

ABA/CEELI's¹ clinical legal education programme in Serbia

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The goal of the CEELI Legal Education Reform Program in Serbia has been to assist Serbian law faculties in reforming the curriculum so that law students become lawyers who can contribute to the development of the rule of law and the transition to a market economy. As a country in transition, Serbia must prepare future lawyers who are capable of absorbing and implementing the breadth of changes underway in the legal system. Unfortunately, in both its pedagogical methodology and its resources, the education predominantly provided to law students in Serbia is woefully inadequate. Education is typically based on memorisation of code provisions, with little opportunity for practice-based learning or creative thinking, and many of the textbooks used by law students date back to the socialist era.

CEELI introduced legal education reform through the concept of the development of practical skills in legal education and legal clinics for students in the law faculties in Belgrade, Nis, Kragujevac and Novi Sad. The Novi Sad and Belgrade Law Faculties teach classes on legal ethics and document drafting. The Nis and Kragujevac Law Faculties offer classes on legal ethics, counselling and interviewing skills. The Belgrade Law Faculty plans to begin a live client clinic focusing on family law issues in fall 2003. The Nis Law Faculty is also planning to develop a live client clinic.

CEELI provided advice, advocacy grants and technical assistance to all four law faculties (the law faculties are not being funded by Soros³):

- In December 2000, CEELI organised a week long visit by Professor Carrie Hempel, a clinical law professor from University of Southern California. Ms Hempel spoke at several law faculties about the concept of clinical legal education and the advantages of practical teaching methodologies. At the time of her visit, clinical legal education was completely unknown to Serbia.
- CEELI's next effort in introducing clinical legal education in Serbia was a workshop in May 2001 in Rousse, Bulgaria, for professors and students from three Serbian law faculties who expressed the greatest interest in promoting clinical legal education at their respective universities. The workshop provided valuable information about how an actual family law clinic based at a law faculty operates.

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- CEELI brought three law professors to Serbia to work with the law professors at the law faculties who were interested in starting clinical legal education programs. Larry Albrecht, former CEELI liaison and former law professor, visited Serbia in November 2001 and lectured on clinical methodologies and worked with the Nis, Belgrade and Novi Sad Law Faculties on the development of their practical skills programs. In March 2002, Professor Peter Hoffman, University of Houston Law School presented a workshop for all the law faculties in Nis on teaching methodologies for practical skills education. Sixteen law professors participated. Professor Lee Schinasi, University of Miami Law Schools came in May 2002 and gave demonstrations of modern teaching methodologies and worked on program development at all four law faculties.
- In November 2002, CEELI held a round table discussion with law professors from all four law faculties in Nis to share lessons learned and discuss common problems and how to overcome them. One of the outcomes of the meeting was to organise a meeting with the Minister of Education. Later that month the meeting was held and the Minister of Education (a former law professor) expressed strong support for the concept of clinical legal education, but gave little hope of financial support.

The legal clinics continued to exist at the law faculties in Serbia mostly thanks to a number of enthusiastic professors.

Legal education in Serbia

There are five law faculties in Serbia: the University of Belgrade, University of Novi Sad, University of Nis, University of Kragujevac and University of Pristina. Belgrade is the capital city of Serbia, while the other university cities are the capitals of Serbian main regions and provinces. In a way, every law faculty bears and reflects the characteristics of its own region. Despite these minor differences, all law faculties work under common regime of studies prescribed by the Ministry of Education. In order to enroll in the faculty students must have a high school diploma and pass the admission exam. The largest enrolment is in the University of Belgrade which admits 2000 new students every year (compared to 800 enrolled in the University of Kragujevac). Only the best ranked students are financed by the government while all the others pay the tuition fee which is still relatively low compared to those at other European universities. Very few students complete the four year study-course within this time; their studies last much longer. This is mostly due to lack of motivation among the students since they know that even if they finish their studies in time, it will be very difficult to find a job.

Teaching methods are exclusively old-fashioned. Professors mechanically present their lessons in front of a large number of students and give them the list of literature for future reference. The class participation, if there is any, is almost negligible. Teachers rarely allow time for students' questions and discussions.

Most of the professors have expertise in theoretical matters and lack practical knowledge since they have never worked in practice. Only during the so called exercises do students get the opportunity for more active participation in the educational process. Students very rarely go to courts for practical training and, thus, they lack immediate contact with future vocation. The exams are in the oral form which is also considered to be one major deficiency.

