

## ***Una perspectiva Global en Educación Jurídica Clínica***

### ***A Global Perspective on Clinical Legal Education.***

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Much has been accomplished over the past fifteen to twenty years in the effort to develop strong clinical movements in countries around the world. I would like to put into a broader context the exciting opportunities for legal education reform that can be realized through clinical legal education by providing a window into what I have described in a recently published book as the “global clinical movement.”<sup>1</sup> But before I begin, I think it is fair to ask: Is there really something particularly meaningful about global clinical legal education—something more than simply the fact that these days just about everything has a “global” dimension?

There is an easier, more obvious case to be made for global legal education in general. In today’s world, no law school can afford to ignore global perspectives in its curriculum. A purely local approach to the study of law, and even law practice, is a thing of the past. Unlike traditional international law studies, which it could be argued was relevant only to a handful of policy makers, academics, and highly specialized practitioners, today’s “global law” has a pervasive influence on people’s lives and touches on almost every lawyer’s law practice, at least at one point or another. That is why in New York University Law School touts its “Global Law Program” and in Delhi, the Jindal “Global Law School” opened its doors a few years ago.

But clinical legal education is different. Most clinicians define clinical education as hands-on professional skills training coupled with instruction in—or initiation into—lawyers’ public and professional responsibilities. Clinical programs teach law students about what lawyers do, what they should do, and how they should do it; clinical law teachers use experiential learning methods that place students in the role of a lawyer, preferably in a real-world setting in which they not only face, but also address, social injustice. In this respect, clinical legal education can be seen as having a decidedly local

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<sup>1</sup> See THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE (Frank S. Bloch ed., Oxford University Press 2011).

perspective. Clinics are where law students learn about the local community and its legal needs, and how law and lawyers can address those needs.

Clinical education also comes across as pretty much local when one looks at what clinical teachers do, at least as compared to traditional academics. Clinicians teach on the ground, so to speak. More often than not, they bring years of experience in the field to their teaching, experience that produced ties to the local community and the local bar. The best clinical scholarship is informed by what clinicians encounter in the field, often in their clinical practice as clinical teachers. And many clinicians—far more than their non-clinical colleagues—step out of academia for a tour in local law practice, public interest work, or government.

So why should we talk about global clinical legal education? I see three aspects of what is happening in clinical legal education around the world that together make the case for taking global clinical education seriously:

First, and most obviously, there is its *global reach*. Clinical legal education has spread over the past 15-20 years from a relatively small number of countries concentrated in certain jurisdictions to a wide range of countries representing every region of the world.

Second, there is its commitment to legal education and legal system reform—to “socially relevant legal education”—which carries with it a *social justice mission* that has important global significance.

Third, clinical law teachers and their collaborators (legal activists, NGOs, some members of the bench and bar) have begun to join together in a *global clinical movement*, a movement with remarkable opportunities for growth in an increasingly interconnected world.

Let me examine these three aspects—the global reach of clinical legal education, its social justice mission, and the global clinical movement—in some more detail.

### **The global reach of clinical legal education**

The fact that clinical legal education has gone global cannot be in doubt. All you have to do is scan law school catalogues and websites around the world to see regular mention of clinical programs or clinical courses in the United States and Canada; Australia and New Zealand; India, Pakistan, and Bangladesh; China, Japan, and many other countries in Southeast Asia; the United Kingdom, the Netherlands, Spain, and a few other countries in Western Europe, most countries in Central and Eastern Europe; many countries throughout Africa, and an increasing number of countries in the Middle East. The global reach of clinical legal education is evident also in the location of the major international clinical conferences held over the past 10 years and the nationalities of the delegates at those conferences. To take the example of the six worldwide conferences of the Global Alliance for Justice Education (GAJE): the host countries, beginning with the inaugural conference in 1999, have been India, South Africa, Poland, Argentina, the Philippines, and Spain. At the most recent GAJE conference held in Valencia, Spain, in July 2011, there were almost 300 delegates from more than 40 countries.

To be sure, what is meant by a “clinical course” or a “clinical program” is not necessarily the same at law schools in every country, or even at different law schools in the same country. Approaches to clinical education are guided in the first instance by certain fundamental structural factors; for example, whether law is taught as an undergraduate or a graduate course or whether some additional post-graduate training is required before entering practice. Economic, cultural, and economic factors are come into play as well. As a result, there are substantial differences between a community legal center in Australia and a legal literacy clinic in India, between a legal aid clinic in the United States and a human rights clinic in Spain, or between a Street Law clinic in South Africa and one in Indonesia. But there are also certain key characteristics common to all these clinics—and countless other often-significantly-different types clinics around the world:

The first goes directly to clinical legal education’s professional educational mission. Clinics around the world focus on two curricular goals aimed at preparing students for practicing law, neither of which is emphasized sufficiently in the traditional law school curriculum: providing professional skills training, and instilling professional values of public responsibility and social justice.

