

# The Development and Expansion of University-Based Community/Clinical Legal Education Programs in Malaysia: Means, Methods, Strategies

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Beginning in 2003, the not-for-profit international human rights organization Bridges Across Borders Southeast Asia Community Legal Education Initiative<sup>3</sup> (BABSEA CLE) began focusing on assisting in the development and expansion of university-based community/clinical legal education programs<sup>4</sup> in the Southeast Asia region. Since that time, and as a result of this focus, university-based CLE programs have been developed or expanded in Thailand, Malaysia, Cambodia, Viet Nam, Indonesia and Laos, with a continuously growing network of universities, both nationally and regionally. One of the flagship achievements of these activities has been the successful establishment of an accredited CLE program in Malaysia at the University of Malaya.

Finally the paper will identify strategic next steps in the development of this CLE movement within Malaysia, as well as its connection to institutions regionally throughout Southeast Asia and how the CLE movement intends to broaden its reach both within Malaysia and internationally.

## Clinical Legal Education Defined

Clinical legal education is a progressive educational system most often implemented through university-based faculty of law programs to help develop better-trained, more socially conscious ethical lawyers. Yet, while this type of educational program is often implemented by law faculties, it is not limited solely to such institutions and can readily be practiced by a wide assortment of other faculties and in interdisciplinary programs.<sup>5</sup>

Clinical legal education is a process whereby students learn by doing. It is an experiential problem-solving based model, in which students actively involve themselves in either real client/personal interaction or simulation lessons set up to mirror real client/personal scenarios. The process is conducted under the supervision of experienced law clinicians and legal practitioners. As a teaching device, this type of experiential problem-based learning is considered a highly effective means of adult learning where, unlike in rote memorization situations, students can learn and retain a vast amount of what is taught. The use of this interactive method of teaching focuses these students on becoming more able, thorough and ethical advocates, solicitors, governmental and private employers/employees, as well as global citizens.

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<sup>3</sup> Bridges Across Borders Southeast Asia Community Legal Education Initiative (BABSEA CLE), was originally established as a program of Bridges Across Borders in 2003, which registered as a not-for-profit that same year in Florida, the United States. In 2010 BABSEA CLE independently registered as its own not-for-profit in Florida, United States, in order to pursue its own, yet complimentary mission. BABSEA CLE focuses on the development of university-based clinical legal education programs as well as grassroots community-based legal advisor/paralegal program support. The BABSEA CLE mission is to empower vulnerable and underserved individuals and communities by creating and strengthening sustainable legal and human rights education and access to justice programs worldwide. This mission is accomplished by working globally to connect people, organizations, and resources at the government, non-governmental, institutional, and

grassroots levels through community and clinical legal education programs. These experiential, interactive, and cross-cultural education programs support local struggles for social justice, equitable development, rule of law and protection of human rights while endowing people with a lifelong ethic of social responsibility and public service.

<sup>4</sup> BABSEA CLE uses the broad term Community Legal Education (CLE) when referring to its overall program, which includes working with grassroots communities as well as universities. BABSEA CLE uses the term Clinical Legal Education when referring only to university-based programs.

<sup>5</sup> For example, at Pannasastra University of Cambodia, the CLE program was set up in 2003 as an interdisciplinary accredited course program where students from all streams and faculties are permitted to enroll in the CLE Community Teaching Program.

## **The Goal of Clinical Legal Education**

What are the goals of Clinical Legal Education? Clinical Legal Education seeks to achieve multi-faceted goals. Although this list is not exhaustive, some of these goals include:

- a) Providing a progressive method of education that focuses on students learning and improving skills that they will utilize as attorneys and in other professional positions. These skills include those abilities needed to effectively represent clients through the use of ethical value-based actions.
- b) Applying experiential learning methods with students to give them the opportunity to learn more effectively and apply what they learn to actual realistic situations in a way that traditional teaching, through a lecture-based system, can never do.
- c) To provide “back up” legal services and other services for indigent and marginalized community members who may not have an alternative access to the legal and other support systems.
- d) Developing within students the idea of public interest service, with a simultaneous goal of formulating and increasing an ethically aware, proactive community.
- e) Providing ways and means for clinical professors to make important contributions to the development of scholarship on skills and theories of legal practice that can provide closer links between the legal bar and the academy.
- f) Strengthening civil society through supporting lawyers’ responsibility and providing legal services to the vulnerable who find it hard to access legal services.

Clinical Legal Education is a fervent mechanism which can be used to reach these aspirations as it both helps to instill a public interest centered character within students and then pragmatically builds on this character to professionally train the students, via experiential teaching methods, how to reach such objectives.

