

# WHAT CAN BE LEARNED FROM INTERNATIONAL EXCHANGE BETWEEN LEGAL CLINICS: REPORT ON THE EXPERIENCES MADE DURING THE ENCLE CONFERENCE IN 2022

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## **1. Introduction**

“ENCLE” is the European Network for Clinical Legal Education. It is the networks’ goal to connect persons committed to achieving justice through education. ENCLE brings together persons from different countries, who exchange perspectives and work collaboratively from a variety of legal, educational and organizational settings in order to promote justice and increase the quality of law teaching through Clinical Legal Education.<sup>1</sup> The yearly ENCLE conferences are one part of achieving this goal. The 9<sup>th</sup> conference will take place on July 17 and 18<sup>th</sup> 2023 in Liverpool. In joyful anticipation of the conference, I would like to share my experiences as a (former) German clinic student at the 8<sup>th</sup> conference in Brescia, Italy.

## **2. Presenting the conference subject**

The conference was held under the motto “Solidarity: We are ALL in this together”. Picking up the theme, *Mariia Tsypriashchuk* and *Yuliia Lomzhets* from the Association of Legal Clinics of Ukraine gave descriptive input on the current situation in Ukraine

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<sup>1</sup> <https://www.encle.org/> (last reviewed: 24.03.2023).

and what challenges arise for legal education due to the ongoing war. Besides material damages to facilities, they face challenges in regard to missing staff and students, psychological stress, issues with the financing of the clinics, pressure and an increased workload for faculty, missing practical training and an increase of corruption risk. In this context, *Bian Sukrow*, leader of the Law Clinic at the Bucerius Law School in Germany, gave an inspirational quote regarding the word “refugee crisis” which is generally used when many people are fleeing to another country. Whereas most recipient countries use crisis as a word to describe the situation they are in to deal with a large number of refugees, it should always be kept in mind, that the crisis is actually quite present for those fleeing from war, persecution, environmental degradation, natural catastrophes, ethical conflicts etc.

With this in mind, we went on into our sessions. The variety of the topics was tremendous. The topics included, for example, the digitalization of clinical legal education and the COVID-19 pandemic; specific country reports on the immigration system; dealing with specific situations such as the new migration wave from Ukraine; and promotions of specific legal clinics such as policy or statelessness clinics. Some subjects also targeted topics of internal forced displacement due to natural disasters, protection of LGBTQIA+ people and children. What was common to most of these sessions was the focus both on the practice of law and the practice of teaching.

The speakers focused on explaining their programs and pedagogies that encompassed the spectrum of lawyering skills and roles, including counseling and mediation but

also put the spotlight on supporting inclusion, equity, belonging and wellbeing within the classes. Other topics included training law clinic students to be resilient and trauma-informed; dealing with a multi-disciplinary team consisting of students, academics and professionals; introducing classes on the right to legal aid into a curriculum and expanding the clinical program and examining implicit bias in order to train effective lawyers in a multicultural world.

### **3. Experiences from some of the workshops**

#### *3.1. Personal background and experiences*

Coming from Germany where most legal clinics are mainly voluntarily run by students and clinical legal education is not part of the curriculum<sup>2</sup>, it was insightful that in other countries university professors focus on how to train students not just in different areas of law but also on how to apply the law.<sup>3</sup> They also train them on how to become “good” lawyers that encounter their clients with empathy. I was amazed to learn that the focus in other countries is not merely on providing free legal advice to those in need, but also on developing an extraordinarily useful enrichment legal education by making sure the students acquire “soft skills” such as competencies in reflection, leadership, ethics, professional responsibility, continuity, negotiation, lobbying, mediation, time management, legal research, strategic planning,

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<sup>2</sup> *Hannemann/Dietlein*, Studentische Rechtsberatung und Clinical Legal Education in Deutschland, 2016, p. 9; *Kilian/Wenzel*, Law Clinics in Deutschland: Zahlen, Typologien und Strukturen, AnwBl. 10/2017, p. 964; *Wenzel/Kilian*, Law Clinics in Deutschland, 2022, p. 5, 27.

