

## **The Clinical Education Revolution: The Link between the Academic World and Legal Practice**

Prof. Arie Reich\* and Adv. Roni Rothler\*\*  
Bar-Ilan University  
Israel

The academic world is sometimes perceived as elitist and isolated from society; an ivory tower the inhabitants of which pursue theoretical research and studies that are irrelevant to real and practical life. Over the last few years, however, there are developments which actually point to the opposite trend, to a growing closeness between the academic world and wider society and to the academic community's ability to engage in research while concurrently developing both staff members' and students' social involvement.

This trend is particularly reflected in the growth of legal aid centers – clinics – which operate within university law schools. The clinics manifest a commitment to making law and justice accessible to the general public and to ensuring that even those persons and bodies unable to afford legal advice will be able to participate in the legal discourse which has such a wide-ranging and profound impact on modern life.

The clinics provide free legal aid to weak sectors of society, to persons who have been segregated by society because of certain attributes or a particular history, and to bodies wishing to promote issues of public importance. The aid is provided by law students and by clinical staff – attorneys who are employed by the universities – as well as by junior and senior academic faculty members. Guiding the clinics is the desire to harness the law faculties' wealth of knowledge and human resources in order to solve social problems while concurrently advancing academic research by close examination of real cases.

Bar-Ilan University is the pioneer of clinical education in Israel. Its first clinic, **The Civil Legal Aid Clinic** was established in 1984, over 25 years ago, by Prof. Aharon Namdar, and it has provided aid to the needy in poor neighbourhoods and development towns throughout Israel. Over the years the Faculty has established six additional clinics to meet the great demand for their services:<sup>1</sup>

- Environmental Practice & Policy Clinic
- Clinic of Legal Aid for Women in Family Matters
- Clinic of Human Rights for Persons with Disabilities
- Clinic for Mediation and Dispute Resolution

---

\* Dean of the Law Faculty, Bar-Ilan University

\*\* Former Director of the Clinical Legal Education Program, Law Faculty, Bar-Ilan University

<sup>1</sup> For more information on the Bar Ilan Legal Clinics, see: <http://www.law.biu.ac.il/English/klinikotE.shtml>

- Criminal Legal Aid Clinic
- Jewish Law Clinic (a unique clinic which began operating this year)

Similar clinics operate in most of the universities and law colleges in Israel; however, the Law Faculty in Bar-Ilan University is unique (in Israel and perhaps even in the world) in that it requires all its students to participate in one of the clinics during their third year law studies, thereby making clinical education a necessary and integral part of their legal education.

In a country in which legal services are extremely expensive, and the legal system is more accessible to some sectors of society than to others, it is very important to establish centers and bodies which will bridge, even if only to a small extent, the gaps that have developed between the different strata of society. Nonetheless, this is not the only goal of the university clinics. A concomitant goal is to teach students who will become the future generation of Israeli jurists how to perform all aspects of the practical work of attorneys, including communication with the client, conducting interviews, examining the legal case, legal writing, legal research, as well as representing the client before governmental authorities and making legal arguments in court. All this is carried out in 'greenhouse conditions' supplied by the Faculty – close support by an attorney and advice from various experts in a variety of areas. In addition, while engaging in this work, the student sees the troubles affecting Israeli society at first hand and acquires personal experience of methods of resolving them. The objective is that the knowledge gained in this way will assist both the student and society after the former leaves the shelter of the university.

In this way, the clinics produce more experienced law clerks and ultimately attorneys possessing a broad world view, practical knowledge of the attorney-client relationship and a genuine understanding of professional and ethical concepts such as the duty of confidentiality, prohibition on conflicts of interests and duty of trust towards the client. No less important is that the clinics send jurists possessing social sensitivity to the marketplace. We have no doubt that the ability to learn and absorb substantive aspects of legal issues as well as the attorney-client relationship is immeasurably greater when it stems from real and direct experience, from questioning possibilities, arriving at conclusions and acting in accordance with them. Likewise, ethical values of professional commitment become more deeply entrenched when during the course of their studies the students contend with practical professional and ethical dilemmas for the benefit of real clients with real complexities. The practical experience gained through engaging in the attorney-client relationship and the professional responsibility accompanying this experience provide tools and insights which cannot be acquired by classroom study, irrespective of its quality. The Bar-Ilan clinics also deal with legislative initiatives and practical studies which are able to provide a platform for such initiatives, and they have achieved a number of impressive successes in recent years regarding legislative reform in certain important social and environmental areas. Naturally, this activity has attracted significant media coverage which adds to the prestige and reputation of the Faculty.

