The development of clinical legal education on a global dimension and in some European countries

Introduction

A legal clinic (or law clinic) is an essential form imparting a practical focus to legal education and improving its quality which, at the same time, helps future legal practitioners to become more socially responsible. Despite its long history of establishment and development almost for a century and a half, sometimes legal clinical education still has to prove its importance to the traditionally conservative higher school of law.

The purpose (task) of this article is to identify the prime causes and general trends pertaining to legal clinical education and describe its current presence worldwide based on the study of legal clinics and their associations in different countries of the world.

The article builds upon works by the leading authors who stood at the origins of legal clinical education development (D. Meyer, G. Frommhold, O. Lyublinsky and others), as well as present-day scholars and practitioners implementing it today (M. Angeleri, F. Blocha, G. Dietlein, M. Kotyrba, I. Krasnitska, M. Lodzhuk, Iu. Savelova, F. Chernitsky, A. Schubert and others). By the scope of material analyzed and the research tools used, this is the first study of this kind in Ukraine.

Basic Background

The foundations of legal clinics as the source of free legal advice to indigent persons and the opportunity to strengthen legal skills for law students were laid in 1840 by Russian lecturer D. Meyer, who later, in 1855, provided theoretical bases of legal clinics’ activities. Legal clinics should be organized in as simple manner as possible – poor people who need legal assistance, turn to the professor who takes care of clinical student consultation. In the presence of students, the professor provides advice by solving legal matters of the legal clinic’s visitors. At the same time, they had an opportunity to ask for a free-of-charge drawing up of an application or claim. More complicated legal cases could be distributed among separate curators.

A little while later, the idea of legal clinics was in the focus of attention of such German authors as A. Stolzel, O. Fischer, K. Stol, G. Frommhold and Russian author O. Lyublinsky. This suggests that in the mentioned countries legal clinics were established in the late 19th century– early 20th century. There is certain indirect evidence indicating that in the early 20th century legal clinics operated at Moscow M.V. Lomonosov University and St. Volodymyr University in Kyiv. However, starting from the 1990s, legal clinical education in the world is associated with American law schools. In the early 1970s, this phenomenon started to expand across English and Australian education systems which were similar to that of the USA, and since 1990s – almost all over the world.

In the late 20th century, as a manifestation of the then integration processes, the Global Alliance for Justice Education (GAJJE) was established. This international organization united representatives of legal clinical education almost from all countries of the world because clinical education became a key component of justice education as the idea which GAJJE members strive to introduce into legal education and practical activity of legal practitioners. As a result, currently legal clinics operating at law schools of leading educational institutions have become the part and parcel of the existing structured university mechanism and a mandatory element of the curriculum to be studied by students. Nowadays, day-to-day work of legal clinics is centered on two main goals of clinical legal education: to educate socially responsible legal practitioners and provide free-of-charge legal service to indigent persons and the opportunity to strengthen legal skills for future legal practitioners and provide free-of-charge legal service to indigent members of community. Legal clinical education integrates official and unofficial forms and methods of teaching students of the legal profession which are underlain by interactive pedagogics, resolution of realistic cases, analysis of current law enforcement issues and comprehension of the social role played these days by a legal practitioner in the context of ensuring respect for the rule of law, access to justice, peaceful settlement of conflicts and resolution of social issues. In the Ukrainian environment it means that a legal clinic is established with the aim of practical teaching the legal profession to students of law through the activities protecting legal rights and raising legal awareness of general public under the guidance of the professor in charge.

An essential component which ensures the functioning of legal clinical education is the activities of national and international associations of legal clinics. Their main task is to support, develop, formalize and regulate the activities of legal clinics and their associations in different countries of the world. This international organization united representatives of legal clinics and their associations in different countries of the world.

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Head of Administrative Law Department of the National Academy of the Public Prosecutor’s Office of Ukraine, Ph.D. in Law, Associate Professor, Member of the Board of the Association of Legal Clinics in Ukraine


and facilitate clinical education programs. At the national level it is implemented through organization of trainings, conferences and workshops; publication of bulletins, reference books, journals and booles distributed in legal clinics; development of websites or electronic mailing lists. At the international level this goal is achieved by holding international conferences and by wide use of the Internet to share ideas and materials, and also by efforts facilitating the introduction of clinical education in every part of the world. In general, national conferences or other meetings aim at establishing and ensuring proper management of legal clinics and at improving clinical education methodologies.