The legal clinic Kragujevac

Kragujevac is the capital of Jumadija region covering the central part of Serbia. It is located 120 km south from Belgrade. After the Turkish liberation, during the reign of Prince Milo (Obrenovi), Kragujevac was the capital of Serbia. The first Serbian Parliament proclaimed the first Serbian Constitution, the so called Sretenjski Ustav, in Kragujevac on January 15, 1804 (next year will be its 200th anniversary). Also the first major state institutions such as the first court, theatre, high school and Lyceum (the first institution of higher education) were founded in Kragujevac. When Belgrade became the capital all these institutions were moved there.

The law clinics, as a form of students' practical education, was brought to the Faculty of Law in Kragujevac by ABA/CEELI, thanks to Mrs. Terry Ann Rogers who is the Director of the Association for Serbia. Generous aid for completion of the law clinic was given by the association office in Nis including Mrs. Mirjana Golubovic, Mrs. Mirjana Stankovic and Ms. Jelena Jiri.

The Law Clinic at the Faculty of Law in Kragujevac would not have been put into effect without Professor Emilija Karajovic who is meritorious as the coordinator. The first generation of students during the 2002/2003 school year could learn and accomplish practical knowledge following the introduction of the new methodology thanks to Professor Karajovic. This is was a special pioneer project in innovative teaching at the faculties of law in Serbia, besides the Faculty of Law in Kragujevac, similar programs are underway at the law faculties in Novi Sad, Nis and Belgrade.

It would be superfluous to indulge in explaining the need for these changes in teaching and emphasise the benefits for the students who will be lawyers after completing their studies, whether they work in administration of justice or as judges, prosecutors and attorneys or in any other field which requires legal knowledge. We are familiar with the fact that graduate law students could acquire practical knowledge after completing their studies at their first places of work. This, so called, practical training of students who have just graduated, depended on their teachers' (experienced colleagues) will and free time at the work place. In addition let us not forget that experienced colleagues are not experts in transmitting their knowledge, no matter how good they are in their work.

Law clinics represent something new and a step further in teaching at the Faculty of Law in Kragujevac and at another three law faculties in Serbia. Professors engaged in clinical work were introduced to numerous educational programs either through the visit of American clinical professors which lasted for several days or Serbian professors attending conferences in Riga, Sarajevo, Skopje, Budva, Warsaw, Moscow, Timisoar, etc. The Faculty of Law in Kragujevac maintains a good co-operation with Law Center in Houston. The two faculties organised the exchange of students and professors so one professor and two students from each faculty were on study visits in the USA and Serbia respectively.

Practical education of prospective lawyers is not a novelty. Law clinics originated in the USA, but even Romans were, in fact, acquainted with that kind of education. They were introduced into American Law Schools almost 30 years ago and have continued to develop internationally with Russia and the rest of the former Soviet Union countries participating at the beginning of the last decade of the 20th Century. Today there are more than 5000 law faculties which include legal clinic training. Law clinics have developed also in other parts of the world: in Macedonia, Bulgaria, Bosnia and Herzegovina, Lithuania, Poland, Romania, etc. Serbia is joining that great family now. It is necessary to mention that legal clinics are also widespread on the African and Asian

continents. A step towards the integration of law clinics was performed in 1999 in India when the world organisation GAJE (Global Alliance for Justice Education) was established. There are law clinics in more than 2000 countries all around the world.

This paper presents the methodology and program review of the law clinic implemented at the Faculty of Law in Kragujevac. I hope that it may contribute to further studies in this field because new generations of students seem to be enthusiastic about it. They are aware of the benefits for their future which result from it. Let us quote some students and their opinions:

- ‘I am glad because someone has the courage, and this is courage indeed, to start with this kind of work in such a conservative society’.
- ‘I did not like law when I enrolled in the Faculty of Law in Kragujevac, but the law clinic is something rare and I have really become interested in it. They should have introduced them earlier’.
- ‘This kind of conducting instruction is exceptional and should become part of the regular program as soon as possible’.

What has been done at the Faculty of Law in Kragujevac

The program included four thematic wholes:

- introduction to new methods: playing different roles, simulation, brainstorming, the case study analysis,
- ethics: general course, judicial ethics, lawyer ethics,
- client interviewing: psychological elements of the interview, preparation for the interview, simulation,
- preparing legal documents: agreements, legal suits, appeals, wills including witnesses, criminal charges, (requests for bringing charges against drug dealing, producing and handling, etc.)

Methods

As we already mentioned, the standard educational process mostly included teaching where the students are merely passive observers and the teachers present their lessons without their active participation. Legal clinics change such behaviour. The students are no longer passive observers but very active participants and that is why these methods are called interactive methods.

The next characteristic is work in small groups. Legal clinics do not accept teaching in large classrooms (amphitheatres) before the audience of a few hundred students. They require smaller groups up to 10–15 students.

It is also important to note that the method allows the students to reach independent opinions and conclusions without intervention.

