



LEGAL EDUCATION - AN EDUCATION OF RECURRING LEGAL NEEDS OR HABITS?

TOMY MICHAEL

Universitas 17 Agustus 1945 Surabaya

tomy@untag-sby.ac.id

<https://www.scopus.com/authid/detail.uri?authorId=57951272200>

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Abstract - This conceptual study uses a normative research method with a comparative approach between Pakistan and Indonesia.[1]It aims to find concepts that have a direct impact on law school students in improving legal clinical education in Pakistan. Legal justice for law school students is the ability to understand how they act when facing legal problems. Legal justice is needed how to handle legal subjects not based on ethnicity, religion, race and between groups because it will have legal implications for legal benefits and legal certainty. Clinical legal education is one way to advance the world of law in a country, in this case Pakistan where campus support is the main thing. Clinical legal education must also keep up with times and technology so that law school students and the people who use them have a complementary relationship. Clinical legal education must raise current legal issues that are specific because legal problems that occur in society cannot always be resolved in a fast way. In this case, cooperation with various universities in various countries will provide a universal understanding of various legal issues.

Keywords: clinic; legal; society; university

INTRODUCTION

In Indonesia, graduates from the law faculty must become graduates who are able to master the state of society. There is a method used by law faculties in Indonesia, namely the method of understanding normatively and the method of understanding empirically. Understand normatively using Hans Kelsen's thinking that everything is based on written norms.[2] Then the method of understanding empirically is the use of data but data is a source that cannot be processed because it is related to legal certainty.

In this context, students must have general provisions such as civil law, criminal law, maritime law, legal sociology, consumer protection law, space law, economic law or legal hermeneutics, meaning that mastery of various types of lecture material is absolute.

In practice, law faculty graduates don't understand the essence of the highest legal goal, namely legal justice. Those who don't have skills will not be able to compete with domestic or foreign workers.[3] Legal justice for law school students is the ability to understand how they act when facing legal problems. Legal justice is needed how to handle legal subjects not based on ethnicity, religion, race and between groups because it will have legal implications for legal benefits and legal certainty. Max Weber explained that community actions could be divided into: 1) traditional, which is based on traditional values or habits; 2) affective action driven by emotion; 3) value-rational actions that imply there is intrinsic value in the actions taken, regardless of the consequences or consequences those actions; and 4) rational-purposeful action based on a conscious calculation of the action.[4]

With this argument, if it is related to Pakistan, there is a lack of legal education goals in providing certain values to law faculty students. When people need professional skills, these facilities only appear when graduating from college is achieved. The complexities of modern policing require internal affairs agencies to expand the training opportunities for police officers to carry out the tasks assigned to internal affairs agencies. It is not enough to focus solely on the law or on perishable skills such as arrest and control, defensive tactics, driving, and firearms. Training involves building and developing skills such as cognitive, emotional, social and moral skills that can improve the condition of police

officers, as well as foster relationships between police officers and members of the community. Trained police officers need to develop critical thinking skills, effective communication, and emotional intelligence.[5]

In Pakistan, legal education doesn't seek the attention required for the legal profession. Institutions that provide legal education ignore certain values to equip law school students with professional skills. Professional bodies also neglect their duty to train young advocates or to facilitate their senior experts to become proficient in practical knowledge. In this way, universities and councils of advocates collectively ignore and influence law school values. In Pakistan, there are roughly fifteen public sector law schools/faculties which are right now providing legal education. There are more than seventy private law schools/faculties connected with public sector institutions. Apart from this, certain law degree-awarding institutions collaborated with overseas universities to offer split degree programs. The Higher Education Commission's role is to act as a facilitator, bringing together all public and private institutions, as well as contributors to Pakistan Bar Council Legal Education Committee, to verify and revise the curriculum every three years.[6] Based on the background, the legal question is to what extent legal clinical education can be the main spearhead of a country's progress in Pakistan.

RESEARCH METHOD

This conceptual study uses a normative research method with a comparative approach between Pakistan and Indonesia.[1] Although it is normative research, it still uses interpretation and collect empiric data in it. It aims to find concepts that have a direct impact on law school students in improving legal clinical education in Pakistan.