<sup>3</sup> See also e.g. *Evans/Cody/Copeland/Giddings/Joy/Noone/Rice*, Australian Clinical Legal Education – Designing and Operating a best Practice Clinical Program in an Australian Law School, 2017, pp. 48 f.

communication and strategic, critical, entrepreneurial, social and intercultural thinking. Behind this, is a whole different understanding of legal education than what I experienced in Germany. In Germany law students seem to be understood as empty vessels into which legal information can be poured into without end. Clinical legal education shapes these vessels by providing students with so much more of what they need to understand, including the nature and processes of law and to operate effectively as a legal professional.

In that regard, I was quite astonished to find out that a lot of educators in other countries are concerned with the well-being of their students and share the approach that psychologically strong students will be better and more resilient lawyers in the future. In Germany the student's mental health is not (or cannot be due to lack of institutionalization of the legal clinics) part of the legal clinics and not even part of any academic course within the entire legal studies.

*3.2. Student Well-Being Within Clinical Legal Education to Form Wholehearted Lawyers*

*Kerry Trewern*, Director of the Diploma in Professional Legal Practice at the University of Glasgow talked about student wellbeing in legal education. The main inputs from her session were that problems exceed in seriousness and when students leave university, they especially suffer from mental health issues. Therefore, mental health training for educators is very much needed for student needs. The subsequent session by *Brontie Ansell* from the University of Sussex pointed out one reason students might

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need mental health support: climate grief. *Brontie Ansell* talked about how to train law clinic students who will practice in a time of climate breakdown to be resilient and trauma-informed. It was outlined that the stages in climate grief are quite like normal grief. It is important to teach students not to cling to hope but to be courageous in the way they address trauma.

In another session *Przemek Kubiak*, assistant professor at the University of Lodz, Poland gave some helpful ideas for strong mental health for students and their educators, as well as lawyers and other professionals. He explained the importance of keeping it strong and simple: A strong motivation is key to dealing with life which again is important to function regardless of the surrounding circumstances. It is also important to train psychological flexibility, therefore finding a reasonable balance between doing what matters, being present, and being open. To train this, everybody should define their own values, try daily to be aware of mindfulness and lastly train their acceptance in every possible way.

### *3.3. Awareness of Clients and Contexts to Train Effective and Empathetic Legal Professionals*

Besides making sure that students are psychologically healthy, there were also a couple of other suggestions to ensure students are good advisors. Non-clinical subjects such as language, history, political science and sociology should be incorporated to motivate students to undertake the responsibility to face complicated problems and

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analyze facts with the help of studies in literature, art, economics, and other relevant subjects.

On this subject, ways to remind students of the delicate position their clients are in were put in the of the session. Students are supposed to tell strangers about personal problems and rely on these strangers for help. In order to center client relationships and interactions in empathy, it is quite effective to bring students into a somewhat similar situation. As an identical situation regarding the topic will not be possible, one should try to find another situation which might lead to a comparable discomfort as the clients feel. *Lee-Anne Paula Fraschia* and *Ulrich Stege* from the International University College of Turin promoted an approach which is called “Teaching refugee/migration law through the arts”. The needed discomfort in students can be created by asking them to dance or sit on the floor for the first half of the class, therefore bringing them out of their comfort zone. Furthermore, art is an important tool for introducing students to other cultures and enables them to engage with them in depth which also strengthens their understanding of these cultures.

Finally, the session by *Carolyn Frazier* and *Uzomaka Nzelibe* from the Northwestern Pritzker School of Law, Chicago, the importance of implicit bias was explored. They stated that in the interest of building empathetic and effective lawyers, stereotypes that effect our understanding and action need to be addressed. In order to know about our implicit bias, self-awareness and reflection need to be encouraged. Students must understand, that sometimes our brain links two things together that are not

necessarily linked. It is important for students to know about this effect as to reflect on it and take means to prevent this from having any affect outcome on their actions. As an example, it was explained that oftentimes, hesitant behavior of clients will be read as them preparing for a lie even though there might be various other reasons for the hesitation such as difficulty in understanding the question due to lack of language or cognitive ability or simply being unsure about the circumstances that are asked about. However, since students tend not to know their clients on a personal level, instead of trusting the answer they are given in these circumstances, students start to doubt. To overcome this psychological circumstance, it is important for students to replace judgement with curiosity. The students should also question their own assumptions: What might be the reasons for the clients to lie? What else might the behavior signify besides lying? They should also question the data they did or did not collect. Are any biases within that data? As a first step for students to overcome their first doubt towards clients, they should think about the similarities and differences they share with their clients. By thinking about the background of their clients, the client becomes more human and therefore more trustworthy from a psychological point of view.