Clinical Legal Education exposes students to the actions and inner workings of communities and in doing so, gives these students insight into issues affecting marginalized groups of persons. Through this exposure, students begin to understand and learn that they have the ability to make a positive societal difference through their skills as advocates and educators.

## **The Development of Clinical Legal Education in Southeast Asia and BABSEA CLE’s Role**

Clinical legal education is somewhat new to the Southeast Asia region. The basic model of clinical legal education, simply defined as students and university faculties somehow involved in the provision of basic legal consultation services, has existed in some Southeast Asian countries for more than two decades. More than twenty-five years ago, Thammasat University in Bangkok established a clinic that focused on providing a broad variety of legal services to the public. Other Thai universities, such as Chiang Mai University (CMU), followed Thammasat University’s lead and model and created programs centered on providing free legal advice and consultation to members of the community. Established in 1994 and staffed by students and professors on a

volunteer basis, the CMU program not only provides free legal counselling to the community, but also serves the additional function of instilling the idea of duty and public service into the minds of the participating law students. Similar types of non-credited, voluntary legal aid or legal service clinics have been established at a variety of universities in Indonesia, including the University of Indonesia in Jakarta, where students and professors work with actual clients. A number of other programs allow for students to work alongside lawyers at legal aid societies as a type of internship experience. In Malaysia, limited clinical programs began more than twenty years ago at Universiti Teknologi MARA, where final-year students learned lawyering skills through a simulated program requiring them to work in a mock legal firm or clinic.

While the Philippines has had clinics for more than two decades, initially supported by the Ford Foundation, most other clinic type programs existing in the region were more service-related clinics, with little to no jurisprudential pedagogy being used, and without a specific focus of working with marginalized and vulnerable communities. During this period, while there was some international support for more modernization of legal education in the region, this aid was centered around the more traditional legal education models and not Clinical Legal Education. This began to change during the early part of this decade with the development of a Clinical Legal Education program in Cambodia with the help of the Open Society Justice Initiative and Bridges Across Borders Southeast Asia Community Legal Education Initiative, as well as in Indonesia, and more recently in Vietnam, where the United Nations Development Program is now fully engaged in advocating the support of CLE initiatives.<sup>6</sup>

Despite the existence of all these programs, there was no consistent clinical legal education model that provided both a social justice mission and simultaneously integrated the program into an accredited legal education course—with the exception of the Philippines. Strongly influenced by developments in the United States, the clinical movement in the Philippines was much more expansive than those of its neighbouring countries, taking root first at the University of the Philippines and then spreading outwards to universities such as the University of Ateneo. The structured programs in the Philippines, unlike those at law faculties elsewhere in the region, were not only incorporated into the university curriculum, but also charged with the mission of providing much-needed legal services to socially vulnerable, marginalized, and economically deprived members of the community. These clinical programs and the schools which incorporated them are currently involved in an almost-religious mission to spread clinical legal education throughout the country, with some schools making clinics a mandatory course and others setting them up as an elective subject.

More recently, the model adopted in the Philippines—once an anomaly in Southeast Asia—has been recognized increasingly as an effective means of creating a more social-justice-minded legal

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<sup>6</sup> In June 2010, BABSEA CLE and its local Vietnamese partner, the Institute on Policy, Law and Development Vietnam (PLD-Vietnam), were engaged by the UNDP to spearhead an applied CLE research project throughout Viet Nam, whereby they will be working with universities throughout the country to develop and/or strengthen CLE programs by, in part: 1) Assessing the value of different forms of support to clinical legal education programs in Viet Nam; 2) Demonstrating

how CLE programs contribute to the enhancement of legal education in Viet Nam through improving the educational and lawyering skills value of students enrolled in law faculties; 3) Providing evidence-based and objective recommendations to assist the Government of Viet Nam, university law faculties, UNDP and other development partners to formulate broader and longer-term programs of support.

profession and a more progressive legal education pedagogy. For example, Pannasastra University of Cambodia (PUC) established a fully accredited, social-justice-oriented, clinical program in 2003 with support from the Open Society Justice Initiative (OSJI), which had a long history of assisting in the development of clinical legal education in Eastern Europe and Africa, and with the support of BABSEA CLE.

PUC's clinical program began as a two-section clinic, with one section involved in Community Legal Education activities—often referred to as Street Law—and the other section working as a live-client legal services clinic where students worked with a local non-governmental organization (NGO) to provide legal aid services to indigent persons accused of crimes. The strategy was to establish this type of program and then use it as a demonstrative model to promote clinical legal education within Cambodia and in neighbouring countries.

By late 2005, a significant number of outreach activities had occurred in nearby countries, including Thailand, Indonesia, Laos, Malaysia, Viet Nam, and Singapore. Potential additional partners and supporters had been identified, and other organizations began to show interest in the development of clinical legal education in select Southeast Asian countries.