A second characteristic relates to methodology. At the core of the clinical teaching method is a commitment to experiential learning. Clinical training in professional skills and values takes place while students are in professional roles—real or simulated—and not in a traditional classroom setting where law is taught through one-way lectures or from cases and material presented exclusively in printed texts.

Finally, clinical legal education is part of a broader effort at legal education reform aimed at expanding the professional curriculum, implementing innovative teaching methods, and educating lawyers for social justice.

While the introduction of clinical education at so many law schools in so many countries is quite an accomplishment in and of itself, today’s global reach of clinical education has important consequences beyond the numbers. Wherever clinical education has been introduced, it got there with a struggle. With its focus on new areas of study, its links to social action, and its use of dramatically different teaching methods, law school clinics have never been an easy sell. Clinical legal education’s increasingly global presence gives the field a certain credibility that helps reformers establish new programs. As its global reach extends further, a momentum has developed that helps sustain existing programs and ease the path towards institutionalization.

In other words, the global reach of clinical legal education has aided and facilitated its growth and acceptance, which can be seen both locally (that is, in efforts undertaken within a particular country) and in cross-border collaborations. Thus, the existence of clinical programs around the world has helped the Committee of Chinese Clinical Legal Educators push for expansion of clinical programs in China. Prominent examples of support for new clinical initiatives across borders include South Africa’s Association of University Legal Aid Institution’s work in Nigeria that resulted in the establishment of the Nigerian Network of University Legal Aid Institutions, and the efforts of the Polish

Legal Clinics Foundation, the Russian Clinical Legal Education Foundation, and others to bolster clinical programs throughout their region.

### **The social justice mission of global clinical education**

The global reach of clinical legal education has had a profound influence on its social justice mission as well. While most clinical programs around the world have had some sort of on-going connection with legal aid or other forms of social justice work, those links were at first decidedly local. One common scenario was to transform what amounted to law school-based legal aid offices into clinical education programs. This was practically the rule in the early days of modern clinical education in the United States. The same was true in Australia and many other formerly British-ruled common law countries, where the earliest university clinical programs were based in community legal centers. The link between legal aid and clinical legal education has worked in the other direction as well. The promise of providing much-needed legal aid or other types of legal services to the community has been a very effective way to bring in funding for new clinical programs, particularly in developing countries. For many years, advancing social justice in a particular region has been a key to obtaining funding for clinics from such important institutions as the Ford Foundation and the Open Society Institute. Many of these early projects were in Africa, Central and South America, and Central and Eastern Europe; more recent projects have been in East Asia, including China, Cambodia, Indonesia, Thailand, and Vietnam.

Clinicians still talk about the importance of educating lawyers for social justice and how that goal impacts legal education and legal system reform in their own countries. They also continue to work with their students on cases and projects aimed at addressing social injustice, most often in local communities. But the difference is that now—as part of a global clinical community—clinical law teachers can look beyond local needs and practices in ways that can benefit not only their local students and clients, but also their colleagues and communities around the world.

How does global clinical education help with that? It does so in two ways. First, having a global perspective on clinical education can help clinical law teachers and their students identify and work toward promoting a manner of law practice that facilitates social progress across borders and regions of the world. Second, a global clinical network, consisting of personal and professional connections among clinical colleagues from countries around the world and often supported by national, regional, and international clinical organizations, makes it possible for clinics to take on global issues and to carry out a global social justice practice through a variety of specialized clinical projects. Let me cite some prominent examples.

Street Law is a form of clinical education with a strong social justice component that has developed its mission and expanded its influence through its leadership in the global clinical movement. The first Street Law programs in the United States fit the classic model of introducing socially relevant legal education through a law school-based social action project. The primary motivation at the time was local social justice; law students at Georgetown University went to local high schools in Washington, DC to instruct high school students about their legal rights. Over time, Street Law gained entry

into the clinical curriculum with an educational agenda that included close faculty supervision of the student teachers and focused instruction in professional skills and values to both equip and motivate law students for public interest practice.

This was itself an ambitious undertaking and placed Street Law faculty among the founders of the modern clinical movement in the United States. But over the past twenty years Street Law has taken on a variety of related, but sometimes markedly different, forms at law schools in other parts of the world. We can see this related-but-markedly-different quality of Street Law evolution in the South Africa experience. Having come to its own when the country was beginning to free itself from the apartheid era, Street Law in South Africa highlighted the role of legal literacy as a particularly powerful tool for social change and, at the same time, demonstrated the capacity of law students to promote greater awareness of basic civil rights. With Street Law clinics operating now in a world of global clinical education, these and other insights—gained while operating what are still basically locally formed projects—have served to inform and enrich clinical programs throughout the world.

