

Clinical Legal Education – An Overview

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Abstract:

Clinical Legal Education (CLE) has been a significant part of legal education since 1960. The first clinic started in U. K. in 1970, in Australia in 1990s. The concept is fast expanding across the globe also. The Clinical Legal Education is necessary to bridge a gap between theory and practice. The aim of this article is to know the various types of Clinical legal Education, its necessity in curriculum and current initiatives and practices in Indian Clinical Legal Education.

What is meant by Clinical Legal Education?

The Clinical Legal Education can be defined in various ways –

“Clinical Legal Education is essentially a multi-disciplined, multipurpose education which can develop the human resources and idealism needed to strengthen the legal system... a lawyer, a product of such education would be able to contribute to national development and social change in a much more constructive manner.”^[1]

“A learning environment where students identify, research and apply knowledge in a setting which replicates, at least in part, the world where it is practiced. It almost inevitably means that

the student takes on some aspect of a case and conducts this as it would be conducted in the real world.”^[2]

The Clinical Legal Education is a term which encompasses learning which is focused on enabling students to understand how the law works in action. This can be done by undertaking real or realistic simulated case work. In early days law is thought as one of the curriculum available to the students. Even though the casebook method was growing in earlier days, there were critics of this method from the beginning. However the first hand experience method will really educate the law students. The legal education clinics if properly channelled may help the students to gain their knowledge. The use of the word ‘clinic’ prompts the analogy of trainee doctors meeting real patients in their medical clinics. Clinical Legal Education is only one way in which theory and practice can be brought together.

What are types of clinics:

The aims and objective of each are in principle the same. The legal clinics may be divided into three types 1. Simulation clinics 2. Out-house real client (real world) clinics 3. In-house real client clinics.

1. Simulation clinic : Students can learn from variety of simulations of what happens in legal practice. Ex – moot Court commonplace etc. Cases can be acted out in their entirety, from the taking of initial instructions to a negotiated settlements or Court hearing. Such sessions can be run as intensive courses or spread through all or part of the academic year in weekly slots. Other simulations can range from negotiation exercises, client interviewing exercises, transaction exercises etc.

2. The In-house real client clinics: In this model the clinic is based in the law school. It is offered, monitored and controlled in law school. In this type of clinic the clients require actual solutions to their actual problems hence it is called as real client clinic. The client may be selected from a section of the public. The service is given in the form of advice only or advice and assistance. In this type of

Clinics, Clients are interviewed and advised orally or in writing and also helped with the preparation of their cases. The clinic may operate as a paralegal services or a fully-fledged solicitor's practice.

3. The out-house clinic: It is a clinic that involves students in exercising legal work outside the college or university. These types of clinics may operate on the basis of advice giving only. Such agencies are run by trade union councils and other non-statutory bodies. The clinic might take the form of placement also in solicitors' office or barristers' chambers.

Simulation clinic has several advantages than other clinics. In this type of clinic risk and unpredictability of the real-client work are removed, the same materials are used for many times and hence cost is substantially less than real clinic. The administration of the simulation is very difficult. But all the clinics play active part in Clinical Legal Education and also their objectives and aims are same.

What are benefits of Clinical Legal Education:

Following are some benefits of the Clinical Legal Education.

a) **Practical Approach**: It involves a different approach to the learning of law: it encompasses experimental learning, or "learning by doing."^[3] The scope of the client's problem is determined and solutions are given to them. It generates confidence in students as their success is determined by their own efforts rather than external factors. It is the application of knowledge. It gives opportunities for the knowledge to be applied, but it also goes beyond this and calls for reflection and self examination. It gives students the opportunity to explain why they are taking certain actions and they are able to discuss and reconsider their actions.^[4] Students can examine the legal and social issues in some depth.

b) **Student motivation and development**: Students are self-motivated and highly committed to the work. Students are more responsible in their work.

c) **Acquisition of skills**: Some skills are very important to a lawyer. Clinical Legal Education is based on practical approach and hence it helps in acquisition of skills. The skills may include skills like Research skills, Communication skills, interviewing of clients and witnesses, Counseling, Drafting, Negotiating, and Problem Solving etc skills. These skills are very important to a lawyer.

d) **Professional ethics and responsibility**: There is need of study of ethics and the professional responsibility and conduct of lawyers. This is growing in recent years as Clinical Legal Education includes practical training.

e) **Involvement with local community**: A law clinic can help to reduce isolation by making the law school more relevant to community. It can offer advice and assistance to local people and help to reduce isolation. There are many benefits of this. Also the students can be able to understand the problems of different generation and background. This experience can add to their understanding of the position of others in society, and can increase their maturity and sense of responsibility.