All of these activities resulted in the First Southeast Asia Clinical Legal Education Conference held in Phnom Penh, Cambodia, in November 2005. The conference, using the PUC Legal Clinic as a type of model, provided a forum to discuss opportunities and challenges for creating clinical programs at Southeast Asian universities, as well as the role of clinical legal education in promoting access to justice and a culture of pro bono service. Aimed at fostering an environment in which participants could exchange ideas for promoting clinical programs, the conference was attended by more than eighty representatives from universities, the legal community, and Southeast Asian civil society—as well as regional and international experts on clinical education and access to justice. Many who attended came from countries in Southeast Asia interested in establishing clinical programs, while others were already engaged in clinical legal education and were interested in expanding their programs to include both a social justice theme and an accredited course program.

A companion workshop to the Phnom Penh conference—the First Southeast Asia Clinical Legal Education Training of Trainers Workshop—was held at the University of Ateneo in Manila in early 2007. Similar to the first conference in Phnom Penh, the Manila workshop acted as a means of training nascent clinicians, focusing on the development of clinical programs, clinical teaching methods, and administrative skills. The workshop also served as an opportunity to expose the participants to, and develop linkages with, more established clinical programs, further cultivating network contacts among clinicians in the region initiated at the Phnom Penh conference.

Both the Phnom Penh and Manila events seem to have achieved many of their desired objectives, having played a part in the establishment of a number of additional accredited social-justice-oriented clinical course programs. For example: the University of Malaya launched the first accredited clinical program in Malaysia in 2008; in 2009, CMU, after operating a completely volunteer-supported, in-house consultation clinic for fifteen years, approved and implemented a two-section, fully accredited clinical program consisting of both an in-house consultation clinic and a parallel Community Legal Education section; and in 2009 the National University of Laos Faculty of Law and Political Science began working on having its Community Legal Education program approved to be included as one of the selective options for its mandatory student field

studies requirement. The bona fide potential for a significant number of other such programs in Southeast Asia continues.

Relying on lessons learned and models of successful clinic programs and networks, BABSEA CLE is currently active in Thailand, Cambodia, Viet Nam, Laos, Malaysia, the Philippines, Indonesia and Singapore and has established working partnerships with a number of university, governmental and non-governmental as well as community-based organizations throughout the Southeast Asia region. BABSEA CLE is actively working to encourage cooperation between these programs as well as amongst the larger legal community in Southeast Asia.

Operating in so many Southeast Asian countries at the same time is a challenge BABSEA CLE faces with its CLE initiative. However, while acknowledging the existence of this challenge, BABSEA CLE also sees it as a very logical and strategic step in simultaneously working with a variety of partners for a number of reasons.

Firstly, BABSEA CLE's objective is to work with each of these partners to develop pilot CLE programs in each country and use these core CLE programs to then broaden the reach of CLE throughout Southeast Asia. As many of these partner universities are located in different, yet neighboring countries, this greatly assists in the outreach efforts. Each neighboring country has a different type of legal and educational system. Yet with all their differences, each country is ready and able to begin and support CLE programs.

Secondly, each of the CLE programs is somewhat similar in nature and the partners learn from each other, from the beginning, as their CLE programs are being developed. Most of the university partners eventually intend that their programs use a similar two-section clinic model, one focused on in-house legal consultation and referral services and the other section focused on providing community legal education. Due to this similarity in programs, there are many lessons that can be learned from each of the universities that will likely be strongly pertinent. In working closely with each partner, BABSEA CLE is able to apply and share working models and systems, lessons, curriculum, etc., from each of the programs while helping to avoid and not re-apply challenges and obstacles that have arisen in one or more other programs.

As mentioned in brief above, one way in which BABSEA CLE works to achieve the outcomes of social justice through practical education is by ardently promoting and assisting in the implementation of university-based community legal education clinic programs. Originally begun at Georgetown University in Washington D.C. in 1972, CLE programs have been implemented throughout the years by universities around the world. They are also referred to by many schools as "Street Law"<sup>7</sup> or "Practical Law" programs. These university courses teach students about law, human rights and civics and then teach them how to teach legal rights in the community, in a student-centred, participatory manner. The university students take both their substantive legal knowledge, as well as their acquired pedagogical skills, and transfer this knowledge and these skills

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<sup>7</sup> Street Law is a registered trademark of Street Law Inc a non-profit organization based in the United States ([www.streetlaw.org](http://www.streetlaw.org)). Both the Georgetown University Street Law Clinic and Street Law Inc., provided significant technical support, advice and materials, in the process of developing these community legal education clinic programs.

to marginalized communities. Through this process, the students learn by doing, as they simultaneously teach and learn from the recipients of their lessons. This carries with it a strong reflective learning approach. We often find that the law students learn much more from their community students, simply by being exposed to individual and community problems and issues that are new to them.

