

## **THE BARRIERS TO THE CLE PRACTICE IN RUSSIA, IN COMPARISON LIGHT WITH THE EUROPEAN UNION AND THE UNITED KINGDOM**

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Clinical legal education (CLE) is commonly used to refer to a law teaching method that incorporates experiential learning aimed at development of students' legal knowledge and skills<sup>1</sup>. At the same time, CLE also has social justice mission as it serves the needs of vulnerable members of society<sup>2</sup>. Like any other teaching methods, CLE requires a specific environment and factors to be in place to embrace its mission at maximum level and to allow its learners to reach pre-defined learning outcomes. While researching in three Western European university legal clinics, and then studying the legal clinics in Russia, I have reached the conclusion that CLE in Russia cannot fully exploit its mission and reach its objectives. While some barriers that prevent Russian universities to effectively run CLE are obvious, there are also the ones which will be new to a reader. Below I discuss the factors that could be considered as barriers preventing CLE practice in Russia to be effective in driving for its mission and goals, both from educational and social justice perspectives.

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<sup>1</sup> European Network for Clinical Legal Education Statute as Registered in October 2013, article 5, item 2 <Microsoft Word - ENCLE statute amendment 2015 registered version.docx> last accessed 01 May 2023.

<sup>2</sup> European Network for Clinical Legal Education Statute as Registered in October 2013, article 5, item 2 <Microsoft Word - ENCLE statute amendment 2015 registered version.docx> last accessed 01 May 2023.

***Authoritarian regime with no human rights and freedoms respected in Russia***

As stated above, apart from teaching and learning objectives, university legal clinics also aim to make a practical contribution to social justice and support democracy proclaimed by many states. They do that through catering pro bono legal service to citizens who otherwise will miss an opportunity for fair and reasonable legal representation<sup>3</sup>. To allow such social justice-oriented initiatives to be implemented and to run effectively, there needs to be a safe environment supported by the social justice agenda proclaimed and implemented at the state level. Keeping that in mind, could an environment and agenda proclaimed and run by the Russian state be considered as reliable for an effective run of the pro social justice initiatives i.e., CLE university modules? The answer to this question seems to be obvious.

***Limited opportunities for Russian universities to secure any form of funding to run a legal clinic***

Most universities in Russia are public i.e., they are owned and managed by the state, and hence, the Russian universities receive public funds mostly through the Russian government, it keeps distribution of the state budget according to the state approved university curriculum. Here, it is useful to draw your attention back to the first barrier described above and to think whether the Russian authoritarian state that neglects

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<sup>3</sup> Clelia Bartoli, *Legal clinics in Europe: for a commitment of higher education in social justice* (Diritto & Questioni Pubbliche, 2016) 77.

human rights and freedoms has been willing to allocate and approve the state budget for the university teaching method that has the social justice mission. Up to the date, according to the Human Freedom Index that is co-published by the Cato Institute, the Fraser Institute, and the Liberales Institut at the Friedrich Naumann Foundation for Freedom, Russia is ranked at 126 out of 165 countries acknowledged by the ranking. This index is made up based on measurement of personal freedom and economic freedom across the world. Personal freedom involves indicators such as the fairness of the laws, personal safety, freedom of movement and assembly, freedom of religion, freedom to run for political office, freedom of the press, freedom of speech and expression, and freedom to pursue same-sex relationships or obtain a divorce<sup>4</sup>.

Despite the fact that most of the university legal clinics with their faculty staff members, practicing lawyers and students deliver the legal service pro bono, CLE as an educational format cannot function with an absolute lack of budget. The reason is that for an effective functioning clinic, it is required to have at least one administrative staff member working full time who will oversee claims from society and further distributing it among the respective faculty staff members. The structure of legal clinics in the European Union presumes a secretary, manager, or an administrator

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<sup>4</sup> Freedom Index by Country 2023 <[Freedom Index by Country 2023 \(worldpopulationreview.com\)](https://www.freedomhouse.org/freedom-index/country)> last accessed 02 July 2023.

appointed to run the administrative routine<sup>5</sup>. Hiring such an administrator or a manager requires budget allocation equated for an annual salary amount and this is something that the Russian universities cannot gain the state budget approval for.