What are problems of Clinics:

a) **The Integration of the clinic within the law school**: Some eminent authors stated that there is a danger that the clinic will become an isolated outpost of the law school, and not absorbed within its mainstream activity. To avoid diversion of students from the rest of their legal teaching, it is important to draw clear links between substantive law courses and work done in the clinic. For example, problems arising in the clinic can be re-examined in other law classes, research can be done

on them, and even action recommended. A wide range of teacher involvement is desirable. However, there is no ready-made solution to the problem of integration.

b) Resources: Extra resources must be allocated to the teaching and running of the clinic. This can be another cause of resentment for traditional academics who are less involved in skills teaching, and it is another reason why the support and involvement in the clinic of the law school is needed. The pressures created by the high caseload may badly affect the moral of both staff and students. Resources can be particularly stretched if the clinic operates an open door policy and attempts to deal with all cases which come in off the street. Hence there is need to limit access in some way.

c) Difficulties in supervision and assessment: Supervising students in the clinic is difficult task. It is important to include checks on the quality of work being done for the system of supervision.

d) The dangers of public service: The idea of providing free legal advice is attractive but problems can develop if the public service aim takes precedence over that of providing a sound and well rounded legal education.



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e) Relationship with the local legal profession: Some may fear that a legal clinic offering free legal work will upset the law school's relation with the local legal profession.

What is history of Clinical Legal Education in INDIA:

Clinical Legal Education includes not only the clinical courses but also practice-oriented courses and activities included in or offered outside the curriculum.

Clinical Legal Education is more than a vehicle for the study of lawyering and the legal profession. Clinical Legal Education should be devised and implemented; this will give law students a deeper and more meaningful understanding of law.

The subject-matter or content of Clinical Legal Education and the Clinical method of law teaching can be separated; the subjects sought to be taught in a clinical course or program can be presented in traditional classes, and the clinical teaching method can be utilized in courses outside the usual "clinical" subject areas.[5]

Clinical Legal Education in India has its roots in both the Legal Aid and Legal Education Reform Movements.

Formal Legal Education started in 1855, in India. Many commissions and Committees were set up for the development of Clinical Legal Education in India. Legal Education has gone through many stages of development. Some of these stages are –

The Bombay Legal Education Committee concluded in 1949, recommended that practical courses should be made compulsory only for students who choose to enter the profession of law and the teaching method should include seminars or group discussions, moot court competitions etc.

The 14th Report of the Law Commission of India recognized the importance of professional training and for a balance of both academic and vocational training. It recommended that University training must be followed by a professional course concentrating on practical knowledge—but it suggested that the professional course be made compulsory only for those who chose to practice law in the courts. The Commission's 1958 Report concentrated on institutionalizing and improving the overall standards of legal education. In that regard, the Report also discussed teaching methods and suggested that seminars, discussions, mock trials, and simulation exercises should be introduced--- in addition to lectures. Thus, although the Commission's Report didn't deal directly with improving skills, it did so indirectly by supporting the use of teaching methods that could be more helpful in developing various skills.

A link between expressed Legal Aid and Legal Education Reform was published in 1970s by the Expert Committee on Legal Aid of the Ministry of Law and Justice.

After 5 years of debate over a 3-year v/s 5-year L.L.B. course, which began during a 1977 National Seminar on Legal Education at Bombay, the Bar Council of India (BCI) unanimously agreed to introduce the new 5-year course from July 1982, open to students after 10+2. The BCI recommended practical training in the curriculum.

Reports of University Grants Commission (UGC) also played important roles in the history of Clinical Legal Education and report emphasized the role of legal education in developing law as a hermeneutical profession, explaining that lawyers must be taught a variety of skills and sensibilities. It outlined the objectives of reformed teaching as making students more responsive to learning and making them demonstrate their understanding of law.

The next important step in the evolution of Clinical Legal Education began at the conference of Chief Justice of India in 1993, which resolved the Chief Justice shall constitute a committee to suggest appropriate steps that should be taken to assure that law graduates acquire sufficient experience before they become entitled to practice in the courts. It found that the general standard of law colleges in country was deteriorating and that the syllabus should be revised to include practical subjects so that the students could get professional training.