The advantage of this work (interactive methods and small groups) is that the students are very motivated by the active participation since it appears that their opinion finally matters, which an excellent starting point for future successful work. Besides acquiring specialised professional knowledge, the students develop other legal skills. They practice rhetoric, argumentative

presentation of their opinions, defending their standpoints and fighting for them, as well as accepting other people's opinion through a democratic and constructive discussion.

Among the methods which proved to be the most successful are:

- role playing
- simulation
- brainstorming
- case study.

We should not neglect the panel discussion, the Socrates' method, round table discussions, presentations, database, etc.

Role Playing

What characterises this method is that the teacher assigns a role to the student and he is supposed to act it out. This method provides many possibilities to the teacher. He can stress different aspects himself or use the student who is acting out the role. It is possible to emphasise good sides of somebody's behaviour, or maybe his weaknesses. This method enables students to practice different skills.

Simulation

The core of this method is to assign to students different tasks from the subject matter which is being practiced and then to perform the simulation of that subject. The subject matter can be imaginary. It can be prepared in advance or simulated on the spot. The imaginary subject matter allows the teacher to create a situation he wishes to have in working with students and to cover all vital elements of training. Its weakness is that the teacher is not always in a position to have the concrete answer since he cannot anticipate all possible situations. But from this weakness the teacher can draw the advantage since he is in the position to teach his students how to do their work in the highest professional way. Where the subject matter is prepared in advance this allows the teacher to have a situation set according to his wishes and prevents time being wasted when the simulation is conducted on the spot. Short discussions with students and taking notes on their comments can help teacher before assigning the roles. Even better results can be achieved if the subject is handed out to students before the simulation so that they can have enough time for preparation. Each student receives a role for simulation with guidelines as to which aspects should be emphasised. If a civil law case is in question, then the students are assigned the roles of the parties, judge, lawyers, witnesses, court experts etc. Then the students simulate the case. In this whole process the teacher is not a passive observer but someone who conducts the simulation setting out its objectives.

It is not necessary that all the students from the group participate in the simulation. Those who do not participate can analyse the simulation process.

When the simulation is completed, then follows its analysis. It can help if the simulation is video recorded so that this recorded form can be used to facilitate the discussion on the simulation. A check list prepared in advance, listing necessary topics to be discussed, can also help. It is highly advisable that the actors themselves analyse their performance in order to have an insight in what

they have achieved. When performing the analysis it is important to start with positive things. The teacher can start the analysis by bringing out his opinion on the parts of simulation which were well performed.

Brainstorming

This is the method in which a group of students focuses their attention to a certain topic(s) and work towards problem solving through a joint process of brainstorming. The topic for discussion can be assigned in advance, but it is not mandatory. It is also optional to assign it in written or oral form. The blackboard is a helpful tool in this process because, firstly, the ideas written on it are obvious and, secondly, the teacher can ask a student to do it instead of him. This method represents a quick way for collecting ideas on a certain subject or issue.

It is important to note that in this method there are no good or bad ideas, correct or false answers provided they are within the previously set boundaries. In this method the teacher also plays an important role in streaming the discussion towards certain aspects, but he is someone who only directs and not influences the discussion by bringing out his personal opinion. The teacher should always bear in mind that the students are different individuals and that there are some students who have difficulties in expressing themselves. It is important that the teacher should include such students into discussion as well.

Upon completing the list of ideas it is useful to go over them once again and make a short summary, that is, to narrow the list through a constructive discussion. This final list should include different opinions of students and not only the standpoint of the majority of students where the arguments of individuals are exempted.

The advantages of this method are that it allows creative, unlimited and always new possibilities and that gives the students the opportunity to obtain a realistic view of other people's opinion on their ideas.

Case study

This method is similar to the role playing method since it uses specific situations or specific scenario as a teaching material. However, this method also resembles the brainstorming method since it is very important to encourage the students to enter discussion and to make a list of ideas which will help in the analysis of a particular case. The subject matter of a particular case study should be prepared in advance and handed out to students in the printed form. The teacher should also prepare the questions in advance in order to facilitate assigning of a concrete tasks such as problem identification, choosing the priorities... This method allows different combinations. It is possible to divide students even into smaller groups and then to assign to such groups different, similar, or even the same tasks.

The advantage of this method is that it can be used for building up students awareness of the challenges and problems without assigning direct blame or guilt to any particular individual from the group.

Ethics

The General Course

The general course represents an introduction into the entire course in ethics at legal clinics. The general course lectures include basic terms such as: professionalism, moral, ethics. The method used in the introductory part of the lecture is brainstorming.

