predmetima koji će biti procesuirani na klinici, posebnu pažnju treba posvetiti da li taj predmet spada u oblast pružanja savjeta pravne klinike, koliko je bitan za obrazovanje studenta, koje usluge klinika može da povjeri klijentu i da li postoji bilo kakav sukob interesa. Klinika treba da odredi i vrijeme koje će studenti provoditi u radu, dnevno i nedeljno i o tome buduće klijente informisati na svom sajtu ili im pružiti informacije elektronskim putem. Na Pravnom fakultetu UCG, pravna klinika radi radnim danima prije i poslije podne.

U radu na klinikama rade studenti koji, i pored profesora ili praktičara mentora, mogu napraviti greške jer, ipak, oni nijesu profesionalci i još uvijek nediplomirani pravnici. Upravo da bi se greške svele ili izbjegle neophodno je napraviti plan nadzora studenata koji bi obuhvatao sljedeće radnje: omogućiti da se između studenta i klijenta stvori potrebno polje povjerenja, mjere koje bi spriječiti bilo kakav sukob interesa, obezbijediti zadovoljavajući broj studenata na klinici da bi se mogle kontrolisati od strane mentora njihove aktivnosti, ko mogu biti mentori, njihovo iskustvo i znanje i obezbijediti praćenje etičkih standarda i profesionalne odgovornosti.¹⁶

Kliničko pravno obrazovanje obuhvata i brojna administrativna pitanja. Potrebno je obezbijediti odgovarajući prostor na fakultetu, ili van fakulteta. Prostor treba da bude dovoljno prostran, kao i obezbijediti prostorije da se osigura privatnost susreta klijenta i studenta. Za rad na klinici je potrebna i oprema u koju spadaju kompjuteri, štampači, telefoni, baze podataka, internet. Pravni fakultet UCG je obezbijedio odgovarajući prostor, preko projekta ENEMLOS nabavio potrebnu opremu i baze podataka. Prostorije pravne klinike se nalaze u zgradi Fakulteta, sa posebnim ulazom da bi se i na taj način obezbijedila privatnost klijenta.

Za pravnu kliniku je bitno i vođenje različitih vrsta evidencija, koje se koriste u svakodnevnom radu. Potrebno je da svaka pravna klinika ima brošure koje se daju klijentima i koje su dostupne i u organima pravosuđa, na primjer sudu, tužilaštvu, notarima, izvršiteljima, itd. Ovo je veoma važno da bi se klijent upoznao sa radom pravne klinike. Dokumenta pravne klinike obuhvataju: izjave studenta i mentora o povjerljivosti, upitnik za klijenta koji pruža informaciju o

¹⁶ Vidi Ziegler, *Developing a System of Evaluation in Clinical Legal Teaching*, 42 J. Legal Educ. 575 (1992).

njemu, obrazac kojim se predmet uzima u rad na pravnoj klinici, kao i onaj kojim se predmet odbija jer nije prikladan za rad, obrazac za zatvaranje predmeta kada je predmet završen, kao i pojedine priručnike o kancelarijskom poslovanju. Svaka pravna klinika treba da ima određena dokumenta kojima se konstatuju pojedine aktivnosti na klinici kao što su: djelovodnik za zakazivanje sastanaka između studenta i klijenta, djelovodnik predmeta, personalni dosije svakog klijenta, dnevnik studentskih aktivnosti pojedinačno za svakog studenta, plan nedeljnih rasporeda rada se klijentima. Koje od ovih evidencija će se naći u radu same pravne klinike zavisi od modela koji je klinika odabrala da se u njoj realizuje.¹⁷ Većinu ovih dokumenata, a koji se odnose na pružanje pravnih savjeta, posjeduje pravna klinika Pravnog fakulteta UCG.

Kada je riječ o domaćem normativnom okviru u pogledu sistema besplatne pravne pomoći tkz. ranjivim grupama, treba svakako istaći da je na adekvatan način omogućeno ostvarivanje prava na pravično suđenje ovim kategorijama lica. Odredbom člana 21. Ustava Crne Gore garantovano je pravo na pravnu pomoć, dok Zakon o besplatnoj pravnoj pomoći, u odredbi člana 1, predviđa da se besplatna pravna pomoć obezbjeđuje fizičkim licima koja nisu u mogućnosti da ostvare pravo na sudsku zaštitu bez ugrožavanja nužnog izdržavanja sebe i svoje porodice, shodno svom imovnom stanju. Organ nadležan za pružanje besplatne pravne pomoći je osnovni sud, tj. predsjednik osnovnog suda. Odredba člana 5. predviđa da ostvarivanje besplatne pravne pomoći na osnovu Zakona ne ograničava ostvarivanje pravne pomoći od strane službi, nevladinih organizacija i drugih organizacija osnovanih u skladu sa zakonom. Besplatnu pravnu pomoć pružaju: 1) advokati sa liste Advokatske komore Crne Gore; 2) služba za besplatnu pravnu pomoć u okviru osnovnog suda (samo pravno savjetovanje). Besplatna pravna pomoć podrazumijeva obezbjeđivanje potrebnih sredstava za potpuno ili djelimično pokrivanje troškova pravnog savjetovanja, sastavljanja pismena, zastupanja u postupku pred sudom, Državnim tužilaštvom i Ustavnim sudom Crne Gore i za vansudsko rješavanje sporova i postupku pred javnim izvršiteljem. Pravo na pravnu pomoć podrazumijeva i pravo na oslobođanje od plaćanja troškova sudskog postupka (izuzev troškova branioca i punomoćnika koje se ostvaruje u skladu sa drugim zakonima).

¹⁷ Vidi Ogilvy, Wortham and Lerman, Learning from Practice, A Professional Development Text for Legal Exten 199 (1998).

Crnogorski državljanin ili drugo lice koje zakonito boravi u Crnoj Gori može ostvariti pravo na besplatnu pravnu pomoć. Dakle, pored crnogorskog državljanina ovo pravo može ostvariti i lice bez državljanstva (apatrid) koje zakonito boravi u Crnoj Gori i lice koje traži azil u Crnoj Gori; stranac sa stalnim prebivalištem, odnosno stalnim boravkom ili odobrenim privremenim boravkom i drugo lice koje zakonito boravi u Crnoj Gori; drugo lice u skladu sa potvrđenim i objavljenim međunarodnim ugovorom. Besplatna pravna pomoć može se ostvariti ako je to lice: 1) korisnik novčane pomoći u skladu sa Zakonom o socijalnoj i dječijoj zaštiti; 2) dijete bez roditeljskog staranja; 3) osoba sa invaliditetom; 4) žrtva nasilja u porodici ili trgovine ljudima; 5) lice lošeg imovinskog i finansijskog stanja. Pri tome, imovinsko i finansijsko stanje podnosioca zahtjeva utvrđuje se na osnovu njegovih primanja i imovine kao i prihoda i imovine članova njegove porodice. Licem slabog imovnog stanja se smatra lice koje nema imovinu, a njegov mjesečni prihod i ukupan mjesečni prihod članova porodice ne prelazi iznos 30 odsto prosječne zarade u Crnoj Gori u mjesecu koji prethodi mjesecu u kojem je podniet zahtjev za odobravanje besplatne pravne pomoći, za jednog člana, i po 15 odsto prosječne zarade za svakog narednog člana. Članovima porodice smatraju se supružnici ili vanbračni supružnici i njihova djeca, usvojena djeca i drugi srodnici koji sa njima žive u porodičnoj zajednici, a koje je dužan da izdržava.

Shodno navedenom, Zakon o besplatnoj pravnoj pomoći Crne Gore ne prepoznaje pravne klinike osnovane u okviru pravnih fakulteta kao potencijalne pružaoce besplatne pravne pomoći. U toku je izrada Nacrta zakona o izmjenama i dopunama Zakona o besplatnoj pravnoj pomoći, koji predviđa da se, među pružaoce besplatne pravne pomoći, uvrste i pravne klinike. To će omogućiti Pravnoj klinici Pravnog fakulteta UCG da nastavi sa radom i po završetku projekta ENEMLOS.

Kliničko pravno obrazovanje, kao što se iz prethodnog vidi, pruža niz prednosti studentima da dobiju kompletno pravno obrazovanje, predstavlja novu komponentu i perspektivu koja se pruža studentu na njegovom putu ka sticanju diplome pravnika, a to je ono što od njih i traži jako izbirljivo tržište rada. Pravni fakultet Univerziteta Crne Gore je prepoznao sve navedene prednosti kliničkog pravnog obrazovanja i stvorio sve preduslove za realizaciju kvalitetnog i korisnog pravnog programa. U taj program je uključena praktična komponenta koja je u mnogim pravnim disciplinama preko klasične nastave

nedostajala. Upravo razvijajući praktičnu komponentu pravnog obrazovanja, Pravni fakultet UCG saraduje i sa kompletnim pravosuđem, a što se kroz projekat ENEMLOS pokazalo izuzetno korisnim. Kliničkim pravnim obrazovanjem se doprinosi razvoju kritičnog i kreativnog mišljenja, razvijanju pravnih vještina, stvaranju profesionalne odgovornosti i poštovanju principa pravne etike. U ovom momentu Crna Gora prolazi kroz duboke i brze transformacije i upravo sposobnost kritičkog i kreativnog mišljenja sve to pospješuje. Naravno, tu je i pomoć koja se pruža tkz. ranjivim grupama i koja svima omogućava jednak pristup pravdi. Studenti Pravnog fakulteta UCG su prepoznali sve prednosti kliničkog pravnog obrazovanja. Na to ukazuje i činjenica da je prisutno njihovo ogromno interesovanje i motivisanost da nauče, a ne da dobiju određene poene. Pravni fakultet UCG će i poslije zatvaranja projekta ENEMLOS-a nastaviti program pravnih klinika i one će dobiti i svoj institucionalni okvir i biti prepoznatljivo obilježje našeg Fakulteta.

2.- Kliničko pravno obrazovanje na Pravnom fakultetu UCG je počelo 2000. godine. Na samom početku uvođenja ovog obrazovanja u naš nastavni plan i program, koristili smo bogato iskustvo drugih zemalja. Američko udruženje pravnika - Pravna inicijativa za Centralnu i Istočnu Evropu (ABA CEELI) je pomogla da kreiramo program preko seminara i dovođenjem profesora kliničara koji su već poznati eksperti u toj oblasti iz USA. Prvi gost Fakulteta je bio profesor Peter Hoffman, koji je održao predavanja našim profesorima i sudijama Vrhovnog suda koji su bili zainteresovani za rad na klinikama. U akademskoj 2001. godini, profesor Kevin Ruser sa Pravnog fakulteta Univerziteta Nebraske je posjetio naše klinike, razgovarao sa rukovodiocima klinika o budućoj saradnji i održao nekoliko predavanja studentima. On je studentima iscrpno obrazložio suštinu kliničkog obrazovanja u USA, kao i demonstrirao jedan aktuelan slučaj iz rada sa tkz. živim klijentima. Profesor Ruser je posjetio i Vrhovni sud, gdje je sa sudijama Vukovićem i Durutovićkom razgovarao o problemima sa kojima se oni susreću i ponudio korisne sugestije kako da se klinički program poboljša. Profesor Ruser je ponovo 2003. sa dva studenta sa Pravnog fakulteta Univerziteta Nebraske u Linkolnu posjetio naš Fakultet, a naša dva profesora i dva poslijediplomca su imali uzvratnu posjetu Nebraskoj. Krivičnu kliniku je posjetila iz Nebraske i profesorica Alicia Henderson, razgovarala sa kolegama Radulovićem i Tomkovićem, a primio je i predsjednik Vrhovnog suda Crne Gore Damjanović.

Naš gost je bio i student Paul Butler, takođe sa Univerziteta u Nebraskoj. Naše dvije profesorice Biljana Đuričin i Snežana Miladinović su posjetile Pravni fakultet Univerziteta Nebraske u Linkolnu. Ove posjete su bile dio povezivanja našeg Fakulteta sa Fakultetom u Nebraskoj preko ABA CEELI kancelarije u Crnoj Gori.

Gost pravnih klinika je bio i profesor Thomas Speedy Rice sa Gonzaga Univerziteta u Washingtonu, koji se aktivno uključio u naš program. Njegovi korisni savjeti, komentari, preporuke su nam dobrodošle, a posebno njegova obuka studenata i profesora kliničara gdje je prenosio iskustva kliničkog pravnog obrazovanja iz USA. On je pripremao našu ekipu za regionalno takmičenje u Baru i međunarodno takmičenje Gessup u Washington DC. Profesor Rice je poklonio veliki broj knjiga biblioteci Centra za pravne klinike. Svojim doprinosom i kooperacijom ostavio je neizbrisiv trag na Pravnom fakultetu UCG.

Kroz ABA CEELI kancelariju u Crnoj Gori, naši profesori su učestvovali na regionalnim konferencijama u Budvi, Skoplju i Rijeci. Na tim konferencijama, učesnici su se upoznavali sa inovacijama u ovom obrazovanju, razmjenjivali iskustva sa kolegama iz našeg regiona, kao i pratili predavanja od poznatih američkih profesora kliničara. Posredstvom Fonda za Otvoreno Društvo, kancelarije u Crnoj Gori, takođe se, učestvovalo na pojedinim konferencijama koje su se odnosile na prezentovanje dostignuća u ovoj oblasti. Zahvaljujući Fondu, naše profesorke Đuričin i Mandić su posjetile pravne klinike u Varšavi i Krakovu koje su jedne od najboljih i najstarijih u Evropi, kao i posjetile Fondaciju pravnih klinika Poljske i razgovarale sa njegovim direktorom dr Filipom Černitskim... Profesorica Biljana Đuričin je bila 2003. godine učesnik GAJE konferencije u Krakovu, čija je tema bila dalje unapređivanje kliničkog pravnog obrazovanja. ABA CEELI i FOSI su nam pružili kako logističku, stručnu i finansijsku pomoć. Izuzetan doprinos za poboljšanje rada klinika je dao i USAID koji je zajedno sa kancelarijom ABA CEELI u Podgorici i Beogradu poklonio opremu za našu kliničku učionicu u vrijednosti od 10 000 dolara. Pomoć nam je pružao i Američki konzulat u Podgorici, koji je finansirao boravak i učešće profesorice Đuričin na konferenciji u DC na Catholic University čija je tema bila Učenje kroz praksu. Bez navedenih pomoći naš program teško da bi imao rezultate i zato visoko cijenimo aktivnosti naših donatora.

Pravne klinike je posjetila i jedna od vodećih kliničara iz USA profesorica Leah Wortham sa Catholic Univerziteta u DC. Profesorica Biljana Đuričin je 2004/05 bila gostujući profesor na Catholic Univerzitetu i bila je, pored ostalog, izuzetno angažovana na pravnim klinikama koje rade sa živim klijentima.

Pravni fakultet je 2003 godine, uz izuzetno zalaganje dekana Vukčevića osnovao Centar za pravne klinike kao jedinicu Pravnog fakulteta. Centar je izdao dvije knjige i objavio Bilten pravnih klinika. U priložima za ove radove su i doprinosi tri američka profesora.

Pravni fakultet UCG je preko ovih projekata u svoj nastavni plan i program uveo klinike kao obavezne predmete na specijalističkim studijama. Izmjenama nastavnog programa i plana, danas pravne klinike su obavezni predmeti na master studijama na svim modulima. Ove klinike praktikuju brojne externship programe, ali ne i rad sa tkz. živim klijentima.

Pravni fakultet UCG je 2019. godine aplicirao i dobio projekat „**Pravne klinike u službi ranjivih grupa: poboljšanje zapošljivosti studenata prava putem praktičnog obrazovanja**“ (ENEMLOS). Radi se o jednom od najvećih projekata Pravnog fakulteta UCG, koji je podržan u okviru programa Erasmus+ Izgradnja kapaciteta na polju visokog obrazovanja. Projekat će trajati četiri godine. Izuzetna saradnja tokom projekta u cilju logistike je sa kancelarijom Erasmus programa za Crnu Goru.

U Projekat uključene su tri eminentne institucije iz EU koje se uspješno bave kliničkim pravnim obrazovanjem, posebno radom sa tkz. živim klijentima: Pravni fakultet Univerziteta u Zagrebu, Regents Univerzitet u Londonu i Univerziteti centar za pravne klinike u Varšavi, koji će pružiti najbolju edukaciju i praksu u oblasti kliničkog pravnog obrazovanja prisutnu u zemljama EU i USA.

Pravni fakultet UCG realizuje ovaj projekat zajedno sa akademskim partnerima sa Kosova i neakademskim institucijama iz Crne Gore i Kosova. Među institucijama koje učestvuju u Projektu su pravni fakulteti u Podgorici, Prištini, Gnjilanu i Peći, advokatske komore Crne Gore i Kosova, Vrhovni sud CG, Vrhovno državno tužilaštvo CG, Notarska komora CG, Komora javnih izvršitelja CG, Centar za ARS CG i Osnovni sud u Gnjilanu.

Na jednoj strani, Projektom se uspostavlja dugoročna saradnja sa neakademske institucijama koje pripadaju pravosuđu u širem smislu riječi. Njihova edukativna uloga i bogato pravno iskustvo će doprinijeti realizaciji navedenih ciljeva Projekta, kao i omogućiti druge oblike saradnje što je korisno za Univerzitet kao naučnu bazu, jer kvalitetno obrazovanje nije moguće bez praktičnih rezultata. Saradnja sa pravosuđem se uspješno odvijala i do sada, ali ovim Projektom dobija i nove komponente. Na drugoj strani, uspostavljena saradnja između visokoškolskih ustanova utiče na mobilnost studenata i akademskog osoblja, kao i na tržište rada i mogućnosti dobijanja i razmjene prakse.

Ključni ciljevi Projekta su: modernizacija i usmjeravanje postojeće nastavne prakse, posebno u praktičnim pravnim disciplinama; povećavanje kapaciteta na pravnim fakultetima; sticanje novih i razvijanje postojećih pravnih vještina; uspostavljanje dugoročne i održive saradnje sa pravnim institucijama zemalja učesnica Projekta; razvijanje interesovanja i motivacije studenata; poboljšanje zapošljivosti studenata prava i omogućavanje široj zajednici - posebno ranjivim klijentima da zaštite svoja prava putem besplatnih pravnih savjeta.

Rad sa tzv. živim klijentima kao model kliničkog obrazovanja zadovoljava i zahtjev institucijama visokog obrazovanja, predviđen aktuelnim Zakonom o visokom obrazovanju, da se 25 posto nastavnog procesa, u okviru svakog pojedinačnog predmeta i na svim nivoima studija, sprovodi kao praktična nastava. Međutim, ovaj model kliničkog obrazovanja trenutno predstavlja fakultativni oblik nastave na Pravnom fakultetu UCG, budući da je angažman u Pravnoj klinici na izbornoj osnovi, za studente master studija, specijalističkih studija i studente završne godine osnovnih studija. Ovi studenti se prijavljuju za učešće u Klinici, čime kompenzuju određeni broj poena za predmet u okviru koga prijavljuju učešće u radu Klinike (20 poena u okviru odgovarajućeg predmeta na master studijama, odnosno 10 poena u okviru predmeta na osnovnim studijama). Pri tome je broj studenata koji će biti izabrani za angažman tokom jednog semestra ograničen, pa prednost u izboru imaju studenti master studija na pozitivnopravnoj grupi predmeta, a kriterijume za izbor predstavlja prosječna ocjena na osnovnim studijama kao i sklonost ka praktičnoj nastavi. Svakako, da bi praktična nastava u okviru Pravne klinike postala sastavni dio kurikuluma na Pravnom fakultetu i time obavezna za

studente, potrebno je omogućiti rad Klinike nakon završetka projekta ENEMLOS. Time bi Pravna klinika zamijenila postojeće, tradicionalne kliničke predmete bazirane na simuliranim slučajevima.

Realizacija projekta ENEMLOS je u toku i na obostrano zadovoljstvo kako studenata, akademskih i neakademskih mentora realizuje se rad sa tkz. živim klijetima i studenti klijentima pružaju besplatnu pravnu pomoć u formi savjeta mišljenja i informacija. O značaju ovog Projekta najbolje govore njegovi akteri.

“Učešće u projektu nam je omogućilo da uvidimo značaj kliničkog obrazovanja za studente prava i da im kroz praktičan rad i podršku kao mentori pomognemo u sticanju važnih praktičnih vještina rješavanja određenih problema. Vjerujem da ćemo kroz budući zajednički rad i dalje doprinositi kliničkom obrazovanju studenata, te na kraju pomoći ranjivim grupama u njihovim potrebama da im se pruži adekvatna pravna zaštita.” Mr Vidak Latković, predsjednik Komore javnih izvršitelja Crne Gore

“S aspekta studenta, a ujedno člana i svjedoka prve generacije koja je bila uključena u rad na klinikama mogu da kažem da se radi o programu koji je, zaista, perspektivno osmišljen i skopčan na humanitarnim osnovama. Naš glavni cilj jeste da, zajedno sa našim mentorima koji pripadaju grupi najpozvanijih pravnih stručnjaka naše države, pružimo pravnu pomoć onom dijelu stanovništva koji je uslijed lošijih materijalnih prilika i mogućnosti nemoćan da samostalno ostvari i zaštititi svoja prava. Na taj način doprinosimo njihovom osjećaju jednakosti u društvu gdje vladaju različite materijalne prilike ali i pravne sigurnosti što je naš primarni cilj.

Govoreći uz osvrt na naše dosadašnje slučajeve i iskustva, mogu da kažem da smo uvijek pristupali “timski”. Konačno pravno mišljenje dajemo po prethodno usaglašenim mišljenjima u okviru grupe čiji smo članovi. Tako je bilo i u našem prvom slučaju na klinikama, vezanom za problem državljanstva lica (tražioca pravne pomoći). Slučaj je uz naš timski rad uspješno razriješen pa ga možemo posmatrati kao “dodatnog podstrekača” naše želje za zadovoljenjem pravde u svakom konkretnom slučaju. U namjeri da poboljšaju našu kompetentnost i stručnost mentori su organizovali predavanja na različite pravne teme. Održavaju ih advokati, notari, tužioci, sudije i drugi pravni stručnjaci u cilju našeg upoznavanja sa problemima i sporovima koji su u praksi

najčešći, ali i podučavanja za davanje našeg doprinosa, kroz pružanje pravne pomoći, u istim. Kao student koji predavanja redovno prati mogu da kažem da su zaista korisna, ali i vrlo zanimljiva. Obzirom da do sada i nismo bili angažovani u nekom većem broju slučajeva, nadam se da će naredni period obilježiti porast istih. Ako uzmemo u obzir da smo gotovo tek otpočeli s radom i da smo, tek od skoro, radili na boljoj promociji našeg postojanja legitimno je očekivati njihov porast. Osim u gore pomenutom cilju, u radu na klinikama, angažovala sam se i zbog sticanja nekog praktičnog iskustva prije zaposlenja u pravnoj struci. Smatram da će svim studentima to jednako koristiti.” Ksenija Popović, student

“Pravna klinika Univerziteta Crne Gore uspješno je implementirala osnovne karakteristike zagrebačkog modela kliničkog pravnog obrazovanja. Postojeći način izvođenja kliničke prakse jamči studentima nužnu autonomiju u radu, bez pretjeranog naglašavanja hijerarhijske organizacije. Pozitivna je okolnost da su svi studenti bili uključeni u rad na prvom predmetu i da su ga rješavali u komunikaciji s akademskim mentorima.” Marija Bojović, student

“Bila sam angažovana na projektu ENEMLOS u ovom, a i u prošlom semestru. Sama ideja osnivanja istog, te koncept rada mi se mnogo dopada. Smatram da je veoma važno da studenti, već na osnovnim studijama imaju mogućnost da se susretnu sa praksom i pružanjem pravne pomoći. S obzirom na to da je projekat relativno mlad, za sada ima veći teorijski, nego praktični značaj. Međutim, posmatrajući rad profesora koji su angažovani, smatram da će projekat zaista da zaživi i napravi jedan značajan preokret u radu i obrazovanju budućih studenata Pravnog fakulteta.” Tamara Kontić, student

Pravna klinika Pravnog fakulteta UCG je prepoznata od studenata, pomognuta naporima akademskih i neakademskih mentora i kao takva treba da bude jedno od značajnih obilježja ne samo našeg Fakulteta, već i šire društvene zajednice. Riječima poznatog sudije Vrhovnog suda USA, Ruth Bader Ginsburg, „Pregovaračke radionice, pravne klinike i simulacije pomoću kompjutera proširuju pravno obrazovanje i stvaraju pravnike, obrazovanije i sofisticiranije, kao nikada prije.“

Doc. dr Velibor KORAC¹

Doc. dr Rajka ĐOKOVIĆ²

METODOLOGIJA RADA PRAVNE KLINIKE PRAVNOG FAKULTETA UNIVERZITETA CRNE GORE

I O Pravnoj klinici Pravnog fakulteta UCG

Pravna klinika na Pravnom fakultetu UCG je počela sa radom krajem maja 2022. godine kao rezultat Projekta ENEMLOS. Za sada ne postoje osnivački akti za Pravnu kliniku, i ona je, *inter alia*, formirana na osnovu saglasnosti svih nastavnika na predmetima iz kojih studenti koji rade na klinici dobijaju dodatne poene.³ Kurikulum pravne klinike *per se* ne postoji, jer nije u pitanju zaseban predmet na Fakultetu. Iz ugla studenata koji su izabrani da rade na klinici, aktivnosti se valorizuju na način da se studentima u okviru ovih ili nekih drugih predmeta sa treće godine studija priznaje određeni broj poena (20 poena od 100 na masteru i 10 poena od 100 na osnovnim studijama) iz predmeta koji su sami izabrali. Pravna Klinika za sada nije normativno regulisana opštim aktom, pa je radni tim nastavnika koji su učlučeni u rad na klinici donosio pojedinačne odluke u pogledu organizacionih i drugih pitanja koja se tiču funkcionisanja Pravne klinike. To je, u stvari, bio pilot projekat.

Prvi organizacioni zadatak koji je trebalo završiti se ticao izbora studenata za rad na Klinici. Tu su se postavila dva pitanja: 1) kako izabrati studente (postupak i kriterijumi) i 2) sa kojih godina studija izabrati studente. Bilo je razmišljanja da to budu samo studenti master studija, međutm od ovog koncepta se djelimično odstupilo. Naime, odlučeno je da pored studentata master studija budu uključeni i studenti sa treće, tj. završne godine bečelor studija. Ovakva odluka je bila motivisana činjenicom da i studenti koji još nisu završili osnovne studije mogu, u saradnji sa starijim kolegama, adekvatno

¹ Pravni fakultet Univerziteta Crne Gore

² Pravni fakultet Univerziteta Crne Gore

³ Postoji intencija da se formira Centar za pravne klinike pod okriljem Univerziteta Crne Gore. Cilj ovako zamišljenog Centra bi bio inkluzija studenta sa drugih pravnih fakulteta u Crnoj Gori. Potrebno je sprovesti proceduru koja bi se okončala odlukom Senata Univerziteta Crne Gore.

pružati pravnu pomoć i da se na taj način stvara baza za dalju izgradnju Klinike – imajući u vidu da će ti studenti kasnije postati i studenti master studija sa iskustvom rada na Klinici. Odlučeno je da se izbor studenata za rad na Klinici izvrši na osnovu oglasa. Nakon raspisanog Oglasa za izbor studenata za rad na Pravnim klinikama, prijavilo se 36 kandidata od kojih je 27 primljeno na rad na klinici. Studenti su odabrani nakon sprovedenog intervjua sa kandidatima. Pored toga što se kao jedan od glavnih kriterijuma za prijem tražio prosjek ocjena, cijenjeni su i neki drugi kvaliteti studenata, kao što su motivisanost za rad na klinici, sklonost ka praktičnoj nastavi, entuzijazam za ovu vrstu posla, spremnost da se pomogne licima koja su upućena na pomoć drugih itd.

Nakon izbora kandidata organizovani su sastanci sa njima i sprovedena je obuka studenta za rad na klinikama. Obuka se sprovodila na osnovu iskustava i dobrih praksi naših partnera sa Projekta. Dio treninga je bio usmjeren na način komunikacije sa budućim klijetima, a drugi dio je bio fokusiran na načine rješavanje konkretnog spora. Fokus je stavljen na prikupljanje činjenica i na vještinu postavljanja pitanja, kako bi se što bolje pripremila činjenična podloga predmeta. A sve to sa ciljem bržeg, efikasnijeg i kvalitetnijeg pružanja pravne pomoći za rješavanje pravnog problema.

Pripremljeni su obrasci za prijem predmeta, izjava o povjerljivosti i načinu obrađivanja tačnosti podataka sa pojašnjem o dužnosti čuvanja tajne, pouka o privatnosti. Pored toga, pripremljeni su obrasci sa ključnim pitanjima za sporove iz radnog odnosa i sporove koji se tiču izvršnog postupka. Ovo je važno zbog toga što se radi o hitnim postupcima, koje karakterišu rokovi preklizivne prirode i u slučaju njihovog propuštanja stranka gubi pravo da preduzme radnju.