#### **4. Concluding remarks on the ENCLE Conference**

The sessions have made it very clear, that legal clinics consist of far more than students giving free legal advice to those in need. They are also a means of educating law students in the field and enable them to gain experience with real cases. In order for

students to become competent advisors, it is important to sharpen their emotional skills, develop their awareness of social (in)justice and appreciate the role of the law and law in society.<sup>4</sup> With clinical legal education, students learn how to adjust to different psychological states, to language barriers and how to understand the non-legal issues behind legal problems and the diverse functions of law and the legal profession. They also learn to critically analyze the law, its limits and its rationales within the framework of access to justice.<sup>5</sup> Therefore law clinics can be seen as a guarantee for learning experiences that promote an understanding of the possibilities, limits and deficits of the law and legal processes, and highlight the importance of ethical standards for legal professionals.<sup>6</sup>

What was almost even more important than the sessions themselves was getting to know all these people who engage in clinical legal education. The information and project ideas shared during the breaks, the start of new collaborations between

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<sup>4</sup> See also: *Aiken/Wizner*, Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice, *Fordham Law Review*, 03/2004, accessible at: <https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1296&context=facpub> (last reviewed: 15.08.2022), p. 1009; *Bücker/Woodruff*, The Bologna Process and German Legal Education: Developing Professional Competence through Clinical Experiences, *German Law Journal* 09/2008, p. 610; *Onoja/Sule*, Clinical Legal Education in Nigeria and the United States: A Comparative Perspective, *Public Law Research* 2015, p. 3.

<sup>5</sup> See also: *Curran/Dickson/Noone*, Pushing the Boundaries or Preserving the Status Quo? Designing Clinical Programs to Teach Law Students a Deep Understanding of Ethical Practice, *International Journal of Clinical Legal Education*, 08/2005, accessible at: <https://www.northumbriajournals.co.uk/index.php/ijcle/article/view/90> (last reviewed: 15.08.2022), pp. 104, 121.

<sup>6</sup> See also: *Evans/Cody/Copeland/Giddings/Joy/Noone/Rice*, Australian Clinical Legal Education – Designing and Operating a best Practice Clinical Program in an Australian Law School, 2017, p. 12; *Giddings*, Promoting Justice through Clinical Legal Education, Justice Press 2013, pp. 3, 49; *Kilian*, Klinische Juristenausbildung als Element einer modernen Juristenausbildung – Warum die Nebenwirkungen und Risiken gering sind, der Gewinn für die Rechtspflege aber erheblich ist, *AnwBl* 10/2017, p. 953.



different legal clinics and all the bundled expertise that came across were mind-blowing. For me personally, the ENCLE conference showed me a whole new view on how to think and teach clinical legal education: Clinical legal education can be so much more than it is right now in Germany. When it is systematically organized, structured, built into the regular curriculum and focuses on student needs, clinical legal education can be a valuable approach to building strong future legal professionals.

It is important to keep the international exchange alive since we can all learn and thrive from other countries' experiences. It also strengthens our awareness for other challenges and how we can work together to overcome these and build a better, more peaceful world.

At this point, I would like to thank all the organizers of the ENCLE conference very much for providing this opportunity to engage with each other, share experiences and work together on promoting clinical legal education.

Since a lot of the sessions at the ENCLE conference dealt with the needs of students and a lot of lecturers often raised the question of what might be wanted and needed by students, it might be an idea for future conferences to explicitly invite more students to attend. By students, academics, and supervisors sharing their knowledge and expertise, an even broader range of research-related contributions could be acquired.