RESEARCH RESULTS AND DISCUSSION RELATIONS BETWEEN PAKISTAN AND INDONESIA

Indonesia's relationship with Pakistan is a very special relationship/ founded on the same religious views. Indonesia is world's largest Muslim country in terms of population, while Pakistan is the world's second-largest Muslim country. Both countries are members of the Organization of Islamic Cooperation (OIC) and the D-8 Group of Developing Countries. Pakistan has an embassy in Jakarta, while Indonesia has an embassy in Islamabad/and a consulate general in Karachi. Based on the 2015 BBC World Service Poll, 80% of Indonesians view Pakistan's positive influence, while 11% express a negative view, making Indonesia be a mostly pro-Pakistani country in the world.[7]

DEVELOPMENT OF LEGAL CLINICAL EDUCATION IN MODERN PRINCIPLES

After passing Covid-19, the education process around the world underwent significant changes. Education must keep up with technological developments and must continuously be able to make society a real laboratory. There are three main essences that highlight the need for clinical legal education in the legal profession. The first element is related to the desire to have practical skills in the field of law. Without practical knowledge, a law school student cannot fulfil the requirements of the legal profession. The second element is about social responsibility to fulfil the requirements of justice. It's the duty of a legal practitioner to know the practical problems of legal education so that justice can be applied properly. The third element is the task of law faculty lecturers to ensure the joining of the world movement and join clinical methods for improving quality of legal education. Few countries have tried to impose clinical education in the legal sphere.[6]To develop it, three components are needed, which are the glue of running of *clinical legal* education, namely the planning component, students prepare and plan to gain real legal practice experience. Planning component, students and supervised lecturers develop practical programs that provide benefits for both students themselves and *the legal clinic*. In the practical component, students test the lawyering skills of students with supervision from senior lecturers or competent practising advocates. The reflection component relates to the process of students reflecting on their experiences and evaluating students and also to the implementation of clinical legal education itself in general.[8]

The three components should create a professional attitude for law faculty students. This means that speaking of professionalism is only limited to professions such as judges, prosecutors, police,



advocates or notaries. Specifically, there are actually many professions that can be part of clinical legal education, such as taxation, lecturer at law faculty, contract designer, mediator, auctioneer to the interpreter of legal texts in the study of legal anthropology. Law school students tend to be commercial and ignore the noble message of professionalism so many of them fail to understand the basics of their future working life.[9] In comparison, in Indonesia, every clinical legal education must be tested in the community and produce outcomes. Output is a way so that what has been done can be accessed by all parties, for example, making videos, making research manuscripts published in international journals, making guide books, conducting seminars by presenting speakers to registering copyright for work that has been produced. Combining with Pakistan, there are similarities where clinical legal education has its own problems. There is a method error in providing individual material. For example, in the Socratic method people tend to ask questions over time and will answer their own questions. Then, in inviting resource persons who already have experience in the field of law, it is very rare to review the benefits they get while carrying out the professional. As an analogy, when inviting a judge to give an explanation about the legal profession, he will not tell the happy value of being a judge. For example, when you become a judge, you will have the opportunity to become an adviser to the president or as an ambassador. Working on issues involving domestic law of multiple jurisdictions and its extra-territorial application necessitates working with clinics or organizations in other countries that are more familiar with those domestic laws.[10] It could be that when you become a judge, advice is always needed before imposing sanctions. Advice comes from member judges who can have the same or different opinions. Such a concept has in common with Pakistan that legal education is a form of community service. This paradigm must be changed with the mindset of students who conduct lectures need competitiveness and high awareness.

Another way is to invite law school students to self-criticize what they have done. This self-criticism must be known by the accompanying lecturer and conveyed in class so that the organizers also know the shortcomings of their clinical legal education. The experience of going into the community, which is still less than in class, will make clinical legal education raise the concept of relativity. This means that law faculty students can accept the actual situation in society when what is expected is not in accordance with their wishes and the theory they receive. In this way, it is possible to ensure that the learning outcomes of the project are met even when the teaching performance of law school students is not assessed individually.[11]

Individual assessment will not reduce the meaning of the value of justice, especially social justice in legal science. Apart from the value of social justice, Hayek argues that those who use the word 'social justice' refers to what the state is supposed to do.⁶² In other words, it is used to describe a situation, i.e. a situation of inequality, which might be remedied by redistribution.[12] Access to justice: Enables individuals to protect themselves against infringements of their rights, remedy civil wrongs, and hold executive power accountable themselves in criminal proceedings. Thus, it can be viewed as both a process and a goal and is essential for individuals seeking to benefit from procedural and substantive rights. Access to justice can include exposure to legal information and education, as well as less formal methods of dispute resolution such as negotiation and mediation.[13]