2.

Funkcija pravnih klinika je dualna: 1) obrazovna – inovativna forma podučavanja studenata prava, koji se kroz „learnig by doing“ pripremaju za pravničku profesiju i 2) društvena – pravni fakulteti omogućavaju marginalizovanim pojedincima i društvenim grupama mogućnost korišćenja besplatne pravne pomoći, a na taj način i omogućavaju ostvarivanje prava na pristup sudu, tj. ostvarivanje pravde.

Kliničko obrazovanje je jedan od efikasnih alata koji omogućavaju uključivanje kompletnog spektra nužnih pravnih vještina i omogućava

najpotpunije i najoptimalnije uvođenje studenata u sferu pravne prakse.⁴ Klinički programi svojom misijom humanizuju pravnu profesiju i oblikuju društvenu svijest pravnika.⁵

Ciljevi pravne klinike su:

- 1) Da se obezbijedi pravna pomoć onima koji pripadaju socijalno ugroženim grupama
- 2) Podizanje nivoa praktičnih znanja, vještina i sposobnosti studenata prava
- 3) Izgradnja i razvijanje pravne kulture
- 4) Uvođenje u obrazovni proces elemenata praktične nastave
- 5) Saradnja PF sa pravosudnim organima i drugim organima koji učestuju u vršenju pravosuđa (omogućava se studentima da komuniciraju sa praktičarima)

Da li Pravni fakultet UCG adekvatno priprema svoje studente da praktično primjenjuju pravo, ako ne, šta možemo uraditi da omogućimo da budu što bolje pripremljeni za praksu?

Rad na Klinici treba da razvije i usavrši određene vrste pravničkih vještina. Neke od njih su:

1. Rješavanje pravnog problema (pravnik treba da je u stanju da identifikuje problem, ponudi rješenje ili način za njegovo rješavanje, postavi i implementira plan na koji način to postići). Grupa studenata koja radi na Klinici imaće priliku, tokom kontakta sa živim klijentom, da spozna činjenicu rješavanja životnih pravnih problema. Studenti, po prirodi stvari, postaju aktivni učesnici i teret pomoći rješavanja problema je na njima samima. Akademska i neakademska osoblja treba da omogućiti studentima da samostalno postavljaju problem i ponude smjer u kome ga treba riješiti. Uloga akademskog i neakademskog osoblja treba da bude pasivna u početku, a usmjeravajuća pri kraju postupka pomoći rješavanja problema. Ostaje otvoreno pitanje na koji način regulisati odnos između akademskog mentora (profesora) i

⁴ See F. Zoll, B. Namysłowska-Gabrysiak, *The Methodology of clinical teaching of law*, in: *The Legal Clinic. The Idea, Organization, Methodology*, Warsaw 2005, 189

⁵ F. Zoll, B. Namysłowska-Gabrysiak, *The Methodology of clinical teaching of law*, in: *The Legal Clinic. The Idea, Organization, Methodology*, Warsaw 2005, 186.

neakadenskog mentora (npr., advokata) među sobom, kao i u odnosu prema grupi studenata (najčešće tri studenta) koji rješavaju konkretan slučaj. Nakon što studenti pripreme pisano mišljenje, u proces njegove evaluacije i kontrole bi trebao da budu uključeni akademski i neakademske mentori zajedno.

2. Pravna argumentacija i analiza (pravnik treba da poznaje pravne principe, načela i regulativu kako bi ih analizirao i primjenjivao u svom radu). Pravno argumentovanje (za ili protiv određenog pravnog stava) se najbolje uči kroz rješavanje konkretnih slučajeva. U saradnji sa mentorima, studenti treba da formulišu pravni problem i definišu koncepte za njegovo rješavanje primjenjujući već stečena teorijska znanja. Studenti treba da ponude argumentaciju na osnovu stečenog znanja iz određene oblasti. Usmjeravanje studenata od strane mentora u ovoj fazi je nužno.
3. Istraživanje. Pravnici moraju poznavati prirodu pravnih pravila i regulativu, kako bi efikasno sprovedli istraživanje koje je nužno u rješavanju pravnog problema. Pravna regulativna (zakonske i podzakonske norme) se najbolje uče kroz rješavanje konkretnog problema. Praktična operacionalizacija normi će dovesti do toga da studenti kroz konkretan životni slučaj bolje zapamte određeni pravni institut, nego što je to slučaj prilikom redovog učenja na fakultetu. Studenti prije davanja mišljenja treba samostalno da sprovedu istraživanje određenog pravnog instituta ili pravnog pravila (pročitaju relevantnu udžbeničku literaturu, monografije, članke ili komentare zakona). Tek nakon toga, studenti mogu na najbolji način ispitivati činjenično stanje i davati pravnu argumentaciju u prilog načina rješavanja konkretnog slučaja.
4. Razjašnjenje činjenica slučaja. Neophodna pretpostvka za pružanje adekvatnog pravnog savjeta je razjašnjenje pravnog činjeničnog stanja. Treba imati u vidu da razjašnjenje ne znači utvrđivanje činjenica, tj. da li je neka činjenica koju je stranka navela istinita ili nije. Razjašnjenje je usmjereno na same pravnike koji treba da dodatnim pitanjima podstaknu stranke da iznesu svu činjeničnu građu koja može biti relevantna kako bi se razjasnile činjenice. To posebno dolazi do izražaja kada stranka koristi pravne formulacije i kvalifikacije o čijem pravnom značenju nema predstavu. Pored toga, studenti treba da budu svjesni

nekih ograničenja u ovom domenu. Naime, klijenti će u određenim situacijama nastojati da prikriju ili prikažu drugačije činjenice koje im ne idu u prilog.

5. Komunikacija. Pravnici moraju biti u stanju da efikasno komuniciraju i usmeno i pismeno. Klinika praksa studentima omogućava da razviju i unaprijede važan sagment svake pravničke profesije, a to je komunikacija sa klijentima. U neposrednom kontaktu sa klijentima se razvijaju vještine usmene komunikacije sa klijentima koji su nerijetko lica sa nižim stepenom obrazovanja i koji nisu pravnici. S druge strane, sačinjavanje pismenog pravnog mišljenja omogućava studentima da savladaju vještine pisane komunikacije.
6. Savjetovanje. Davanje savjeta (usmenih ili u pismenoj formi) predstavlja glavni cilj rada studenata na klinici. Zapravo svaki pravnik se percipira kao neko „ko može dati pravni savjet“ za neki pravni problem. Savladavanje vještine davanja pravnih savjeta (pisanih ili usmenih) će u velikoj mjeri biti pod nadzorom akademskih i neakademskih mentora. U tom smislu važnu ulogu će imati sami advokati koji će u finalnoj fazi kontrolisati savjet koji treba da bude dat klijentu. U okviru davanja savjeta važno je napomenuti da studenti koji rade u klinici, za razliku od nekih drugih zemalja, nemaju mogućnost da zastupaju klijente pred sudovima i drugim organima. Ta činjenica ograničenosti pravne pomoći već prilikom prvog susreta sa klijentom mora mu biti prezentovana.

II Organizacioni i funkcionalni zahtjevi Pravne Klinike *de lege ferenda*

1. Normativno regulisanje

Za dalji rad i funkcionisanje Pravne Klinike za pružanje besplatne pravne pomoći stvarnim klijentima trebalo bi donijeti opšti akt (pravilnik) kojim bi se regulisala organizaciona i druga pitanja ovog oblika sticanja znanja i vještina koje su studentima potrebne za praksu nakon završetka studija. Treba regulisati unutrašnju organizaciju Pravne Klinike, postupak i kriterijume izbora studenata, vrednovanje rada (priznavanje poena u skladu sa opterećenjem studenata kliničara) i specijalizaciju u okviru Pravne Klinike, način prijema i kretanja predmeta, metod provjere kvaliteta rada, način finansiranja i druga

pitanja. Prethodno bi trebalo inicirati dopunu Zakona o besplatnoj pravnoj pomoći, s obzirom na to da u važećem Zakonu nema osnova za rad pravnih klinika koje bi pružale besplatnu pravnu pomoć stvarnim klijentima. Naime, lica ovlaštena za pružanje besplatne pravne pomoći *de lege lata* su samo advokati. Shodno tome, profesori državnog univerziteta koji su angažovani sa punim radnim vremenom ne mogu da se bave advokaturom. Takav pravni okvir nije bio smetnja za dosadašnje funkcionisanje klinika jer treba imati u vidu da je Advokatska Komora Crne Gore jedan od neakademskih partnera na Projektu ENEMLOS. Učešće advokata kao mentora iz prakse uz profesore kao akademske mentore predstavlja prednost za studente koji su angažovani na klinici jer imaju pred očima rješenja koja uzimaju u obzir i teorijsku podlogu i praktično iskustvo, tačnije: „The pedagogy of clinical legal education provides a particularly suitable vehicle for these interactions and for integrating theoretical studies of law and practical training of lawyering skills and values for students.“⁶ Osim toga, potreba za pružanjem pravne pomoći ranjivim grupama je, zbog globalnih okolnosti, sve veća, i zbog toga pravne klinike ne mogu predstavljati konkurenciju advokatima već upravo suprotno.⁷

Naime, pravne klinike predstavljaju domen saradnje Pravnog fakulteta kao edukatora i pravosuđa i privrede kao poslodavaca svršenih studenata prava, kako slikovito ističe Bartoli, ta saradnja „bridges the gap between the university and the professional world.“⁸ Interakcija visokog obrazovanja i poslodavaca je nužan segment kako bi se pratile potrebe savremenog društvenog života i kroz pravne klinike dobija konkretan vid. Istovremeno, treba istaći da je specifičnost pravnih klinika Pravnog fakulteta upravo široko postavljena baza saradnje sa skoro svim segmentima pravosuđa. Naime, neakademske partneri na Projektu, osim Advokatske komore, angažovani su iz različitih pravnih profesija - Komore Javnih izvršitelja Crne Gore, Notarske komore Crne Gore, Vrhovnog suda Crne Gore, Centra za posredovanje Crne Gore, Vrhovnog suda i Vrhovnog državnog tužilaštva Crne Gore, kao i neakademske partneri sa

⁶ Peter A. Joy, Shigeo Miyagawa, Takao Suami & Charles D. Weisselberg. *Building Clinical Legal Education Programs in a Country Without a Tradition of Graduate Professional Legal Education: Japan* *Educational Reform as a Case Study*, Clinical law review vol. 13, p. 431.

⁷ Maja Marta Martonja, Josip Kovilić. *Interview with Prof. dr. Alan Uzelac, founder and director of the Law Clinic*, Pro bono-International October 2015 number 1, p. 33.

⁸ Clelia Bartoli. *Legal clinics in Europe: for a commitment of higher education in social justice*, Diritto and Questioni Pubbliche May 2016. p. 10.

Kosova - Osnovni sud Gnjilane i Advokatska komora Kosova. Ovako uspostavljena saradnja sa pravosuđem kroz kliničko obrazovanje predstavlja i realizaciju zakonske obaveze Zakona o visokom obrazovanj shodno kojoj praktična nastava predstavlja obavezan dio nastavnog procesa. Ispunjenje ove zakonske obaveze se provjerava kroz postupak akreditacije i reakreditacije studijskog programa kroz poseban standard.

2. Organizacioni zahtjevi rada klinike

- a) Akademsko osoblje. Za efikasno i održivo djelovanje Pravne klinike potrebno je jasno odabrati „kliničkog profesora“, tj. identifikovati stručan i obučen nastavni kadar koji će biti posvećen radu na klinici. Radi se o nastavnom kadru koji, pored redovnih nastavnih aktivnosti, treba da bude učlučen kao akademski mentor na praktičnim slučajevima. Status nastavnika koji rade na klinici treba odrediti, jer klinički rad ne treba započinjati bez odgovarajućeg priznavanja nastavnog opterećenja i/ili neke vrste naknade.
- b) Jasno postavljeni ciljevi kliničkog pravnog obrazovanja. Pravna klinika treba da bude osmišljenja kao odgovor na uslove koji postoje u Crnoj Gori i na kapacitete Pravnog fakulteta UCG. Za razliku od sadašnjeg modela, neka vrsta specijalizacije i fokusa na konkretne ciljeve će biti nužna. Pored toga, Pravna kinika treba da ima jasno postavljeno mjesto u okviru sistema obrazovanja (obavezni ili fakultatitivni element).
- c) Oblast u kojem radi Pravna klinika. Na održivost rada klinike utiče i činjenica da li je kinika tačno odredila oblasti koje će biti fokus njenog rada. Da li će se klinika baviti samo pružanjem pravne pomoći u građanskim sporovima, što je uobičajena tendencija, ili će svoje polje djelovanja proširiti na druge oblasti (kao što je neke oblasti od javnog interesa, ljudska prava, posebni fokus na određene društvene grupe). Komparativno iskustvo pokazuje da su zastupljena dva modela: da pravna klinika nije specijalizovana i bavi se uglavnom građanskim pravom i specijalizovana pravna klinika sa više užih specijalizacija. Prednost bi trebalo dati specijalizaciji u okviru Pravne Klinike analogno obaveznim kliničkim predmetima na specijalističkim odnosno master studijama (obligacionopravna, stvarnopravna, porodičnopravna itd.). Specijalizacija bi mogla da obuhvati davanje savjeta malim i srednjim

preduzećima, mišljenja i savjeta o ekološkim pitanjima, kao i pitanjima koja se odnose na zaštitu prava pacijenata. Tako bi svaka grupa studenata radila sa ciljnom grupom korisnika stvarnih klijenata kojima treba pomoć u određenoj oblasti. To svakako podrazumijeva i donošenje kliničkog programa obuke studenata određene specijalizacije.

- d) Fokus na studente kliničare. Ovaj zahtjev je usmjeren na jednoobrazan sistem odabira studenata, koji je zasnovan na jasnim kriterijumima. Studenti kliničari treba da se biraju u tačno određenom vremenskom periodu i na određeni vremenski period (sa mogućnošću ponovnog upisa).⁹ Veoma značajan je i način vrednovanja rada studenata na klinici kroz akademske bodove. Potrebno je postići uniformnost u ovoj oblasti, imajući u vidu da kurikulum Pravne klinike Pravnog fakulteta UCG *per se* ne postoji. Iz ugla studenata koji su izabrani da rade na klinici, aktivnosti se valorizuju na način da se studentima u okviru nekih drugih predmeta sa treće godine studija priznaje određeni broj poena (20 poena od 100 na master i 10 poena od 100 na osnovnim studijama) iz predmeta koji su sami izabrali. U okviru uslova koji se tiču studenata, neophodno je uspostaviti efikasan sistem ocjenjivanja rada studenata kliničara.¹⁰

3. Funkcionalni zahtjevi

- a) Očuvati postojeći sistem saradnje sa neakademske partnerima. Sadašnji rad Pravne klinike PF UCG karakteriše izuzetna povezanost sa prenosudnim organima i drugim službama koje učestvuju u vršenju pravosuđa. Naime, sistem koji počiva na tome da su u radu sa studentima (kroz razne vrste obuka) uključeni advokati, sudije, tužioc, notari, javni izvršitelji, centar za alternativno rješavanje sporova je vrijedan pohvale. Da bi klinika efikasno radila, mora imati jake veze u

⁹ Studenti koji trenutno rade na klinici su izabrani nakon intervjua, kome je prethodio javni poziv (oglas). Kriterijumi za izbor su bili: prosječna ocjena, želja za radom na klinici, pokazani entuzijazam i spremnost da učestvuju u pruženju pravne pomoći i time da učestvuju u ostvarivanju i zaštiti ljudskih prava u CG. Nakon sprovedenog postupka u ljetnjem semestru je izabrano 27 studenta, a u zimskom 30 studenata.

¹⁰ Za sada, sistem ocjenjivanja i nagrađivanja studenata ne postoji, imajući u vidu da je na Pravna klinika do sada imala samo jedan slučaj koji je bio analiziran od strane svih studenata koji su podijeljeni u grupama.

pravnoj profesiji van fakulteta. Treba obezbijediti uslove za nastavak uspješne saradnje sa Advokatskom komorom, Vrhovnim sudom, Vrhovnim državnim tužilaštvom, Notarskom komorom, Komorom javnih izvršitelja i Centrom za alternativno rješavanje sporova.

- b) Obezbeđivanje kontinuirane obuke studentima kliničarima od strane neakademske partnere. Pored toga, treba razmisliti o uvođenju neke vrste sastanaka studenata kliničara. Kontinuirano održavanje ovih sastanaka u organizaciji samih studenata može doprinijeti razvijanju osjećaja za saradnju, razvijanju raznih vještina i sposobnosti studenata, podizanju samopouzdanja i na kraju samoj edukaciji, jer studenti često nude korisne tehnike rješavanja problema iz sopstvenog iskustva.

III Modeli rada klinika i klinike Pravnog fakulteta u Podgorici

Modeli rada pravnih klinika su različiti, a autori danas često polaze od razlike između „live-client“ clinics, „externship clinics“ i klinike koje se prioritet daju simulaciji.¹¹ Prvi vid klinika je vezan za univerzitete na kojima je osnovan i baziraju se na radu sa živim klijentima uz nadzor profesora.¹² „Externship“ model, kao što mu i naziv upućuje, podrazumijeva da se u rad sa studentima na klinikama uključuju i advokati i sudije, odnosno pravni profesionalci iz različitih oblasti.¹³ Kod klinika koje rade simulacije, studenti ne dolaze u kontakt sa stvarnim klijentima. U zavisnosti od toga ko su korisnici klinika, klinike mogu biti „individual clinics“- klinike koje se bave pojedinim slučajevima, odnosno problemima koji nijesu unaprijed determinisani pa shodno tome klinika ima široko polje djelovanja. Zatim postoje „community clinics“ kod kojih je aktivnost usmjerena na pomaganje određenoj grupi lica, kao i „specialized clinics“ koje se bave unaprijed određenim pravnim problemima.¹⁴

Shodno projektnoj orijentaciji, pravne klinike Pravnog fakulteta u Podgorici se mogu smatrati kao „live client“ clinics koje su stacionirane na Pravnom fakultetu koji ih organizuje i koji obezbjeđuje personalni supstrat u vidu akademskog osoblja i studenata, kao i materijalni – prostorije za rad

¹¹ Clelia Bartoli. *Legal clinics in Europe: for a commitment of higher education in social justice*. Dittito and Questioni Pubbliche May 2016. p.35.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

klinike. Što se tiče korisnika klinike, shodno projektu, to su lica koja se smatraju ranjivim zbog posebnih povreda prava koje su pretrpjeli. Klinike su trenutno specijalizovane po oblastima koje se u praksi vrlo fleksibilno promatraju kako bi širi krug lica dobio pravnu pomoć.

U Projekat ENEMLOS su uključena tri akademska partnera koji će prenijeti svoje iskustvo na crnogorske partnere - Pravni fakultet Sveučilišta u Zagrebu, Fondacija Pravnih klinika Poljske, Regent Univerzitet iz Londona. Predstavnici navedenih institucija održali su treninge namijenjene nastavnicima Pravnog fakulteta, kao i neakademske partnerima. Osim toga, akademsko osoblje i neakademski partneri su realizovali studijske posjete partnerskim institucijama u Zagrebu, Vašavi i Londonu. Različito porijeklo, organizacija kao i uloga partnerskih institucija opredijelila je domene njihovog uticaja. Naime, klinike Pravnog fakulteta u Zagrebu su bile model organizovanja naših klinika imajući u vidu da se koncept rada, organizacija i ciljevi poklapaju sa onim koji su definisani kroz projekat. Osim toga, sličnost pravnog i obrazovnog sistema uticala je da se zagrebački model postavi kao uzor koji će biti prilagođavan crnogorskim prilikama i potrebama. Imajući u vidu dugogodišnje iskustvo, visok stepen uključenosti studenata kao i značajan broj klijenta, klinika Pravnog fakulteta u Zagrebu predstavlja „predvodnika“ u kliničkom obrazovanju u ovom dijelu Evrope.¹⁵ Mimo toga, empirijski je potvrđeno da iskustva koja je student stekao u radu ove klinike pozitivno utiču na zaposlenje studenata, obavljanje radnih zadataka na radnom mjestu, kao i lakše savladavanje gradiva tokom studija.¹⁶ Kada je u pitanju Fondacija pravnih klinika Poljske, treba imati u vidu da se ona smatra as „most structured reality in Europe“¹⁷ imajući u vidu da predstavlja organizaciju koja okuplja pravne klinike u Poljskoj i koja je „an umbrella under which there has been a professional network with well organised exchange of information, created ways of learning from each other (national journal, twice yearly organised trainings, mailing lists, web page) as well as given the Foundation authority to represent their rights and work in

¹⁵ A. Uzelac, J. Brozović, E. Basioli, Utjecaj prakse u pravnoj klinici Pravnoga fakulteta u Zagrebu na zaposlenje nakon završetka studija. Zbornik koautorskih radova nastavnika i studenata sa znanstvene konferencije Unapređenje kvalitete studiranja na pravnim fakultetima u Hrvatskoj. 2021, p. 71.

¹⁶ Ibid, 76.

¹⁷ Clelia Bartoli. Legal clinics in Europe: for a commitment of higher education in social justice. Diritto and Questioni Pubbliche May 2016. p.35.

favour of the whole network.”¹⁸ Kako je kliničko obrazovanje prisutno i na većini Pravnih fakulteta u Crnoj Gori, ovakva vrsta organizacije može predstavljati pozitivan vid povezivanja. Na kraju, iskustva koja su stečena u Londonu se nadovezuju na edukativnu ulogu klinika i poboljšanje mogućnosti zaposlenja diplomiranih pravnika. Employability focused learning outcomes koji su u fokusu strategije za bolje zaposlenje svršenih studenata potvrđuje značaj pravnih klinika u kojima se stiču upravo socijalne i profesionalne vještine nužne za zapošljavanje.

¹⁸ Ibid, p. 65.

Prof. dr Muhamet VOKRRI¹

MËSIMI KLINIK NË FAKULTETIN JURIDIK TË UNIVERSITETIT TË PRISHTINËS DREJT MODELIT TË RI: KALIMI NGA MODELI I PLOTË KURRIKULAR NË ATË HIBRID “LIVE CLINIC”

1. Hyrje

Ky punim elaboron ri konceptimin e mësimit klinik në Fakultetin Juridik, bazuar në dokumente të politikave që janë hartuar nga Fakulteti përfshirë edhe mënyrën se si mësimi klinik është integruar në plan programin e ri të Fakultetit Juridik, që do të fillojë të zbatohet nga viti 2023, pas marrjes së vendimit për akreditim nga institucionet kompetente. Punimi po ashtu elaboron mekanizmat dhe masat që ka ndërmarrë Fakulteti Juridik që modeli i ri i mësimit klinik të zbatohet në mënyrë efikase dhe efektive, duke tentuar të japë një perspektive se si ka qenë dhe si do të jetë mësimi klinik në Fakultetin Juridik, nga viti 2023.

Punimi synon të hedhë dritë mbi mënyrën se si Fakulteti Juridik ka ndërtuar mekanizmat për krijimin e një modeli të ri të mësimit klinik, që bazohet në ndihmën juridike pro bono të studentëve dhe klinikat live, të mbështetura nga mekanizmat institucional të tregut të punës, element ky që i mungonte modelit të aplikuar të mësimit klinik deri në vitin 2022.

Në kuadër të punimit janë cituar burime relevante, të qasshme në internet dhe që lidhen me temën që trajton punimi. Pjesa më e madhe e burimeve të cituara janë edhe dokumente të brendshme zyrtare, të hartuara dhe miratuara nga Fakulteti Juridik.

¹ Profesor i të Drejtës së Punës dhe Prodekan për mësimin klinik dhe çështje të tregut të punës në Fakultetin Juridik, Universiteti i Prishtinës Email: muhatmet.vokrri@uni-pr.edu

2. Fillimi i ri konceptimit të mësimit klinik dhe kalimin nga modeli kurrikular në modelin hibrid të zhvillimit të klinikave

Aplikimi për më shumë se dhjetë (10) vite në Fakultetin Juridik, të një modeli të mësimit klinik që në qendër kishte zhvillimin e procesit mësues në klasë, i bazuar në kontributin e bartësve të lëndëve klinike dhe pa mbështetje institucionale nga akterët e tregut të punës, shtroj nevojën reale të hapjes së diskutimeve serioze për të krijuar një model të ri të mësimit klinik, i cili e ofron studentin më shumë me tregun e punës dhe akterët e praktikës profesionale. Duke vlerësuar nevojën dhe prioritetin e përcaktuar për rishikimin e plan programit, që pasqyrohet në programin e Zyrës së Dekanit 2020-2024², me 23 dhe 24 dhjetor 2021, Fakulteti Juridik kishte organizuar një punëtori profesionale ku kishin marrë pjesë përfaqësuesit e të gjitha katedrave të Fakultetit Juridik. Në kuadër të kësaj punëtorie, ishte hartuar një dokument i parimeve për procesin e akreditimit dhe ri akreditimit të programeve. Njëra ndër çështjet kryesore që ishte vendosur si prioritet, në dokumentin e parimeve ishte Ri konceptimi i mësimit klinik.³ Në kuadër të dokumentit të parimeve, gjithashtu, çështja e mësimit klinik ishte formuluar në formë të parimit, që do të shërbente për orientimin e Fakultetit Juridik për të gjetur mënyrën më të mirë të akomodimit të mësimit klinik, në plan programin e ri që do të zbatohet nga viti 2023. Ndër të tjera në dokumentin e parimeve, lidhur më mësimin klinik përcaktohet: “Në kuadër të procesit të rishikimit të plan programit të studimeve themelore në Fakultetin Juridik, duhet të bëhet ri-konceptimi i lëndëve klinike dhe këto lëndë të zhvillohen në bashkëpunim me institucionet përkatëse të tregut të punës, përfshirë sektorin publik dhe privat. Kjo përfshinë edhe një program të certifikimit të studentëve në lëndët klinike, bazuar në një dokument të përgatitur nga Zyra e Dekanit, në konsultim me profesorët dhe ekspertët e praktikës”.⁴

Në rrjedhë të procesit të ri akreditimit dhe nevojës për të ri konceptuar mësimin klinik, me qëllim që të organizohet një proces i vlerësimit të ndryshimit të plan programit sa më objektiv, Fakulteti Juridik, kishte kërkuar ndihmë nga

² Programi i Zyrës së Dekanit, 2020-2024, f.8, <https://juridiku.uni-pr.edu/page.aspx?id=1,59>, qasur me 24.12.2022.

³ Dokumenti i Parimeve/Konkluzioneve të procesit të Akreditimit/Riakreditimit të programeve të Fakultetit Juridik, 23 dhe 24 dhjetor 2021, f.2, i hartuar nga punëtorja profesionale e mbajtur në Brezovicë dhe i miratuar në Këshillin e Fakultetit Juridik, me 09.03.2022.

⁴ Ibid, f.3.

Këshilli i Evropës, për ta mbështetur Fakultetin (Juridik) me ekspertizë profesionale për analizën e rishikimit të plan programit Bachelor. Këshilli i Evropës, kishte dërguar letrën shoqëruese⁵ meqë rast kishte njoftuar për mbështetjen e dhënë për Fakultetin Juridik, për rishikimin e plan programit të studimeve themelore të Fakultetit Juridik, përmes angazhimit të tre eksperteve të cilët kishin hartuar analizën e rishikimit të kurrikulës.⁶

Natyrisht që duke u bazuar edhe në analizën e ekspertëve të Këshillit të Evropës edhe në vetë prioritetet e Fakultetit Juridik, është vendosur që të bëhet ri konceptimi i mësimit klinik në Fakultetin Juridik për të krijuar një model tjetër të lëndëve klinike, që i mundësojnë studentëve përveç ligjëratave në klasë të mund të zhvillojnë edhe raste me zyrtaret nga tregu i punës, respektivisht Gjyqtarë, Prokurorë dhe Avokatë. Ky model i ri konceptuar i mësimit klinik është pasqyruar në një dokument të politikave të përgatitur nga Zyra e Dekanit, përmes të cilit është analizuar dhe është paraqitur modeli i ri i mësimit klinik, bazuar në praktikat më të mira evropiane. Ky dokument ndër të tjera ofron një perspektive të modelit të lëndëve klinike që do të zbatohet në programin e ri të Fakultetit Juridik, i cili do të jetë një model hibrid, i kombinuar me tri elemente kryesore: ligjërata teorike të profesorëve të lëndëve klinike; pjesëmarrje e gjyqtarëve, prokurorëve dhe avokatëve në mësimin klinik si dhe kyçja e studentëve që marrin pjesë në lëndët klinike, në ofrimin e ndihmës pro bono për komunitetin (qytetarët) që kanë nevojë.⁷

Në kuadër të dokumentit të ri konceptimit të mësimit klinik një dimension i veçantë të cilit i jepet rëndësi është edhe mbështetja e mësimit klinik të Fakultetit Juridik, nga projektet ndërkombëtare. Në këtë aspekt, në dokumentin e politikave të rikonceptimit të mësimit klinik theksohet: “Aktualisht Fakulteti Juridik është pjesë e programit të Erasmus+ më saktësisht i projektit që i dedikohet mësimit klinik⁸ “*Legal Clinics in service of vulnerable groups: enhancing the employability of law students through practical education*” dhe ku partnerë implementues përveç atyre vendore dhe rajonale siç është Universiteti i Malit të

⁵ Accompanying letter for the Assessment of the Bachelor curriculum of the Law Faculty Prishtina, The Council of Europe, 28.03.2022.