Bar Council of India (BCI) report 1996 on NLSIU (The National Law School of India)—The Bar Council of India issued a circular in 1997 using its authority under the Advocates' Act 1961 directing all universities and law schools to revise their curriculums. It included 21 compulsory courses and 2 optional courses, leaving Universities free to add more courses. The circular also mandated the inclusion of 4 practical papers. Law schools have been required to introduce these 4 practical papers since academic year 1998-99, which was viewed as a big step toward introducing Clinical Legal Education formally into the curriculum.

In order to achieve the objects of the clinical program, NLSIU offers a wide range of opportunities in clinical programmes, compulsory as well as optional, to the students. At present the compulsory clinical courses are—(a) Client Interviewing, counseling, And Alternate Dispute Resolution methods; (b) Litigation Clinic; (c) special Clinic integrated with compulsory placements of two months from III year to V year of the 5 year LL.B. course. The optional component of the scheme includes: a) Moot Court (b) Legal services Clinics; (c) community-based Law Reforms Competition. In addition to the above, NLSIU curriculum carries a full course of 100 marks taught outside the declared clinical

courses. This is a compulsory course on Professional Ethics and Law Office management taught with assistance of legal practitioners.

The 2nd UGC report of particular interest to Clinical Legal Education was prepared by a Curriculum Development Committee, which was asked to upgrade the syllabi of the LL.B. course. The proposed curriculum also includes several subjects which have a potential to be taught clinically in order to offer instruction in various values and skills required for a new lawyer. Also it introduced a clinical aspect in the LL.M. program.

Report of the Law Commission of India - 2002 stated that "the Commission considers that Clinical Legal Education may be made mandatory subject."

Current Assessment: One can trace the development of Clinical Legal education in India to the efforts of a few law schools in the late 1960s. For example, faculty and students at Delhi University established a legal service clinic in 1969 on a voluntary basis. Banaras Hindu University was the first to introduce a clinical course, in the early 1970s. This was an optional course offered to a limited group of 30 students with academic credit for 200 marks. The course included courts visits, participation in a legal aid clinic in the school, and an internship in chambers of lawyers. While each of these early efforts was significant, no steps were taken during those years to institutionalize Clinical Legal Education. A national movement to do so was begun with the opening of the National Law School of India University in Bangalore, established by the Bar Council in 1987 as a model for legal education reform. The National Law School's curriculum includes several clinical courses, including more recently course that cover the subjects included in the practical papers mandated by the Bar Council of India in 1997. Over the past 10 years, seven other national law schools have been established.

Conclusion:

It is necessary to emphasize that the purpose and scope of legal education must be to prepare students for the practice of the profession of law. Therefore, the law and legal education which together constitute the backbone of society should change according to the changing needs and interests of the ever changing society. Undoubtedly clinical work will be more expensive than class room teaching. The time frame of curriculum will be difficult to maintain as stated by the university. There are some things which are good for clinical experience is enabling students to understand experimentally how the law works in practice. Hence clinic must be included as a part of curriculum.

[1] Kuljit Kaur, "*Legal Education and Social Transformation*" [available at: <http://alsonline.amity.edu/Docs/alwjlegkk.pdf>] [viewed on: 25/06/2009]

[2] Richard Lewis, "*Clinical Legal Education Revisited*" Professor of Law, Cardiff University, Wales, United Kingdom, Pg. 5, [available at: <http://www.law.cf.ac.uk/research/pubs/repository/21>] [viewed on: 25/06/2009]

[3] N. R. Madhava Menon, 1998, "*Clinical Legal Education*", chapter 2, Pg.25, Eastern Book Company Lucknow.

[4] Richard Lewis, "*Clinical Legal Education Revisited*" Professor of Law, Cardiff university, Wales, United Kingdom Pg.7,11 [available at: <http://www.law.cf.ac.uk/research/pubs/repository/212>] [viewed on: 25/06/2009].

[5] Richard Lewis, "*Clinical Legal Education Revisited*" Professor of Law, Cardiff university, Wales, United Kingdom, Pg. 11 [available at: <http://www.law.cf.ac.uk/research/pubs/repository/212>] [viewed on: 25/06/2009]