The problem of CLE funding does not belong to only the Russian universities. Many universities legal clinics in Europe consider the question of funding as the main challenge for running pro bono legal service<sup>6</sup>. Nonetheless, according to the research conducted by Clelia Bartoli in 2016, more than 60% university legal clinics in the European Union who participated in the study receive the funding from universities they operate and around 13 % clinics obtain financial support from local and national governmental levels<sup>7</sup>. At the same time, in the UK, funding of legal clinic operation comes from university students as during the last decade law schools in the UK have undergone a significant marketisation process and that lead the UK law schools to have the highest tuition fee on the European continent<sup>8</sup>. The direct financial dependency universities in the UK on their students contribute to the university legal

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<sup>5</sup> The Legal Clinics The Idea, Organization, Methodology (2005) The Legal Clinics Foundation Warsaw

<[Microsoft Word - ksiazka ENG5.doc \(fupp.org.pl\)](#)> last accessed 02 July 2023, 59,60,64, 65.

<sup>6</sup> Clelia Bartoli, *Legal clinics in Europe: for a commitment of higher education in social justice* (Diritto & Questioni Pubbliche, 2016) 16.

<sup>7</sup> Clelia Bartoli, *Legal clinics in Europe: for a commitment of higher education in social justice* (Diritto & Questioni Pubbliche, 2016) 48.

<sup>8</sup> Emma Jones, Hugh McFaul and Francine Ryan 'Clinical legal education in the United Kingdom: Origins, growth and the technological innovations and challenges of its future' (2017) 4 German Journal of Legal Education 107, 115.

clinics' growth as experiential, practice-oriented education, increases the level of student satisfaction<sup>9</sup>.

*The lack of effective partnership between institutions representing justice system in Russia and university legal clinics*

The CLE model presumes to build and maintain various partnerships with institutions of the justice system. This form of partnership and collaboration allows students to see how the justice system works from inside and to observe management of real legal cases from both sides, from justice system institutions and legal representatives<sup>10</sup>.

Studying empirically legal clinics in Western Europe during the last six years, I have seen many successful partnerships and collaborations built between university student clinics and institutions of the justice system. For example, the University of Strathclyde Mediation Clinic run an effective collaboration with the Glasgow Sheriff Court and Justice of the Peace Court, Paisley Sheriff Court and Justice of the Peace Court, while among the wide range of partners of Pro Bono Scheme of University of Cardiff were also ones that represent the justice system, for example Cardiff Employment Tribunal. It is useful to notice that the format of partnerships varied from clinic to clinic and hence, while some collaboration was aimed at clients' referrals for

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<sup>9</sup> Emma Jones, Hugh McFaul and Francine Ryan 'Clinical legal education in the United Kingdom: Origins, growth and the technological innovations and challenges of its future' (2017) 4 German Journal of Legal Education 107, 116.

<sup>10</sup> Clelia Bartoli, *Legal clinics in Europe: for a commitment of higher education in social justice* (Diritto & Questioni Pubbliche, 2016) 35.

a clinic, other partnerships were focused at providing to clinical students first-hand information on the justice system work processes. The paper of Bartoli has shown that 50% of all university legal clinics located around the EU who took part in the study, have been running formal or non-formal partnerships with their state institutions of justice system, while 85 % have official collaborations with institutions of civil society and almost 90% of the responded clinics set partnerships with private legal clinics<sup>11</sup>. While thinking on potentially effective collaboration between official representatives of the justice system in Russia and university legal clinics, it is important to draw attention to some factual data on the nature of the Russian justice system. Among the statistical data that can characterise the justice system nature is the official figure on the conviction and acquittal rates across the state. To specify, the acquittal rate in Russia has been at the level, less than 1 %. As acknowledged by the Former Prosecutor General of the Russian Federation (1995-2000) Professor Jury Skuratov, conviction inclination in criminal litigation process in Russia is a 'chronic condition' of the justice system that is based on an undeniable trust and complete reliance on prosecutor bodies during the litigation process<sup>12</sup>. To compare, the acquittal rate in the United Kingdom was at the level of 10-13 %, over the period of the last years<sup>13</sup>.