⁶ Prishtina School of Law, Curriculum Review, dërguar me letrën shoqëruese, me datë 28.03.2022.

⁷ Ri konceptimi i mësimit klinik në Fakultetin Juridik (Analizë), Shkurt 2022.

⁸ Për më shumë rreth projektit, shih webfaqen e Fakultetit Juridik - Zyra për Studime Klinike.

Zi, janë edhe Universitete tjera të ranguar lartë, si *Universiteti i Zagrebit*, *The Polish Legal Clinics Foundation*, *Regent's University London* etj.⁹ Gjithashtu, në kuadër të mbështetjes ndërkombëtare, Fakulteti Juridik ka gjetur përkrahje edhe nga projekti “Expanding and Improving Practical Legal Education in Kosovo” me një prej universiteteve më prestigjioze UC Hastings College of Law (“UC Hastings”) i mbështetur nga Ambasada Amerikane në Prishtinë.¹⁰

Ri konceptimi i mësimit klinik në Fakultetin Juridik, ndër të tjera ka pasur si synim kryesor, ndryshimin e modelit të klinikave, nga modeli i pastër kurrikular, në një model hibrid, ku do t’i mundësohej studentëve që të japin ndihmë juridike pro bono dhe të njëjtëve përmes mekanizmave institucional po ashtu t’i mundësohet edhe kontakti me akterët e tregut të punës, respektivisht gjyqtarë, prokurorë dhe avokatë, të cilët do të jenë pjesë e mësimit klinik. Një ri konceptim i tillë, gjithashtu ka shtruar nevojën që të krijohen mekanizma teknik që do të mundësojnë organizimin më të mirë të mësimit klinik në Fakultetin Juridik në kuadër të programit të ri, i cili do të fillojë të zbatohet nga viti 2023, pas kalimit të procesit të ri akreditimit që do të ndodhë gjatë vitit 2023.

3. Mekanizmat e krijuar nga Fakulteti Juridik për zbatimin e modelit të ri të mësimit klinik

Në kuadër të zbatimit të modelit të ri konceptimit të mësimit klinik, Fakulteti Juridik ka ndërmarrë hapa konkret për të krijuar mekanizmat të cilët do të mundësojnë zbatimin më efikas kë këtij modeli të ri. Hapat e ndërmarra përkritazi me krijimin e mekanizmave të që do të mundësojnë zbatimin më të lehtë të mësimit klinik, sipas modelit të ri janë:

1. Krijimi i dhe funksionalizimi Qendrës për Studime Klinike;¹¹
2. Krijimi dhe funksionalizimi i trupës këshillëdhënëse të Fakultetit Juridik;¹²

⁹ Ri konceptimi i mësimit klinik në Fakultetin Juridik (Analizë), Shkurt 2022.

¹⁰ Takim me delegacionin e UC College of the Law (San Francisco) nga Universiteti i Kalifornisë (zbatimi i projektit të mbështetur nga Ambasada Amerikane), <https://juridiku.unipr.edu/page.aspx?id=1,6,1163>, qasur me 23.12.2022.

¹¹ Draft Rregullore për Themelimin dhe Funksionimin e Qendrës për Studime Klinike në Fakultetin Juridik, 2022.

¹² Vendimi i Këshillit të Fakultetit Juridik për krijimin e trupës këshillëdhënëse, datë 30.09.2022.

3. Lidhja e marrëveshjeve me akterët e tregut të punës, që mundësojnë përfshirjen e tyre në mësimin klinik në Fakultetin Juridik.¹³

Përkundër që Fakulteti Juridik kishte bërë hapa konkret në vitin 2013 për të krijuar Zyrën për Studime Klinike¹⁴, me mbështetjen e USAID, rikonceptimi i mësimit klinik nga Fakulteti Juridik ka shtruar nevojën që ky mekanizëm të themelohet në nivel të Qendrës. Rregullativa e brendshme e Universitetit të Prishtinës, përcakton themelimin e Qendrave nga ana e Këshillit Drejtues, si njësi organizative brenda UP-së.¹⁵ Duke u nisur mbi këtë bazë Fakulteti Juridik i Universitetit të Prishtinës, ka hartuar rregulloren për themelimin dhe funksionalizimin e Qendrës për Studime Klinike, e cila përcakton mënyrën e themelimit, funksionimin e brendshëm si dhe fushëveprimin e qendrës për studime klinike. Drafti i rregullores tashmë i është dorëzuar për miratim Këshillit Drejtues të Universitetit të Prishtinës.¹⁶ Draft rregullorja përcakton qartë fushëveprimin e Qendrës për Studime Klinike të Fakultetit Juridik, e cila do të funksionalizohet, pas miratimit të saj nga Këshilli Drejtues i Universitetit. Fushëveprimi i Qendrës për Studime Klinike përfshin çështjet si në vijim:

1. Hulumentimin e çështjeve që kanë të bëjnë me mësimin klinik;
2. Organizimin e aktiviteteve të mësimit klinik, në kuadër të programit, përfshirë të gjitha klinikat;
3. Organizimin e aktiviteteve ekstra kurrikulare të mësimit klinik, në bashkëpunim me tregun e punës;
4. Organizimin e programeve të veçanta të mësimit klinik, sipas nenit 99 të Statutit;

¹³ Marrëveshjet e lidhura në mes të Fakultetit Juridik dhe Këshillit Gjyqësor të Kosovës, Këshillit Prokurorial të Kosovës dhe Agjencisë për Ndihmë Juridike Falas.

¹⁴

1.

Misioni i USAID-it në Kosovë dhe Universitetit i Prishtinës Fakultetit Juridik nënshkruajnë Memorandum të Mirëkuptimit, për themelimin e Zyrës së Studime Klinike në UPFL, 18.04.2013, http://www.drejtesia-ks.org/index.php?cid=1,9,301#player_tab, qasur me 24.12.2022.

¹⁵ Rregullore për të ardhurat personale të personelit akademik, shtesat sipas funksioneve dhe kompensimet tjera në Universitetin e Prishtinës, nr.2/543, datë 22.10.2022, neni 11.

¹⁶ Draft Rregullorja për themelimin dhe funksionimin e Qendrës për Studime Klinike, e dorëzuar për miratim në Këshillin Drejtues të Universitetit të Prishtinës gjatë muajt dhjetor 2022.

5. Organizimin, krijimin dhe akreditimin e programeve të reja, nën nivelin 6 të Kornizës Kombëtare të Kualifikimeve (KKK), bazuar në nevojat e tregut të punës;
6. Koordinimin e aktiviteteve me akterët e tregut të punës, si Këshillit Gjyqësor, Prokurorial dhe Oda e Avokatëve të Kosovës etj;
7. Organizimin e mësimit klinik dhe ndihmën juridike pro bono, në kuadër të programit të Fakultetit Juridik, përmes studentëve të Fakultetit dhe në bashkëpunim me akterët e tregut të punës;
8. Koordinimin dhe mbështetjen në zbatimin e projekteve ndërkombëtare që kanë të bëjnë me mësimin klinik;
9. Mbajtjen, kultivimin dhe përditësimin e kontakteve me akterët e jashtëm të tregut të punës, si institucione vendore e ndërkombëtare, shoqërinë civile, që kanë të bëjnë me mësimin klinik;
10. Koordinimin e të gjitha aktiviteteve që kanë të bëjnë me mësimin klinik në kuadër të Fakultetit Juridik.¹⁷

Njëri ndër hapat e ndërmarrë nga Fakulteti Juridik, me qëllim të krijimit të mekanizmave për zbatimin e modelit të ri të mësimit klinik është edhe ri funksionalizimi i trupës këshillëdhënëse të Fakultetit Juridik, e cila është krijuar rishtazi me miratimin e Këshillit të Fakultetit Juridik.¹⁸

Krijimi i trupës këshillëdhënëse është mbështetur në Rregulloren e Senatit të Universitetit të Prishtinës Nr. 1/437 të datës 18.05. 2018, mbi plotësimin dhe ndryshimin e Rregullores nr.163 të datës 15.01.2015 për themelimin dhe parimet e funksionimit të trupës këshill-dhënëse të njërive akademike të Universitetit të Prishtinës (UP), ka vendosur në themelimin e trupës (bordit) këshill-dhënëse që i dedikohet mësimit klinik (klinikave ligjore).

Trupa këshill-dhënëse nga dhe vetë emërtimi i saj do të ketë rolin e këshillëdhënës si dhe bashkërendues të partnerëve të angazhuar në kuadrin e mësimit klinik me rol udhëheqës nga Fakulteti Juridik dhe bazohet në vullnetin e mirë të anëtarëve dhe përkushtimin Fakultetit dhe Universitetit në ngritjen e cilësisë së arsimit të lartë në fushën e veprimtarisë së saj.

¹⁷ Ibid, neni 5.

¹⁸ Vendimi i Këshillit të Fakultetit Juridik për themelimin e trupës këshillëdhënëse, datë 30.09.2022.

Kjo trupë (këshill-dhënëse), për funksionin e saj do të sigurojë respektimin e parimeve dhe standardeve më të larta profesionale, të përcaktuara midis palëve, anëtarët e së cilës do të kryejnë punët në mënyrë vullnetare dhe pa shpërblim, me qëllim që të përmbushin misionin dhe vizionin e përcaktuar nga Universiteti i Prishtinës dhe konkretisht nga njësia akademike, ku parashihet edhe llogaridhënia e gjithë anëtarëve për punën dhe angazhimin e tyre, në arritjen e qëllimeve të përcaktuara. Pjesë e trupës këshillëdhënëse të Fakultetit Juridik, do të jenë akterët e tregut të punës, që do të ndikojnë në realizimin e mësimin klinik si: Këshillit Gjyqësor i Kosovës, Këshilli Prokurorial i Kosovës, Oda e Avokatëve të Kosovës, Agjencia për Ndihmë Juridike Falas, Oda e Noterëve të Kosovës, Administrata Tatimore e Kosovës, përfaqësues nga sektori privat, Oda e Përmbauesve të Kosovës etj.¹⁹

Gjithashtu, me qëllim të ndërmarrjes së masave për zbatimin sa më efikas të modelit të ri të mësimin klinik, Fakulteti Juridik ka lidhur marrëveshje bashkëpunimi me Këshillin Gjyqësor të Kosovës,²⁰ Këshillin Prokurorial të Kosovës²¹ dhe Agjencinë për Ndihmë Juridike Falas²², si dhe është në proces të finalizimit të marrëveshjes me Odën e Avokatëve të Kosovës. Të gjitha këto marrëveshje (bazike) kanë një rol të rëndësishëm për të ndihmuar Fakultetin Juridik për të zhvilluar mësimin klinik, sipas modelit hibrid, duke i mundësuar studentëve të Fakultetit Juridik edhe realizimin e klinikave ligjore live “live clinic”, përmes ofrimit të ndihmës juridike pro bono. Dimensionin e dhënies së ndihmës juridike pro bono nga Fakulteti Juridik është veçanërisht pjesë e marrëveshjes me Agjencinë për Ndihmë Juridike Falas, sipas të cilës studentët e Fakultetit Juridik, ofrojnë këtë ndihmë përmes kësaj agjencie²³, sipas statusit të

¹⁹ Ibid.

²⁰ Nënshkruhet Memorandumi i Mirëkuptimit në mes të Fakultetit Juridik dhe Këshillit Gjyqësor të Kosovës, 18.11.2021, <https://juridiku.uni-pr.edu/page.aspx?id=1,35,1079>, qasur me 24.12.2022.

²¹ Nënshkruhet Memorandumi i bashkëpunimit midis Fakultetit Juridik dhe Këshillit Prokurorial të Kosovës, 09.09.2022, <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1153>, qasur me 24.12.2022.

²² Nënshkruhet Marrëveshja e bashkëpunimit ndërmjet Fakultetit Juridik dhe Agjencisë për Ndihmë Juridike Falas, 17.10.2022, <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1173> qasur me 24.12.2022.

²³ Fakulteti Juridik, përmes Agjencisë për Ndihmë Juridike Falas, bazuar në një konkurs të brendshëm të shpallur me 8 shtator 2022, ka përzgjedhur katër (4) studentët e parë, të cilët janë duke u trajnuar nga kjo agjenci, për ofrimin e ndihmës juridike falas dhe të njëjtit janë të

zyrës mobile që do ta ketë Fakulteti Juridik, në kuadër të Agjencisë për Ndihmë Juridike Falas.²⁴ Në anën tjetër marrëveshjet e Fakultetit Juridik, me Këshillin Gjyqësor të Kosovës dhe Këshillin Prokurial, parashohin mundësinë e inkuadrimit së prokurorëve dhe gjyqtarëve në procesin e mësimit klinik, sidomos kjo do të bëhet në kuadër të programeve të veçanta, në klinikën penale dhe civile. Fakulteti Juridik, aktualisht është duke punuar me autoritetet qendrore qeverisëse të Universitetit të Prishtinës që të gjejë edhe formën e brendshme se si gjyqtarët dhe prokurorët do të bëhen pjesë e mësimit klinik, respektivisht programeve të veçanta.

Sa më sipër, mekanizmat e elaboruar në këtë seksion të punimit kanë për synim që mësimi klinik të organizohet në mënyrë sa më efikase dhe efektive, në mënyrë që niveli i mësimit nxënies të studentëve të jetë i kënaqshëm dhe studentët të jenë më të përgatitur praktikisht për tregun e punës.

4. Inkorporimi i modelit të ri të mesimit klinik në plan programin e ri të Fakultetit Juridik

Në kuadër të të gjitha veprimeve të ndërmarra për ri konceptimin të mësimit klinik në Fakultetin Juridik, është bërë edhe inkorporimi i modelit të ri të mësimit klinik në plan programin e ri të Fakultetit Juridik. Modelet e draftuara, si pikënisje kanë pasur Universitetin e Zagrebit (Fakultetin Juridik)²⁵, si dhe ato të Universiteteve në Poloni që operojnë në bashkëpunim të ngushtë me “Polish Legal Clinics Education”²⁶ të cilat (modele) i kemi studiuar gjatë vizitave tona studimore në kuadër të projektit Erasmus+ ENEMLOS dhe që padyshim kanë qenë baza kryesore dhe tejet ndihmuese në adresimin e rrugës konkrete për të ndjekur tutje në implementimin e modelit “Live Clinic”. Si përmbyllje e vizitave studimore në kuadër të projektit [ENEMLOS] ishte vizita në Regent’s University London²⁷

Me qëllim të akreditimit të programit të ri të studimeve themelore, Fakulteti Juridik ka themeluar grupin punues për ristrukturimin dhe rishikimin e

angazhuar në kandër të zyrës për studime klinike. <https://juridiku.uni-pr.edu/page.aspx?id=1,37,1152>, qasur me 24.12.2022.

²⁴ Ibid.

²⁵ Vizita studimore e realizuar në Fakultetin Juridik, 19 – 21 Janar 2022.

²⁶ <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1130>

²⁷ <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1134>

plan programit të studimeve themelore²⁸ si dhe grupin punues për hartimin e raportit të vetëvlerësimit të programit të studimeve themelore (baçelor).²⁹ Në raportin e vetëvlerësimit është paraqitur mënyra se si mësimi klinik është inkorporuar në plan programin e ri të studimeve biçelor, i cili pritet të akreditohet në vitin 2023.³⁰

Në programin e ri të Fakultetit Juridik janë të parapara gjithsejtë shtatë (7) lëndë klinike dhe atë lëndët si në vijim:

1. Klinika Penale
2. Klinika Civile
3. Klinika e Punës
4. Klinika Fiskale
5. Klinika Administrative
6. Klinika Kushtetuese
7. Klinika e të Drejtave të Njeriut
8. Klinika e të Drejtës së BE-së.³¹

Plan programet e lëndëve klinike të përmendura më sipër, janë të bazuar kryesisht në modelin e dhënies së ndihmës pro bono dhe zhvillimin e rasteve të vërteta, në bashkëpunim me akterët e tregut të punës. Me këtë rast, vetëm javët e para në plan programet e lëndëve klinike parashihen të jenë të përgjithësomë, kurse pjesa tjetër do të jetë pjesë praktike, që bazohet në një rast të vërtetë dhe mbikëqyret nga ana e profesorit të lëndës përkatëse klinike.³² “Studentët që përfshihen në kuadër të lëndëve klinike, për ofrimin e ndihmës Pro Bono, lirohen nga një lëndë zgjedhore, e semestrit përkatës, duke filluar nga semestri II i vitit II deri në semestrin II të vitit IV”.³³ Në këtë program të ofrimit të ndihmës Pro Bono për komunitetin (qytetarët në gjendje ekonomike e sociale që kualifikohen për këtë ndihmë), përfshihen të gjitha klinikat, si seksione të

²⁸ Vendimi i Fakultetit Juridik, nr.09/138, datë 22.03.2022.

²⁹ Vendimi i Fakultetit Juridik, nr.09/149, datë 05.05.2022.

³⁰ Raporti i Vetëvlerësimit të Programit Baçelor të Fakultetit Juridik, i cili do të dorëzohet në Agjencinë e Akreditimit të Kosovës (AKA) version 14.11.2022.

³¹ Ibid, f.130.

³² Shih: Syllabusi i Klinikës së Punës dhe Klinikës Fiskale, I cili do të dërgohet për vlerësim në procesin e akreditimit.

³³ Raporti i Vetëvlerësimit të Programit Baçelor të Fakultetit Juridik, i cili do të dorëzohet në Agjencinë e Akreditimit të Kosovës (AKA) version 14.11.2022., f.130.

veçanta, p.sh.: klinika civile, klinika penale, klinika e punës, klinika fiskale, klinika e të drejtave të njeriut, klinika administrative, Klinika e të Drejtës së BE-së etj.

Në këtë program, në dhënien e ndihmës Pro Bono sipas klinikave/seksioneve si me lartë përfshihen një numër i caktuar i studentëve (*të cilët angazhohen në baza vullnetare, pas shpalljes së thirrjes nga fakulteti, dhe ata që për zgjedhjen fitojnë kredi dhe lirohen nga lënda zgjedhore, në semestrin përkatës*). Puna e studentëve në klinika (ofrimin e shërbimeve juridike Pro Bono, (ku përfshihet dhënia e opinionëve ligjore, amicus curiae, etj.) mentorohet nga profesorët e lëndëve respektive (që kanë angazhim të veçantë në kuadër të klinikave), si dhe nga ekspertët e praktikës. Ky program i klinikave për ndihmë Pro Bono në kuadër të ZSK/Qendrës, bazohet në programin e rikonceptimit të mësimin klinik dhe funksionalizimit të Zyrës/Qendrës për Studime Klinike si zyrë e përhershme e Fakultetit Juridik (Programi 2020-2024), konsultimet me partneret (në kuptim të zbatimit praktik.) dhe bazuar në modelet e analizuara deri tani, që zbatohen në vendet e tjera”.³⁴

Pjesë e plan programit të ri të Fakultetit Juridik, si klinika të veçanta ose programe të certifikimit do të jenë edhe Klinika Penale dhe Civile. Programet e certifikimit do të jenë programe që i dedikohen studenteve të Fakultetit Juridik në vitin e fundit të studimeve (viti IV), në semestrin e parë dhe të dytë.

“Pjesëmarrja në Programet e veçanta të certifikimit në kuadër të klinikës penale dhe/ose civile është aktivitet ekstrakurrikular që e ofron Fakulteti Juridik (QSK) në bashkëpunim me partnerët me qëllim të zhvillimit të shkathtësive praktike të studentëve në vitin e IV-të. Siç u tha, Klinika penale dhe civile ofrohen si programe të veçanta certifikimi, si mundësi që studentët të zgjedhin nëse do të përfshihen në këto dy programe të veçanta të ndërtimit të shkathtësive praktike. Për këto dy programe studentët pajisen me certifikatë, kredi/ECTS shtesë. Programet e certifikimit nuk janë të detyrueshme, por janë një mundësi për të gjithë studentët e vitit IV, pa asnjë kufizim.

Programi i certifikimit nga Klinika Penale organizohet në semestrin e I-rë ndërsa programi i Klinikës Civile në Semestrin II-të (*ku përfshihet në program*

³⁴ Raporti i Vetëvlerësimit të Programit Bachelor të Fakultetit Juridik, i cili do të dorëzohet në Agjencinë e Akreditimit të Kosovës (AKA) version 14.11.2022, f.131.

edhe e drejta familjare dhe trashëgimore). Në zbatimin e këtij programi përfshihen: avokatët, prokurorët gjyqarët, etj. si edhe profesorët e Fakultetit Juridik. Që studentët të përfshihen në programet e certifikimit në vitin e IV-të (Semestri I dhe II) duhet të deklarohen në përfundim të vitit të III-të (në muajin Maj-Qershor), në mënyrë që fakulteti të ketë listën e saktë të numrit të studentëve për të planifikuar organizimin e kurseve/programeve të certifikimit në vitin akademik vijues, në bashkëpunim me partnerët *(që nënkupton përfshirjen e gjyqtarëve, prokurorëve, avokatëve, etj.)*.³⁵

Siç mund të shihet programet e certifikimit janë një model tjetër që mbahen vetëm në fushën penale dhe civile dhe se plan programi i këtyre klinikave, do të hartohet në bashkëpunim me Këshillin Gjyqësor dhe Prokurorial dhe Odën e Avokatëve, pasi që pjese e ligjërimit në këto programe të veçanta do të jenë edhe gjyqtarët, prokurorët dhe avokatët.

Sa më sipër, modeli hibrid ose modeli i ri i Fakultetit Juridik, ka disa karakteristika të cilat janë:

1. Të gjitha lëndët klinike janë integruar në programin e studimeve themelore (baçelor);
2. Për dallim nga lëndët klinike të programeve të kaluara, në modelin e ri janë krijuar më shumë lëndë klinike;
3. Në lëndët klinike sipas modelit të ri prioritet do të ketë ndihma juridike pro bono e studentëve, nën mbikëqyrjen e profesorëve të lëndës dhe në bashkëpunim me mekanizmat institucional, veçanërisht Agjencia për ndihmë juridike falas;
4. Pjesë e lëndëve klinike do të kenë mundësi të jenë studentët që nga viti II dhe rrjedhimisht, kjo krijon mundësinë që një student të ndjek më shumë se dy lëndë klinike, ose të ofrojë ndihmë pro bono në më shumë se dy lëndë klinike, në vite të ndryshme akademike;
5. Në kuadër të modelit të ri të mësimin klinik janë inkorporuar edhe programet e certifikimit që do të mbahen në bashkëpunim me gjyqtarët, prokurorët dhe avokatët, ku numri i studentëve do të jetë i kufizuar dhe i përcaktuar një vit më herët, në bazë të shpalljes publike.

³⁵ Ibid, f.134.

5. Përfundime

Në vitin 2021 Fakulteti Juridik filloj të analizojë mundësinë e ri konceptimit të mësimit klinik, me qëllimin e vetëm që studentët që dalin të diplomuar nga Fakulteti, të kenë një lidhje me të madhe me tregun e punës dhe të kenë mundësi që përgjatë studimeve të prekin punën praktike. Në kontekst të një qasje të tillë të ri konceptimit, u krijua një model i ri hibrid i mësimit klinik, ku studentët do të kenë mundësi të ndjekin klinikat që nga viti i dytë dhe në kuadër të klinikave do të kenë mundësi të ofrojnë ndihmë pro bono, e cila ndihmë do të bazohet në rastet reale që do të merren në bashkëpunim me Agjencinë për Ndihmë Juridike Falas. Ky model, si i tillë cilësohet si hibrid për arsye se syllabuset e lëndëve klinike janë zhvilluar sipas modelit, ku një pjesë e tyre do të jetë teorike, kurse pjesa më e madhe do të bazohet në rastet reale që për rezultat kanë dhënien e ndihmës juridike pro bono për palët e vërteta. Kjo do t'i mundësojë studentëve që të kenë kontakt me palët reale dhe të ballafaqohen me argumentet juridike dhe rrugën e zhvillimit të rastit, e cila do të ju ndihmojë tej mase në formësimin e tyre profesional dhe në përgatitjen për tregun e punës.

Pjesë e modelit të ri të mësimit klinik do të jenë edhe programet e certifikimit nga klinika panele dhe civile, në zhvillimin e të cilëve përveç profesorëve të lëndëve, nga Fakulteti Juridik do të marrin pjesë edhe Gjyqtarët, Prokurorët dhe Avokatët, varësisht nga javët përkatëse të zhvillimit të programit si dhe temës që i dedikohet java respektive. Natyrisht që ky model hibrid do të mbështetet nga ana e Qendrës për Studime Klinike e cila në bashkëpunim me menaxhmenin e Fakultetit Juridik, do të organizojë në tërësi procesin e mësimit klinik, përfshirë zhvillimin dhe mbajtjen e kontakteve të vazhdueshme me akterët e tregut të punës dhe partnerët e tjerë potencial. Kjo qendër synohet të udhëhiqet nga një koordinator/e dhe do të jetë “motori lëvizës” i modelit të ri të mësimit klinik në Fakultetin Juridik. Fakulteti Juridik ka pritshmëri të arsyeshme që modeli i ri i mësimit klinik do të jetë më efikas dhe do t'i ndihmojë studentët në ngritjen e tyre profesionale, për shkak të aspektit praktik dhe gjithëpërfshirës së studentëve në më shumë lëndë klinike, duke filluar që nga viti i dytë i studimeve bachelor. Programi i ri i mësimit klinik do fillojë së zbatuari efektivisht nga viti 2024, pasi që i njëjti në vitin 2023 do të startojë, pas vendimit për Agjencisë së Kosovës për Akreditim. Një model i mësimit klinik, që në qendër ka punën praktike të studentit krijon pritshmëri të arsyeshme për

një sukses të studentëve të Fakultetit Juridik në tregun e punës dhe një përgatitje më adekuatë të tyre për profesionin e jurisitit.

Referencat:

1. Accompanying letter for the Assessment of the Bachelor curriculum of the Law Faculty Prishtina, The Council of Europe, 28.03.2022.
2. Dokumenti i Parimeve/Konkluzioneve të procesit të Akreditimit/Riakreditimit të programeve të Fakultetit Juridik, 23 dhe 24 dhjetor 2021, i hartuar nga punëtorja profesionale e mbajtur në Brezovicë dhe i miratuar në Këshillin e Fakultetit Juridik, me 09.03.2022.
3. Draft Rregullore për Themelimin dhe Funksonimin e Qendrës për Studime Klinike në Fakultetin Juridik, 2022.
4. Misioni i USAID-it në Kosovë dhe Universitetit i Prishtinës Fakultetit Juridik nënshkruajnë Memorandum të Mirëkuptimit, për themelimin e Zyrës së Studime Klinike në UPFL, 18.04.2013, http://www.drejtesia-ks.org/index.php?cid=1,9,301#player_tab, qasur me 24.12.2022.
5. Nënshkruhet Marrëveshja e bashkëpunimit ndërmjet Fakultetit Juridik dhe Agjencisë për Ndihmë Juridike Falas, 17.10.2022, <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1173> qasur me 24.12.2022.
6. Nënshkruhet Memorandumi i bashkëpunimit midis Fakultetit Juridik dhe Këshillit Prokurorial të Kosovës, 09.09.2022, <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1153> , qasur me 24.12.2022.
7. Nënshkruhet Memorandumi i Mirëkuptimit në mes të Fakultetit Juridik dhe Këshillit Gjyqësor të Kosovës, 18.11.2021, <https://juridiku.uni-pr.edu/page.aspx?id=1,35,1079>, qasur me 24.12.2022.
8. Prishtina School of Law, Curriculum Review, dërguar me letrën shoqëruese, me datë 28.03.2022.
9. Programi i Zyrës së Dekanit, 2020-2024, f.8, <https://juridiku.uni-pr.edu/page.aspx?id=1,59> , qasur me 24.12.2022.
10. Raporti i vetëvlerësimit të Fakultetit Juridik, 2017-2022, pjesa e programit të studimeve themelore.
11. Raporti i Vetëvlerësimit të Programit Bachelor të Fakultetit Juridik, i cili do të dorëzohet në Agjencinë e Akreditimit të Kosovës (AKA) version 14.11.2022.