Many different types of clinical projects have benefited from the connections and interconnections made possible through global clinical education while carrying out their social justice mission. These projects do not necessarily have an outwardly global significance; they may be local projects that simply draw on the global clinical community to achieve their local aims. If we look at it this way, practically any clinical program can have a global dimension; clinical courses and programs specializing in family law, environmental law, or just about any other area of the law can, depending on the context of the cases they handle, range from purely local to more-or-less global. I will elaborate, however, on two areas of specialized clinical practice that fall most clearly on the global side of the equation: human rights and immigration.

Starting with the most obviously globally significant work, clinical teachers and their students cross borders regularly in a wide range of human rights clinics. In some instances, clinical teachers and their students cross actual borders while carrying out their human rights work. Or they may take on a human rights project closer to home, dealing, for example, with the legal rights of local minority communities. It is important to note in this context that clinical legal education's educational mission—and most particularly its social justice mission—is not limited by what a student learns from a particular clinical experience. Human rights clinics are not just educating future human rights lawyers but are also seeking to develop a more globally conscious and socially responsible legal profession. The idea is to train students not just as competent individual professionals, but to still in them a sense of personal public responsibility to work for a more just and equitable world.

Immigration clinics are another example of an obviously global form of clinical legal education, but they benefit from global clinical education in a different way. Typically, students in an immigration clinic carry out a local service; the client just happens to come from a foreign country. The global clinical aspect comes with the need to cross borders and cultures while representing a local client. Thus, students handling an immigration case—whether the client is seeking refugee status or simply wants to extend a course of study—will often need to consult law, or develop facts, in another country.

These types of clinics have flourished with the aid of personal and professional connections among clinicians across borders and regions that would not exist without global clinical education.

### **The global clinical movement**

Finally, we come to the global clinical movement. Not long ago, the very idea of a global clinical education movement would have seemed far-fetched. Today, there is no doubt that clinical legal education has gone global. As noted above, clinical programs are in place now at law schools all over the world. But that does not make for a global movement. Nor does the fact that clinical law teachers have been meeting together regularly at international conferences for many years—most notably at conferences organized by the Global Alliance for Justice Education (GAJE) and the *International Journal of Clinical Legal Education*. A movement connotes something more than a widespread network of like-minded persons.

So what constitutes a global clinical movement? To begin with, there must be some core qualities of clinical legal education recognized around the world that define the movement as a global *clinical* movement. As pointed out earlier, a core set of such qualities exists. Despite inevitable differences in structure and content, clinical programs throughout the world offer experientially based training in professional skills and values focusing on critical areas of professional and public interest that have been left out of the traditional law school curriculum.

There must also be a shared sense of purpose in the clinical enterprise, and that exists as well: clinicians around the world share a commitment to reorienting legal education toward educating lawyers for social justice, especially if preparing students for competent and ethical law practice is properly recolonized as an important component of clinical legal education's social justice mission. Thus, in a chapter in my book on setting an agenda for the global clinical movement, Peggy Maisel points to three goals that she believes are widely shared by clinicians around the world: increasing access to justice for previously unrepresented groups; developing a system of legal education that insures that future lawyers have the knowledge, skills and values needed to help solve the world's complex problems; and supporting a legal profession that is more diverse, skilled, and committed to serving human needs.<sup>2</sup>

It is also important, of course, that there are the means to carry out a global clinical agenda. The means are there, but efforts to strengthen the global clinical movement should not come at the cost of undercutting informal networking among clinicians or minimizing the important role of existing and emerging national and regional clinical organizations. Important advances in clinical education have come about simply by having clinicians work together at national, regional, and international clinical conferences, as well as at various types of clinic workshops and on specific clinical projects.

Clinical legal education is now firmly a global movement, and today's global clinical community exists in an ever increasingly interconnected world. GAJE is the natural

<sup>2</sup> Maisel, M (Peggy). (2011). *Setting an Agenda for the Global Clinical Movement*. THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE. Frank S. Bloch ed. Oxford University Press.

organization to coordinate the next steps in the evolution of the global movement, but it need not, and should not, go it alone. GAJE has over 850 members, many of whom cross borders regularly to engage with each other in a variety of ways. At the same time, national and regional clinical organizations have begun to orient their members to look beyond their own borders to support new and more sophisticated clinical programs in their respective countries and regions. But most clinicians are also firmly rooted in their own countries and regions. The challenge for clinicians everywhere is to develop complementary agendas for the global movement and various collaborating national and regional movements that will both advance clinical legal education worldwide and also help them reach their common goals of social justice and legal education reform.