Judicial ethics

Students are introduced to problems of judicial ethics. They are asked to describe the role of judges in a society or, for instance, to give their own description of positive characteristics of a judge.

Then, the topic is related to the perception of the judiciary by the public and is discussed with the special emphasis placed on the role of judges in creating the general public opinion on judiciary in a society.

This topic on judicial ethics is also treated in an interactive way where the students are encouraged to seek the answers independently. Again the brainstorming method is used along with other techniques such as: video presentation, work in small groups, discussions on hypothetical situations and case study.

Lawyer ethics

General public opinion on lawyer ethics is not positive, that is, it is widely considered that they are not always guided by ethical principles. Even as early as in the 17th Century clients complained about their legal representatives. The following passage reflects generally accepted opinion about this profession:

November 26, 1686

I had dinner with my colleagues, Lord Chancellors, which was also attended by three legal representatives. After the dinner they were in good mood and loosened themselves revealing some parts of their legal experience, for example how they had dragged some processes to exhaustion using various tricks. They resembled a gang of bandits telling each other how many wallets they had stolen just for the sake of mocking. However, you can not mock the God.

John Evelyn (1620–1706).

Preparing legal documents

This was the easiest part of the program for the professors included in the work of these clinics. Since the students worked in small groups of a maximum of 10 students and the professors were well trained and experienced in this field, success was easily attainable.

As an example of the work in the legal clinic at the Faculty of Law in Kragujevac, I think it would be a good idea to enclose the letter of two law students from the University of Houston, Texas who spent some time at the Faculty of Law in Kragujevac as exchange students:

Dear Clinical Professors,

On behalf of my fellow exchange student Heather and Professor Beassie in Houston, allow me to say that it has been a great privilege and honour to have taken part in your classes for the past month. Our time here is winding down and I must bid you all farewell. I hope our paths cross again very soon because I enjoyed my experience here and I learned quite a bit from you and your colleagues. You asked me to compose a short e-mail with my thoughts on what I observed in our class. It is a pleasure to reflect on this issue.

First of all, I would like to say that the level of enthusiasm and participation in the clinic classes is very impressive. I think that the class is a great forum to develop ideas and convey them in a classroom setting. From what I understand, it is very unusual to be allowed this freedom at the Pravni Fakultet. The subject matter was very useful from a clinical legal education standpoint, too. Judicial and lawyer ethics are practical things to study and the classes on preparing legal documents were also informative. I think the best way to approach any comments would be to emphasise the difference between your class and the one I experienced at the University of Houston.

An overview of our clinical education can be found on the website www.lah.uh.edu. We have a civil, juvenile, immigration, mediation, transactional, and consumer clinics. Furthermore, we have judicial externship where Professor Beassie places students in courts to do some work there. My own clinic was the immigration clinic. We had a week-long orientation where, for several hours a day, we would learn about the statutes we would be working with, clinic procedures, strategies for interviewing clients, and courtroom decorum and advocacy.

We started meeting with our clients from the first week that classes started. For cases that can not be resolved in one semester, it is a student's responsibility to prepare transfer memoranda to the student who takes over a case. We helped indigent clients with, for example, obtaining a status that the law allowed for them, obtaining work permits, obtaining permanent residence cards, and representing in court those clients who were facing involuntary removal from the country. Our physical set-up is also very useful to note in understanding how we operate. Students have their own desks all in one location specifically designated for clinic business. Phones and computers were available to each student as well. Weekly meetings on case strategy would take place between a student and professor. There are also classes once a week to discuss the case law that is relevant to the subject matter of the specific clients problems.

Mainly, I think the differences between your clinic and ours is that the classroom aspect of the program is conducted at the same time as the students represent clients. Students are required to work on their clients' cases for a certain number of hours per week and keep accurate notes of everything they do, including every phone call.

I think that further discussion is necessary between American faculty and their Serbian counterparts because they can all learn from each other. Overall, I am impressed with the level of teaching at the Kragujevac Law Faculty and the only thing that I would have liked better is to observe some actual interactions between clients and students.

Thank you for your attention and for being wonderful hosts as we visited your country.

Sincerely,

Bruce Godzina

Conclusion

If we take into account that this is a new working method and new way of approaching the problem and legal education in the Serbian Law Faculties, I can say that I am very much satisfied with the results achieved. Of course we encountered many difficulties: some colleagues were unprepared for this kind of work, lawyers were not used to working with students, etc. However, I was fascinated with the enthusiasm of professors and the great interest the students expressed for this kind of work which, along with their natural intelligence and passively acquired knowledge enabled their more active participation in the class. I sincerely hope that we shall find the way to financially support our legal clinic in the following academic year. We have already prepared the program for a new group of students and planned to involve the previous group of students in the work with clients.