CHARACTERISTICS OF CLINICAL LEGAL EDUCATION

In an adage, education must have the characteristics of being included in the graduate entity. In his remarks, the Dean of University Central Punjab Hadia Cloud says[14]

“In my experience, all law students must hone their craft in three areas - The first is the skillset comprised of critical observation, problem-solving and effective representation. The second is having the ethical credentials to resolve ethical dilemmas. The third, and most of effective, is social empathy which enables a lawyer to empathize with the community. The faculty has also launched an on-campus law clinic. The law clinic works in three areas: 1. It offers free legal advice and provides help not only to UCP family but also to community in general 2. It gives opportunities to students by conducting training focused on practical skills like mootings, mock trials, mini-trials, etc. 3. It focuses on the students' critical and analytical thinking skills enabling them to carry out



quality research. Our Law Research Journal is in the process to publish the research conducted by our students and faculty”.

In layman's understanding, the University of Central Punjab has reformed legal learning according to the needs of the community. Clinical legal education will be successful when it has characteristics such as the presence of institutions involved in each implementation or the number of law faculty students who participate. When there are many institutions with special characteristics, the education will have a good focus. For example, the researcher uses participating institutions at the Universitas 17 Agustus 1945 Surabaya, namely collaborating with General Election Commission or courts around campus.[15] This begins with the signing of a cooperation agreement, and then there is a target achieved by the student or the institution. The concept of clinical legal education when time has passed, students have a great opportunity to become part or professional workers at the institution. In this case, law school students have no doubts because it is also related to ethics when attending clinical legal education.[16]

Castles and Hewitt propose that legal graduates must be equipped with a broader practical skills base: 'first-tier skills' which they describe as 'intellectual and social aptitude including critical thinking and problem solving, oral and written communication, and the capacity to work both independently and cooperatively.[17] Capacity-building should also be a university target when clinical legal education also teaches pro bono. Pro bono or free legal aid must be provided and students must not refuse for any reason because it will generate sympathy from the community and change the legal stigma that only dwells on suffering but is more directed towards restorative justice. Global development is entering a phase where entrepreneurship will increasingly play a more important role. There are at least three reasons for this, each particular to certain types of countries.[18] Legal education will produce value validity for graduates because they have been taught according to the applicable curriculum. Then the difference in practice is a necessity that must be maintained by the university. But the necessity must be limited in time such as competency certification which is only valid for three years.

CONCLUSION

Clinical legal education is one way to advance the world of law in a country, in this case, Pakistan where campus support is the main thing. Clinical legal education must also keep up with times and technology so that law school students and the people who use them have a complementary relationship. Clinical legal education must raise current legal issues that are specific because legal problems that occur in society cannot always be resolved in a fast way. In this case, cooperation with various universities in various countries will provide a universal understanding of various legal issues. Law faculty students will be able to study the culture, structure, legal system, form of government to customs of other countries. The collaboration will also create an international curriculum that will be followed by law students from both universities, and research can also be an option in showing their existence as a law students.

REFERENCES

- [1] A. M. Fajar Sugianto, Tomy Michael, “Konstelasi Perkembangan Hermeneutika dalam Filsafat Ilmu sebagai Atribusi Metode Penafsiran Hukum (The Constellation of Hermeneutics’ Development in Philosophy of Science as Attribution of Legal Interpretation Method),” *Negara Hukum: Membangun Hukum untuk Keadilan dan Kesejahteraan*, vol. 12, no. 2, pp. 307–328, doi: 10.22212/jnh.v12i2.2188.
- [2] K. G. Bayer, “HANS KELSEN. VIDA Y OBRA,” *Revista de la Facultad de Derecho de México*, vol. 55, no. 244, 2017, doi: 10.22201/fder.24488933e.2005.244.61576.
- [3] “PENDIDIKAN KLINIK SEBAGAI INSTRUMEN PENTING DALAM PEMBAHARUAN PENDIDIKAN HUKUM DI INDONESIA | UNES Journal of Swara Justisia.”