The CLE programs utilize a wide variety of student-centred activities in their teaching methods. In part, these methods include role plays, simulations, mock trials, games, debates, small group discussions, opinion polls, field trips and street theatre.<sup>8</sup>

CLE programs focus on working with people in a practical way, to understand how they can access both the formal and non-formal justice systems, as well as effective, empowering methods to advocate for social justice and change. The CLE programs not only raise awareness of the law and rights of persons in a theoretical manner; the community teachings provide practical information on how to assert these rights and protections, as well as some of the effective mechanisms for doing so. Moreover, the programs encourage persons at grass-roots levels to reflect on their current and future legal, social and economic environments, and provide empowering ways to improve these arenas. All of this is accomplished with an aim of doing so in a practical and simple manner.

The communities which the students go to are exceedingly varied and wide ranged. They have included, in part, prisons, juvenile detention centres, community centres, domestic violence shelters, life skills teaching organizations and lower socio-economic high schools. The communities are located in both urban and rural areas of countries. In many of the countries we work in, the students often go to areas where there is little to no understanding of the law or of people's rights. At the same time, the students frequently involve themselves in non-law-related projects to immerse themselves in the communities and gain a better understanding of the hardships of others.

In university based CLE programs, the targeted communities vary, ranging from those of urban areas, rural areas, government staffs, community organizations, youth organizations, community leaders, correctional houses, religious organizations to high school students.<sup>9</sup> Other programs focus a significant portion of their teachings on prison and juvenile justice settings,<sup>10</sup> ethnic minority communities<sup>11</sup>, single mother shelters<sup>12</sup> and drug rehabilitation centers.<sup>13</sup>

The determination of the targeted communities very much depends on demand from, and cooperation with, the communities themselves. For instance, beginning in December 2007 the CLE program at International Islamic University Indonesia, through a program called Legal Service Outreach: Community Empowerment to Achieve Equality of Rights and Improve Access to

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<sup>8</sup> See David McQuoid-Mason, *South Africa Street Law Practical Law for South Africans*, 2nd Edition, Juta Law Co, Ltd. 2004.

<sup>9</sup> Nandang Sutrisno, Community Legal Education (Street Law) Program at the Faculty of Law Islamic University of Indonesia Nandang Sutrisno (Dec 7-13, 2008) (paper presented at the Global Alliance for Justice Education Conference, Manila, Philippines).

<sup>10</sup> Chiang Mai University, Thailand, University

Malaya, Malaysia, and Pannasastra University of Cambodia.

<sup>11</sup> Chiang Mai University and National University of Laos Faculty of Law and Political Science.

<sup>12</sup> Universiti Teknologi Mara, Malaysia.

<sup>13</sup> National University of Laos Faculty of Law and Political Science, Lao PDR.

Justice, has focused the CLE Program in areas most devastated by the catastrophic earthquake of 2006.<sup>14</sup>

As can be expected, many challenges exist when introducing new, and often unheard of, methods of education in trying to get across CLE/social justice ideology.

While faced with these challenges, BABSEA CLE acknowledges the incredible advancement and success in the expansion of CLE in Southeast Asia.

Some of these cooperative CLE successes have included:

- Jointly attended community legal education teachings by both professors and students alike from throughout the Southeast Asia region.
- Organizing more than two dozen thematic CLE regional workshops and conferences since 2005.
- Regional strategic program planning development sessions.
- Continuously working with experienced clinicians and senior students from partnered programs to assist other, more nascent CLE programs to develop.
- Quarterly student and professor CLE exchanges throughout the region.
- Joint research and academic paper development by regional partners.
- Sharing of curriculum, lesson plans, CLE manuals and other resources, between CLE partners, both nationally and regionally.
- Continued enrollment and participation in the BABSEA CLE Annual International Legal Studies Internship Program, which has been attended by students, professors, and other legal educators from countries throughout the region and around the world.

## **Types of Support BABSEA CLE Provides to CLE Partners**

While BABSEA CLE does provide a limited amount of financial support for some of its CLE partners, the mainstay of support is in the area of technical support centered on creating local sustainable programs. This has included:

- Assisting CLE partners in the development of activity planning, budgeting, proposal writing and other necessary program tasks.
- Assisting CLE partners with the development of administration procedures and policies and process for clinics.
- Assisting CLE partners with development of legal clinical curriculum, teaching modules and teaching syllabi (including integration of professional ethics).
- Assisting CLE partners to develop a cadre of trainers, through training of trainers programs, to increase capacity in clinical education methodology and pedagogy.