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<sup>11</sup> Clelia Bartoli, *Legal clinics in Europe: for a commitment of higher education in social justice* (Diritto & Questioni Pubbliche, 2016) 55, 56.

<sup>12</sup> Hundred to One: why there are so few acquittals in Russia (*Legalacademy.Ru*, 05 February 2020) <<https://lfacademy.ru/sphere/post/sto-k-odnomu-pochemu-v-rossii-tak-malo-opravdatelnyh-prigovorov>> last accessed 01 May 2023.

<sup>13</sup> Ministry of Justice, National statistics Criminal Justice Statistics quarterly: December 2019 (26 November 2020).

In the light of the above, it should be said, among legal clinics objectives, there is strengthening of national justice systems and that is in light with the United Nations statement on legal clinics that describe them as an effective model aimed to ensure an access to criminal justice<sup>14</sup>. Considering the matters and the figures stated above, the logical question is, whether it is reasonable for the legal clinics in Russia to hold out hope for an effective collaboration with institutions representing the Russian justice system? Furthermore, there is an also a question to pose, whether official representatives of the Russian justice system can be considered as reliable agents in passing and communicating legal knowledge and skills to law students?

*The lack of student time to join university legal clinic and dedicate energy to Pro Bono work in Russia*

Participation and work in legal clinics are an energy and time-consuming process for both academic staff members and students. Hence, student motivation to contribute to social justice and student wish to obtain legal skills is not necessarily enough for a student to join the university legal clinic; available time is something also important for any student to have to dedicate energy to Pro bono legal modules. The lack of available time from Russian students' perspective can be related to the relatively high number of Russian students who are also in full or part time employment. For

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<sup>14</sup> Clelia Bartoli, *Legal clinics in Europe: for a commitment of higher education in social justice* (Diritto & Questioni Pubbliche, 2016) 71.

example, in the year of 2014, 71 % of students in Russia were combining university studies with employment<sup>15</sup>, while the data of the same year in the UK represents the figure of 59 % working students<sup>16</sup>. Although it is also fair to note that the data representing the year 2022 is different, such as the percentage of working students in the UK testifies to a slightly higher figure, i.e., 62% of students in the UK have a part-time job<sup>17</sup>.

Turning back to comparison, in Russia common among students practice combining studies with work could be related to the unstable socio-economic situation the country had had during the last two decades. This in turn can be one of the reasons why often Russian students, who are heavily busy with academic work and job responsibilities, often cannot to find any available slot in their schedule to engage into clinical activities and contribute to Pro Bono work. On the contrary, a relatively low percentage of European Union university students who work while studying allow many of them to dedicate time to various volunteer projects, including work in university legal clinics<sup>18</sup>.

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<sup>15</sup> How many Russian students combine study with work (*The-Village.Ru*, 20 November 2014) <<https://www.the-village.ru/business/news/170267-students-work>> last accessed 01 May 2023.

<sup>16</sup> Natalie Gil, 'One in seven students work full-time while they study' (*TheGuardian.com*, 11 August 2014), <<https://www.theguardian.com/education/2014/aug/11/students-work-part-time-employability>>, last accessed 01 May 2023.

<sup>17</sup> Laura Brown, 'Student Money Survey 2022 – Results', 2022, < Student Money Survey 2022 – Results - Save the Student > , last accessed 01 May 2023.

<sup>18</sup>Combining studies and paid jobs, EUROSTUDENT, 2018, p. 15 <[https://www.eurostudent.eu/download\\_files/documents/TR\\_paid\\_jobs.pdf](https://www.eurostudent.eu/download_files/documents/TR_paid_jobs.pdf)>, last accessed 01 May 2023.



*From the Field*

Despite the existing barriers to effectively practice CLE in Russia, academic staff members at the Russian law schools have been doing all possible in their capacity to implement and run the university CLE modules. This has been allowing Russian law students to benefit from hands-on legal experience within a university setting.