General trends in the World

United States of America

Legal clinics of American universities were established through the 1930s. In 1960s–1970s, clinical education programs were gaining popularity in the USA, and the American Bar Association (ABA) – the authority responsible for licensing of institutions providing legal education – advised law schools to accept legal clinical education as one of the methods by which students could acquire additional knowledge and strengthen it in practice. Today, almost every USA university preparing for a career in law has a legal clinic. As a rule, they specialize in a certain branch of law and are integrated into the teaching process as a form of the course of study and practice at the same time. At the nationwide level their interests are represented by the Clinical Legal Education Section of the Association of American Law Schools (AALS) and the Clinical Legal Education Association (CLEA). They foster and hold annual conferences of legal clinics, activity development programs, schools for young lecturers and provide support for regional activities. The mentioned associations accentuate the importance and methods of legal clinical education and advocate legal clinics’ interests (for instance, to appear and argue in court during the national campaign launched against legal clinics because of the quality of their activities) before management bodies of higher education institutions.

Africa

On this continent, legal clinics were established in the early 1970s, although a decade passed until their institutionalization. At the verge of the second and the third millenniums the South Africa (AULAI) and Nigeria (NULAI) Associations of University Legal Aid Institutions and legal aid centers started to operate and currently they are well-reputed not only in Africa but all around the world. Their interests embrace national and regional conferences, proficiency schools for legal clinical education lectors, the national competition in client interviewing and counseling.

China

The Committee of Chinese Clinical Legal Educators (CCCLE) was founded in 2002 with the initial institutional and financial support of the Ford Foundation for the purpose of enhancing autonony and self-government and promoting support of legal clinics by universities etc. The Ford Foundation keeps on developing the initiatives of the Chinese Association of Legal Clinics, including in the context of international cooperation. The activities of the Chinese Association embrace not only the forms of support of the national clinical movement but active international collaboration as well (participation in international conferences, visits and training to share experience etc.).

The legal clinical movement is also expanding through other countries of Southeast Asia. In particular, legal clinics now operate in Bangladesh, Thailand, Cambodia, Vietnam, Laos, Malaysia, in the Philippines and Singapore.

General trends in the Western and Central European countries

While in many countries of the world legal clinical education was implemented as an element democratizing and implanting innovation into post-socialist or undeveloped legal education in order to prepare the so-called liberal lawyers, with a significant lobby support provided by international institutions, in the developed countries of Western and Central Europe such a benefit is not available to legal clinics.

According to our study of the data on the establishment and operation of legal clinics in Belgium, United Kingdom, Spain, Italy, Netherlands, Germany and other European countries, legal clinics there have been established mostly owing to the commitment of enthusiastic lecturers and students building upon foreign (primarily USA) experience and have been implemented using the facilities of respective universities. The best of them succeeded in entrenching and strengthening themselves owing to:

- collaboration with international and national foundations and other associations;
- implementation of the narrow specialization principle turning them into structures similar to non-governmental organizations;
- legal clinical education support provided by universities;
- establishment of legal clinical education as an integral element of university exchange and advanced training programs.

Data provided by M. Angeleri demonstrate that as of the end of 2013, more than 50 legal clinics operated in the Western and Central European institutions of higher education. Their popularization and implementation in facilitated by the European Network for Clinical Legal Education (ENCLE) which was established in 2012 by activists from 17 European countries. Among areas in which clinical legal studies exist in Europe and, respectively, are in demand by communities and facilitate the strengthening of their organization, we can mention the EU law and migrants’ rights. Notably, work in this area is carried out by legal clinics of Brussels (Belgium), Cologne (Germany), Tilburg (Netherlands) and others. This is not a purely action-oriented study – University of Leuven (Belgium) offers a specialized course training to apply this knowledge in legal clinics activities.

United Kingdom

In the United Kingdom, legal clinical education methods were first developed in the 1970s by Warwick and Kent Universities,  

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but it was not until the 1990s that their more active implementation began. In 1994 the Organization of Clinical Legal Education (CLEO) was established; today it holds annual nationwide actions to develop legal education and implement legal clinical education methods, works actively in the global GAJE forums, publishes an international journal (International Journal of Clinical Legal Education) and provides financial assistance to facilitate scientific research and training programs for its community.

Among UK legal clinics, Cardiff University plays a notable role. After the Law Society of England and Wales abandoned their conservative position on education in 1993, the number of legal clinics in the UK increased significantly.