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<sup>14</sup> These have included Kecamatan (Sub-regency) Imogiri, Kabupaten (Regency) Bantul, and Propinsi Daerah Istimewa (Special Province) Yogyakarta.

- Facilitating visiting foreign clinic experts to share/exchange experiences with CLE partner programs.
- Co-organizing, with local CLE partner hosts, and delivering national and regional workshops for CLE partners.
- Organizing study visits and exchanges for professors and students to other regional and international university legal clinics.
- Supporting the establishment of national, regional and international networks between clinics.
- Supporting the establishment of peer-to-peer mentor relationships between existing CLE partners and nascent CLE programs.
- Providing general organizational capacity development and training support to CLE partners.
- Supporting the development of linkages between university clinics and legal stakeholders (lawyers, prosecutors, provincial justice departments) and other organizations which may be providing legal assistance.
- Working with CLE partners to help increase the knowledge of communities of their legal rights and obligations and how to access justice through ongoing community programs delivered by law clinics, including the use of needs assessments, base line studies and post-training evaluation.
- Providing trainings to improve teaching skills and participatory methodologies being implemented by law clinic professors.
- Assisting CLE partners in developing and delivering community advocacy programs.
- Assisting CLE partners to develop fundraising strategies and grant proposals for funding.
- Assisting in supporting dialogues between CLE partners and government/state officials on policy and law reform issues relevant to the operation of law clinics.

## **Main Commitment Requirements for BABSEA CLE Partner Institutions**

In helping universities to establish these type of programs, BABSEA CLE has employed an ideology that the collaborative partnerships must be a two-way process. This has meant placing the following requirements on all of its partners:

- Programs must significantly focus on marginalized and vulnerable communities and individuals and must offer free support.
- Professors, students, lawyers and others involved in the programs should be strongly encouraged to become involved in a voluntary capacity.
- Partners must be open and willing to working collectively with other partners and be fully open to share knowledge, ideas and assist other CLE programs to germinate and develop.

- Partners must offer in-kind support in some form, usually in the form of offices or premises that are used for CLE as well as human resource supervision and administrative materials.
- Partners must have a concrete plan to infuse the CLE program into the core curriculum either as an elective or mandatory subject.

## **Malaysia and the Expansion of CLE**

BABSEA CLE began CLE exploratory visits to Malaysia beginning in 2005. Various contacts with Malaysian universities, the Bar Council, ministry officials, NGO personnel and other key policy decision makers and implementers were achieved. These initial activities resulted in a number of successes early on, with a fervent and current contemporary expansion. Firstly, in 2006 BABSEA CLE helped to organize and facilitate the following three events:

- 1) The First Malaysian CLE Training of Trainers Workshop held at the University Technology Mara (UiTM)
- 2) The First Malaysian Bar Council CLE Supervisor Training Workshop
- 3) The First Malaysian CLE Conference held at International Islamic University

Following these key instrumental events, in 2006 the University Technology Mara<sup>15</sup> appointed BABSEA CLE Director Bruce A. Lasky to the position of Adjunct Professor to assist in the development of a non-simulated CLE program. This resulted in the formal registration of the currently operating Student Community Law Club (SCLC). The setting up of such a club in the University helps to realize one of the missions of the university in regard to community service programs. The members of SCLC, comprised of students from the Faculty of Law, ranges from the first through fifth semester students. These students join the SCLC on a voluntary basis as one of their students' activities of the Faculty. The objectives of SCLC are to provide legal knowledge and awareness to the communities. In adopting these methodologies the SCLC works with communities who often have a minimal knowledge of the law. These sessions therefore greatly benefit them.

In 2007, with the assistance of BABSEA CLE, members of both UiTM and the University of Malaya were taken on a study visit of CLE programs in the Philippines. As a result of this visit, and with positive partnership with BABSEA CLE, the University of Malaya began to develop what has now become a leading CLE program in Malaysia.

## **Introducing CLE to Malaysian Universities: with particular reference to the University of Malaya**

Malaysian law schools strive to have a satisfactory number and selection of courses to cover the essential areas of the law. A common temptation of law schools is the constant search to ensure a sufficient variety of subjects to prepare their students for various vocations. While core subjects

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<sup>15</sup> Prior to this time, the UiTM Faculty of Law operated, and continues to operate, a simulated CLE program which is introduced in the final year for students of the LL.B (Hons) Program. It is a

simulation program in which students are required to work in a mock legal firm or clinic, where they are taught the necessary lawyering skills.