Clinical development in Israel draws many of its ideas from similar activities in the United States. This development has also taken place in the most prestigious law schools, such as Harvard and Yale, which see no contradiction between the aspiration for academic and theoretical excellence and massive investment in clinical education. Thus, for example, in Harvard, there are no less than 29 different legal clinics operating under the supervision of about 70 staff members and professional instructors. In order to complete course commitments in Harvard, a student is required to invest at least 40 hours of *pro-bono* legal work for the benefit of the community and many students choose to fulfill this requirement within the framework of the various clinics. In the United States law students are allowed to represent their clients before all the courts, and at all instances, albeit under certain conditions and under close supervision. The emphasis on practical study in the United States, where students are not required to work as law clerks prior to sitting for bar exams (as is mandatory in Israel), is extremely high.

The American Bar Association (ABA) has made a significant contribution towards entrenching practical studies in the law schools, in part by establishing rules and conditions for approving law faculties (*2008-2009 Standards for Approval of Law Schools, Chapter 3: Programs of Legal Education*). Thus, for example, Rule 301(a), which defines objectives, requires a law school to maintain an educational program that prepares its students for admission to the bar and prepares them for effective and responsible participation in the legal profession. Rule 302(a), which deals with the curriculum, provides that the faculties must provide substantial instruction of professional skills, and Rule 302(b)(1) provides that law schools must offer "substantial opportunities for live-client or other real-life practice experiences, appropriately supervised and designed to encourage reflection by students on their experiences and on the values and responsibilities of the legal profession, and the development of one's ability to assess his or her performance and level of competence." Rule 302(b)(2) requires the law schools to offer substantial opportunities for student participation in *pro bono* activities.

These standards were influenced by the conclusions and recommendations made by a special task force, established in 1989 by the American Bar Association Section on Legal Education and Admission to the Bar. Its mandate was to examine to what extent law schools were preparing their students to practice law (*The ABA Task Force on Law Schools and The Profession: Narrowing The Gap, Statement Of Fundamental Lawyering Skills And Professional Values*). This team, led by Robert MacCrate, President of the ABA in 1987-1988, presented its report and conclusion in 1992.

The report stated that skills training and imbuing the students with professional values had to be one of the primary missions of the law faculties, and it made specific recommendations for improving legal education. These recommendations included an emphasis on skills training and values and the provision of opportunities for students to perform professional tasks and receive feedback. The report guidelines are used to define practical-clinical teaching in American law schools today.

The Clinical Legal Education Association (CLEA) also considered these issues and in 2007, following a project which aspired to find and define the best means of educating and preparing attorneys, prepared a position paper concerning legal educational measures under the heading *Best Practices for Legal Education*.

Similar conclusions were reached by the Carnegie Foundation for the Advancement of Teaching. Their 2007 report stated that learning through experience is essential for achieving the paramount educational goals – preparing the students to think, act and conduct themselves in a professional manner. Even though the report did not mandate representation of clients, it recognized the fact that many of the humane and enriching aspects of the law and legal world may be found in the real-life contact with the clients and their needs. This is because when an actual client stands in front of the student, the opportunities for cognitive and practical professional development are almost limitless. The opportunity to achieve all these may be found in the clinics.

The experience which we have accumulated in Bar-Ilan University in almost three decades of clinical education is extremely positive. The students come willingly to the clinics and fulfill their commitments with great dedication. Many of them in fact do more than is strictly required of them because they are drawn into the activities, enjoy them and have a sense of the importance of the goals to which they aspire. We have not found that making clinical education compulsory has in any way impaired the students' level of commitment to their work. Nonetheless, it should be noted that the many clinics operated by the Faculty impose a heavy financial burden on the Faculty's budget in view of the need to employ teaching and practice teams (instructors and attorneys) as well as other employees, to operate the clinics. Accordingly, a law school which establishes clinics must ensure that it possesses sources of funding, whether from its own resources or from donations from benefactors who appreciate the important contribution of legal clinics to our society.