Germany

The German systems of legal education and legal aid are rather conservative and it is not always that they see legal clinics as full-fledged participants of these processes. In the opinion of G. Dietlein and J.-G. A. Hannemann, the way to the emergence of legal clinics in Germany was paved by the wording of Clause 6 of the Law on Legal Services (Rechtsdienstleistungsgesetz) adopted in 2008. This law authorized unpaid legal services provided not on a hire basis, in particular, extrajudicial advice by students under the guidance of professors of higher education institutions.

Legal clinics have been established at the German universities of Cologne, Berlin, Freiburg, Düsseldorf, Giessen, Passau, Hanover, Marburg, Jena and other cities. In Germany there is a trend towards ideology dissemination and statutory regulation of legal clinics activities following the positive example of Poland, as it is noted by M.A. Kotyrba in a prominent collective work by German authors focused on legal clinics activity which proves that the idea of legal clinical education can be borrowed from neighboring countries without the need for international foundations’ support. Starting in 2012, active discussions are held in the German higher education domain concerning the legal clinical education which is viewed as the instrument to impart more practical knowledge, facilitate action-oriented student work and develop critical thinking skills of students. The curricular of some German universities incorporate a course of legal clinical education. For instance, Freiburg University offers a small training course comprising general issues of legal clinics activity; counselor’s ethics, client interviewing and counseling, as well as issues related to legal clinic’s work in certain specific branches of law; pro bono legal work issues are made part of traditional courses of legal professionals’ training and included into the final examination at Baden-Württemberg University.

Another trend linked with the development of German student legal aid clinics is that they are turning into structures similar to non-governmental organizations with a focus on legal work. In this context we can mention the Juristische Klinik in Cologne which possesses recognized authority in migrants’ rights protection and offers specialized training in this area not only for its students but also for employees of non-governmental organizations and other legal clinics.

Among the challenges faced by German legal clinics in their activities we can mention the quality of provided advice and responsibility for it, which is the issue traditional for other countries as well, and also insufficient integration of legal clinics into the teaching process and lack of their recognition as essential elements of higher legal education.

Poland

In Poland, legal clinical education demonstrated fast development, nevertheless, it was the United States of America that became a model country for local legal clinics. From mere three legal clinics created in the late 1990s (Cracow, Warsaw, Białystok), the legal clinical movement expanded to twenty-five clinics. Today, legal clinics are affiliated with all public and leading private law schools of the country. They are in a certain manner integrated into the teaching process (such integration may take the form of acquiring the status of a full-time department or, particularly, an institute, a chair or a laboratory; recording of hours dedicated to practical training and hours worked by lecturers, incorporation of the course into a curriculum etc.) Therefore, in Poland, just like in Ukraine, the standards for introduction of legal clinical education into the teaching process have not been finalized yet.

The size of Polish legal clinics varies from 20 to 120 students, with 3 to 20 lecturers working with these students. Large legal clinics handle 500–1000 cases annually and smaller ones – from 40 to 300 cases. Ukrainian legal clinics demonstrate similar performance, with the only difference that owing to a significantly greater number of legal clinics the total amount of advice given is twice as large. This success is largely attributable to the decision to create the Legal Clinics Foundation (FUPP). As its goal FUPP listed not only to ensure the clinical movement’s financial stability but also to create the nationwide community consolidating the efforts aimed at strengthening the position of legal clinics in academic and legal circles. The Polish Legal Clinics Foundation is proud of the legal clinical education conference held by it in 2007 and participated by representatives from 20 countries. Other measures implemented by the Polish legal clinics network are traditional: the systematic nationwide conference, regional workshops and trainings, printing of a specialized publication etc.

Russian Federation

In the Russian Federation, legal clinics’ activities were successfully supported by all active players of the legal clinical education domain. This support was provided by local and Eastern European George Soros Foundation, Ford Foundation, Representation of the American Bar Association, Polish Legal Clinics Network and others. Despite a peculiar situation with the international financial aid observed in the country in the early 2000s, the Russian
Achievements of the legal clinical movement include the annual Moldavian Legal Clinics which can be found in the Internet. References to Moldova are dated by the early 2000s, the announced website www.edukacjaprawnicza.pl based on the Polish example, today legal clinics have almost disappeared rather than to legal education.

rather to traditional community activities (elections, protests etc.) than to legal education. The peculiar feature of Belarusian legal clinics is that they are affiliated legal clinics as entities authorized to provide legal aid to general public and raise its legal awareness.