are important, one important principle that law schools have come to realize is the necessity of a broad view of legal education in its goal to produce good law graduates. Thus the focus of law schools for an undergraduate program, in addition to substantive law subjects, must be the development of intellectual abilities in understanding, critical thinking, reasoning, analysis and application,<sup>16</sup> and also to inculcate values and social awareness. This is in line with the spirit of the *World Declaration of Higher Education*<sup>17</sup> to educate responsible citizens who can contribute to society. Law students must be inculcated with values and must be made aware of their roles to ensure justice in society as preparation for their future careers, whether as a member of the judiciary, practicing member of the Bar, or as an officer to the government.<sup>18</sup> To inculcate such values, it is a challenge to all law schools, particularly traditional law schools such as the Faculty of Law, University of Malaya, to realize that the focus of law schools now is not only to transmit knowledge, but to improve course materials and methodology to encourage students to evaluate an issue, test a hypothesis and to find solutions.<sup>19</sup>

The Faculty of Law, University of Malaya is a professional law school producing graduates with academic and professional qualifications (LL.B Hons).<sup>20</sup> Unlike in England, Malaysia has a fused profession.<sup>21</sup> Established in 1972, the Faculty of Law, University of Malaya then was the pioneer law school in Malaysia. With the aim of producing local lawyers and legal officers, the curriculum emphasized mainly substantive law subjects<sup>22</sup> (in both private and public law) as well as procedural law<sup>23</sup> with greater emphasis on the law in Malaysia, such as the Malaysian Legal System and Islamic Law. Much of the curriculum followed the curriculum taught in English law schools, as Malaysia adopts the common law system.<sup>24</sup> The structure has been generally maintained and is periodically reviewed to meet the challenging demands of the Malaysian legal profession and industrial needs.

Since its establishment in 1972, clinical education has always been in the faculty's future plans. It was agreed when the faculty was first established that while teaching the letter of the law is an important function of the law school, it is not the only function.<sup>25</sup> What is needed beyond the teaching of the law is a system of legal training devised to assist law students to acquire certain skills of thought, social as well as scientific thinking. Law students need to clarify their moral values, social goals, and to orient themselves toward the future. A law student needs to acquire the scientific knowledge and skills necessary to implement objectives within the context of cotemporary trends. It is believed that with a good system in place, the law student will not only become a lawyer for the future but also be a social technician or a social engineer.<sup>26</sup>

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<sup>16</sup> Cheong M. F., *The Role of Curriculum in Malaysian Legal Education*, *Masalah Pendidikan* 2007, Jilid 30(2) p.11.

<sup>17</sup> UNESCO. *Word Declaration on Higher Education the Twenty-First Century: Vision and Action*. (1998).

<sup>18</sup> Rachagan S., *The Role of Lawyers and the Bar Council in Society*. [1995] 2 *MLJ* xxix.

<sup>19</sup> *Ibid* note xvi, p 13.

<sup>20</sup> A four year course (8 semesters) combining the academic and certain professional aspects of law. The LL.B degree is recognized as initial qualification for admission to the legal profession. See Ahmed Ibrahim, *The Law Teacher in Malaysia* (1976) *JMCL* 252.

<sup>21</sup> An LL.B graduate from the University of Malaya

will only need to go through a nine-month pupillage (reading in chambers) period with a legal firm before she/he is called to the Malaysian Bar as an advocate and solicitor.

<sup>22</sup> Such as Contract Law, Tort, Constitutional Law Criminal Law, Land Law, Equity and Trust, Law of Association and Jurisprudence. All these courses are still part of the Faculty curriculum.

<sup>23</sup> Such as Evidence, Civil and Criminal Procedure.

<sup>24</sup> Malaysia was a British colony until it gained independence in 1957.

<sup>25</sup> *Ibid* note xvi.

<sup>26</sup> R. Segal, S.R. Bhosale, *Legal Education in India: Restructuring and Reshaping* Indian Bar Review 1999, 37-46. See also Dyutimoy Mukherjee, *Law Schools and Legal Education*, in *inlaw.com*.

With this in mind, in 1998, the faculty proposed to set up a Legal Aid Clinic. The faculty realized the need of external assistance from the Bar Council in running the clinic. This is due to the fact that since the University of Malaya is a public university, an academic staff member as a government servant is not permitted to practise law (represent clients).<sup>27</sup> There is also need for special training for academic staff in the management of clinics, and teaching skills. Due to a shortage of academic staff between 1999 and 2004,<sup>28</sup> the introduction of the clinic was postponed. It was not until 2005 that the idea of the proposed clinic resurfaced. Academics were sent to The First Southeast Asia Clinical Legal Education Conference at Pannasastra University in Cambodia in 2005, and made two trips to the University of Ateneo, Philippines, first to attend the First Southeast Asia Clinical Legal Education Training of Trainers Workshop and a separate, smaller Malaysian Clinical Legal Education study tour visit soon afterward in 2007. All programs aimed to familiarise participants with the innovative and interactive law teaching methodology used in Clinical Legal Education programs, as well as Street Law methods.<sup>29</sup>

In 2007, with three trained academics and four students, the clinical legal education program known as the Community Outreach Program (COP) was introduced as a faculty activity. The program is purely a community-based teaching program. A community-based program was agreed rather than a Legal Aid Clinic for the practical reason that this program can be run solely by the faculty. About 30 students were recruited into the program when it first started in 2007. These students went through a three-day training workshop which not only trained them on the clinical legal education and street law methods but also to work as a team.