12. Ri konceptimi i mësimit klinik në Fakultetin Juridik (Analizë), Shkurt 2022.
13. Rregullore për të ardhurat personale të personelit akademik, shtesat sipas funksioneve dhe kompensimet tjera në Universitetin e Prishtinës, nr.2/543, datë 22.10.2022.
14. Syllabusi i Klinikës së Punës dhe Klinikës Fiskale, i cili do të dërgohet për vlerësim në procesin e akreditimit.
15. Takim me delegacionin e UC College of the Law (San Francisco) nga Universiteti i Kalifornisë (zbatimi i projektit të mbështetur nga Ambasada Amerikane), <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1163>, qasur me 23.12.2022.
16. Vizita studimore e realizuar në Universitetin e Zagrebit – Fakulteti Juridik (19-21 Janar 2022).
17. Vendimi i Fakultetit Juridik, nr.09/138, datë 22.03.2022.
18. Vendimi i Fakultetit Juridik, nr.09/149, datë 05.05.2022.
19. Vendimi i Këshillit të Fakultetit Juridik për krijimin e trupës këshillëdhënëse, datë 30.09.2022.
20. Vendimi i Këshillit të Fakultetit Juridik për themelimin e trupës këshillëdhënëse, datë 30.09.2022.
21. <https://juridiku.uni-pr.edu/page.aspx?id=1,6,1130>

Prof. dr Florent MUÇAJ¹

MËSIMI KLINIK NË FAKULTETIN JURIDIK TË UNIVERSITETIT TË PRISHTINËS NË PERIUDHËN 2006-2022, NGA MODELI PILOT NË MODELIN KURRIKULAR DHE RRUGA DREJT RI- KONCEPTIMIT

1. Hyrje

Ky punim trajton rrugën e kaluar të Fakultetit Juridik të Universitetit të Prishtinës, nga fillimi i krijimit të mësimit klinik, duke u nisur nga indicet e para të cilat kanë filluar në vitin 2006, e deri në vitin 2022, kur edhe përfundon aplikimi i programit aktual, në kuadër të të cilit mësimi klinik ka qenë pjesë. Punimi pasqyron qartë hapat që ka ndjekur Fakulteti Juridik, nga momenti kur ka filluar të aplikoj klinikat ligjore, deri tani, kur janë ndërmarrë iniciativa për ri konceptimin e mësimit klinik, me qëllim të krijimit të një modeli të ri konceptuar, ku studentët do të lidhen më shumë me praktikën dhe akterët e tregut të punës, që në fakt paraqet një model të ri të mësimit klinik, që do të aplikohet në vitin 2023 e tutje.

Punimi është i zhvilluar kryesisht duke pasur parasysh metodën historike dhe i bazuar në të dhëna të mbledhura nga studentët. Po ashtu, punimi shfrytëzon burimet publike dhe ato të brendshme, të pa publikuara, të cilët përbëjnë dokumente zyrtare të Fakultetit Juridik dhe që për herë te parë elaborohen në kuadër të këtij punimi.

Përmes një metodologjie të ndarë në seksione, punimi nxjerr në pah se si Fakulteti Juridik përgjatë historisë së mësimit klinik, ka kaluar nëpër disa faza, ku fillimisht mësimi klinik është zhvilluar si projekt pilot, pastaj është bërë pjesë e plan programit të akredituar, derisa së fundmi ka filluar ri konceptimi, me qëllim të krijimit të një modeli tjetër të mësimit klinik.

¹ Profesor i së Drejtës Kushtetuese dhe Prodekan për çështje mësimore dhe cilësi në Fakultetin Juridik/Universiteti i Prishtinës, Email: florent.mucaj@uni-pr.edu

2. Në përgjithësi për mësimin klinik

Mësimi klinik (Klinika ligjore) lindi si një metodë mësimdhënie për të ndihmuar studentët në mësimin praktik të së drejtës, dhe u zhvillua më vonë edhe në formën e ndihmës juridike falas, si pjesë e veçantë (shitesë) e punës, krahas aspektit akademik. Më saktësisht, klinikat ligjore ofrojnë përvojë praktike për studentët e së drejtës në fakultetet juridike, si edhe shërbime të ndryshme ligjore në drejtim të shkresave, kryesisht vulnerable të popullsisë që nuk kanë mundësi të sigurojnë një ndihmë të tillë profesionale me pagesë.²

Klinikat ligjore në spektrin akademik (në kuadër të fakulteteve), ofrojnë punë pro bono në disa fusha të së drejtës, pra duke mundësuar shërbime ligjore falas për klientët.³ Në këtë drejtim studentët japin kontributin e tyre me anë të punës kërkimore, hartimit të dokumenteve ligjore apo takimit me klientët, nga dhe profesorët e klinikave apo/dhe profesionistët e fushës, në shumicën e rasteve avokatët, mentorojnë punën e studentëve të caktuar në rastet e tyre.

Sot ka një zhvillim dhe përmirësim të dukshëm të programeve akademike në fakultetet juridike. Ato po përshtaten dhe po programohen në përputhje me përvojat më të mira ndërkombëtare dhe gjithashtu në përputhje me ndryshimet sociale-kulturore apo ekonomike të një vendi. Në çdo rast ajo që synohet është përmirësimi i tyre dhe ofrimi i programeve akademike sa më të mira për studentët, në përpjekje për të krijuar juristë të aftë dhe të gatshëm për tu ballafaquar me sfidat e profesionit por edhe të kohës.

Përvoja ka dëshmuar se vetëm studimi i lëndëve teorike, nuk mjafton në përgatitjen e studentëve të aftë për tregun e punës. Rrjedhimisht është e domosdoshme që dija teorike e fituar, të konkretizohet me praktikën, në mënyrë që të njihet nga afër ve drejta dhe të kuptohet tërësisht ajo, ku në këtë mes, padyshim që rol kyç kanë klinikat ligjore, në kuadër të mësimin klinik. Nga vet koncepti tyre, kuptojmë që klinikat ligjore janë zbatim i ligjit në praktikë me qëllim jofitimprurës, që i shërben interesit publik.

² James E. Moliterno, Legal Education, Experiential Education, and Professional Responsibility, 38 Wm. & Mary L.Rev.71 (1996).

³ Daniel Barrow, Louise Glover and Tamara Hervey, European Journal of Legal Education Vol. 1, No. 1, May 2020, f.117–154.

3.Fillimi i mësimit klinik në Fakultetin Juridik të Universitetit të Prishtinës

Indicet e para të mësimit klinik në kuadër të Fakultetit Juridik – Universiteti i Prishtinës, datojnë nga viti 2005/06, kur atëbotë projekti përkatës ishte përkrahur dhe mbështetur nga USAID, ABA

ROLE⁴ dhe donatorë të tjerë me qëllim që të vejnë në funksion zbatimin e programeve praktike nga kjo formë e re e mësim nxënies për studentët. Kjo mbështetje kishte ardhur në sajë të përpjekjes së Fakultetit Juridik për një reformë, duke ofruar kurse të reja kërkimore shkencore etj.⁵

Procesi ishte zhvilluar në mënyrë sistematike, në krijimin e lëndëve klinike nga degë të ndryshme, filluar nga ato më baziket (nga e drejta penale dhe e drejta civile). Në kuadër të këtyre klinikave të realizuara nga ana e Fakultetit Juridik, në mbështetje të ABA ROLIT, kishin përfitur rreth 83 student.⁶ Autori i këtij punimi ndër të tjera gjatë kohës së studimeve, në vitet 2006-2009 ka pasur rastin të përfitoj nga mësimi klinik, siç u tha i mbështetur në atë kohë nga USAID dhe ABA ROL, duke përfitur kualifikime specifike nga klinikat penale, civile si dhe shkrimi ligjor.⁷ Në kuadër të këtyre klinikave, sipas përvojës së autorit të këtij punimi, në të dyja klinikat (penale dhe civile), pjesë e programit kanë qenë gjyqtarë dhe prokurorë të fushës përkatëse, meqë rast programi ka qenë i kombinuar me raste praktike dhe në fund të tij ka përfshirë një simulim gjyqësor për një rast të caktuar. Studentët pjesëmarrës, kanë pasur mundësi që në kuadër të programit të ndjekin edhe seancat gjyqësore, për raste të caktuara, të monitorojnë punën e avokatëve si dhe të ndjekin seanca të caktuara nga puna e prokurorëve të shtetit.

Duke përfitur prej mbështetjes së ABA ROLIT, Fakultetin Juridik në vitin 2008-2009, në semestrin dimëror kishte futur dy (2) lëndë në plan programin e studimeve në vitin e tretë, respektivisht lëndët: Metodologjia

⁴ ABA ROLI: America Bar Association.

⁵ The University of Pristina Law School Introduces New Courses, December 2008 https://www.americanbar.org/advocacy/rule_of_law/where_we_work/europe/eurasia/kosovo/news/news_kosovo_pr_ishtina_law_school_introduces_new_courses/, qasur së fundmi me 21.12.2022.

⁶ Ibid.

⁷ Certifikatat e autorit të këtij punimi, lëshuar nga programi USAID/ABA ROLE, në kuadër të klinikave penale dhe civile, përgjatë vitit 2009.

Ligjore dhe Etika Ligjore.⁸ Programi i këtyre dy lëndëve ishte hartuar nga Profesori Emeritus John Van Doren⁹, kurse lëndët do të bashke ligjëroheshin nga ai dhe Profesorët e Fakultetit Juridik.¹⁰

Në saje të bashkëpunimit dhe mbështetjes së Fakultetit Juridik, nga ana e ABA ROLIT ishte publikuar edhe Doracaku i Etikës Ligjore & Përgjegjësisë Profesionale, ku ndër të tjera në fjalën hyrëse të drejtorit të ABA/Iniciativa për sundimin e ligjit në Kosovë, theksohet: “*Në emër të Odës së Avokatëve Amerikan, Iniciativës të Sundimit të Ligjit (ABA) në Kosovë, jam i kënaqur t’ua prezantoj Doracakun e Etikës Ligjore dhe Përgjegjësisë Profesionale të zhvilluar nga grupi punues i ekspertëve ligjorë në Kosovë. Doracaku i bashkëngjitur dhe puna jonë e vazhdueshme me fakultetin juridik për të zhvilluar një plan program bashkëkohorë, është pjesë e përpjekjeve tona të vazhdueshme për të përmirësuar arsimin ligjor në Kosovë, duke përfshirë prezantimin e Klinikave Penale dhe Civile, kurset e Metodologjisë Ligjore dhe Avokaturës Gjyqësore dhe klinikës ligjore me klient të vërtetë*”.¹¹ Kjo në fakt tregon përkushtimin dhe mbështetjen që i është bërë Fakultetit Juridik, për sa i takon lëndëve klinike.

Në fakt siç edhe mund të shihet në prizmin historik, mësimi klinik në Fakultetin Juridik kishte filluar në mënyrë parciale dhe shkallore, ku fillimisht kishin përfituar një numër i studentëve, sipas klinikave të zhvilluara si aktivitete ekstra kurrikular, e më pas në vitin 2008-2009 ishte bërë hapi i parë që lëndë të caktuara klinike, të rëndësishme për profesionin e juristëve, të bëheshin pjesë zyrtare e plan programit të Fakultetit Juridik.

Nisur nga prizmi historik i zhvillimit të mësimi klinik në Fakultetin Juridik, të Universitetit të Prishtinës, duhet theksuar që faza e parë e zhvillimit të mësimi klinik mund të merret ajo e mbështetjes nga ana e ABA ROLIT (viti 2006), ku studentët kanë pasur mundësi të përfitojnë nga lëndët klinike të

⁸ The University of Pristina Law School Introduces New Courses, December 2008 https://www.americanbar.org/advocacy/rule_of_law/where_we_work/europe_eurasia/kosovo/news/news_kosovo_pr_ishtina_law_school_introduces_new_courses/, qasur së fundmi me 21.12.2022.

⁹ Ibid.

¹⁰ Prof.Osman Ismaili, Prof.Avni Puka dhe Prof.Emine Abdyli. Shih: The University of Pristina Law School Introduces New Courses, December 2008 https://www.americanbar.org/advocacy/rule_of_law/where_we_work/europe_eurasia/kosovo/news/news_kosovo_pr_ishtina_law_school_introduces_new_courses/, qasur së fundmi me 21.12.2022

¹¹ Doracaku i Etikës Ligjore & Përgjegjësisë Profesionale, ABA ROLE, USAID, Universiteti i Prishtinës, Prill 2008, f.2.

organizuar. Megjithatë duhet përmendur kjo formë e organizimit të klinikave nuk ka funksionuar brenda plan programit zyrtar, por e njëjta ka filluar që gradualisht të integrohet në programin e Fakultetit Juridik, tek në vitin 2008-2009, me futjen e lëndëve të para, që siç u tha më lart, burimin e kanë pasur nga një proces ndërkombëtar i mbështetjes së mësimit klinik.

Në kontekst të hapave që ishin ndërmarrë, me 18 Prill 2013 Fakulteti Juridik, kishte nënshkruar memorandum për themelimin e Zyrës së Studimeve Klinike. Në kuadër të komunikatës zyrtare të

USAID, programit për Juristët në Kosovë, ndër të tjera thuhet: “*Misioni i USAID-it në Kosovë dhe Universitetit i Prishtinës Fakultetit Juridik nënshkruajnë Memorandum të Mirëkuptimit, për themelimin e Zyrës së Studime Klinike në UPFL. Kjo zyrë do të: a) koordinoj të gjitha kurset klinike; b) siguroj pranim uniform të njoburive praktike të trajnimeve përmes të gjitha klinikave ligjore; c) të shërbejë si një qendër kërkimore praktike për studentët dhe fakultetit; dhe d) të promovojë shkëmbimet për zhvillimin dhe qëndrueshmërinë e kurrikulës të gjitha nivelet e programeve master. USAID mbështet Kolegjin Iliria përmes Programit për Juristë në Kosovë PJK – en me NCSC si partnerë i impementimit*”¹² Madje Zyra për Studime Klinike kishte pasur edhe koordinatorin¹³ e saj dhe si e tillë kishte funksionuar si pilot projekt e mbështetur nga USAID dhe NCSC¹⁴, me qëllim të avancimit të mësimit klinik në Fakultetin Juridik.¹⁵

Duke u bazuar në këto rrjedha të zhvillimit të mësimit klinik në Fakultetin Juridik, historia e zhvillimit të mësimit klinik, mund të ndahet në tri faza kryesore dhe atë:

1. Faza e parë ose faza kur mësimi klinik është zhvilluar si pilot projekt, me mbështetjen ndërkombëtare të ABA ROLE;

¹² Misioni i USAID-it në Kosovë dhe Universitetit i Prishtinës Fakultetit Juridik nënshkruajnë Memorandum të Mirëkuptimit, për themelimin e Zyrës së Studime Klinike në UPFL, 18.04.2013, http://www.drejtisiaks.org/index.php?cid=1,9,301#player_tab, qasur së fundmi me 24.12.2022.

¹³ Koordinator i Zyrës për Studime Klinike, e cila kishte funksionuar si plot projekt në Fakultetin Juridik (viti 2013), me mbështetjen e USAID/NCSC ka qenë Prof. Avni Puka.

¹⁴ National Center for State Courts.

¹⁵ NCSC/KLP expert Prof. Kevin Ruser met with the Vice Dean of University of Pristina Faculty of Law Prof. Qerim Qerimi and with the Coordinator of the Office of Clinical Studies Prof. Avni Puka, <http://www.drejtisiaks.org/?cid=2,9,300> qasur së fundmi me 29.12.2022.

2. Faza e dytë, ose faza kur mësimi klinik është integruar në tërësi në plan programin e Fakultetit Juridik;
3. Faza e tretë, ose faza e ri konceptimit të mësimit klinik, në kuadër të plan programit mësimor të vitit 2023, meqë rast synon të krijohet një model i ri i mësimit klinik.

4. Kalimi nga modeli pilot i mësimit klinik në modelin e plotë kurrikular

Faza e parë e mësimit klinik në Fakulteti Juridik kishte qenë më shumë testuese dhe në formë të një pilot projekti, që mundësonte përfitimin e studentëve nga kjo mënyrë e re e të mësuarit të profesionit të juristit. Nuk mund të thuhet që mësimi klinik i organizuar në klinikën penale dhe në atë civile nuk ka sjellë përfitim për studentët. Madje përfitimi ka qenë shumë dimensional, sepse për shkak të fitimit të njohurive praktike, studentët kanë pasur mundësi të vizitojnë gjykatat, prokuroritë dhe zyrat e avokatëve dhe të marrin përvojën e tyre në raste konkrete.¹⁶

Duke marrë për bazë ndikimin që kishte mësimi klinik, i bazuar në mbështetjen ndërkombëtare të ABA ROLIT, u ndërmorën veprimet konkrete për futjen e lëndëve klinike në programin e akredituar të Fakultetit Juridik. Në këtë rast, Fakulteti Juridik bëri një kapërcim duke kaluar nga modeli i pilotuar i mësimit klinik, në modelin e futjes së lëndëve klinike në kuadër të plan programit të akredituar. Kështu në programin mësimor të vitit 2010, i akredituar deri në vitin 2012, Fakulteti Juridik i kishte futur si pjesë e plan programit lëndët klinike si në vijim: *Klinika juridike civile; Klinika juridike nga e drejta familjare dhe trashëgimore; Klinika juridike penale; Klinika juridike fiskale.*¹⁷

Po ashtu, lëndë klinike në nivelin Master ishin inkuadruar edhe klinika kushtetuese dhe ajo administrative.¹⁸ Në këtë kohë, nuk ka të dhëna të sakta

¹⁶ Në kuadër të përvojes së autorit të punimit, përgjatë ndjekjes së klinikës penale, studentët kanë pasur mundësi të monitorojnë seanca gjyqësore të vrasjeve dhe po ashtu të simulojnë një rast të vërtetë, ku studentët kanë ndarë rolet në kuadër të procesit, bazuar në shkresat e lëndës të siguruar nga gjyqtari i cili ka qenë pjesë e mësimit klinik në vitin 2008-2009. Një gjë e tillë ka ndodhur edhe në kuadër të klinikës civile, ku janë monitoruar seanca përkatëse, në fushën e të drejtës Familjare dhe Trashëgimore.

¹⁷ Programi i akredituar i Fakultetit Juridik 2010-2012.

¹⁸ Ibid, pjesa e programit Master në të drejtën kushtetues edhe administrative.

nëse ka pasur ndonjë vlerësim të studentëve dhe numrit të studentëve të përfshirë në lëndët klinike, që ishin në programin e vitit 2010-2012.

Modeli kurrikular¹⁹ i lëndëve klinike në Fakultetin Juridik, ka vazhduar edhe më tutje edhe në programet e tjera të akredituara, përfshirë edhe atë të vitit 2017-2022. Në kuadër të programit të akredituar të Fakultetit Juridik, për vitin 2017-2022, për studimet themelore janë integruar lëndët klinike si në vijim: *Klinika juridike nga e drejta familjare dhe trashëgimore; Klinika juridike civile; Klinikat juridike penale; Klinika juridike fiskale.*²⁰ Kurse në kuadër të programeve Master, po ashtu ishin integruar lëndët klinike si në vijim: *Klinika kushtetuese; Klinika administrative; Klinika juridike penale; Klinika juridike civile.*²⁰

Për dallim nga programi i vitit 2010, në programin e vitit 2017 Fakulteti Juridik kishte integruar një numër më të madh të lëndëve klinike, duke përfshirë edhe studimet Master, në drejtimin kushtetues-administrativ, penal dhe civil. Në fakt në kuadër të programit Master nga lëmi penal dhe civil, ka pasur një duplikim të lëndëve klinike, meqë rast klinika penale është ligjruar si lëndë në të dyja nivelet e studimeve. Kjo qasje sigurisht lidhet me argumentin e nevojës për avancimin e njohurive në klinikën penale dhe civile, në nivelin e studimeve Master për dallim nga ato të studimeve themelore.

Ajo që i karakterizon lëndët klinike në kuadër të programit të Fakultetit Juridik 2017-2022 është edhe fakti se të njëjtat si lëndë klinike janë zhvilluar sipas konceptit në klasë dhe pa mbështetjen institucionale të akterëve të praktikës.²¹ Një gjë e tillë kishte ndodhur edhe në programet e mëhershme të Fakultetit Juridik, respektivisht atë të vitit 2010. Fakti që lëndët klinike në Fakultetin Juridik, ndër vite janë ligjruar vetëm në klasë, kjo nuk do të thotë se të njëjtave i ka munguar elementi i praktikës, por e njëjta nuk është bërë zyrtarisht ose përmes të ndonjë mekanizmi institucional, por nga profesorët e lëndës në mënyrë vullnetare.

Duhet theksuar se profesorët e lëndëve klinike, në vazhdimësi kanë bërë përpjekje dhe kanë arritur që në kuadër të ligjëratave të lëndës të sjellin para

¹⁹ Ky model i referohet rastit kur mësimi klinik në Fakultetin Juridik ishte bërë pjesë e plan programit të akredituar dhe mësimi klinik zhvillohet në klasë, nga bartësit e lëndëve klinike.

²⁰ Shih Raporti i vetëvlerësimit të Fakultetit Juridik, 2017-2022, pjesa e programit të studimeve themelore. ²⁰ Ibid, pjesa e programit të studimeve Master.

²¹ Shih Syllabuset e lëndëve klinike në Fakultetin Juridik, në programin 2017-2023.

studentëve persona kompetent nga sistemi gjyqësor, prokurorial ose institucione tjera relevante.²² Po ashtu, në syllabuset e lëndëve klinike, në secilën javë të trajtimit të një teme përkatëse nga fusha e klinikes është diskutuar një rast studimi, nga ana e praktikës përkatëse institucionale, që ka përfshirë fushëveprimin e lëndëve klinike.²³

Modeli i mesmit klinik i integruar në mënyrë të plotë në plan programin e Fakultetit Juridik, sidomos në programin 2017-2022, kishte këto karakteristika:

1. Përfshinte lëndë klinike vetëm nga fusha civile, penale, fiskale dhe familjare dhe trashëgimore në programin e studimeve themelore;
2. Në programin e studimeve Master, ishin duplifikuar lëndët klinike penale dhe civile;
3. Klinika kushtetuese dhe administrative ishin integruar vetëm në programin e studimeve Master;
4. Klinikat janë zhvilluar sipas modelit në klasë dhe pa mbështetje të praktikës, sipas një mekanizmi të qëndrueshëm dhe permanent, por vetëm bazuar në përpjekjet vullnetare të profesorëve të lëndëve klinike.

Është me rëndësi të përmendet që përgjatë periudhës 2010-2022, pasiqë Fakulteti Juridik i bëri pjesë të plan programit zyrtar lëndët klinike, po ashtu janë zhvilluar edhe aktivitete tjera ekstra kurrikulare, që kanë mbështetur mësimin klinik, siç është klinika e refugjatëve, e cila është realizuar në bashkëpunim me UNHCR²⁴ dhe programin CRPK²⁵, klinikë kjo e cila ka filluar

²² Vlen të theksohet klinika juridike civile, penale, fiskale dhe ajo nga e drejta familjare dhe trashëgimore.

²³ Shih Syllabuset e klinikave: Civile, Penale, Fiskale dhe ajo nga E Drejta Familjare dhe Trashëgimore, në kuadër të plan programit të akredituar 2017-2022.

²⁴ “Today, UNHCR Office of the Chief of Mission in Prishtina together with the Faculty of Law and Civil Rights

Program - Kosovo (CRP/K) organized the event of the closing ceremony of the Legal Clinic “International Protection – Refugee Law” for the 2022 Academic year. This was the sixth, successfully implemented Legal Clinic, organized by UNHCR and its legal aid partner, CRP/K, within the framework of agreement with the Faculty of Law in Prishtina, aiming at providing the Law students an opportunity to enhance knowledge on International Protection of refugees and stateless persons. Sixth generation students that benefited from the “International Protection – Refugee Law” course received certificates at the end of closing ceremony. The event was held with the participation of the UNDCO Head of Office/Team Leader a.i. , the UNHCR Chief of Mission, the CRPK Executive Director, Authorities, Professors and students

të mbahet si aktivitet ekstra kurrikular që nga viti akademik 2016/2017 dhe vazhdon edhe sot e kësaj dite, meqë rast deri tani nga e njëjta kanë përfutuar rreth 150 studentë të Fakultetit Juridik, të cilët kanë pasur mundësi që të ndjekin edhe praktikë profesionale gjatë tetë (8) javëve të mbajtjes së kësaj klinike. Veçantia e këtij kursi klinik për vitin 2022 ka të bëjë me faktin se me plan programin e ri, e cila do të fillojë së zbatuar nga viti 2023 ky kurs do të mbahet, në kuadër të klinikës së të drejtave të njeriut, që në vetë përfshin një pjesë të veçantë që ka të bëjë me të drejtën e refugjatëve.²⁵

5. Efekti i modelit kurrikular të lëndëve klinike në Fakultetin Juridik

Aplikimi i një modeli të plotë kurrikular të lëndëve klinike, ku studentët kanë ndjekur të njëjtat vetëm brenda Fakultetit (në klasë) dhe pa mundësinë e kombinimit me ndonjë praktikë zyrtare në institucionet përkatëse, mbetet njëra ndër çështjet kyçe të këtij modeli që ka aplikuar Fakultetit Juridik, nga viti 2010 deri në vitin . Ideja që mësimi klinik të kombinohet me më shumë aspekte praktike ka qenë edhe njëra ndër indicet kryesore se përse janë bërë hapa përpara, në ri konceptimin e mësimit klinik, drejt një modeli më të avancuar që ka në qendër praktikën profesionale të studentit.²⁶

Lidhur me ndikimin e mësimit klinik tek studentët, në kuadër të punimit²⁷ të prezantuar për nder të 20 vjetorit të klinikave ligjore në Poloni, organizuar nga Universiteti i Szczecin, nga Profesor Qerkin Berisha, Fakulteti

of the Law Faculty. UNHCR wishes the best to the students during their academic and carrier growth”. Postuar në faqen zyrtare të UNHCR Kosovo, në rrjetin social facebook datë 8.12.2022. ²⁵ Civil Rights Program Kosovo.

²⁵ Raporti i Vetëvlerësimit të Programit Bachelor të Fakultetit Juridik, i cili do të dorëzohet në Agjencinë e Akreditimit të Kosovës (AKA) version 14.11.2022.

²⁶ Bashkëpunimi ndërmjet UNHCR-së dhe Fakultetit Juridik të Universitetit të Prishtinës "Hasan Prishtina" 8 dhjetor 2022, (sqarime shtesë), dërguar përmes emailit zyrtar me datë 07.12.2022.

²⁷ Qerkin Barisha, Punimi “Legal Clinics From Kosovo Perspective: the way forward”, prezantuar me datë 03.12.2022, në 20 vjetorin e klinikave ligjore, në konferencën e organizuar nga Universiteti i Szczecin, në Poloni.

Juridik ka mbledhur të dhëna nga studentët për të vlerësuar efektin që ka pasur modeli kurrikular i lëndëve klinike në Fakultetin Juridik.²⁸

Në kuadër të përgjigjeve që kanë dhënë studentët³⁰, se a kanë ndjekur ndonjëherë nga lëndët klinike në Fakultetin Juridik përgjatë studimeve, 91.1% të tyre janë përgjigjur se e kanë ndjekur një lëndë klinike.³¹ Kjo dëshmon njëherësh interesimin e tyre për lëndët klinike në kuadër të plan programit të Fakultetit Juridik.

Lidhur me efektin që kanë pasur klinikat e Fakultetit Juridik, tek studentët që i kanë ndjekur, në kuadër të pyetësorit përkatës, studentët janë përgjigjur si në vijim:

1. 57.7% të studentëve janë përgjigjur që klinikat kanë ndikuar në të kuptuarit më të mirë të së drejtës pozitive;
2. 54.7 % të studentëve mendojnë që klinikat kanë ndikuar në përgatitjen e tyre në të aplikuarit më të mirë të së drejtës pozitive;
3. 40.2% e studentëve mendojnë se klinikat i kanë ndihmuar në zhvillimin e shkathhtësive argumentuese dhe zbatuese;
4. 57.5% e studentëve mendojnë që lëndët klinike i kanë ndihmuar në mësimin për hartimin e dokumenteve praktike dhe shkresave përkatëse;
5. 33.5% e studentëve janë përgjigjur që klinikat i kanë ndihmuar në përgatitjen më të mirë për tregun e punës.²⁹

Në pyetjen e parashtruar studentëve, për të vlerësuar ndikimin e lëndëve klinike, të njëjtit janë përgjigjur se mbajtja e lëndëve klinike:

1. 50.8% ka ndikuar shkëlqyeshëm;
2. 30.7% ka ndikuar shumë mirë;
3. 15.1% ka ndikuar mirë.³⁰

²⁸ Pyetësori i organizuar me studentët e Fakultetit Juridik të studimeve themelore, me datë 23-25 nëntor 2022. ³⁰ Në kuadër të pyetësorit kanë marrë pjesë 179 studentë të Fakultetit Juridik. ³¹ Ibid, pyetja e parë.