Unsuccessful practices
The attempts to introduce legal clinical education in Moldova and the Czech Republic may not be recognized as successful. The Association for Moldavian Legal Clinics (APCJM) was established in 2005 with the support of various organizations. However, it was unable to implement specific measures facilitating legal education development in the country. The last known activities carried out by it jointly with the Ukrainian clinics located most closely to Moldova are dated by the early 2000s, the announced website is not working, the legal clinic established in the unrecognized Pridnestrovian Republic was opened in 2014 by a representative of the Russian Federation, and information about the Association for Moldavian Legal Clinics which can be found in the Internet refers rather to traditional community activities (elections, protests etc.) than to legal education.

In the Czech Republic, after active development of legal clinics based on the Polish example, today legal clinics have almost disappeared. The only exception is the legal clinic at Olomouc University, which does not offer training but provides free-of-charge lawyering aid and works with a stronger focus on the development of legal clinics in Europe.

Ukraine
Until recently, a similar regress was also observed in Ukraine. After the active development stage in the period 1999–2006 marked by opening of approximately 30 legal clinics, by holding of a wide range of training and action-oriented measures at the regional, national and international stage, by adopted standards to regulate legal clinics activities, by establishment of the Foundation of Legal Clinics in Ukraine and the Model Regulations on the Legal Clinic affiliated with a Higher Education Institution adopted by the Education and Science Ministry of Ukraine, the next 4–5 years demonstrated a gradual slow-up of the legal clinical education development at the nationwide level. In 2013–2014 the nationwide meetings of legal clinics were resumed, the Association of Legal Clinics of Ukraine (replacing the Foundation which ideas came to a standstill) was revived, and a range of seminars, trainings and competitions were planned and held. Besides, legal clinics gained much more recognition by community as free-of-charge legal aid providers. Activities of legal clinics are regulated by the Law of Ukraine «On Higher Education», and there is a draft bill proposing to place them under the coverage of the Law of Ukraine «On Free-of-Charge Legal Aid». The most recent studies show that currently there are more than 100 legal clinics in Ukraine, although it is not clear which of them operate efficiently.

At the same time it should be mentioned that today there barely exists any system support by leading donor institutions provided either for activities carried out by separate clinics or for collaboration efforts at the national plane, to say nothing of the international activities. Such a situation impedes any appropriate development of legal clinics and the Ukrainian legal clinics network, which is one of the most ramiﬁed in the world, has no opportunity for experience exchange.

Conclusions
The analysis of activities conducted by legal clinics allows to lay down the following conclusions:

1. A legal clinic is a vitally important modern form of legal education serving both educational and social goals.

2. Main ideas underlying the legal clinical education were formulated in the Russian Empire and Germany in the mid- and late 19th century, but we owe to the USA law schools the present-day advancement of legal clinical movement. Currently in Europe there is a trend to implement legal clinical education building upon the experience of neighboring countries which have greater achievements in this area.

3. The concept of legal clinical education is inextricably linked with the issue of quality of legal services provided by persons without a degree in law and training of such persons for such an activity through special-purpose courses incorporated into curricula of higher education institutions.

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4. For the sustainable incorporation of legal clinics into educational, law enforcement and legal education systems of a separate country, increasing importance is currently being attached to the operation of the national legal clinics association and its collaboration with:
- governmental institutions with responsibility for this area;
- associations of higher legal education institutions and legal practitioners;
- foreign networks of legal clinics;
- with potential grant providers offering financial support to branches relevant to legal clinics activity.

5. In each country, legal clinical education has some specific features ensuing, firstly, from demands of a particular society; secondly, from traditions developed by higher education institutions; thirdly, from available resources (financial and human) spent for advocating and incorporating legal clinics into educational institutions and the legal aid system.

6. Owing to its nationwide coverage and work experience, thoroughly developed scientific bases and practical activity experience, conceptual consistency and absence of significant discrepancies, the Ukrainian network of legal clinics is capable of serving as a certain example for the European community.

**Summary:**
In the article general and special features of legal clinics in different European countries and other parts of the world are analyzed. Special attention is paid to the activities of associations of legal clinics and to the searching for ways of improving their organization and functioning.

**Keywords:**
legal clinic; Associations of Legal Clinics; Clinical legal education.