Setting up such programs requires great planning, dedication and team work. The faculty needs to set up partnerships with institutions for the teaching of the program, if the program is to run continuously in these institutions. Issues and needs of the institutions will have to be identified and agreed upon before community teaching starts. COP started with a focus on juvenile delinquents and partnerships were set up between COP and juvenile institutions, such as the prison, approved schools<sup>30</sup> and secondary and primary schools.<sup>31</sup> COP students were made to research statutory provisions and the law relating to crime and child rights before they started their program with these institutions. In particular, they studied the Child Act 2001,<sup>32</sup> the Penal Code,<sup>33</sup> the United Nation Convention on the Rights of the Child and the Prison Act 1995.<sup>34</sup> With this in mind, students were able to focus on their involvement with their clients to gain more understanding on issues involving juvenile justice and welfare. Although COP's main focus is on teaching law, this does not mean that COP only teaches juveniles in institutions their rights,

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<sup>27</sup> An advocate and solicitor must have a license to practice. A government servant is not permitted to be in any other employment.

<sup>28</sup> The Law Faculty employs about 38 academic staff with a 100-undergraduate intake a year. This makes the faculty one of the smallest faculties in the university. Between 1999 and 2004, a number of academic staff were sent for further studies.

<sup>29</sup> R. Rajeswaran Legal Education in ASEAN in the 21st Century, paper written for the ASEAN General Assembly Workshop.

<sup>30</sup> Institutions under the Social Welfare Department Malaysia for juvenile delinquents and those identified as "in moral danger".

<sup>31</sup> The coordinator of CLE/COP specializes in Juvenile Justice and Welfare and Criminal Law. She is also a consultant with the Social Welfare Services Malaysia, and works closely with the juvenile prison.

<sup>32</sup> Act 611, the law relating to children (those under the age of 18 years).

<sup>33</sup> Act 574, the law relating to criminal offences.

<sup>34</sup> Act 537, the law relating to prison and prisoners.

responsibilities and the criminal law. They also encourage their clients to continue their studies and pursue their ambitions. COP students become good role models to these juveniles.<sup>35</sup>

One achievement that COP is very proud of is its involvement in encouraging and assisting ten boys from the juvenile prison to pursue their studies in local universities. COP has been involved with juveniles in prison since 2007. Students are exposed to life in prison and the kinds of offences committed by these juveniles—an experience not many law students can acquire. In consequence, many COP students were encouraged to do their project paper<sup>36</sup> on issues involving children, crime and the prison. In the prison, COP students work closely with all types of offenders, including those found guilty of murder. Juveniles found guilty of murder are imprisoned for an indefinite period until they are given clemency by the Yang di Pertuan Agong (King).<sup>37</sup> In the case of these juveniles, COP not only exposes them to their rights in prison, but also helps them write letters requesting clemency to the King,<sup>38</sup> assists lawyers in their appeals and in the preparation of their mitigations. This is such a valuable experience for students, who sit with each juvenile discussing and finding out information for their mitigation, which is then submitted to the respective lawyers.

One example is the assistance given to the appeal case of *Mohd Haikal & Ors v PP*.<sup>39</sup> In this case, eight juveniles were convicted by the High Court of the murder of a fellow student in their school hostel in 2004. Their appeal to the Court of Appeal was rejected in 2009, and in the appeal to the Federal Court, the Federal Court overruled the decision of the Court of Appeal for the conviction of murder. The juveniles have since been released from prison (29 March 2010), and COP is now involved in assisting them in their rehabilitation and their university studies.

COP is also involved with schools, educating children on issues of crime, bullying and problems of children and the Internet. Currently, with the university's involvement in internationalization,<sup>40</sup> i.e. accepting exchange students from institutions with a Memorandum of Understanding, COP has taken part in training exchange students whether in their country, or in the University of Malaya. Currently, COP, with the assistance of BABSEA CLE, is training students from the Law Faculty, Prince of Songkla University, Thailand, and Faculty of Law, University of Pancasila, Indonesia. It is hoped that when students from the University of Malaya start their exchange program to these two universities, their COP/CLE programs will be underway, and Malaya students can join them in CLE activities in those countries.