²⁹ Ibid, pyetja e tretë.

³⁰ Ibid, pyetja e katërt.

Ndërkohë që në vlerësimin që kanë bërë studentët, se sa kanë qenë praktike lëndët klinike, 63.7% të tyre janë përgjigjur se lëndët e mësimit klinik kanë qenë praktike.³¹ Kjo është një dëshmi në jo të gjithë studentët i kanë vlerësuar lëndët klinike si lëndë që zhvillohen duke pasur parasysht prizmin praktik. Në këtë aspekt, 98.3 % e studentëve janë shprehur se klinikat në Fakultetin Juridik do të ishin më efikase në rast se studentëve do të ju jepej mundësia të jepnin këshillime ligjore për klientët në formë të ndihmës juridike pro bono, për qytetarët.³²

Në përgjithësi mund të konstatohet se modeli i klinikave i promovuar brenda plan programit përgjatë viteve 2010 dhe 2017-2023, është vlerësuar pozitivisht nga ana e studentëve dhe se studentët në përgjithësi kanë qenë të kënaqur me mënyrën e realizimit të lëndëve klinike nga ana e bartësve të këtyre lëndëve.

Vlerësimi i studentëve, për mësimin klinik dhe lëndët klinike, përveç shprehjes përmes pyetësorit të realizuar, ka qenë evident edhe në takimet e mbajtura, për vlerësimin e programit dhe mësimit klinik. Duhet të theksohet se kërkesë kryesore e studentëve, në takimet e mbajtura nga Fakulteti Juridik ka qenë që mësimi klinik të ri dizajnohet, duke mundësuar që të ketë më shumë lëndë klinike si dhe lëndët klinike të jenë të përfshirë edhe persona përgjegjës nga tregu i punës.³³

6. Identifikimi i nevojës për ndryshim të modelit të mësimit klinik dhe ri konceptimi dhe programi i Zyrës së Dekanit 2020-2024

Në këto vite sa lëndët klinike janë pjesë e plan programit në mënyrë të domosdoshme dhe të dukshme është vërejtur që studentët përveç kuadrit akademik, kanë nevojë edhe në gërshetimin e doktrinës me praktikën, pra që këto lëndë t'i mbajnë me persona kompetent nga praktika (gjyqtarë, prokurorë ose avokatë) dhe kjo do t'i ndihmonte atyre që të lidhen me praktikën dhe tregun e punës për juristë.

³¹ Ibid, pyetja e gjashtë e pyetësorit.

³² Ibid, pyetja e shtatë.

³³ Takim me studentët e Fakultetit Juridik, me qëllim të vlerësimit të programit të Fakultetit Juridik dhe mësimit klinik, i mbajtur online me datë 13.04.2022.

Ashtu siç është përcaktuar në programin e Zyrës së Dekanit (2020 – 2024)³⁴, Fakulteti Juridik aspiron të jetë një komunitet akademik e studentor që gëzon një konkurrueshmëri të lartë në tregun akademik e mësimor, njëherit që gëzon respekt të veçantë në tregun profesional të punës, dhe i cili bashkëpunon me shkollat elitë të fushës juridike, të shkëmbimit të personelit akademik e studentëve ndërkombëtarë, për çka edhe është duke u punuar vazhdimisht.

Ndër objektivat kryesore të parapara (në program), kanë të bëjnë me ofrimin e një perspektive zhvillimore, që në vete përmban katër (4) komponentë: ndërkombëtarizimin, një ngritje të strukturës së hulumtimit shkencor, komunikimin me publikun dhe mbi të gjitha aktivizimin akademik të studentëve, e cila (komponentë) ndërlidhet me pjesën e mësimin klinik, ku studentët pritet të kenë një rol tejet të rëndësishëm, sidomos në implementimin e modelit “live clinic” nga dhe studentët e Fakultetit Juridik, do të mund të ofrojnë asistencë ligjore apo shërbime juridike falas për komunitete të ndryshme të shoqërisë, të cilat për shkaqe të caktuara, (kryesisht ekonomike), nuk mund të paguajnë avokat për mbrojtjen e të drejtave të tyre. Ndër të tjera në programin e Zyrës së Dekanit, përkritazi me çështjet e klinikave ligjore përcaktohet se një ndër prioritetet e Fakultetit Juridik për periudhën 2020-2024 është *“Fuqizimi i elementëve të “ndërtimit të shkathtësive” në kurrikulat ekzistuese të Fakultetit Juridik, duke përfshirë komponentë të klinikave, punëve praktike, angazhimit në simulime gjyqësore e profesionale dhe seminareve të argumentimit”*³⁵.

Me qëllim që studentët e Fakultetit Juridik të ofrohen më shumë me tregun e punës, pjesën praktike të mësim nxënies si dhe të njëjtut të fitojnë më shumë shkathtësi praktike të juristëve, Zyra e Dekanit, në programin qeverisës katër (4) vjeçar ka paraparë krijimin e Zyrës për Studime Klinike, si mekanizëm për të zbatuar zbatimin e mësimin klinik si dhe ri konceptimin e mësimin klinik.³⁶

Siç mund të shihet, Fakulteti Juridik kishte ndjekur një rrugë, ku për një kohë të gjatë aplikoi modelin e plotë kurrikular të mësimin klinik, i cili sipas vlerësimit të studentëve, në programin e Zyrës së Dekanit, 2020-2024, u vendos të ri konceptohet, për të krijuar një model të ri të mësimin klinik që i mundëson

³⁴ Programi i Zyrës së Dekanit, në webfaqen e Fakultetit Juridik, 2020-2024. <https://juridiku.uni-pr.edu/page.aspx?id=1,59>, qasur së fundmi me 24.12.2022.

³⁵ Programi i Zyrës së Dekanit, 2020-2024, f.8, <https://juridiku.uni-pr.edu/page.aspx?id=1,59>, qasur së fundmi me 24.12.2022.

³⁶ Ibid, f.8.

studentëve një lidhje më të aftët me institucionet e praktikës, në fushën e drejtësisë.

7. Përfundime

Siç u theksuar përgjatë elaborimit të seksioneve të punimit, Fakulteti Juridik, sa i përket mësimit klinik, ka kaluar nëpër tri faza kryesore, të zhvillimit të mësimit klinik. Faza e parë e mësimit klinik ka qenë më shumë fazë e veprimeve të pilotuara, në mbështetjen e partnerëve ndërkombëtare, siç është ABA ROLE dhe USAID. Në kuadër të kësaj faze siç u tha, një numër i caktuar i studentëve kanë pasur mundësi të ndjekin kurse klinike të certifikimit, sidomos në fushën penale, civile dhe të draftimit të legjislacionit. Megjithatë numri i studentëve që kishin ndjekur këto lëndë klinike kishte qenë i kufizuar dhe shumë i vogël në krahasim me numrin e përgjithshëm të studentëve që kishte Fakulteti Juridik, përgjatë viteve 2007-2010.

Nga një model i parcializuar, sipas një politike të integritit ad hoc, Fakulteti Juridik kaloi në modelin e vendosjes së disa lëndëve klinike në kuadër të programit Bachelor dhe kjo përpjekje siç u tha në punim, është bërë për herë të parë në vitin 2009, kurse një integrim i plotë i lëndëve klinike në planin programin mësues u bë në vitin 2010 dhe kështu vazhdoi edhe në programet e tjera të akredituara deri në vitin 2022. Karakteristikë kryesore e modelit të plotë kurrikular e zhvillimit të lëndëve klinike ishte fakti që të njëjtat janë mbajtur vetëm nga profesorët e Fakultetit Juridik dhe kanë mbështetur modelin e mbajtjes së lëndës klinike dhe zhvillimit të ushtrimeve praktike në klasë. Në kuadër të këtij modeli, duhet përmendur përpjekja e vazhdueshme fisnike e profesorëve të lëndëve klinike, për të kombinuar lëndën klinike me vizita institucionale si dhe me përfshirjen në kuadër të ligjëratave edhe të personave të praktikës, në kuadër të javëve të caktuara, në cilësinë e mysafirëve. Megjithatë kjo ka qenë punë vetëm individuale e profesorëve që mbajnë lëndët klinike dhe nuk është bazuar në një mekanizëm institucional të qëndrueshëm dhe permanent.

Aplikimi për një kohë të gjatë e modelit të plotë kurrikular shtroi nevojën për ri konceptim të mësimit klinik, i cili ri konceptim filloi me programin e Zyrës së Dekanit, 2020-2024. Ky program përbën dokumentin bazik që ndërtonte indicet e para për një model të ri të mësimit klinik, me qëllim që t'i mundësonte studentëve të Fakultetit Juridik, një lidhje më të fortë me pjesën praktike të institucioneve të drejtësisë dhe tregun e punës.

Referencat:

1. Bashkëpunimi ndërmjet UNHCR-së dhe Fakultetit Juridik të Universitetit të Prishtinës "Hasan Prishtina", 8 dhjetor 2022, (sqarime shtesë), dërguar përmes emailit zyrtar me datë 07.12.2022.
2. Certifikatat e autorit të këtij punimi, lëshuar nga programi USAID/ABA ROLE, në kuadër të klinikave penale dhe civile, përgjatë vitit 2009.
3. Daniel Barrow, Louise Glover and Tamara Hervey, European Journal of Legal Education Vol. 1, No. 1, May 2020, 117–154
4. Doracaku i Etikës Ligjore & Përgjegjësisë Profesionale, ABA ROLE, USAID, Universiteti i Prishtinës, Prill 2008.
5. James E. Moliterno, Legal Education, Experiential Education, and Professional Responsibility, 38 Wm.& Mary L.Rev.71 (1996).
6. Misioni i USAID-it në Kosovë dhe Universitetit i Prishtinës Fakultetit Juridik nënshkruajnë Memorandum të Mirëkuptimit, për themelimin e Zyrës së Studime Klinike në UPFL, 18.04.2013, [http://www.drejtesia-ks.org/index.php?cid=1,9,301#player tab](http://www.drejtesia-ks.org/index.php?cid=1,9,301#player_tab), qasur së fundmi me 24.12.2022.
7. NCSC/KLP expert Prof. Kevin Ruser met with the Vice Dean of University of Pristina Faculty of Law Prof. Qerim Qerimi and with the Coordinator of the Office of Clinical Studies Prof. Avni Puka, <http://www.drejtesia-ks.org/?cid=2,9,300> qasur së fundmi me 29.12.2022.
8. Programi i akredituar i Fakultetit Juridik 2010-2012.
9. Programi i Zyrës së Dekanit, 2020-2024, f.8, <https://juridiku.uni-pr.edu/page.aspx?id=1,59>, qasur së fundmi me 24.12.2022.
10. Pyetësori i organizuar me studentët e Fakultetit Juridik të studimeve themelore, me datë 23-25 nëntor 2022.
11. Qerkin Barisha, Punimi “Legal Clinics From Kosovo Perspective: the way forward”, prezantuar me datë 03.12.2022, në 20 vjetorin e klinikave

- ligjore, në konferencën e organizuar nga Universiteti i Szczecin, në Poloni.
12. Raporti i Vetëvlerësimit të Programit Baçelor të Fakultetit Juridik, i cili do të dorëzohet në Agjencinë e Akreditimit të Kosovës (AKA) version 14.11.2022.
 13. Syllabuset e lëndëve klinike në Fakultetin Juridik, në programin 2017-2023.
 14. Takim me studentët e Fakultet Juridik, me qëllim të vlerësimit të programit të Fakultetit Juridik dhe mësimit klinik, i mbajtur online me datë 13.04.2022.
 15. The University of Pristina Law School Introduces New Courses, December 2008 https://www.americanbar.org/advocacy/rule_of_law/where_we_work/europe_eurasia/kosovo/news/news_kosovo_pristina_law_school_introduces_new_courses/ , qasur së fundmi me 21.12.2022.

Prof. dr Qerkin BERISHA¹

METODOLOGJIA E MËSIMDHËNIES DHE MËSIMNXËNIES NË PROGRAMET E MËSIMIT KLINIK LIGJOR NË UNIVERSITETET PUBLIKE NË KOSOVË

1. Hyrje

Fillimisht, klinikat ligjore u prezantuan në sistemin e edukimit juridik të Kosovës (Universiteti i Prishtinës, Fakulteti Juridik) përmes mbështetjes së donatorëve, në veçanti USAID-it, dhe u zbatuan në bashkëpunim me Iniciativën për Sundimin e Ligjit të Odës së Avokatëve Amerikanë. Në fillim u prezantuan si kurse *ad hoc* në formën e klinikave juridike simuluese (në të drejtën civile dhe penale), të udhëzuara bashkërisht nga stafi i Fakultetit Juridik të Universitetit të Prishtinës si dhe nga profesionet juridike (avokat dhe gjyqtarë). Dhe gradualisht ato u inkorporuan si pjesë e kurrikulave të Fakultetit Juridik të Universitetit të Prishtinës (si lëndë zgjedhore). Në atë kohë (2004/2005) Fakulteti Juridik i Universitetit të Prishtinës ishte i vetmi Fakultet Juridik në Kosovë në kuadër të institucioneve publike të arsimit të lartë. Klinikat ligjore ishin një metodologji e re e prezantuar në sistemin e arsimit juridik të Kosovës. Më vonë, klinikat juridike u futën në kurrikulat e Fakulteteve Juridike të universiteteve tjera publike të themeluara nga viti 2010 e tutje, disa nga të cilat më parë ishin themeluar si degë apo Fakultete të Universitetit të Universitetit të Prishtinës.²

Forma më e avancuar e zbatimit të klinikave ligjore, që ekziston në vazhdimësi që nga fillimi i zbatimit të klinikave ligjore në vitin 2005, ka ndodhur dhe vazhdon të zbatohet në Fakultetin Juridik të Universitetit të Prishtinës. Megjithatë, përkundër progresit të tij në implementim, është e rëndësishme të

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² Universiteti Publik i Prizrenit “Ukshin Hoti” u themelua në vitin 2010; Universiteti Publik “Haxhi Zeka” në Pejë u themelua në vitin 2011; Universiteti Kadri Zeka në Gjiçan u themelua në 2013; Universiteti i Mitrovicës “Isa Boletini” u themelua në vitin 2013.

përmendet se zbatimi i klinikave ligjore nuk e ka arritur në tërësi qëllimin fillestar siç ishte projektuar nga Universiteti i Prishtinës dhe donatorët mbështetës. Duke thënë këtë kam parasysh se ideja fillestare ishte zhvillimi i mëtejshëm i kurseve të klinikës ligjore në “klinika të drejtpërdrejta” apo klinika live ku studentët do të punonin me klientët aktualë në raste reale nën mbikëqyrjen e ngushtë të profesionistëve me objektivat: të mësojnë analizën dhe interpretimin ligjor; të zhvillojë aftësitë e shkrimit ligjor; të mësojnë se si të intervistojnë klientët; të mësojnë se si të negociojnë dhe ndërmjetësojnë në emër të tyre aty ku është e përshtatshme; të mësojnë se si të zhvillohet një rast; të mësojnë se si të përfshijnë praktikën etike në aktivitetet e tyre, si dhe diskutimi në klasë dhe puna në terren. Përfshirja e klinikave ligjore në programet mësimore ka përmirësuar edukimin juridik në Universitetin e Prishtinës dhe Universitetet e tjera publike, duke u fokusuar më shumë në disa aspekte praktike të metodologjive të mësimdhënies, veçanërisht në analizën dhe interpretimin ligjor, zhvillimin e aftësive të shkrimit ligjor, analizimin dhe diskutimin e rasteve hipotetike, udhëzimin në klasë dhe disa raste edhe me pjesëmarrjen e gjyqtarëve/avokatëve, në disa klinika ligjore. Në këtë drejtim, klinikat ligjore kanë ofruar njohuri dhe aftësi të rëndësishme praktike për studentët, por nuk kanë arritur të arrijnë plotësisht objektivin e tyre fillestar.

Ky punim analizon programet e mësimin klinik në Fakultetin Juridik të Universitetit të Prishtinës, dhe universiteteve tjera publike në kuadër të të cilave ekzistojnë fakultete juridike, me fokus në analizimin e përmbajtjes së programeve dhe metodologjisë së mësimdhënies/mësimnxënies si dhe krahasimin e tyre me përmbajtjen e mësimin klinik në universitetet tjera në Evropë. Për këtë qëllim, në kuadër të këtij punimi janë marrë për bazë dhe analizuar edhe studime dhe punë e autorëve tjerë që përkufizojnë klinikat ligjore dhe kanë studiuar sistemet e edukimit klinik ligjor në sisteme tjera juridike.

2. Mësimi klinik si një qasje bashkohore në të mësuarit e drejtësisë

Është e vështirë të sigurohet një përkufizim unik i klinikave ligjore. Kjo për faktin e këndvështrimeve të ndryshme si të natyrës teorike ashtu edhe të kontekstit të zhvillimit të mësimin klinik brenda një juridiksioni. Prandaj, mësimi klinik definohet në mënyra të ndryshme, shpeshherë duke marrë për bazë vetëm elemente të kontekstit në të cilin shkollat e drejtësisë realizojnë një formë

të caktuar të mësimit klinik ligjor. Ndonëse ka shumë përkufizime të klinikave ligjore, një përkufizim i veçantë i edukimit ligjor klinik i përdorur nga Richard J. Wilson, është ndër përkufizimet më të plota për edukimin klinik ligjor. Ky përkufizim përbëhet nga pesë elementë të cilat janë si në vijim: *"(1) ofrimi nga studentët i shërbimeve reale juridike për klientët aktualë me probleme reale ligjore; (2) studentët janë përgjegjës për vendimet e tyre në rastet, por mbikëqyren nga afër, me ngarkesa të kontrolluara me kujdes, nga një avokat i licencuar për të ushtruar drejtësi në juridiksionin përkatës, mundësisht një profesor që ndan objektivat pedagogjike të edukimit klinik ligjor; (3) klientët që shërbehen nga programi janë përgjithësisht njerëz, grupe ose organizata që nuk janë në gjendje të përballojnë koston e përfaqësimit ligjor ose ata vijnë nga komunitete tradicionalisht të pa favorizuara, marginale ose ndryshe të pa shërbyera; (4) kreditë akademike jepen në përpjesëtim me përpjekjet për çështjet klinike; dhe (5) puna e rasteve nga studentët paraprihet ose shoqërohet nga një kurs me kredi, në aftësitë, etikën dhe vlerat e praktikës, si dhe njohuritë e nevojshme doktrinare të ndërlidhura për fushën e praktikës së klinikës."*³ Sipas këtij përkufizimi, fokusi është vënë në *"të mësuarit e studentëve në kuadër të programit të shkollave të drejtësisë nëpërmjet përvojës në rolin e një avokati me klient të vërtetë, duke përdorur modelin e planifikimit, bërjes dhe reflektimit"*.⁴ Këtij përkufizimi të mësimit klinik i referohen edhe autorë të tjerë, të cilët e konsiderojnë si një nga përkufizimet më të plota të mësimit klinik ligjor. Megjithatë, siç edhe do të theksohet në vijim, jo të gjitha modelet e mësimit klinik janë unike, dhe fakti që nuk përmbajnë ndonjërin nga këto elemente të përmendura më sipër nuk i bënë ato më pak të rëndësishme.

Fillet e zhvillimit të mësimit klinik modern e kanë bazën në sistemin e edukimit ligjor në Shtetet e Bashkuara të Amerikës.⁵ Rrjedhimisht edhe elementet e përkufizimit të mësipërm bazohen kryesisht në sistemin amerikan të mësimit klinik, edhe sistemet e edukimit ligjor në Evropë kanë përqafuar një formë të përshtatur të mësimit klinik që në vete përmban elementet e tilla. Pa dyshim, mësimi klinik në Universitetet në Evropë, duke përfshirë edhe metodologjinë e zhvillimit të tij është mbështetur dhe influencuar nga Sistemi

³ Wilson, Richard J., *The Global Evolution of Clinical Legal Education: More than a Method*, Cambridge University Press, 2018, f.10.

⁴ Po aty.

⁵ Sa i përket historikut të zhvillimit të mësimit klinik në SH.B.A. shih: Giddings, Jeff, Burrigge, R., Gavigan, Sh. A. M., Klein, Catherine F., "The First Wave of Modern Clinical Legal Education: The United States, Britain, Canada and Australia" In Bloch, Frank S. (Ed.), *The Global Clinical Movement: Educating Lawyers for Social Justice*, Oxford Scholarship, 2010.

Amerikan dhe fillimisht edhe nga fondet amerikane. Mësimi klinik në Fakultetet Juridike në Evropë është paraqitur shumë më vonë si një formë inovative e mësimdhënies dhe mësimnxënies. Kështu, duke ndikuar pozitivisht në kulturën juridike profesionale të juristëve. Në këtë drejtim, vërehet një trend në rritje i zhvillimit të programeve të mësimit klinik në universitetet evropiane, në veçanti në njëzet vitet e fundit⁶, dhe rrjedhimisht edhe një avancim, i mësimit klinik përgjatë kësaj periudhe kohore. Prandaj, mësimi klinik si i tillë mund të konsiderohet ende si një ngjarje aktuale dhe në zhvillim e sipër në sistemet evropiane të edukimit ligjor.⁷ Rrethanat shoqërore të shoqërive në tranzicion kanë diktuar edhe nevojën për të zhvilluar programe të tilla praktike që sjellin risi dhe që në fokus kanë zhvillimin e njohurive dhe shkathtësive praktike tek studentët. Në shumicën e rasteve duke trajtuar raste të vërteta, dhe duke punuar me klientë të vërtetë. Kështu, klinikat ligjore përveç që kanë një rol në domethënës në edukimin ligjor të studentëve, ato luajnë edhe një rol të rëndësishëm shoqëror.⁸ Programet e edukimit klinik ligjor dallojnë duke pas parasysh edhe kontekstin e kornizës ligjore nacionale, e cila në disa sisteme juridike ka krijuar një fleksibilitet më të madh për përfshirje të klinikave ligjore si ofrues të ndihmës juridike, kurse në sisteme tjera juridike, përfshirë këtu edhe Kosovën⁹, një kornizë e tillë ligjore ka qenë më kufizuese.

Sipas Clelia Bartoli, një grupim i klinikave ligjore në Evropë për nga natyra e tyre mund të bëhet në klinikave ligjore live me klient të drejtpërdrejtë që ofrohen brenda institucionit, klinika në formë eksternshipi që ofrohen jashtë

⁶ Bartoli, Clelia. Legal clinics in Europe: for a commitment of higher education in social justice, 2016, p. 42 Available online at: http://www.dirittoequestionipubbliche.org/page/2016_nSE_Legal-clinics-in-Europe/DQ_2016_Legal-Clinics-in-Europe_specialissue.pdf (15.12.2022)

⁷ Po aty, f. 32-33.

⁸ Personeli i Fakultetit Juridik të Universitetit të Prishtinës, si pjesë projektit ENEMLOS të financuar nga Komisioni Evropian ka vizituar gjatë vitit 2022 disa nga Fakultetet Juridike në Poloni duke përfshirë Universitetin e Warsawës, Universitetin e Krakovës, dhe universitete tjera. Është pare se nga afër se klinikat ligjore janë duke luajtur një rol të madh shoqëror në trajtimin e rasteve të Refugjatëve të luftës në Ukrainë.

⁹ Sipas Ligjit Nr. 04/L-017 për Ndihmë Juridike Falas, i plotësuar dhe ndryshuar me ligjet Nr. 08/L-035 dhe Nr. 08/L-063, Agjencia për Ndihmë Juridike Falas ka kompetencë për të ofruar ndihmë juridike Falas. Rrjedhimisht, dispozitat e këtij ligji nuk lënë shumë hapësirë që Fakultetet Juridike të ofrojnë në mënyrë të pavarur ndihmë juridike falas. Por, të njëjtat do të mund të ofrohen në bashkëpunim me Agjencinë. Një hapësirë më e favorshme ligjore është krijuar për organizatat joqeveritare, të cilat mund të ofrojnë shërbime juridike të autorizuar, në bazë të kriterëve të përcaktuara nga Ministria përgjegjëse për drejtësi, me propozim të Agjencisë.

institucionit dhe studentët janë nën mbikëqyrjen e avokatëve, gjyqtarëve, OJQ-ve apo të ngjashme dhe klinika të bazuara në simulim, në të cilat studentët punojnë në raste të vërteta ose hipotetike.¹⁰ Pa marrë parasysh modelin e klinikave, ajo që është e përbashkët e çdo programi klinik është metodologjia interaktive dhe eksperimentale, që u mundëson studentëve të zhvillojnë aftësi profesionale, praktike dhe etike. Programet e mësimit klinik zakonisht kanë objektiva të qarta pedagogjike dhe vlerësimi, të bazuara në modele të njohura të mësimit nxënies. Metodologjia përfshinë debate dhe diskutime në grupe, simulime të gjykimeve, analiza dhe përdorim të rasteve studimore, punë në terren dhe ndërveprim me ekspertët.¹¹

Në pjesën në vijim është paraqitur një analizë e plan programeve të universiteteve publike në Kosovë, për të identifikuar modelin e klinikave ligjore që ofrohet në sistemin e edukimit ligjor në Kosovë si dhe metodologjinë e mësimit nxënies/mësimnxënies.

3. Analizë e programe të mësimit klinik në Universitetet Publike të Kosovës

Në tabelën në vijim janë paraqitur të dhënat e programeve të Universiteteve Publike në Republikën e Kosovës në të cilat ofrohen lëndët e mësimit klinik. Ndërsa në pjesën në vijim është dhënë një përshkrim i përgjithshëm i profilit të mësimit klinik në Universitetet Publike në Republikën e Kosovës, sipas plan programeve që janë të aplikueshme në vitin 2022. Sa u përket të dhënave për Fakultetin Juridik të Universitetit të Prishtinës, përveç një analize të përmbajtjes së planprogramit dhe metodologjisë së përdorur në lëndët e mësimit klinik, në këtë punim janë paraqitur edhe rezultatet nga një pyetësor i zhvilluar me studentë sa i përket mësimit klinik në Fakultetin Juridik të Universitetit të Prishtinës, i realizuar në muajin nëntor të vitit 2022.¹²

¹⁰ Bartoli, Clelia. Legal clinics in Europe: for a commitment of higher education in social justice, 2016, p. 35 Available online at: http://www.dirittoequestionipubbliche.org/page/2016_nSE_Legal-clinics-in-Europe/DQ_2016_Legal-Clinics-in-Europe_specialissue.pdf (15.12.2022).

¹¹ Po aty, f. 39.

¹² Pyetësor për Zhvillimin e Mësimit Klinik në Fakultetin Juridik të Universitetit të Prishtinës, i realizuar në Nëntor të vitit 2022, nga Prof. Ass. Dr. Qerkin Berisha, Prof. Ass. Dr. Muhamet Vokri dhe Prof. Ass. Dr. Florent Muçaj. Ky pyetësor është zhvilluar dhe realizuar në formë elektronike dhe u është dërguar të gjithë studentëve të Fakultetit Juridik të Universitetit të

Tabela 1: lëndët Klinike në Fakultetet Juridike të Universiteteve Publike në Kosovë

Universiteti	Emërtimi i lëndëve klinike	Lëndët klinike: zgjedhore (Z) obligative (O)
Fakulteti Juridik Universiteti i Prishtinës	– Klinika Juridike Civile (II) ¹³	Z
	– Klinika Juridike nga e drejta familjare dhe trashëgimore (II) ¹⁴	Z
	– Klinika Juridike Fiskale (III)	Z
	– Klinika Juridike Penale (Master Penal) ¹⁵	Z
	– Klinika Juridike Civile (Master Civil dhe Pronësor) ¹⁶	Z
	– Klinika Administrative (Master Kushtetues dhe Administrativ) ¹⁷	O
Fakulteti Juridik Universiteti i Mitrovicës	– Klinika juridike civile (II) ¹⁸	Z
	– Klinika juridike penale(III) ¹⁹	Z
	– Klinika juridike fiskale (IV, Moduli Financiar) ²⁰	Z

Prishtinës. Janë pranuar 179 përgjigje, të cilat janë përpunuar dhe disa nga rezultatet e tyre janë paraqitur në vijim.

¹³ Klinika Juridike Civile, syllabusi i lëndës, i qasshëm në: <https://juridiku.uni-pr.edu/desk/inc/media/6AC06B3A-E598-4829-BFBB-3A42F08BF48E.pdf> (20.12.2022).

¹⁴ Klinika Juridike nga e drejta familjare dhe trashëgimore, syllabusi i lëndës i qasshëm në: <https://juridiku.uni-pr.edu/desk/inc/media/2B57B2EA-7CD4-4F2C-A8B6-C6A6E56FC9F6.pdf> (20.12.2022).

