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Establishing Links to Learning

Clinical Legal Education

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iLINC Best Practice Event, Berlin

18 - 19 May 2015

Introduction

Hello all. And again, like everyone else, I just wanted to first say a big thanks to the Von Humboldt Institute and the Hans-Bredow Institute for organising this really fantastic event. And what I've been asked to do is give a very short 10-minute presentation on our work package 3. And so what I was going to do is talk briefly about three things.

Clinical Legal Education

Well first, I was going to give you a short update on our progress on this work package. Then second, I was going to focus on two particular aspects of our work package which we thought we'd highlight today, which are what are the learning objectives of clinical legal education, or in other words, just what are the educational rationales for setting up a law clinic, and second, how do these learning objectives actually translate into student activities, or in other words, what kind of activities can students engage in clinics.

So the first thing I wanted to talk about is our progress with work package three. Now for any new participants here today, work package 3 is called establishing links to learning, and it basically concerns what are the ways universities can incorporate law clinics in their academic programmes. And in order to do this, there are four main prongs to our work package, which are first, how to recruit students for clinics and market the clinic to students, second, what are the options for incorporating a clinic in academic programmes, third, how can clinics be designed to ensure students provide an excellent service for clients, and fourth, what are the options for assessing students from an educational point of view.

So what we've been doing is basically designing toolkits and models for universities which are considering establishing a start-up law clinic. At the last best practices event in Amsterdam in October, we presented some of the preliminary research on the types of clinics that are in operation within our iLINC network, and what are the models they use for incorporating clinics in academic programmes. In the interim, I've broadened the scope of our study, and reviewed a large range of academic literature and other clinics. Clinic directors and teachers throughout the world have shared their experiences in establishing clinics, and we have drawn upon this great wealth of literature to try and suggest best practice models. We've now drafted our models, and we hope that universities within our network and beyond considering establishing a start-up law clinic will be able to use our final report as a toolkit for choosing what model they wish to adopt, depending on their resources.

And today I thought I'd share some great resources that are available for universities considering establishing a clinic in Europe. This is because there may be a certain general narrative that law clinics in Europe have been rare; but I'd like to point everyone to an excellent journal that has been published by Northumbria University for over 14 years now, called the *International Journal of Clinical Legal Education*. It really is an excellent resource for those of us considering establishing a clinic. But also, it is an excellent resource for those of us who are already running a clinic, and as everyone will know, you constantly review and change the operation of your clinic, and you can learn great new insights from the contributions in this journal. And of course, all from a European perspective. The latest volume is available freely on the journal's website, and the previous volumes are available on HeinOnline. So I thought I'd just flag this great resource to the iLINC network.

And now the second issue I wanted to talk about was the importance of asking the basic question: what are the learning objectives of establishing of law clinic, or in other words, what are the educational rationales for establishing a law clinic. This is a crucial question, because identifying these learning objectives can really help inform what type of activities students should engage in. Now by learning objectives, I don't mean the just the obvious benefits students gain, such as it looking great on their CV. Also, I don't mean the obvious benefits to universities, such as providing a competitive advantage over other universities when competing for students. And I don't just mean the social-justice benefits, such as helping start-ups in the local community. I mean the educational objectives for students.

Well I just wanted to mention some of the big learning objectives that are usually put forward for establishing law clinics: basically it is to teach students about the actual practice of law.

In clinical legal education, students learn how to be lawyers by doing real-world legal work. Jerome Frank, one of the pioneers of clinical legal education, put forward a number of rationales including, first, that the purpose of clinical legal education is to teach students the 'true relation' between the contents of court opinions and the work of practising lawyers. This was because 'only a slight part' of the art of lawyering can be learned from books.

Second, it teaches students the 'human side of the administration of justice', and that students need to learn that the real world of the law depends on imponderables, such as witness performance, evidential weaknesses, commercial viability of parties, the wealth of parties, and parties appetite for litigation. And third, students need to learn how to interact with clients, such as how lawyers try to translate the wishes of a client into things such as contracts, wills or corporate instruments. Students need to learn how to earn the trust of their clients, discover their true goals, and ultimately help their clients.

And fourth, and maybe most importantly, because clinical legal education is not simply 'skills training,' a final possible objective is that of reflection and theorizing. Students reflecting about their work in clinic is so important, because it is only when students reflect, that they realize how the real world of the law depends upon so many imponderables and circumstances. But not only are there these grand objectives for students, there are also many practical benefits for students such as learning how to translate practical problems into legal questions, how to communicate effectively with clients, learn how legal rules work in practice, and of course many transferrable skills are learned, such as interviewing, research, drafting, case management, and administrative skills.

And so the final issue I wanted to talk about is, with all these learning objectives in mind, what activities students can engage in order to fulfil these objectives. So I thought I'd just mention a few, with the first worth mentioning being the classic type of 'bespoke advice'. Now this is where students actually engage in giving legal advice to real clients. For example, students can work in teams and deal with one start-up at a time. They would do a monitored intake interview with the start-up to assess its legal needs. Afterwards, they would draft letters of advice, including memos, terms and conditions, or privacy policies, which would be supervised by lawyers from an outside law firm.

Now a second example could be telephone advice to clients. This is where students provide telephone advice to clients on the basis of queries submitting to a law clinic website. Students can be responsible for the initial selection and assignment of queries. And a third type of activity can be writing legal handbooks and toolkits, which can be termed 'one-to-many advice', where students organise advice in the form of online content, such as self-help guides, blogs or fact sheets. Fourth, student can organise seminars and workshops for start-up

clients, which can be termed face-to-face advice, where students meet start-ups and discuss their legal issues. And fifth, students can also engage in policy advocacy, where they identify legal issues affecting clients, and propose law reform. And finally, clinics can organise simulated-advice, where similar to the idea of a moot court, a fictitious problem exists for a fictitious client, with role playing, and students drafting advice in this situation. Indeed, our next speaker, professor Okamoto, will discuss these types of simulated scenarios for students.

Conclusion

Now these are only examples, and there are many more types of activities students can engage in, but the main point we wanted to make is the broad range of activities that can be made available for students. Even clinics that are only getting started off the ground can start slowly, and work their way up in terms of the activities students, depending on the experience and resources of the faculty. But then the second point we wanted to make is that when designing clinics and the activities student engage in, we should constantly ask ourselves, what are the learning objectives of law clinics, and are the activities our students engaging in fulfilling these objectives. So, I was going to conclude there. I hope I've been somewhat informative. Thank you for listening, and if you've any questions, I'd be happy to answer these.