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Legal clinics at current stage of society development

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The urgency of the topic is that today there is an urgent necessity of institutions such as law clinics that have given a new impetus to the higher legal education development. Yet, their purpose is to provide legal assistance to low-income citizens, to deepen students' understanding of professional ethics, to teach students practical and psychological skills in providing legal assistance, etc.

The article deals with the concept, purpose and state of legal regulation of the legal clinics activities; analysis of the positive aspects of the legal clinics functioning and clarifies the challenges legal clinics clash with. Emphasis is laid on the legal clinics necessity and importance.

The ways of further of legal clinical education improvement in Ukraine are outlined.

Key words: *education; human rights; right to education; legal clinic; legal clinical education.*

Introduction

Often, heads of legal departments and firms and other employers complain that graduates of higher education law schools possess sufficient theoretical knowledge, sometimes even encyclopedic in nature, but are not able to write a basic procedural document or simply communicate with a client and identify his problem constructively.

Due to lack of experience and practical skills, it is extremely difficult for graduates to get a job in a specialty. Such a vicious circle is a challenge for young lawyers, so higher education institutions can assist students in acquiring the knowledge and skills that are valued by employers in the field of law. Legal clinics are an effective tool in this context.

«Indeed, the functioning of legal clinics at higher legal educational establishments is entirely justified, since on the one hand, a large number of low-income persons apply to them for free legal aid, and on the other hand, graduates of legal clinics, after completing their studies at a higher educational institution, acquire some experience of professional practical activities allowing them to be competitive in the labor market», - says Yu. Savelova. (2013)

“...notably, that clinic students had a statistically significant higher intention to participate in pro bono work after graduation than non-clinic students or students engaged in volunteering”, - concludes *Claudia Man-yiu Tam (2020)* in her research.

As stated in the draft Concept for the Development of Legal Education, the content of the legal subjects taught at law schools of Ukraine, teaching methods, legal science, and the administration of these schools and universities in general are slowly undergoing qualitative changes and remain the inheritance of the soviet legal education system, in accordance with which a lawyer is perceived as a person who is called upon to serve the state and not to guarantee, assert and defend human rights or to ensure effective public prosecution. Thus, by forming the legislative sphere for the legal institutes activities in accordance with European standards, the state does not receive experts capable of introducing new laws directed at human rights promotion and protection (2020).

Modern educational process is overloaded with the study of an array of regulations and is not sufficiently oriented to the legal practice of graduates and superficially

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stimulates students' individual educational activities. Even graduates of the most prestigious law colleges are faced with the problem of employment, since the requirement of the majority of employers is to have a practical experience of legal activities (Senchak, 2012).

Therefore, let us deal with the current situation regarding the legal clinics establishment and functioning and with the issue of legal clinical education.

Theoretical foundations of research

Deep social and economic and political transformations, taking place within our state, have touched upon the sphere of higher legal education and the system of providing free legal aid. This has led to increased attention of scientists to the legal clinics activities. The monograph by M. Lodzhuk, dealing with the theoretical description of the legal regulation content of the legal clinics activities in Ukraine, is a crucial paper. (Lodzuk, 2015). A number of manuals on the basics of legal clinical activities and practice have been published (Savchyn, Mendzhul, Navrots'kyi, 2007; Halai, Ivanishch, and Stadnik, 2007; Nalyvaiko, 2017), focusing on the necessity of teaching this course at higher education establishments.

Pursuant to the Standard Regulation on the Legal Clinic of the Higher Education Institution of Ukraine of Higher Education Institutions of III-IV Levels of Accreditation, training specialists in the field of "Law", regardless of ownership and subordination, legal clinics should be established (2006).

Some, relying on the autonomy of educational institutions, say that requiring them to create legal clinics is an intervention. However, "... the administration of higher law education cannot harm the essence of law or create a conflict with other human rights, nor can it encroach on the universities autonomy" - note R. Karahioz, O. Lehka, S.Minchenko (2019) Accordingly, the requirement to create legal clinics at all higher education institutions, where there are law faculties or departments is not an encroachment on the autonomy of the institution, and conversely, legal clinics have become one of the necessary and integral elements of the educational process, as they allow the student to overcome the gap between theory and practice, between studying and real legal cases.

However, the issue of determining the place and the role of legal clinics within the current legal education system has not been fully explored.

Goals of article

The purpose of the article is to study the legal clinics activities and functioning at the present stage of society development; finding out the place and the role of legal clinical education within legal education.

Presentation of main material

The first mention of the term "legal clinic" belongs to the German professor Frommgold, who published his article "Juristische Kliniken" in the journal *Deutsche Juristen-Zeitung* in 1901 (Zhuk, 2002). Thus, it is very useful to borrow promising and practically useful forms of education

that have been used by the law faculties of European states for several decades. The latter, in particular, cover the activities of law students in "legal clinics". In addition, the experience of Ukrainian law universities proves high efficiency of using this form of legal education and training of future law specialists.

In general, the term "legal clinic" is derived from the English "law clinic". In addition, the English word "clinic" has a substantially different lexical meaning from the Ukrainian word "clinic" and is not always identified with the medical institution itself (Sukhytska, 2008).

Most researchers define "legal clinic" as a unit in the form of educational and practical center, which is created and functions on the basis of higher education institution of III and IV accreditation level, and which prepares specialists in the field of "Law".