¹⁵ Klinika Juridike Penale (Master) syllabusi i lëndës, i qasshëm në: <https://juridiku.uni-pr.edu/desk/inc/media/1A295026-20DD-4A96-BA47-AC6853FBDE8E.pdf> (20.12.2022).

¹⁶ Klinika Juridike Civile (Master), syllabusi i lëndës, i qasshëm në: <https://juridiku.uni-pr.edu/desk/inc/media/9BA19899-3462-4318-AFF3-2C24E4258BAE.pdf> (20.12.2022).

¹⁷ Klinika Administrative (Master), syllabusi i lëndës i qasshëm në: <https://juridiku.uni-pr.edu/desk/inc/media/8B28821F-38D9-4652-9D2C-2C2D67439B29.pdf> (20.12.2022).

¹⁸ Klinika Juridike Civile, syllabusi i lëndës, i qasshëm në: https://drive.google.com/open?id=16f1eR73_cvTxdT0o73bw35545uUg6vm8, (20.12.2022).

¹⁹ Klinika Juridike Civile, syllabusi i lëndës, i qasshëm në: https://docs.google.com/document/d/1AyBsJEUU1Dd6_-H1gs3EPsHbxPl4DkJ/edit?usp=sharing&ouid=112268907463106611803&rtopof=true&sd=true (20.12.2022).

²⁰ Klinika Juridike Fiskale, syllabusi i lëndës, i qasshëm në: <https://docs.google.com/document/d/1rBaNjPaZlABx3qqEY2Gc->

Fakulteti Juridik Universiteti i Pejës	– Klinika Juridike Civile (II)	z
Universiteti i Gjilanit	– Klinika juridike Civile (II) – Mësimi Klinik Juridiko Penal (Master Penal)	z o
Fakulteti Juridik Universiteti i Prizrenit	/	

Burimi: Autori mbi bazën e analizës së programeve të mësimit klinik të publikuara në web faqet e Fakulteteve Juridike të Universiteteve Publike në Kosovë.

Duke analizuar programet e mësimit klinik të Fakultetit Juridik të Universitetit të Prishtinës, dhe të Universiteteve të tjera Publike në Kosovë, në vijim është paraqitur përmbajtja profili i programeve të mësimit klinik:

- *Analizë dhe të interpretim ligjor;*
- *Zhvillimi i aftësive të shkrimit ligjor;*
- *Analizë dhe diskutim mbi rastet hipotetike dhe të vërteta;*
- *Simulim i rasteve;*
- *Mësim në klasë dhe disa raste edhe nga gjyqtarë/jurist, në disa nga klinikat ligjore.*

Nga tabela e mësipërme shihet se Fakulteti Juridik i Universitetit të Prishtinës zhvillon numrin më të madh të lëndëve të mësimit klinik. Kjo është e natyrshme duke pasur parasysh faktin që Fakulteti Juridik i Universitetit të Prishtinës është Fakulteti i parë juridik në Kosovë në kuadër të Universiteteve publike që ka inkorporuar lëndët e mësimit klinik në kuadër të plan programit të tij, fillimisht si pilotim që nga viti 2005, dhe më tutje në vazhdimësi si pjesë e programit të rregullt të Fakultetit Juridik. Fillimisht janë përfshirë lëndët klinike civile dhe penale dhe pastaj edhe lëndët tjera klinike.

Nga një vështrim i synimeve që ekzistonin në fillimet e implementimit të mësimit klinik në Fakultetin Juridik të Universitetit të Prishtinës kur filloi për herë të parë pilotimi i mësimit klinik në vitet 2004-2005, vërehet se mësimi klinik synonte themelimin e klinikave ligjore me klientë të vërtetë, dhe synimi Fakultetit Juridik të Universitetit të Prishtinës ishte që përmes klinikave ligjore studentët të zhvillonin njohuritë e tyre në analizë dhe interpretimin ligjor; zhvillim i aftësive të shkrimit ligjor; zhvillim i aftësive të intervistimit të klientëve; negocimi dhe ndërmjetësimi në emër të klientëve aty ku është e përshtatshme; zhvillimi i rasteve; përfshirja e praktikave etike në aktivitetet e punës së studentëve; udhëzimet dhe diskutimi në klasë si dhe puna në terren. Rrjedhimisht, synimi kryesor ishte zhvillimi i programeve klinike me klientë të vërtetë. Megjithatë, këto synime në raport me rezultatet e synuara tek studentët janë arritur vetëm pjesërisht për shkak se klinikat ligjore të përfshira në kuadër të programeve të Fakultetit Juridik të Universitetit të Prishtinës por edhe të Universiteteve tjera në Kosovë nuk u zhvilluan në formën e klinikave ligjore me klientë të vërtetë. Kjo ka bërë që mësimi klinik i inkorporuar në kuadër të plan programeve të Fakulteteve Juridike të Universiteteve në Kosovë të mos reflektoj me përmbajtjen që ka mësimi klinik ligjor me klientë të vërtetë në shumë universitetet e vendeve tjera në Evropë, siç u diskutua në pjesën e dytë të këtij punimi. Rrjedhimisht, plan programet e mësimit klinik që janë aplikuar në sistemin e edukimit ligjor në Kosovë, duke përfshirë edhe Fakultetin Juridik të Universitetit të Prishtinës nuk kanë mundur që studentët të ofrojnë shërbime reale për klientët, të cilat do të zhvillonin një shkallë të lartë të përgjegjshmërisë dhe vendimmarrjes përkitazi me rastet. Në të njëjtën kohë, kjo ka pamundësuar zhvillimin e aftësive të personelit akademik përkitazi me metodologjinë e mësimit dhe mbikëqyrjes së studentëve në klinika ligjore me klientë të vërtetë.

Megjithatë, duke pas parasysh se metodologjia e mësimit dhe zhvilluar në kuadër të plan programeve të mësimit klinik në Fakultetin Juridik të Universitetit të Prishtinës ka qenë shumë më praktike krahasuar me kurset tjera që kryesisht anë të natyrës teorike, e njëjta është vlerësuar në mënyrë pozitive nga ana e studentëve.²¹ Nga pyetësori me Studentë të Fakultetit Juridik të

²¹ Pyetësori për Zhvillimin e Mësimit Klinik në Fakultetin Juridik të Universitetit të Prishtinës, i realizuar në Nëntor të vitit 2022, nga Prof. Ass. Dr. Qerkin Berisha, Prof. Ass. Dr. Muhamet Vokri dhe Prof. Ass. Dr. Florent Muçaj. Ky pyetësori është zhvilluar dhe realizuar në formë

Universitetit të Prishtinës, i realizuar në nëntor të vitit 2022 vërehet një shkallë e lartë e pjesëmarrjes dhe kënaqshmërisë së tyre me përmbajtjen dhe rezultatet e arritura në kuadër programeve të mësimit klinik në Fakultetin Juridik të Universitetit të Prishtinës. Bazuar në këto hulumtime, shihet se rreth 90% e studentëve respondentë të Fakultetit Juridik të Universitetit të Prishtinës kanë ndjekur të paktën një kurs të mësimit klinik përgjatë studimeve të tyre në Fakultetin Juridik. Rreth 58% e tyre kanë ndjekur klinikat ligjore civile, rreth 45% kanë ndjekur klinikat ligjore nga e drejta familjare dhe trashëgimore, rreth 19% kanë ndjekur klinikat nga e drejta penale; rreth 9 % kanë ndjekur klinikat fiskale dhe rreth 8% kanë ndjekur klinikat nga e drejta kushtetuese-administrative.²² Studentët në përgjithësi vlerësojnë se mësimi klinik ka qenë praktik, me rreth 25% që mendojnë se ka qenë shumë praktik, 64% që mendojnë se ka qenë pak praktik, dhe 11% që mendojnë se nuk ka qenë fare praktik.²³ Studentë vlerësojnë se mesmi klinik më së shumti ka ndihmuar në përpilimin e shkresave dhe dokumenteve ligjore me 58%, në të kuptuarit më të mirë të ligjeve të aplikueshme me 57%, si dhe në aplikimin në praktikë të legjislacionit në fuqi me 54%. Megjithatë, vetëm 33% e studentëve vlerësojnë se klinikat ligjore kanë ndihmuar në përgatitjen më të mirë të tyre për tregun e punës.²⁴ Sidoqoftë, pyetëtori u është drejtuar të gjithë studentëve aktivë në Fakultetin Juridik, rrjedhimisht mund të ketë një pasaktësi të të dhënave, për shkak se numri i studentëve aktiv mund të përfshijë edhe studentë të më shumë gjeneratave.

Për të siguruar të dhëna më të sakta, sa i përket përqindjes së numrit të studentëve që kanë ndjekur klinikat sipas lëndëve janë analizuar të dhënat nga numri i studentëve për pr secilën lëndë për tre vite. Edhe këto statistika tregojnë se shumica e studentëve kanë ndjekur të paktën njërin nga lëndët klinike gjatë studimeve të tyre në Fakultetin Juridik të UP-së. Nga analiza e të dhënave nga sistemi i menaxhimit të studentëve SEMS, nga të dhënat e analizuara për vitet akademike 2019/2020, 2020/2021 dhe 2021/2022 shihet se rreth 48% e

elektronike dhe u është dërguar të gjithë studentëve të Fakultetit Juridik të Universitetit të Prishtinës. Janë pranuar 179 përgjigje, të cilat janë përpunuar dhe disa nga rezultatet e tyre janë paraqitur në vijim.

²² Berisha, Qerkin, *Legal clinics from Kosovo perspective: the way forward*, (03.12.2022), presentation in International Conference of Legal Clinics in Poland, *If not legal opinion, then what? A modern model of legal clinic*, University of Szczecin, 1-4 December 2022.

²³ Po aty.

²⁴ Po aty.

studentëve kanë ndjekur klinikat civile; rreth 14% kanë ndjekur klinikat nga e drejta familjare dhe trashëgimore; rreth 14% kanë ndjekur klinikat nga e drejta penale, 12% kanë ndjekur klinikat nga e drejta fiskale dhe rreth 12% klinikat nga e drejta kushtetuese dhe administrative.²⁵

Të dhënat nga pyetësi i mësipërm mundësojnë të vlerësojmë se në kuptimin e mësimnxënies për studentët janë aplikuar shumë nga metodat që përdoren në ofrimin e mësimit klinik në universitetet tjera. Prandaj, secila nga programet e mësimit klinik të ofruara nga Fakulteti Juridik i Universiteti i Prishtinës ka përfshirë debate dhe diskutime në grupe, simulime të gjykimeve, analiza dhe përdorim të rasteve studimore, punë në terren dhe ndërveprim me ekspertët. Kjo vërehet edhe nga përmbajtja dhe qëllimet që synohen të arrihen në kuadër të këtyre programeve të mësimit klinik.²⁶ Megjithatë, statistikat e mësipërme mundësojnë po ashtu që statistika na mundësojnë të kuptojmë se përkundër faktit që mësimi klinik ka pasur një ndikim pozitiv në përgatitjen e studentëve, mbetet shumë hapësirë për të përmirësuar dhe përshtatur programet e mësimit klinik.

Është evidente që disa nga plan programet e lëndëve klinike të universiteteve tjera publike në Kosovë, në veçanti ato të klinikave juridiko-civile janë ndikuar pothuajse 100% nga përmbajtja e plan programeve të Fakultetit Juridik të Universitetit të Prishtinës. Njëri nga faktorët kryesor pse kemi një ngjashmëri të tillë është pikërisht fakti se para pavarësisht të tyre, këto Fakultete Juridike fillimisht kishin funksionuar si degë të Universitetit të Prishtinës dhe në kuadër të programeve të Universitetit të Prishtinës. Një faktor tjetër me ndikim ishte fakti se në shumicën e Universiteteve publike të themeluara pas vitit 2010, fillimisht mësimi në lëndët klinike është mbajtur nga profesorët e Universitetit të Prishtinës. Megjithatë, disa nga Fakultetet Juridike të universiteteve publike nuk kanë arritur të inkorporojnë lëndët e mësimit klinik si lëndë të rregullta në kuadër të programeve të tyre, siç është rasti i Universitetit të Prizrenit. Duke pas parasysh që për Fakultetet tjera Juridike nuk është zhvilluar ndonjë pyetësor me studentët, është e vështirë që të bëhet një vlerësim i kënaqshmërisë dhe ndikimit

²⁵ Të dhënat për numrin e studentëve për lëndë të regjistruar në lëndët e mësimit klinik në Fakultetin Juridik të Universitetit të Prishtinës, të siguruar nga Fakulteti Juridik i Universitetit të Prishtinës, Prishtinë, Janar, 2023.

²⁶ Shih p.sh. Programi i mësimit klinik në Klinika Juridike Civile, Fakulteti Juridik i Universitetit të Prishtinës, i qasshëm në: <https://juridiku.uni-pr.edu/desk/inc/media/6AC06B3A-E598-4829-BFBB-3A42F08BF48E.pdf> (20.12.2022).

të klinikave tek studentë që i kanë ndjekur ato si dhe për % e studentëve të këtyre fakulteteve që kanë ndjekur lëndët e mësimit klinik. Megjithatë, për nga përmbajtja, dhe qëllimet e synuara të mësimit klinik të përfshira në kuadër të kurrikulës së këtyre kurseve ato nuk dallojnë nga ato të Fakultetit Juridik të Universitetit të Prishtinës.

Është për tu vlerësuar si pozitiv, ndikimi i projektit ENEMLOS të financuar nga Komisioni Evropian, që synon të përmirësojë cilësinë në arsim, duke rritur mobilitetin e profesorëve, asistentëve, administratës dhe kryesisht studentëve, duke zhvilluar kurrikulat e reja të programeve dhe duke rritur punësueshmërinë e studentëve të drejtësisë nëpërmjet edukimit praktik të Institucioneve të Arsimit të Lartë.²⁷ Në këtë drejtim, Fakulteti Juridik i Universitetit të Prishtinës, ka filluar me implementimin e shërbimeve Juridike pro-bono në bashkëpunim me Agjencinë për Ndhimë Juridike Falas, ku studentët që nga viti 2022 kanë filluar me trajtimin e rasteve të vërteta me klientë. Përveç kësaj, në proces është një rishikim i gjithë programeve të mësimit klinik, duke vënë fokusin në klinikat me klientë të vërtetë por edhe në përfshirjen e ekspertëve dhe profesionistëve të fushës si pjesë e programeve të mësimit klinik në kuadër të Fakultetit Juridik të Universitetit të Prishtinës. Edhe Fakultetet tjera juridike që janë pjesë e projektit ENEMLOS, kanë ndërmarrë disa veprime që synojnë përmirësim të programeve të mësimit klinik.

4. Konkluzione dhe rekomandime

Rrethanat shoqërore në të cilat është ndodhur Kosova në periudhën e pas vitit 1999, të cilat janë karakterizuar me një numër të madh të problemeve sociale, probleme në fushën e të drejtave pronësore, dhe në përgjithësi sfidat e ndërtimit të institucioneve përbënin një ambient të favorshëm për zhvillimin e mësimit klinik ligjor në një formë më të avancuar. Mësimi klinik, në këto rrethana të reformave dhe transformimit shoqëror të përgjithshëm do të mund të pranohej dhe inkorporohej më lehtë si pjesë e programeve mësimore universitare. Pasojat e luftës së vitit 1998/1999, me të cilat shoqëria kosovare u ballafaqua dhe vazhdon të ballafaqohet si edhe nevoja për të ofruar ndihmë për kategori të shoqërisë do të krijonte një mjedis të përshtatshëm për të zhvilluar mësimin klinik. Thënë këtë, kam parasysh numrin e madh të problemeve që

²⁷ Projekti ENEMLOS: <http://www.fupp.org.pl/en/news/9-polski/aktualnosci/303-enemlos>

kanë të bëjnë me të drejtat pronësore, dëmet e shkaktuara nga lufta, të drejtat e minoriteteve dhe grupeve tjera të cenueshme si dhe numrin e madh të familjeve dhe personave që e kishin dhe vazhdojnë të kenë të pamundur të përballojnë financiarisht sigurimin e ndihmën juridike. Në të njëjtën kohë, gjithë programet universitare në këtë periudhë kanë kaluar në një proces reformimi, që ka mundësuar përshtatjen e tyre me rrethanat e reja të transformimit, dhe në të njëjtën kohë duke mundësuar avancimin e njohurive praktike të studentëve të drejtësisë, përmes angazhimit direkt të tyre në trajtimin e këtyre problematikave.

Nga analiza e mësipërme e plan programeve mësimore të Fakultetit Juridik të Universitetit të Prishtinës dhe të universiteteve tjera Publike në Republikën e Kosovës, mund të shihet si pozitive përfshirja e mësimin klinik në programet e të gjitha Universitetet Publike. Një rol të madh në këtë drejtim ka luajtur Fakulteti Juridik i Universitetit të Prishtinës, i cili ka qenë prijës dhe i gatshëm të përfshijë mësimin klinik si një formë të re mësimdhënie në kuadër të plan programeve të tij. E njëjta është pasuar edhe nga universitetet tjera publike që janë krijuar në periudhën e pas vitit 2010, por edhe nga kolegjet private. Pa dyshim, duhet falënderuar përkrahjen nga ana e donatorëve për një reformë të tillë. Vetë ekzistimi i mësimin klinik ligjor në kuadër të këtyre programeve, dëshmon se sistemi i edukimit ligjor në Republikën e Kosovës e ka kuptuar dhe e kupton nevojën e ekzistimit të mësimin klinik ligjor. Rrjedhimisht, fokusi shumë lehtë tani e tutje do të mund të orientohet drejtë zhvillimit të mëtejme të këtyre programeve dhe përshtatjes së tyre me praktikën më të mira të mësimin klinik të dëshmuara në Universitetet tjera në Evropë.

Sidoqoftë, nga analizat e mësipërme të programeve klinike në Universitetet Publike në Kosovë dhe implementimit të tyre, shihet se Universitetet Publike nuk kanë arritur të shfrytëzojnë dhe maksimizojnë përfitimet e një momentumit të tillë të përshtatshëm që ka ekzistuar në fazat fillestare të zhvillimit të mësimin klinik ligjor. Shfrytëzimi i një momentumit të tillë do të mundësonte zhvillimin e një formë më të avancuar të mësimin klinik e cila në qendër do të kishte ofrimin e këshillave juridike dhe/ose ndonjë forme tjetër të mësimin klinik e cila në qendër do të kishte punën direkte me klientë. Kanë ekzistuar shumë faktorë që kanë pamundësuar një zhvillim të tillë, duke përfshirë kornizën ligjore në fuqi dhe problemet strukturore që kanë përcjellë proceset e reformave në arsimin e lartë në Kosovë. Ndonëse kishte iniciativa të herë pas hershme me përkrahjen e donatorëve, universitetet publike deri më tani nuk kanë arritur të krijojnë programe të qëndrueshme të mësimin klinik në

të cilat studentët do të ofronin këshilla juridike për klientët dhe do të punonin me klientët të vërtetë.

Megjithatë, siç u theksua më sipër, avancimi i mësimit klinik nuk është diçka e përfunduar dhe e tejkaluar. Prandaj, Universiteti i Prishtinës dhe universitetet tjera në Kosovë do të mund të nxënë hapin e universiteteve tjera në Evropë duke implementuar përvojat e mira dhe duke arritur të përfitojnë nga mësimet e universiteteve tjera sa i përket zbatimit të mësimit klinik. Implementimi i Projektit ENEMLOS, me financimin e BE-së, i cili ka për qëllim të avancojë mësimin klinik ligjor dhe të mundësoj implementimin e klinikave ligjore me klientë të vërtetë, do të mund të konsiderohet si një pikë kthese, ku Universiteti i Prishtinës dhe universitetet tjera publike në Kosovë, fillojnë të ri mendojnë seriozisht avancimin e mësimit klinik duke përfituar edhe nga shkëmbimi i përvojave me universitetet tjera në Evropë. Një shembull pozitiv, pa dyshim është hapja e një zyre për ndihmë juridike falas në kuadër të Fakultetit Juridik të Universitetit të Prishtinës, e cila do të realizohet në bashkëpunim me Agjencinë për Ndihmë Juridike Falas.

Ekzistojnë disa çështje sfiduese ligjore në implementimin e mësimit klinik ligjor në Republikën e Kosovës. Ndër këto çështje sfiduese është pamundësia e personelit akademik të fakulteteve juridike të ushtrojnë profesionin e avokatit. Një gjë e tillë, lejohet gjithandej në sistemet juridike në Evropë, dhe do të ishte në të mirën e vet studentëve që mësimdhënësit të jenë të pajisur me përvojën praktike. Në të njëjtën kohë, do të ishin një aset shtesë për klikat juridike dhe për vetë universitetet publike që mësimdhënësit të mund të ushtrojnë profesionin e avokatit. Megjithatë, implementimi i klinikave ligjore deri në nivelin e ofrimit të opinioneve ligjore për klientët, nën udhëheqjen e profesorëve të lëndëve juridike konsideroj se ka një bazë të mjaftueshme ligjore edhe në legjislacionin aktual për avokatinë, por që fatkeqësisht nuk është menduar deri më tani që të realizohet në praktikë. Çështje tjetër sfiduese është krijimi i një baze të qartë ligjore, që do tu mundëson fakulteteve juridike të ofrojnë në mënyrë të pavarur ndihmë juridike falas për klientët, e që do duhej të ishte synimi kryesor afatmesëm i fakulteteve juridike në Kosovë.

Literatura

- Bartoli, Clelia. Legal clinics in Europe: for a commitment of higher education in social justice, 2016, Available online at: http://www.dirittoequationipubbliche.org/page/2016_nSE_Legal-clinics-in-Europe/DQ_2016_Legal-Clinics-in-Europe_specialissue.pdf (15.12.2022)
- Berisha, Qerkin, *Legal clinics from Kosovo perspective: the way forward*, (03.12.2022), presentation in International Conference of Legal Clinics in Poland, *If not legal opinion, then what? A modern model of legal clinic*, University of Szczecin, 1-4 December 2022.
- Giddings, Jeff, Burrige, R., Gavigan, Sh. A. M., Klein, Catherine F., “The First Wave of Modern Clinical Legal Education: The United States, Britain, Canada and Australia” In Bloch, Frank S. (Ed.), *The Global Clinical Movement: Educating Lawyers for Social Justice*, Oxford Scholarship, 2010.
- Wilson, Richard J., *The Global Evolution of Clinical Legal Education: More than a Method*, Cambridge University Press, 2018.
- Pyetësor për Zhvillimin e Mësimit Klinik në Fakultetin Juridik të Universitetit të Prishtinës, i realizuar në Nëntor të vitit 2022, nga Prof. Ass. Dr. Qerkin Berisha, Prof. Ass. Dr. Muhamet Vokri dhe Prof. Ass. Dr. Florent Muçaj.
- Të dhënat nga Sistemi Elektronik për Menaxhimin e Studentëve, për numrin e studentëve për të regjistruar në lëndët e mësimit klinik për periudhën 2019/2020; 2020/2021 dhe 2021/2022 në Fakultetin Juridik të Universitetit të Prishtinës, të siguruar nga Fakulteti Juridik i Universitetit të Prishtinës, Prishtinë, Janar, 2023.
- Ligji Nr. 08/L-035 për ndryshimin dhe plotësimin e ligjit Nr. 04/1-017 për ndihmë juridike falas, Gazeta Zyrtare e Republikës së Kosovës, Nr. 8/2012, i qasshëm në: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=55138> (28. 12. 2022).
- Ligji Nr. 08/L-063 për ndryshimin dhe plotësimin e ligjeve që kanë të bëjnë me racionalizimin dhe vendosjen e vijave llogaridhënëse të agjencive të pavarura, Gazeta Zyrtare e Republikës së Kosovës, Nr. 30/2012, i qasshëm në: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=62599> (28. 12. 2022).
- Ligji Nr. 04/L-017 për Ndhmë Juridike Falas, Gazeta Zyrtare e Republikës së Kosovës, Nr. 3/2012, i qasshëm në: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2803> (28.12.2022).

- Ligji Nr. 04/L-193 për Avokatinë, Gazeta Zyrtare e Republikës së Kosovës, Nr. 20/2013, i qasshëm në: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8673> (28.12.2022).
- Projekti ENEMLOS, i qasshëm në: <http://www.fupp.org.pl/en/news/9-polski/aktualnosci/303-enemlos> (28.12.2022).
- Syllabusi i lëndës Klinika Administrative (Master), Fakulteti Juridik, Universiteti i Prishtinës, i qasshëm në: <https://juridiku.uni-pr.edu/desk/inc/media/8B28821F-38D9-4652-9D2C-2C2D67439B29.pdf> (20.12.2022).
- Syllabusi i lëndës Klinika Juridike Civile (Master), Fakulteti Juridik i Universitetit të Prishtinës, i qasshëm në: <https://juridiku.uni-pr.edu/desk/inc/media/9BA19899-3462-4318-AFF3-2C24E4258BAE.pdf> (20.12.2022).
- Syllabusi i lëndës Klinika Juridike Civile, Fakulteti Juridik, Universiteti i Mitrovicës, i qasshëm në: https://drive.google.com/open?id=16fleR73_cvTxdT0o73bw35545uUg6vm8, (20.12.2022). https://docs.google.com/document/d/1AyBsJEUU1Dd6_OH1gs3EPsHbxPl4Dk/edit?usp=sharing&ouid=112268907463106611803&rtpof=true&sd=true (20.12.2022).
- Syllabusi i lëndës Klinika Juridike Fiskale, Fakulteti Juridik, Universiteti i Mitrovicës, i qasshëm në: https://docs.google.com/document/d/1rBaNjPaZlABx3qqEY2Gc-wqkTqYa0uwC/edit?usp=share_link&ouid=112268907463106611803&rtpof=true&sd=true (20.12.2022).
- Syllabusi i lëndës Klinika Juridike nga e drejta familjare dhe trashëgimore, Fakulteti Juridik i Universitetit të Prishtinës, i qasshëm në: <https://juridiku.uni-pr.edu/desk/inc/media/2B57B2EA-7CD4-4F2C-A8B6-C6A6E56FC9F6.pdf> (20.12.2022).
- Syllabusi i lëndës Klinika Juridike Penale (Master), Fakulteti Juridik i Universitetit të Prishtinës, i qasshëm në: <https://juridiku.uni-pr.edu/desk/inc/media/1A295026-20DD-4A96-BA47-AC6853FBDE8E.pdf> (20.12.2022).
- Syllabusi i lëndës, Klinika Juridike Civile, Fakulteti Juridik, Universiteti i Prishtinës, i qasshëm në: <https://juridiku.uni-pr.edu/desk/inc/media/6AC06B3A-E598-4829-BFBB-3A42F08BF48E.pdf> (20.12.2022).

Prof. dr Avdullah ROBAJ¹

ARSYET PËR THEMELIMIN E GRUPIT PËR DREJTËN E PUNËS NË KUADËR TË KLINIKËS LIGJORE NË KOSOVË

Abstrakti

Liria e punës është e drejtë themelore sociale, e që burimin e ka në dinjitetin e njeriut si bazë e të gjitha të drejtave dhe lirive themelore të njeriut. Në kuptimin juridik, liria e punës dhe e drejta për punë janë përkatësisht liri dhe e drejtë për të punuar ose për të mos punuar. Kjo tezë është e lidhur ngushtë me regjimin e veprimit të ligjit të ofertës dhe të kërkesës së tregut të punës.

Kosova në aspektin nacional ka nxjerr një mori ligjesh nga e drejta e punës, duke i përshtatur me të drejtën ndërkombëtare dhe standardet e Bashkimit Evropian. Kjo qasje e Kosovës ka të bëjë për më tepër duke pasur parasysh nevojat dhe aspiratat e saj për tu inkuadruar në organizatat ndërkombëtare.

Qëllimi i këtij hulumtimi është të argumentojë nevojën e themelimit të edukimit klinik juridik mbi të drejtën e punës duke marrë parasysh zbatimin e kufizuar të legjislacionit të tillë, veçanërisht vështirësitë e kosovarëve për të gëzuar të drejtën e tyre për punë dhe të drejtën përkatëse në sektorin privat. Ky qëllim arrihet duke analizuar legjislacionin përkatës ndërkombëtar dhe kombëtar, punën shkencore si dhe të dhënat dhe faktet statistikore të publikuara në raportet vjetore të organeve shtetërore dhe organizatave joqeveritare (OJQ) mbi zbatimin praktik të legjislacionit të punës të Bashkimit Evropian dhe Organizatës Ndërkombëtare të Punës. dhe standardet në Republikën e Kosovës.

Gjetjet e hulumtimit me karakter empirik kanë konstatuar se, në Kosovë, shkeljet e të drejtave të punës janë evidente dhe të përhapura si në

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sektorin publik edhe në atë privat, pa përjashtim, dhe se këto shkelje të të drejtave të punës vazhdojnë.

Fjalët kyçe: punëmarrësi, punëdhënësi, inspektorati i punës.