With the success of COP, in 2008, the faculty introduced CLE as an accredited optional course for 2nd and 3rd year students. In introducing the course, a number of factors had to be taken into consideration. Firstly, as part of a faculty course, CLE has to be structured to comply with the LL.B program objectives. When the faculty was first introduced, it was autonomous and enjoyed the privilege of having its own law programs and curriculum, but since 2008, all programs must comply with the Malaysia Qualifying Framework (MQF) set out by the Malaysian Qualifying

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<sup>35</sup> In Malaysia, 'juvenile' includes a child. Child is defined as someone under the age of 18 years, and in criminal proceedings, over 10 and under 18 years old. See s.2 Child Act 2001 (Act 611). Juveniles in prison are between 14 and 22 years old. In approved schools, they are under 18.

<sup>36</sup> A compulsory short thesis for 3rd year students.

<sup>37</sup> Section 302 Penal Code (Act 574) provides a

mandatory death penalty for the offence of murder. But section 97 Child Act 2001 (Act 611) provides that a child cannot be sentenced to death, in lieu, they are sent to prison 'at the pleasure of the ruler'.

<sup>38</sup> Case involving PP v KK [2007] 6 CLJ367.

<sup>39</sup> See court of Court of Appeal decision [2009] 1 LNS 292.

<sup>40</sup> See International students, [www.edu.um.my](http://www.edu.um.my)

Agency (MQA) which accredits university programs in Malaysia. Programs in universities must also comply with the Ministry of Higher Education guidelines which underline government policies. With this in mind, CLE was introduced with the main objective to develop better-trained and more socially conscious lawyers. This is in line with three of the faculty's program objectives<sup>41</sup> namely: (i) to demonstrate social skills and responsibility towards society and the legal program; (ii) to communicate in both local and English language as well as lead and work as a team; and (iii) to solve legal problems by applying relevant laws critically. Secondly, while an optional paper is usually taught by one member of academic staff, for the CLE course, at least three academic staff are needed to teach and assess students. For a faculty with limited academic staff<sup>42</sup>, a number of compromises needed to be made to convince the administration of the need for the course. Academic staff taking charge of the CLE course need to put in extra hours of teaching and assessment on top of their normal teaching hours. Due to the shortage of academic staff, there is a need for new appointments. To be appointed as a member of academic staff of the university, a person must acquire a Ph.D<sup>43</sup> or a Masters degree equivalent to a Ph.D. Due to the strict criteria for appointment, the faculty had to outsource and appoint part-timers and visiting academics. This is where BABSEA CLE was able to assist by sending part-time lecturers and visiting academics.

The CLE is a three-credit course and is based on a continuous assessment. The course is purely community based. Part of the course concentrates on the development of lesson plans, knowledge and skill. Students are assessed on their; (i) teaching performance, which includes teaching methodology, legal research and lesson content, lesson plan and creativity; (ii) clinical participation, which includes in-class participation, demonstration teaching and individual supervision; (iii) administration responsibility and their reflective journals. The course has a limit of 15 students. The course has run for two years since it was introduced, and although appointments of new academic staff are very slow, on the positive side, graduates of the faculty have come back to assist in the program this year. The program has also welcomed juveniles who were once clients, now released from prison and members and facilitators of COP University of Malaya.

## Conclusion

Despite the many challenges it faces, CLE continues to move forward in Southeast Asia and Malaysia and is gaining greater acceptance.<sup>44</sup> The current developmental approach is a slow and sustained engagement between national and regional partners to develop networks of programs that can learn from both each other's successes and set-backs. All of the Southeast Asian clinical programs require further support—not simply financial, but, more significantly, technical and institutional—if they are to mature into fully accredited programs that are valued by university faculty, students, and community members alike.<sup>45</sup>

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<sup>41</sup> The Faculty of Law has 8 program objectives. See [www.um.edu.my](http://www.um.edu.my)

<sup>42</sup> The Law Faculty has an intake of 100 undergraduates for one academic year with about 30 active academic staff. Intake for post-graduates is unlimited.

<sup>43</sup> See recruitment, [www.um.edu.my](http://www.um.edu.my)

<sup>44</sup> Bruce A. Lasky and M. R. K. Prasad, *The Clinical Movement in Southeast Asia and India, A Comparative Perspective and Lessons to be Learned*, p. 44 of *The Global Clinical Movement Educating Lawyers for Social Justice*, Oxford University Press (2011).

<sup>45</sup> *Ibid* note xxxiv

As clinical education progresses in Southeast Asia, the clinical movement will undoubtedly look to other countries' experiences for lessons and examples. Other nations, especially those from civil codes countries can all provide the Southeast Asian clinical movement with examples of how best to proceed with developing such an important part of formal legal education.