According to A. Galai, legal clinic is a special mechanism for promoting the quality of legal education, which is manifested in making the opportunities for students to practice in the legal profession while performing analytical and human rights activities directly. (2009)

In Ukraine, legal clinics were introduced in accordance with the Decree of the Ministry of Education and Science of Ukraine "On Approval of the Standard Regulation on the Legal Clinic of a Higher Education Institution of Ukraine". (2006)

Today, there are two main approaches to understanding the legal clinic. First, by a legal clinic it is understood a structured unit of a higher legal institution or its faculty, public organization or legal advice, and according to the second one, legal clinic is an integral part of the educational process (special course), an innovative (interactive) method of developing students' practical skills.

In our opinion, the legal clinic should be understood as a structural unit of a higher education institution, providing practical training for students by involving them into professional legal practice.

According to the Standards of Ukrainian legal clinics activities, legal clinic performs educational and social functions. The educational function is the leading one. The legal clinic's educational function is to focus its activities on the practical training, in order to prepare law professionals who have acquired specific professional skills and do not require additional adaptation to professional activity. The social function of the legal clinic is to meet the public's needs for accessible legal information and legal assistance, and to increase the professional responsibility of lawyers (2014).

The legal clinic is formed to consolidate students' theoretical knowledge and practical skills of the profession of lawyer, to develop in them respect for the principles of law, to increase the level of legal culture of the population, as well as to provide free legal assistance to those who need it.

The purposes of the legal clinic, in accordance with the Standard Regulation for Legal Clinics (2006), are

- improving the level of practical knowledge, skills and competences of law students;
- providing access to legal aid for representatives of socially vulnerable groups;
- forming of legal culture of citizens;
- preparing and educating students in a spirit of respect for the principle of the rule of law, justice and human dignity;

- expanding the cooperation of higher education institutions providing training of law professionals with the judicial, law enforcement, justice, state and local self-government agencies, and with other institutions and organizations;

- implementing elements of practical training of law students in the field of legal services into the educational process.

According to the Standard Regulation on Legal Clinic (2006), the main tasks of the legal clinic are:

- providing legal clinic students with the opportunity to acquire practical skills in the specialty;

- making of places for students to do educational practice;

- providing of free legal advice to citizens of socially vulnerable groups;

- conducting activities on legal education of the population;

- ensuring the possibility of communication of students with specialists-practitioners of judicial and law enforcement agencies, other state bodies and local self-government bodies on the issues of their activities during the educational process;

- making of an effective mechanism of information exchange between the population, the mass media and a legal clinic, that will allow to quickly respond to the practical needs of citizens.

General management of a legal clinic of a higher education institution of III - IV level of accreditation, training specialists in the field of "Law", is carried out by its head – the rector (president), head, director, etc.

The head of the legal clinic is appointed to the position by the decision of the head of the higher education institution of the III - IV level of accreditation, which trains specialists in the field of "Law", upon the submission of the head of the faculty, institute or branch, etc. The structure and number of employees of the legal clinic is determined by the head of the higher education institution. Legal Clinic consultants are senior students studying "Law" and providing legal assistance under the guidance of curatorial lecturers. The procedure and term of their participation in the legal clinic activities, the number of students-consultants is determined by the relevant Regulation on the legal clinic of a higher education institution. However, the main disadvantage of this Regulation is that usually the clinic supervisor (head) and curatorial staff works on a public basis and this workload is nowhere considered.

Legal clinics can be universal and specialized in the provision of services in particular areas of law as well.

According to the Association of Legal Clinics of Ukraine, which was established in 2003 as an all-Ukrainian public organization, the purpose of which is to support the legal clinics' activities, promote the development of legal clinical education and implement relevant law, education and human rights protection programs (2020).

Currently, the Association of Legal Clinics of Ukraine monitors the activities of legal clinics and, unfortunately, their activities do not always meet the standards and established requirements for this type of activities due to lack of scientific and methodological basis, lack of information resources and practical experience and their motivation for such successful work.

We fully agree with the opinion of M. Sioma, the Director of the Ukrainian Legal Aid Foundation, that "legal clinics urgently need regulatory fixing as structural units of universities - this will solve the issue of involving lecturers and significantly strengthen the quality of teaching and legal services provisions to clients" (2018). Indeed, the proper functioning of a legal clinic is impossible without its effective organization, which consists not only in human resources, but also in information, and logistical one. However, it is undeniable that the legal clinic should be attached to every institution of higher education, and the successful activities are largely driven by the activity and initiative of the students themselves.

Conclusion

Thus, current development of the legal clinical education in Ukraine needs further improvement, which would include:

- Regulatory legal support of a special type of legal education - legal clinical education;

- Adoption of a new Regulation on the legal clinic, which will reflect: work at a legal clinic and practice management will be taken into account;

- Development and approval of a separate Regulation on the practice at the legal clinic;

- Closer international cooperation in the exchange of experience of the legal clinics of Ukraine and Europe;

- Active cooperation with law enforcement agencies, human rights organizations and judicial authorities to provide quality legal assistance by students at legal clinics under the guidance of professionals;

- Involvement of students in legal clinics activities with compulsory practice doing;

- Increasing the number of functioning legal clinics;

- Separation of legal clinics into a separate structural unit with the staff at all institutions of higher education;

- Introducing compulsory legal clinical education course tuition.

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