1. Hyrje

Megjithatë, duhet pasur parasysh se ekzistenca e kuadrit kushtetues e ligjor është vetëm një premisë e domosdoshme për shtetën e së drejtës. Rëndësi po aq të madhe ka funksionimi i mekanizmave të ndryshëm të kontrollit të zbatimit të normave kushtetuese dhe ligjore, dhe veçanërisht krijimi i një mendësie të re si tek bartësit e funksioneve publike ashtu edhe tek punëmarrësit, që shprehet në qëndrimin e vetëdijshëm për nevojat e zbatimit të këtyre normave dhe në reagimin, me mjete ligjore, ndaj shkeljeve të tyre nga kushdo qoftë.

Qytetarët e Republikës së Kosovës që punojnë në sektorin privat mund të përdorin mekanizmin shtetëror për ndihmë juridike falas përkatësisht Agjencinë për Ndihmë Juridike Falas në Kosovë² në rast se e drejta e tyre për punë dhe e lidhura me të u është shkelur nga punëdhënësi i tyre dhe ai/ajo nuk ka mjete financiare për të mbuluar shpenzimet për përfaqësim ligjor. Sipas Ligjit të Kosovës për Ndihmën Juridike Falas, qytetarët e Kosovës me të ardhura të ulëta mund të përfitojnë nga ndihma juridike parësore dhe dytësore e ofruar nga Agjencia Kosovare për Ndihmë Juridike Falas.³ Sipas të njëjtit ligj, ndihma juridike parësore mbulon shërbimet ligjore bazë, ndërsa ndihma juridike dytësore nënkupton që klientët do të përfaqësohen para gjykatës edhe gjatë procedurave gjyqësore.

Bazuar në Ligjin për Arsimin në Kosovë, Universitetet kanë mandat që të ofrojnë edhe arsim praktik dhe për këtë qëllim, fakultetet juridike të disa universiteteve publike duke përfshirë edhe Universitetin Haxhi Zeka po zbatojnë projektin Erasmus+ për “Rritja e punësimit të studentëve të

² Webfaqe Zyrtare e Agjencisë Kosovare për Akreditim në Republikën e Kosovës: <https://anjf.rks-gov.net/page.aspx?id=2,1,1,1> (konsultuar me 19 dhjetor 2022).

³ Kuvendi i Kosovës (2012 & 2022). Ligji për Ndihmë Juridike Falas. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2803> (konsultuar me 19 dhjetor 2022).

³ Faqja zyrtare e Projektit ENEMLOS: <https://www.enemlos.ucg.ac.me/> (konsultuar me 19 dhjetor 2022).

drejtësisë". Përmes Edukimit Praktik (ENEMLOS)." Qëllimi i këtij projekti është krijimi i klinikës ligjore live në kuadër të synimit për të rritur aftësitë praktike ligjore të studentëve tanë duke ofruar shërbim ligjor (ndihmë juridike parësore) për klientin e gjallë me të ardhura të ulëta që nuk mund të paguajë avokatin. Kështu, studentët përmes kësaj klinike ligjore do të kontribuojnë edhe për komunitetin duke ofruar shërbime të ndihmës juridike parësore. Në themelimin e klinikës juridike ka punuar edhe Fakulteti Juridik i Universitetit të Haxhi Zekës dhe ka përzgjedhur njëzet studentë për t'u angazhuar në klinika juridike. Këta studentë janë trajnuar gjatë këtij semestri (semestri dimëror 2022/2023) dhe do të fillojnë të punojnë në raste reale në semestrin e ardhshëm të këtij viti akademik në grupe. Grupe studentësh do të punojnë në të drejtën penale, të drejtën civile, të drejtën e të drejtave të njeriut dhe ideja është që të ketë edhe një grup të ligjit të punës.

Arsyeja për të pasur një klinikë të ligjit të punës është argumentuar më poshtë. Ky artikull paraqet më poshtë të dhënat që dëshmojnë shkeljen e së drejtës për punë apo të drejtën e punëtorëve në sektorin privat në Kosovë.

2. Materiali dhe metodat e punës

Metodat e hulumtimit të aplikuara për përgatitjen e këtij punimi janë ato përshkruese dhe analitike. Aplikimi i metodës përshkruese bëri të mundur përshkrimin e legjislacionit të Kosovës që garanton të drejtën për punë dhe të drejtat e punëtorëve që kanë të bëjnë me drejta e sigurimit, sindikale, sigurimit shëndëtsor, trustin pensional. Këto të drejta janë trajtuar duke analizuar edhe legjislacionin e të punësuarëve në sektorin publik por edhe në sektorin privat si me problematik. Një analizë e legjislacionit që ka të bëjë me të punësuarit Ndërsa aplikimi i metodës analitike ka bërë të mundur analizimin e raporteve të organizatave të ndryshme për zbatimin e këtij legjislacioni në praktikë, duke nxjerrë në pah nivelin e zbatimit të këtij legjislacioni nëpërmjet të dhënave statistikore.

3. Legjislacioni i punës, në frymën e integritit të Kosovës në Bashkimi Evropian

Si edhe shtetet tjera të dala nga ish-RSFJ, Kosova, bashkë me vlimet politike dhe kauzën e saj për pavarësi, përjetoj edhe ndërrimin e sistemit ekonomik-politik. Ndërrimi i sistemit politik pati për rrjedhë transformimin e ekonomisë nga ajo e centralizuar në atë të tregut me pasojë direkte në tregun e punës dhe marrëdhëniet në të. Pati një periudhë kohore me zbrastësi juridike në përcaktimin e të drejtave, obligimeve dhe përgjegjësisve nga marrëdhënia e punës, respektivisht e drejta e punës.

Të qenit në dijeni të asaj se pa një legjislacion adekuat nga spektri i marrëdhënieve të punës nuk mund të ketë stabilitet të qëndrueshëm në shoqëri, shtrohet nevoja e domosdoshme që në këtë drejtim të veprohet më me seriozitet dhe çështjet të cilat lidhen me procesin e këtyre marrëdhënieve të marrin formën dhe zgjidhjen e duhur. Andaj, në funksion të konceptit të shtetit funksional dhe demokratik Kosova ka nxjerr ligje nga kjo fushë në aspektin nacional që të jenë kompatible me ato të cilat i parasheh legjislacioni ndërkombëtar. Kjo qasje përforcohet edhe më tepër, duke pasur parasysh nevojat dhe aspiratat tona për tu inkuadruar në organizatat ndërkombëtare, përfshirë këtu OKB⁴-në, BE⁵-n, ILO⁶-n, etj.

Duke u nisur nga fakti se, e drejta në punë klasifikohet në kuadër të të Drejtave dhe Lirive Themelore të Njeriut, atëherë edhe Kushtetuta të drejtën e punës dhe lirinë e zgjedhjes së profesionit e sanksionon si kategori kushtetuese (Kushtetuta e Republikës së Kosovës, Neni 49). Gjithashtu, sipas kushtetutës garantohej edhe zbatimi i të drejtës ndërkombëtare në kuadër të së drejtës nacionale, dhe për më tepër Aktet Ndërkombëtare kanë epërsinë në raport me të drejtën nacionale (Kushtetuta e Republikës së Kosovës, Neni 22).

Kosova, gjatë kësaj periudhe kohore ka bërë përpjekje në hartimin e legjislacionit të punës duke u bazuar në konceptin e drejtësisë sociale dhe shtetit të së drejtës, si dhe në kultivimin e vlerave universale. Kësisoj, Kosova ka

⁴ Organizata e Kombeve të Bashkuara.

⁵ Bashimi Evropian.

⁶ Organizata Ndërkombëtare e Punës.

rumbullaksuar një infrastrukturë ligjore në fushën e të drejtës së punës, që është me interes për të drejtat e qytetarëve, respektivisht për mbarë shoqërinë.

Për ti faktuar pretendimet tona, po pasqyrojmë infrastrukturën ligjore të marrëdhënies së punës në Republikën e Kosovës, si më poshtë :

- Ligji i Punës i Kosovës, 2010.⁷
- Ligji për Dhënien e Lejës për Punë dhe Punësim të shtetasve të Huaj në Republikën e Kosovës, 2009.⁸
- Ligji për Greva, 2010,⁹ 2012.¹⁰
- Ligji për Inspektoratin e Punës, 2008.¹¹
- Ligji për Këshillin e Pavarur Mbikqyrës për Shërbimin Civil të Republikës së Kosovës, 2010.¹²
- Ligji për Shërbimin Civil të Republikës së Kosovës, 2010.¹³
- Ligji për Veprimtarinë Private Në Shëndetësi, 2004,2013.¹⁴

⁷ Kuvendi i Kosovës (2010). Ligji Nr.03/L –212 i Punës në Kosovë. Online: <https://mpms.rks-gov.net/en/wpdm-package/law-no-03-l-212-law-on-labour-pdf/?wpdmdl=1378&ind=TGF3IE5vLjAzIEwtMjEyIExBVYBPTiBMQUJJPVVIucGRm> (konsultuar me 10 february 2023).

⁸ Kuvendi i Kosovës (2009). Ligji Nr. 03/L-136 për Dhënien e Lejës për Punë dhe Punësim të shtetasve të Huaj në Republikën e Kosovës. Online: <https://mpms.rks-gov.net/en/wpdm-package/law-on-granting-permit-for-work-and-employment-of-foreign-citizens-in-republic-of-kosovo-pdf/?wpdmdl=1370&ind=TEFXIE9OIEdSQU5USU5HIFBFUK1JVCBGT1IgV09SSyBBtkQgRU1QTE9ZTUVOVCBPRiBGT1JFSUdOIEJVElaRU5TIElOIEJFUFVCTEIDIE9GIEtP U09WTy5wZGY> (konsultuar 10 shkurt 2023).

⁹ Kuvendi i Kosovës (2010). Ligji Nr..03/L –200 për Greva. Online: <http://old.kuvendikosoves.org/common/docs/ligjet/2010-200-eng.pdf> (konsultuar 10 shkurt 2023).

¹⁰ Kuvendi i Kosovës (2012). Ligji për plotësim ndryshum të Ligjit Nr. 03-L-200 për Greva amending and supplementing the law on strikes . Online: <http://old.kuvendikosoves.org/common/docs/ligjet/119%20Law%20on%20amend%20the%20laq%20on%20strikes.pdf> (konsultuar 11 shkurt 2023).

¹¹ Kuvendi i Kosovës (2008). Ligji Nr..03/L-017 për plotësim dhe ndryshim të Ligjit të Punës Nr. 2002/9. Online: http://old.kuvendikosoves.org/common/docs/ligjet/2008_03-L017_en.pdf (konsultuar 11 shkurt 202).

¹² Kuvendi i Kosovës (2010). Ligji Nr..2010/03-L-192 për Këshillin e Pavarur Mbikqyrës për Shërbimin Civil të Republikës së Kosovës. Online: <http://old.kuvendikosoves.org/common/docs/ligjet/2010-192-eng.pdf> (konsultuar 11 shkurt 2023).

¹³ Kuvendi i Kosovës (2010). Ligji Nr. 2010/03-L-149.Ligji për Shërbimin Civil të Republikës së Kosovës. Online: <http://old.kuvendikosoves.org/common/docs/ligjet/2010-149-eng.pdf> (konsultuar 10 shkurt 2023).

- Ligji për Sigurinë dhe Shëndet në Punë, 2013.¹⁵
- Ligji për Aftësimin, Riaftësimin Profesional dhe punësimin e Personave me Aftësi të kufizuar, 2009.
- Ligji për Fondet Pensionale të Kosovës, 2012.¹⁶
- Ligji për Këshillin Ekonomiko-Social, 2011.¹⁷
- Ligji për Organizimin Sindikal në Kosovë, 2011.¹⁸
- Ligji për Sigurimet, 2015.¹⁹
- Marrëveshja e Përgjithshme Kolektive e Kosovës, 2014.²⁰

4. Shkeljet e të drejtave të punëmarrësve

Sipas definicionit të ILO-së²¹, punë e denjë do të thotë: Dinjitet, barazi, të ardhura financiare të denja dhe kushte të sigurta të punës. Puna e denjë i vendos njerëzit në qendër të zhvillimit, i fuqizon gratë, burrat dhe të rinjtë, iu jep të drejtën për tu mbrojtur nga eksploatimi dhe ju siguron një të ardhme që është përfshirëse dhe e qëndrueshme (Transparency International Kosova, 2021: 9).

¹⁴ Kuvendi i Kosovës (2004). Ligji Nr. 2004/50 për Veprimtarinë Private Në Shëndetësi. Online: https://msh.rks-gov.net/wp-content/uploads/2020/03/2004_50-Law-on-Private-Practices-in-Health.pdf (konsultuar 10 shkurt 2023).

¹⁵ Kuvendi I Kosovës (2013). Ligji Nr. 04/L-161 për Sigurinë dhe Shëndet në Punë. Online: <http://old.kuvendikosoves.org/common/docs/ligjet/Law%20on%20Safety%20and%20Health%20at%20Work.pdf> (konsultuar 9 shkurt 2023).

¹⁶ Kuvendi i Kosovës (2012). Ligji Nr. 04/L-101 për Fondin Pensional të Kosovës. Online: <https://www.atk-ks.org/wp-content/uploads/2017/11/Law-No.-04-L-101.pdf> (konsultuar me 9 shkurt 2023).

¹⁷ Kuvendi i Kosovës (2011). Ligji Nr.04/L -008 për Këshillin Ekonomiko-Social. Online: <http://old.kuvendikosoves.org/common/docs/ligjet/Law%20on%20social%20economic%20Council.pdf> (konsultuar me 9 shkurt 2023).

¹⁸ Kuvendi I Kosovës (2011). Ligji Nr. 04/L-011 për Organizimin Sindikal në Kosovë. Online: https://www.ecoi.net/en/file/local/1137335/1226_1404462977_kosovo-trade-unions-law-2011-en.pdf (konsultuar me 10 shkurt 2023).

¹⁹ Kuvendi I Kosovës (2015). Ligji Nr. 05/L -045 për Sigurime. Online: https://bqk-kos.org/repository/docs/korniza_ligjore/shqip/Ligji%20Nr.%2005%20L-045%20per%20Sigurimet.pdf (konsultuar me 13 shkurt 2023).

²⁰ Kuvendi I Kosovës (2014). Marrëveshja e Përgjithshme Kolektive e Kosovës. Online: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=9534> (konsultuar me 13 shkurt 2023).

²⁰ The International Labor Organization.

²¹ Organizata Ndërkombëtare e Punës.

Sipas Agjencisë së Statistikave të Kosovës (Vjetari Statistikor,2021) në sektorin publik kanë qenë të punësuar 81.629 persona, ndërsa si të punësuar total në Kosovë në vitin 2021 ishin 331,761 persona (Vjetari Statistikor i Republikës së Kosovës, 2022: 15).

Kushtet e punës, trajtimi jo i mirë i të punësuarëve, shpëputja e kontratës pa paralajmërim, zgjatja e orarit të punës, punë deri 24 orë me vazhdim të punës 12 orëshe në ditën e nesërme, mos pagesë e kontributeve pensionale dhe tatimeve, paga me para në dorë (cash), lëndime në punë, punë në kohë festash, konkurse të kurdisura etj. janë në mesin e rasteve të shkeljeve të të drejtave nga marrëdhënia e punës (Instituti Demokratik i Kosovës, 2021: 9).

Sipas statistikave zyrtare, vetëm 28% e qytetarëve të aftë për punë gëzojnë një vend pune, e numri i atyre që janë punëkërkues dhe janë të aftë për punë është 686,486 persona (Transparency International Kosova, 2021: 7). Viti 2018 ka qenë një vit aspak i mirë sa i përket të drejtave të të punësuarve por edhe sigurisë në punë. Në vitin 2018 në Kosovë janë regjistruar 20 raste të vdekjeve në vendin e punës, si pasojë e mingesës së kushteve dhe sigurisë në punë, sidomos në sektorin e ndërtimitarisë (Transparency International Kosova, 2021: 7). Po këtë vit u shënuan edhe 80 lëndime në punë, në të gjithë sektorët.

Shkeljet e të drejtave të punëmarrësve janë të përhapura sin ë sektorin public edhe në atë privat, pa përjashtim. Natyra e shkeljeve në sektorin public lidhet me konkurset publike, përkatësisht shfrytëzimin e tyre për punësim mbi baza partiake dhe me nepotizëm. Në sektorin privat, shumica e shkeljeve lidhen me moszbatimin e legjislacionit të punës dhe akteve tjera ligjore.

Gjetjet e hulumtimit kanë konstatuar gjendjen faktike si më poshtë:

- ☐ E përbashkëta e sektorit privat është se shkeljet e të drejtave të punëmarrësve vazhdojnë;
- ☐ Është konstatuar nga raportet e KDI²² dhe TIK²³ se, punëmarrësit në sektorin privat nuk i raportojnë shkeljet në institucione kompetente nga frika e humbjes së vendit të punës edhe nëse kanë kontrata valide të punës;

²² Instituti Demokratik i Kosovës.

²³ Transparency International Kosova.

- ☐ Shumë nga punëmarrësit, sidomos të sektorit privat, nuk kanë njohuri se cilat institucione janë përgjegjëse për ti mbrojtur të drejtat e tyre;
- ☐ Gjithnjë, sipas dokumenteve publike të KDI dhe TIK, është faktuar se, në sektorin privat punëmarrësve nuk u janë paguar pagat me rregull dhe në kohë (sipas kontratës individuale të punës), nuk ju janë lejuar pushimet ditore, javore dhe vjetore;
- ☐ Është konstatuar dhe faktuar se, një numër i konsiderueshëm i Kompanive Private që janë përfitues të Tenderëve Publik, janë shkelsit flagrant të të drejtave të punëmarrësve të tyre;
- ☐ Përkundër detyrimit ligjor, disa Kompani nga sektori privat arrijnë që punëmarrësve të tyre të mos ju paguajnë kontributet pensionale, pasi që pagat kryhen me para në dorë;
- ☐ Punëmarrësit nga sektori privat tregojnë për mungesën vizitave nga Inspektorati i Punës, apo mos përgjigje të Inspektoratit të Punës në rastet kur ata paraqiten si anonym;
- ☐ Fenomen kronikë gjatë procedurave të punësimit është kurdisja e konkurseve publike për të favorizuar persona të lidhur me subjektet politike që janë në pushtet;
- ☐ Zgjatje të tepërta të procedurave gjyqësore nga marrëdhënia e punës dhe vonesa në ekzekutimin e Aktgjykimeve.

5. Konkluzionet dhe rekomandimet

Të drejtat e punëmarrësve përveç që janë të mbrojtura me Kushtetutë dhe ligje në Kosovë, ato mbrohen edhe nga konventa të ndryshme ndërkombëtare, megjithatë shkelja e këtyre të drejtave në Kosovë është e vazhdueshme. Kjo edhe argumentohet nga hulumtimi ynë. Kësisoj, organet ligj zbatuese në të ardhmen duhet të ndërmarrin veprime konkrete në zbatimin e ligjshmërisë, me qëllim të përmirësimit dhe avancimit të të drejtave të punëmarrësve. Kjo edhe për faktin se, Raporti i fundit për Kosovën, nga ana e Komisionit Evropian, i publikuar më 29 maj 2019, sa i përket sundimit të ligjit, Kosovën e rendit si i fundit në Ballkan sa i përket gatishmërisë për tu anëtarësuar në BE. Prandaj, bazuar në thëniet e sipërpërmendura, organet ligj zbatuese të Kosovës duhet urgjentisht ti ndërmarrin veprimet e nevojshme si më poshtë :

- Inspektorati i Punës duhet të vizitohet në terren punëdhënësit, në mënyrë të veçantë sektorin privat;
- Inspektorati i Punës duhet që në bashkëpunim të ngushtë dhe inspektim të përbashkët me Administratën Tatimore dhe Trustin Pensionsal të shoh nëse janë paguar tatimet dhe kontributet nga këto kompani private;
- Inspektorati i Punës, në rastin kur gjen shkelje tek kompanitë që kanë tender public duhet me automatizëm të njoftoj autoritetet kontraktuese në lidhje me shkeljet që ju bëhen punëmarrësve;
- Të gjitha autoritetet kontraktuese në Kosovë duhet që të kenë parasysh të drejtat e të punësuarve në kompaninë e kontraktuar. Kujdes të shtuar duhet të ketë tek pagat e punëmarrësve;
- Ministria e Punës, përmes buxhetit të parasheh rritjen e vazhdueshme të numrit të Inspektorëve të Punës;
- Inspektorati i punës të rrit numrin e inspektimeve në terren;
- Inspektorati i Punës të vazhdojë me kampanja vetdijësuese për të drejtat e punëmarrësve dhe shkeljet e mundshme për punëdhënës dhe punëmarrës;
- Inspektorati i Punës duhet të rrit nivelin e transparencës duke bërë publike në ueb faqe të gjitha vendimet që i merr;
- Qeveria e Kosovës së bashku me Sindikatat e punëtorëve por edhe sektorin privat duhet ta përpilojnë dhe nënshkruajnë kontratën e re kolektive;
- Ministria e Punës duhet të krijoj mekanizmat që detyrojnë edhe kompanitë private të kenë organe sindikale;
- Gjykatat duhet tu përmbahen afateve ligjore dhe kontestet nga marrëdhënia e punës duhet ti trajtojnë me prioritet dhe efikasitet.

Në të vërtetë, të gjitha këto rekomandime dhe konkluzione e bëjnë të qartë se krijimi i klinikës juridike të punës do të kontribuojë pozitivisht edhe në zbatimin e këtyre të drejtave.

Referencat

Analiza dhe Dokumente Publike

1. ILO-Organizata Ndërkombëtare e Punës.
2. Vjetari statistikor i Republikës së Kosovës, 2021.
3. Vjetari statistikor i Republikës së Kosovës, 2022.
4. Instituti Demokratik i Kosovës, Raporti, mars 2021.
5. Transparency International Kosova, Raporti, mars 2021.
6. Ligji i Punës i Kosovës, 2010 .
7. Ligji për Dhënie e Lejës për Punë dhe Punësim të shtetasve të Huaj në Republikën e Kosovës, 2009.
8. Ligji për Greva, 2010, 2012.
9. Ligji për Inspektoratin e Punës, 2008.
10. Ligji për Këshillin e Pavarur Mbikqyrës për Shërbimin Civil të Republikës së Kosovës, 2010.
11. Ligji për Shërbimin Civil të Republikës së Kosovës, 2010.
12. Ligji për Veprimtarinë Private Në Shëndetësi, 2004,2013.
13. Ligji për Sigurinë në Punë. Mbrojtje të Shëndetit të Punësuarve dhe Mbrojtjen e Ambientit të Punës, 2007.
14. Ligji për Aftësimin, Riaftësimin Profesional dhe punësimin e Personave me Aftësi të kufizuar, 2009.
15. Ligji për Fondet Pensionale të Kosovës, 2012.
16. Ligji për Këshillin Ekonomiko-Social, 2011.
17. Ligji për Organizimin Sindikal në Kosovë, 2011.

Prof. dr Orhan M. ÇEKU¹

KLINIKA JURIDIKE PENALE DHE ROLI I SAJ NË ZHVILLIMIN E SHKATHTËSIVE PRAKTIKË TË STUDENTËVE TË DREJTËSISË – RASTI I FAKULTETIT JURIDIK NË UNIVERSITETIN “HAXHI ZEKA” NË PEJË

Abstrakt:

Zhvillimi i shkathtësive praktike të studentëve të drejtësisë është detyrë e domosdoshme të përfshihet në kurrikulën e Programit të Drejtësisë LLB. Shkathtësitë praktike u mundësojnë studentëve të përgatiten për inkuadrim më të lehtë në tregun e punës për juristë të rinj dhe për dhënien e provimit shtetëror të jurisprudencës. Në këtë aspekt, drejtësia penale si degë kryesore e shkencave juridike dhe sistemit të drejtësisë, i kushtohet vëmendje e posaçme në kurrikulën e Programit Drejtësi LLB. Në këtë punim është trajtuar mësimi klinik në fushën e drejtësisë penale në programin e studimit Juridik i Përgjithshëm në Fakultetin Juridik në Universitetin “Haxhi Zeka” në Pejë (në vijim UHZ).

Qëllimi i punimit është të theksoi rolin dhe rëndësinë e mësimi klinik në drejtësinë penale dhe domosdoshmëria e fitimit të shkathtësive praktike të studentët.

Ofrimi i shërbimeve *pro bono* nga studentët si pjesë e punës në Klinikën juridike penale, u mundëson studentëve të shërbejnë në të mirë të komunitetit.

Në hyrje të punimit është bërë një rezyme e sistemit të Arsimit të Lartë në Kosovë dhe historiku i themelimit të Klinikës juridike në Fakultetin Juridik në UHZ. Punimi vazhdon me rëndësinë e zhvillimit të shkathtësive praktike të studentëve, pastaj është trajtuar baza ligjore e ofrimit të shërbimeve juridike me pagesë dhe *pro bono*. Pjesa e fundit i kushtohet funksionalizimit të Klinikës

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juridike penale në Fakultetin Juridik dhe aktiviteteteve në arritjen e rezultateve të pritura.

Fjalë kyçe: klinika juridike penale, drejtësia penale, legjislacion, shkresa juridike, seanca gjyqësore.

1. Hyrje

Duke marrë parasysh zhvillimet në Hapësirën Evropiane të Arsimit të Lartë, edhe në Republikën e Kosovës janë bërë ndryshime rrënjësore në procesin e edukimit në Arsimin e lartë, përkatësisht në programet e drejtësisë. Edhe pse Kosova zyrtarisht nuk është anëtare e Procesit të Bolonjes, është ndër vendet e para që ka filluar zbatimin e këtij sistemi në Arsimin e lartë. Në këtë kontekst, edhe Ligji për Arsimin e Lartë në Republikën e Kosovës (Ligji Nr. 04/L-037), është miratuar në frymën e këtij procesi. Ligji *“Qëllimi i Ligjit për Arsimin e Lartë është krijimi i bazës ligjore për rregullimin, funksionimin, financimin, sigurimin e cilësisë në arsimin e lartë në përputhje me standardet evropiane si dhe rolin e shtetit dhe shoqërisë në zhvillimin e arsimit të lartë në Republikën e Kosova.”*². Pra, ligji thekson domosdoshmërinë e aplikimit të standardeve evropiane për Arsimin e Lartë. Sipas këtij Ligji, *“Arsimi i lartë organizohet si më poshtë:*

- Niveli i parë – tre (3) deri në katër (4) vite studime me të cilat studenti arrin 180, përkatësisht 240 /ECTS/, dhe fiton Diplomën Bachelor.

– niveli i dytë – një (1) deri në dy (2) vite studime pas përfundimit të nivelit të parë me të cilin studentët arrijnë 60, përkatësisht 120/ECTS/ dhe studenti fiton Diplomën Master.

*- Niveli i tretë – program i studimeve të doktoratës me karakter akademik dhe kërkimor shkencor të pavarur.”*³

Ofrimi i një programi studimor në Arsimin e lartë në Kosovës, është i mundshëm pas përmbushjes së standardeve të cilësisë (akreditimit të programit studimor), e vlerësuar dhe vendosur nga Këshilli Shtetëror i Cilësisë⁴. Vendimi i

² Ligji për Arsimin e Lartë në Republikën e Kosovës (Ligji Nr. 04/L-037), neni 1

³ Ibid, neni 4/2

⁴ Trup vendim marrës i Agjencisë së Kosovës për Akreditim. Agjencia e Kosovës për Akreditim, në përputhje me Ligjin për Arsimin e Lartë, është institucion i pavarur, përgjegjës për sigurimin e brendshëm dhe të jashtëm të cilësisë, duke përfshirë akreditimin, riakreditimin,

KSHC-së derivon pas vlerësimit nga ekspertët ndërkombëtar të akreditimit. Institucionet publike të Arsimit të lartë themelohen nga MASHT-i dhe ratifikohen në Kuvendin e Kosovës.⁵

Programet e drejtësisë bachelor ofrohen me sistem katër vjeçar, përkatësisht 240 ECTS kredi. Edhe në Fakultetin Juridik në UHZ, programi bachelor Juridik i Përgjithshëm LLB, ofrohet me sistem katër vjeçar, përkatësisht 240 ECTS kredi.

Në kurrikulen aktuale, lënda Klinika Juridike Penale ofrohet si lëndë zgjedhore në semestrin e gjashtë, me përfundimin e së cilës lëndë studentët fitojnë 5 ECTS kredi. Në vitin akademik 2022-2023, programi i studimit Juridik i Përgjithshëm LLB është në proces riakreditimi, nga stafi i brendshëm dhe nga grupi i ekspertëve është rekomanduar që lëndët klinike të vendosen si lëndë obligative. Në këtë aspekt edhe lënda Klinika Juridike Penale është paraparë të ofrohet si lëndë obligative në semestrin e tetë në modulën e të drejtës penale. Grupi i studentëve të cilët përzgjedhin modulën penal do të vijojnë lëndën e Klinikës juridike penale. Pas përfundimit të lëndës, studentët përveç shkathtësive praktike të fituara, bëhen pjesë e shërbimit në komunitet dhe fitojnë ECTS kredi.

Në Fakultetin Juridik në UHZ, më mbështetjen e USAID (United States Agency for International Development) misioni në Kosovë dhe Odës së Avokatëve të Kosovës, është organizuar puna e Klinikës juridike penale përmes projektit “Drejtësia Vlen”. Klinika ka funksionuar si projekt i përbashkët i tri institucioneve të përmendura më lartë dhe qëllimi i saj ka qenë që ti aftësoi studentët, të fitojnë përvojë në zbatimin e njohurive dhe shkathtësive shkencore në praktik duke punuar në raste reale me avokatë në praktikë duke përfshirë intervistimin, këshillimin e klientëve, përgatitjen e shkresave dhe dokumenteve ligjore. Në Klinikë janë përfshirë 13 studentë, të cilët janë trajnuar nga gjyqtarë, prokurorë dhe avokatë dhe kanë marrë pjesë në shkrimin e shkresave juridike. Studentët e përfshirë në Klinikë, kanë punuar *pro bono* të avokatët e përzgjedhur nga Oda e Avokatëve të Kosovës dhe kanë ndihmuar në përgatitjen e shkresave

monitorimin, validimin dhe të gjitha proceset e tjera të sigurimit të cilësisë në institucionet e arsimit të lartë dhe studimin e tyre. programet në Republikën e Kosovës, në përputhje me praktikën më të mira ndërkombëtare, duke përfshirë në veçanti standardet përkatëse evropiane në fushën e sigurimit të cilësisë në arsimin e lartë. <https://akreditimi.rks-gov.net/en/about-kaa/>.

⁵ Ligji për Arsimin e Lartë në Republikën e Kosovës (Ligji Nr. 04/L-037), neni 9

dhe mbrojtjes për personat me gjendje të vështirë ekonomike. Pas trajnimit, studentët ka zhvilluar seanca gjyqësore të simuluar.⁶ Ky projekt ka ndihmuar që të krijohet praktika fillestare për themelimin e klinikave juridike të përhershme në Fakultetin Juridik në UHZ.

Klinika juridike reale në Fakultetin Juridik është themeluar me vendim të Senatit të UHZ-së⁷, dhe është mbështetur profesionalisht dhe financiarisht nga projekti ndërkombëtar ENEMLOS. Në kuadër të këtij projektit janë zhvilluar një seri aktivitete, prej të cilave veçohen trajnimet online për staf akademik dhe vizitat studimore në Universitetin e Zagrebit në Kroaci, në disa universitete në Poloni, në Londër dhe në Malin e Zi. Gjatë vizitave në kuadër të projektit janë marrë praktikat më të mira të funksionimit të klinikave juridike reale, dhe praktikat e tilla kanë filluar të implementohen në Fakultetin Juridik në UHZ.⁸

2. Mësimi klinik si domosdoshmëri e zhvillimit të shkathtësive praktike të studentëve

Mësimi klinik ka lindur si domosdoshmëri e kohës në mënyrë që studentët të përgatitën për tregun e punës pas diplomimit. Pritjet janë që pas diplomimit, studentët të kenë arritur një nivel të rezultateve mësimore të cilat mund t'i aplikojnë në praktikë, ku përfshihen aftësitë për të komunikuar me palët, shqyrtimi i lëndëve të ndryshme, analiza dhe arsyetimi ligjor, etj.

Shkolla Juridike ka vlerësuar tradicionalisht arritjet e studentëve përmes eseve formuese dhe provimeve përmbledhëse me interesa të larta të fokusuara në zgjidhjen e problemeve. Esetë dhe provimet rrallë ofrojnë mundësinë që studentët të demonstrojnë të kuptuarit e tyre për konceptet themelore të

⁶ <https://unhz.eu/30663-2/>

⁷ Në vendimin e Senatit të UHZ-së (vendimi nr. 1550, 01.07.2021), është krijuar komisioni për funksionalizimin e klinikave në Fakultetin Juridik, në të cilin komision është zgjedhur edhe autori i këtij punimi.

⁸ Në kuadër të projektit Fakulteti Juridik përveç fitimit të përvojave për funksionalizimin e Klinikës juridike reale, ka përfituar dhe është furnizuar me pajisje të nevojshme për kryerjen punëve në klinika.

sistemit ligjor ose aftësinë e tyre për të komunikuar ide komplekse me audiencat e ndryshme që do të hasin pas diplomimit.⁹

Theksi mbi provimet dhe esetë paraqet një sfidë në hartimin dhe dhënien e vlerësimit inovativ që u mundëson studentëve të zhvillojnë dhe demonstrojnë gamën e gjerë të aftësive që u nevojiten. Kujdes i konsiderueshëm duhet të ushtrohet për të ndërmarrë forma të ndryshme vlerësimi.¹⁰

Klinikat mund t'i ekspozojnë studentët ndaj pyetjeve më të gjera, të tilla si "si ndërvepron ligji me shoqërinë".¹¹ Mësimi klinik ju ndihmojnë studentëve të zhvillojnë shkathtësitë e punës së avokatit, analizën ligjore të çështjeve, për të këshilluar klientët dhe për t'i përfaqësuar në procese juridike. Scholars Combe, identifikon gjithashtu mundësinë e zhvillimit më të gjerë të aftësive dhe argumenton se shkathtësitë e shkrimit të letrave, intervistave dhe leximit mund të përmirësohen përmes edukimit klinik ligjor.¹² Nuk ka të bëjë vetëm me aftësitë, që të mësuarit klinik mund t'i ndihmojë studentët të kuptojnë "kuptimin dhe zbatimin e ligjit"¹³. Në këtë aspekt, studentët përveç kompetencave që do të fitojnë, ata do të mësohen të punojnë në grup dhe nën mbikëqyrje të profesorit. Duke theksuar rëndësinë e kompetencave relacionale në edukimin ligjor, ne mund të promovojmë në mënyrë më efektive mirëqenien e studentëve tanë, klientët e tyre aktualë dhe të ardhshëm dhe kulturën e profesionit ligjor..¹⁴

⁹ Heather Roberts & Andrew Henderson. Designing law school assessment to meet new forms of legal practice: a model from Australia, *Clinical law review*, Vol. 28, 14-FEB-22, pg. 453

¹⁰ Karin Gerritsen-van Leeuwenkamp, Desir 'ee Joosten-ten Brinke & Liesbeth Kesterd, *Assessment Quality in Tertiary Education: An Integrative Literature Review*, 55 *STUD. IN ED. EVAL.* 94 (2017).

¹¹ Malcolm Combe, 'Selling intra-curricular clinical legal education' (2014) 48(3) *The Law Teacher* 281- 295, 281

¹² Combe (n 10), 282; see also, Laura Lundy, 'The Assessment of Clinical Legal Education: An Illustration' (1995) 29 *The Law Teacher* 311.

¹³ Richard Grimes, 'Reflections on Clinical Legal Education' (1995) 29 *The Law Teacher* 169, 171.

¹⁴ Susan L. Brooks, Marjorie A. Silver, Sarah Fishel Kellie Wiltsie. Moving toward a competency-based model for fostering law students' relational skills, *Clinical Law Review*, Vol. 28, pg.372

3. Baza ligjore e ofrimit të ndihmës dhe këshillave juridike në Republikën e Kosovës

Ndihma juridike është një element thelbësor i një sistemi të drejtësisë penale të drejtë, humane dhe efikase që bazohet në shtetin e së drejtës. Ndihma juridike është një bazë për gëzimin e të drejtave të tjera, duke përfshirë të drejtën për një gjykim të drejtë, siç përcaktohet në nenin 11, paragrafi 1, të Deklaratës Universale të të Drejtave të Njeriut, një parakusht për ushtrimin e të drejtave të tilla dhe një garanci e rëndësishme që siguron drejtësinë dhe besimin e publikut në procesin e drejtësisë penale.¹⁵

Republika e Kosovës ka krijuar bazën juridike për ofrimin e shërbimeve profesionale ligjore në procese juridike që zhvillohen në institucione të ndryshme. Dhënia e ndihmës juridike dhe përfaqësimit në Kosovë, buron nga Kushtetuta, Kodi i Procedurës Penale, Ligji për ndihmë juridike Falas dhe Ligji për Avokatinë. Mbrojtja e të pandehurit në procedurën penale është parim kushtetues. Bazuar në Kushtetutën e Republikës së Kosovës, ndër të drejtat minimale që i gëzon çdokush që akuzohet për vepër penale, është e drejta *“të ketë ndihmën e një avokati të zgjedhur prej tij, të komunikojë lirisht me avokatin dhe nëse nuk ka mjete të mjaftueshme, t’i ofrohet avokati falas”*.¹⁶ Kushtetuta parasheh që, në rastet kur palët nuk kanë mundësi të paguajnë avokat, shteti duhet t’u sigurojë palëve mbrojtje falas.

Ligji për avokatinë është ligji themelor që rregullon ofrimin e shërbimeve profesionale juridike dhe për përfaqësim në procese gjyqësore dhe në institucione tjera. Sipas ligjit për Avokatinë, *“Ndihma juridike përfshin: ofrimin e këshillave dhe mendimeve juridike; përgatitja e padive, kërkesave, propozimeve, parashtresave, mjeteve juridike dhe parashtresave të tjera; hartimin e kontratave, marrëveshjeve, testamenteve, deklaratave, akteve të përgjithshme dhe specifike dhe dokumenteve tjera; përfaqësimi dhe mbrojtja e personave fizikë dhe juridikë, shoqërive tregtare dhe personave të tjerë juridikë para gjykatave dhe organeve të tjera shtetërore; përfaqësimin e personave fizikë dhe juridikë në detyrat e tyre juridike, në zgjidhjen miqësore të mosmarrëveshjeve dhe raporteve të kontestuara; kryerja e veprimeve të tjera juridike në emër të personave fizikë ose juridikë vendas ose*

¹⁵ https://www.unodc.org/documents/justice-and-prisonreform/UN_principles_and_guidlines_on_access_to_legal_aid.pdf (access 25 November 2022).

¹⁶ Kushtetuta e Republikës së Kosovës, neni 30/5

*ndërkombëtarë, në bazë të të cilave gëzohen të drejtat dhe mbrohen liritë dhe interesat e tjera.*¹⁷ Sipas këtij ligji, ofrimin e shërbimeve të përmendura e bën avokati i licencuar në Odën e Avokatëve. Pra, në parim, në radhë të parë, avokatit të licencuar i takon ofrimi i shërbimeve profesionale juridike, në procedurën penale në veçanti.

Bazuar në Kodin e procedurës penale, *“I pandehuri ka të drejtë të mbrohet personalisht ose përmes ndihmës juridike nga një anëtar i Odës së Avokatëve të Kosovës sipas zgjedhjes së tij.”*¹⁸

Sipas Kodit të Procedurës penale, *“Vetëm një anëtar i Odës së Avokatëve të Kosovës mund të angazhohet si mbrojtës, por një avokat në trajnim mund ta zëvendësojë anëtarin e Odës së Avokatëve. Nëse procedohet për një veprë penale të dënueshme me të paktën pesë vjet burgim, një avokat i trajnuar mund të zëvendësojë një anëtar të avokatisë vetëm nëse ai ose ajo ka kaluar provimin gjyqësor. Vetëm një anëtar i avokatisë mund ta përfaqësojë të pandehurin para Gjykatës së Apelit ose Gjykatës Supreme të Kosovës.”*¹⁹ Legjislacioni kosovar i parasheh rastet kur mbrojtja e të akuzuarit apo të pandehurit është e detyrueshme, d.m.th. pala e akuzuar duhet të ketë domosdoshmëri mbrojtës gjatë zhvillimit të procesit gjyqësor penal. Kodi i Procedurës Penale, neni 57, parasheh rastet specifike kur mbrojtja është e detyrueshme.

“I pandehuri duhet të ketë një mbrojtës në rastet e mëposhtme të mbrojtjes së detyrueshme:

- që nga marrja në pyetje e parë, kur i pandehuri është memec, i shurdhër ose shfaq shenja të çrregullimit mendor ose të paaftësisë dhe për rrjedhojë nuk është në gjendje të mbrohet efektivisht;

- në seancat për paraburgimin dhe gjatë gjithë kohës kur ai ose ajo është në paraburgim;

- nga ngritja e aktakuzës, nëse kundër tij është ngritur aktakuzë për veprë penale të dënueshme me së paku dhjetë (10) vjet burgim; dhe për procedurat sipas mjeteve të jashtëzakonshme juridike kur i pandehuri është memec, i shurdhër ose shfaq shenja të çrregullimit mendor ose të paaftësisë ose është shqiptuar dënimi me burgim të përjetshëm.

¹⁷ Ligji për Avokatinë, Ligji Nr. 04/L-193, neni 4

¹⁸ Kodi i procedurës penale, Kodi Nr. 04/L-123, neni 11/2

¹⁹ Ibid, neni 54/1

- në të gjitha rastet kur i pandehuri kërkon të lidhë marrëveshje për pranimin e fajësisë për veprën penale që parashikon dënim prej një (1) viti ose më shumë burgim të gjatë ose me burgim të përjetshëm, i pandehuri duhet të përfaqësohet nga mbrojtësi.²⁰

Në rastet kur nuk ka 'mbrojtje të detyrueshme', gjykata gjithsesi mund të caktojë mbrojtës sipas detyrës zyrtare nëse i pandehuri nuk është në gjendje të paguajë për përfaqësimin e tij/saj dhe/ose kur i) vepra penale dënohet me tetë ose më shumë vjet burgim; ose ii) gjykata vlerëson se është në 'interes të drejtësisë' që i pandehuri të përfaqësohet. Dallimet kryesore midis rasteve me mbrojtje të detyrueshme dhe jo të detyrueshme janë se në këto të fundit, caktimi i mbrojtësit sipas detyrës zyrtare testohet sipas rastit, si dhe në diskrecionin e gjykatës, ndërsa në rastet e mbrojtjes së detyrueshme, caktimi është i detyrueshëm nëse i pandehuri nuk arrin të angazhojë përfaqësuesin e vet.²¹

“Në përputhje me dispozitat e këtij Kodi, nëse i pandehuri nuk angazhon mbrojtës për të siguruar mbrojtjen e tij dhe nëse mbrojtja është e detyrueshme, një mbrojtës i pavarur me përvojë dhe kompetencë në përputhje me natyrën e veprës penale. të caktohet për të pandehurin.”²² Në të gjitha rastet, shpenzimet e mbrojtjes i mbulon shteti me buxhetin të cilin e ndan në baza periodike. Caktimi i avokatëve për përfaqësim sipas detyrës zyrtare, bëhet nga gjyqtari i lëndës, sipas listës së dërguar nga Oda e Avokatëve të Kosovës.

Për ofrimin të ndihmës juridike falas, Kosova, ka miratuar Ligjin për Ndihmë Juridike Falas. *“Qëllimi i këtij ligji është krijimi i një sistemi funksional për ndihmë juridike falas në procedurën civile, administrative, kundërvajtjes dhe në procedurë penale me të cilin do të sigurohet qasje efektive në drejtësi për qytetarët që nuk kanë mjete të mjaftueshme financiare.”²³*

Ligji themelon Agjencinë për Ndihmë Juridike Falas (ANFJL). Agjencia është institucion i pavarur publik i cili ushtron funksionet dhe përgjegjësitë në

²⁰ Kodi i procedurës penale, Kodi Nr. 04/L-123, neni 57/1

²¹ OSBE misioni në Kosovë. E drejta e përfaqësimit efektiv në procedurë penale dhe sistemi i caktimit sipas detyrës zyrtare, gusht 2022, fq.12

²² Kodi i procedurës penale, Kodi Nr. 04/L-123, neni 11/3

²³ Ligji për Ndihmë Juridike Falas, Ligji Nr. 04/L-017, neni 1

pajtim me këtë ligj. Agjencia është institucion i vetëm në territorin e Republikës së Kosovës përgjegjës për organizimin dhe ofrimin e ndihmës juridike falas.²⁴

Themelimi i Klinikës juridike në Fakultetin Juridik nuk përbën shkelje të ligjit pasi që kjo klinikë do të ndihmojë Agjencinë në kryerjen e shërbimeve juridike. Shërbimet që ofrohen nga studentët do të jenë shërbime juridike primare të cilat përcaktohen me Ligjin për ndihmë juridike falas, përkatësisht neni 5, pika:

- informatat dhe këshillat juridike lidhur me procedurat ligjore;
- përpilimin e shkresave dhe tërë ndihmën tjetër teknike që ka të bëjë me kompletimin e lëndës;
- informatat dhe këshillat juridike lidhur me procedurat kundërvajtëse;
- informatat, këshillat juridike dhe ndihma në procedurat e ndërmjetësimit, arbitrazhit ashtu siç është paraparë me ligjet në fuqi.²⁵

Universiteti “Haxhi Zeka” në Pejë, ka nënshkruar Memorandum bashkëpunimi me Agjencinë për promovimin e shërbimeve juridike falas dhe të drejtën e ofrimit të këtyre shërbimeve nga ana e Klinikës juridike në Fakultetin Juridik në këtë universitet. Pra, Agjencia dhe Klinika juridike penale në Fakultetin Juridik nuk do të konkurrojnë njëra tjetrën por do të bashkëpunojnë në ofrimin e shërbimeve juridike cilësore për palët e interesuara.

4. Klinika juridike penale në Fakultetin Juridik në UHZ

Mësimi klinik në drejtësinë penale, si komponenta më e rëndësishme e drejtësisë në përgjithësi është domosdoshmëri e programeve të drejtësisë. Duke marrë parasysh se drejtësia penale është themeli i sistemit të drejtësisë në vend, lënda e Klinikës juridike penale u shërben studentëve të fitojnë shkathësi praktike për shkrimin e shkresave juridike (kallëzimi penal, aktvendimi për fillimin e hetimeve, përgatitja e aktakuzës, kualifikimi i veprës penale, llojet e aktgjykimeve, etj.), udhëheqjen e procedurës penale, rrjedhën e veprimeve procedurale, interpretimin e dispozitave juridike penale, arsyetimin ligjor dhe argumentimin, rolin e subjekteve në procedurën penale, deri tek mjetet juridike të apelimit të vendimeve gjyqësore (mjetet e rregullta dhe të jashtëzakonshme

²⁴ Ibid, neni 19

²⁵ Ibid, neni 5, pika 2.1.; 2.2.; 2.5. dhe 2.6.

juridike). Në syllabusin e lëndës janë përfshirë çështjet kryesore praktike, si: Arrestimi dhe ndalimi policor, të drejtat e të dyshuarit me theks në të drejtën në mbrojtje profesionale, vendimi i prokurorit të shtetit lidhur me bazueshmërinë e kallëzimit penal, shqyrtimi gjyqësor dhe etapat e zhvillimit të tij, simulim i seancës gjyqësore, procesi i të provuarit në shqyrtim gjyqësor, nxjerrja dhe shpallja e aktgjykimit dhe mundësia e atakimit të tij me ankesë, mjetet rregullta dhe të jashtëzakonshme juridike.

Praktika e ofrimit të mësimit klinik në Fakultetin Juridik të UHZ-së, është fuqizuar me themelimin e Klinikës juridike reale e cila do të ofrojë shërbime juridike *pro bono* për palët. Përveç, shkathtësive dhe kompetencave, studentët do të përgatitën për të komunikuar me palët, do të përballen me raste të vërteta, do t'i qasën punës praktike juridike me përgjegjësi si dhe do të kontribuojnë për komunitetin, pasi që shërbimet që ofrohen do të jenë falas.

Klinika Juridike e Drejtësisë Penale ofron këshilla fillestare në procedurat penale për këdo që bie në kontakt me procesin e drejtësisë penale. Klinika gjithashtu punon në bashkëpunim me disa organizata bamirëse për të ndihmuar në shqyrtimin e çështjeve të veçanta ligjore rreth të drejtave të apelimit, fushatave për të ndryshuar ligjin dhe mbështetjen e protestave. Aty ku dikush nuk kualifikohet për këshilla ligjore nëpërmjet klinikës, ne do t'i drejtojmë në shërbime të tjera. Klinika synon të ofrojë një shërbim publik për njerëzit që kërkojnë këshilla ligjore për çështje të lidhura me krimin dhe drejtësinë penale dhe nuk mund të marrin (për arsye financiare ose të tjera) këshilla diku tjetër..²⁶

Klinika i ekspozon studentët ndaj punës së mbrojtësve publikë, duke u mësuar atyre se si të përdorin një sërë mjetesh avokuese për të ofruar përfaqësim të zellshëm, të dhembshur dhe të përqendruar te klienti për ata që janë ndikuar ashpër nga sistemi ligjor penal.²⁷

Klinika e së Drejtës Penale ofron një mjedis mësimi që fokusohet në ligjërata, diskutime në klasë, vëzhgim, ushtrime dhe simulime tallëse, diskutime rreth rasteve, reagime, reflektim dhe përvojë aktuale të praktikës penale, duke

²⁶ <https://www.sussex.ac.uk/law/clinical-legal-education/cjlc> (Shikuar me datën 30.11.2022)

²⁷ <https://law.udc.edu/criminallawclinic/>

bërë gjithçka që mund të bëjë një mbrojtës publik. Studentët do të mësojnë se si të:

- Intervistoni dhe këshilloni klientët.
- Përgatitni një çështje penale nga fillimi në fund - zhvilloni një teori rasti, kryeni hetime, jepni fjalët hyrëse, ekzaminimet e dëshmitarëve dhe argumentet përfundimtare.
- Zhvillimi i masave të forta zbutëse për klientët në mbështetje të lirimit nga paraburgimi dhe në caktimin e dënimit.
- Të negociojë dhe të krijojë marrëdhënie efektive pune me aktorë të ndryshëm në sistemin kriminal. Research, write, and persuasively litigate motions in court.
- Punoni në ekipe dhe bashkëpunoni me palët e interesuara të komunitetit për të realizuar ndryshime përmes politikave dhe proceseve gjyqësore civile.
- Mendoni në mënyrë krijuese dhe të gjerë për mënyrat për të sulmuar pabarazitë racore dhe ekonomike në sistemin penal dhe për të ndezur transformimin e sistemit kriminal.

Në radhë të parë, studentët do të fitojnë shkathhtësi për pranimin e rasteve, aftësi komunikuese për marrjen në pyetje dhe bashkëbisedimin palët, pastaj nën mbikëqyrjen dhe udhëzimet e mentorit (profesorit i cili caktohet me vendim për mbikëqyrje të studentëve), do të përgatisin shkresën përkatëse dhe shqyrtimin profesional të rastit. Veprimet konkrete procedurale të cilat do të ndërmerren gjatë punës së përditshme në Klinikën juridike penale janë:

- Pranimi i klientit dhe bashkëbisedimi për lëndën e tij;
- Informimi në lidhje me rastin kontestues të klientit;
- Udhëzimi i klientit për rastin e tij;
- Pranimi i shkresave të lëndës;
- Caktimi i studentit-ëve të cilët do të merren me rastin konkret;
- Mbikëqyrja e profesorit mentorues në shqyrtimin e lëndës;
- Përgatitja e analizës ligjore dhe raportit shqyrtues të lëndës;
- Dorëzimi i lëndës dhe udhëzimi për veprimet procedurale juridike.

Përfaqësimin në gjykatë për rastet procedurale penale nuk ta bëjnë studentët, ashtu siç u theksua edhe në kapitullin paraprak. Studentët në Klinikën

penale juridike do të kenë rolin konsulentit juridik, por lëndën në gjykatë duhet ta përfaqësojë vetëm avokati i licencuar ashtu siç është përcaktuar me Kodin e Procedurës Penale.

Në kuadër të klinikës është caktuar koordinatori i cili do të merret me aktivitetet menaxheriale, promovuese dhe furnizimi me material dhe pajisje për punë. Për monitorimin e punës dhe ofrimin e këshillave profesionale, do të kujdeset profesori i lëndës përkatëse në cilësinë e mbikëqyrësit të drejtpërdrejtë.

Në kuadër të Fakultetit Juridik është përgatitur “Doracaku për punën dhe organizimin e Klinikës juridike reale” si dhe dokumentet tjera për funksionalizimin e punës së klinikave. Doracaku shërben si ‘Kushtetutë’ e punës dhe organizimin e brendshëm të klinikave duke përfshirë, statusin juridik, standardet e punës, menaxhimin, mbikëqyrjen e punëve, bashkëpunimin me institucionet tjera, etj.

5. Përfundimi

Nga ajo çka u theksua në trajtimin e këtij punimi, mund të konkludojmë se krahas ofrimit të lëndës mësimore “*Klinika juridike penale*”, themelimi i Klinikës reale në Fakultetin Juridik në UHZ, është një vendim i arsyeshëm i organeve drejtuese të UHZ-së, dhe do të sjellë dobi të shumanshme për studentët, stafin akademik, Fakultetin dhe Universitetin në tërësi.

UHZ, përkatësisht Fakulteti Juridik me themelimin e Klinikës juridike penale, ka forcuar komponentën e punës praktike të studentëve, duke u ofruar mundësi studentëve të zhvillojnë shkathtësitë dhe kompetencat për të punuar si profesionistë të drejtësisë. Studentët do të kenë mundësi që praktikisht të përballën me raste të vërteta dhe ta shohin drejtpërdrejtë funksionimin e drejtësisë penale në praktikë. Përmes punës në Klinikën juridike penale, studentët pritet të zhvillojnë shkathtësi në drejtësinë penale materiale (e drejta penale pozitive) dhe pjesën procedurale penale. Studentët profesionalizohen për interpretimin e dispozitave penale juridike, arsyetimin dhe argumentimin ligjor, për shkrimin e shkresave juridike penale, përgatitjen e opinionit ligjor në raste të vërteta, udhëheqjen e veprimeve procedurave penale, për rolin e subjekteve në procedurën penale para sistemit gjyqësor.

Si pjesë e Klinikës juridike penale, studentët do të vlerësohen nga mësimdhënëse dhe do të fitojnë ECTS kredi, por do të fitojnë edhe shkathtësi

praktike për funksionimin e sistemit të drejtësisë penale në vend. Duke fituar shkathtësi praktike dhe kompetenca pune në lëmin juridik penal, studentët pritet të qasën lehtësisht në tregun e punës pas diplomimit dhe të ushtrojnë profesionin e avokatit, prokurorit apo gjyqtarit.

Ndër çështjet më të rëndësishme për studentin i cili angazhohet në Klinikën juridike penale është puna *pro bono*. Kryerja e shërbimeve falas do të ndikojë pozitivisht tek studentët që të krijohet ndjenja e empatisë, voluntarizmit dhe shërbimit në të mirë të komunitetit. Një shërbim i tillë kontribuon edhe në përmbushjen e objektivave të UHZ-së për shërbim të komunitetit.

Bibliografia

Dennis Pearce, Enid Campbell & Don Harding, Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission (1987); Alex Steel, Lyria Bennett Moses, Julian Laurens & Charlotte Brady, Use of Exams in High Stakes Law School Examinations: Student and Staff Reactions, 29 LEG. ED. REV. 1 (2019).

Heather Roberts & Andrew Henderson. Designing law school assessment to meet new forms of legal practice: a model from Australia, Clinical law review, Vol. 28, 14-FEB-22

Karin Gerritsen-van Leeuwenkamp, Desir ´ee Joosten-ten Brinke & Liesbeth Kesterd, Assessment Quality in Tertiary Education: An Integrative Literature Review, 55 STUD. IN ED. EVAL. 94 (2017).

Malcolm Combe, 'Selling intra-curricular clinical legal education' (2014) 48(3) The Law Teacher 281- 295, 281

Combe (n 10), 282; see also, Laura Lundy, 'The Assessment of Clinical Legal Education: An Illustration' (1995) 29 The Law Teacher 311.

Richard Grimes, 'Reflections on Clinical Legal Education' (1995) 29 The Law Teacher 169,

Susan L. Brooks, Marjorie A. Silver, Sarah Fishel Kellie Wiltsie. Moving toward a competency-based model for fostering law students' relational skills, *Clinical Law Review*, Vol. 28,

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Kodi i procedurës penale, Kodi Nr. 04/L-123 (Gazeta Zyrtare e Republikës së Kosovës / Nr. 37 / 28 Dhjetor 2012, Prishtinë)

Ligji për Ndhimë Juridike Falas, Ligji Nr. 04/L-017 (Gazeta Zyrtare e Republikës së Kosovës / Nr. 03 / 22 Shkurt 2012, Prishtinë)

Burime elektronike:

<https://akreditimi.rks-gov.net/en/about-kaa/>.

https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf

<https://www.sussex.ac.uk/law/clinical-legal-education/cjlc>

<https://law.udc.edu/criminallawclinic/>

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