- <https://www.swarajustisia.unespadang.ac.id/index.php/UJSJ/article/view/124> (accessed May 03, 2022).
- [4] R. Tedjabuwana and H. Septianita, "ETIKA SIKAP ILMIAH DALAM PENDIDIKAN HUKUM KLINIS," *JURNAL LITIGASI (e-Journal)*, vol. 20, no. 2, Jan. 2020, doi: 10.23969/LITIGASI.V20I2.2091.
- [5] E. Sumina, L. Grischenko, and E. Sepiashvili, "Features of training of police employee in the USA," *Applied psychology and pedagogy*, vol. 7, no. 1, pp. 97–106, Jan. 2022, doi: 10.12737/2500-0543-2022-7-1-97-106.
- [6] R. Zahoor, N. Akhtar, and R. I. Habib, "Clinical Legal Education and its Implication on Legal Education System in Pakistan: Challenges and Prospects," *Responsible Education, Learning and Teaching in Emerging Economies*, vol. 3, no. 1, 2021, doi: 10.26710/relate.v3i1.1757.
- [7] *Pakistan aims for better relations with Indonesia beyond politics*. Accessed: May 04, 2022. [Online]. Available: <http://www.thejakartapost.com/news/2008/06/24/pakistan-aims-better-relations-with-indonesia-beyond-politics.html>
- [8] "PENDIDIKAN HUKUM KLINIS (CLINICAL LEGAL EDUCATION) DALAM PELAKSANAAN UU NO.16 TAHUN 2011 TENTANG BANTUAN HUKUM." <https://text-id.123dok.com/document/y4enpj9q-pendidikan-hukum-klinis-clinical-legal-education-dalam-pelaksanaan-uu-no-16-tahun-2011-tentang-bantuan-hukum.html> (accessed May 04, 2022).
- [9] M. A. (Riette) du Plessis, "The role of clinical legal education in developing ethical legal professionals," *De Jure*, vol. 54, no. 1, pp. 1–20, Sep. 2021, doi: 10.17159/2225-7160/2021/v54a17.
- [10] S. Kalantry and R. Hancock, "Transnational law as a framework for law clinics," *Jindal Global Law Review*, vol. 11, no. 2, pp. 251–270, Oct. 2020, doi: 10.1007/s41020-020-00124-3.
- [11] L. Bracken, "A case study on the impact of a capstone Street Law teaching project," *Law Teacher*, 2021, doi: 10.1080/03069400.2021.1949181.
- [12] O. Madhloom and I. Antonopoulos, "Clinical Legal Education and Human Rights Values: A Universal Pro Forma for Law Clinics," *Asian Journal of Legal Education*, vol. 9, no. 1, pp. 23–35, Jan. 2022, doi: 10.1177/23220058211051031.
- [13] "Law and Justice Foundation - Legal Australia-Wide Survey: Legal need in New South Wales." <http://www.lawfoundation.net.au/ljf/app/&id=EDD640771EA15390CA257A9A001F7D08> (accessed May 04, 2022).
- [14] "Faculty Of Law University Of Central Punjab," *1 - Khayaban-e-Jinnah Road, Johar Town, Lahore*. <https://ucp.edu.pk/inc/uploads/2019/01/Faculty-of-Law-compressed.pdf> (accessed May 04, 2022).
- [15] I. P. Tomy Michael, Abdul Rachmad Budiono, Moh Fadli, "Legal Interpretation Will Degrade President's Martabate and/Vice President in Achieving Legal Satisfaction," *Technium Soc. Sci. J.*, vol. 12, p. 71, 2020.
- [16] T. Michael, "PENINGKATAN SOFT SKILL PROPOSAL PENELITIAN BAGI MAHASISWA NUSA TENGGARA TIMUR," *JMM (Jurnal Masyarakat Mandiri)*, vol. 2, no. 1, 2019, doi: 10.31764/jmm.v2i1.1336.



- [17] F. Cantatore, "Boosting Law Graduate Employability: Using a Pro Bono Teaching Clinic to Facilitate Experiential Learning in Commercial Law Subjects," *Legal Education Review*, vol. 25, no. 1, Jan. 2015, doi: 10.53300/001c.6298.

- [18] J. Thompson Jackson and S. R. Jones, "Law & Entrepreneurship in Global Clinical Education," *International Journal of Clinical Legal Education*, vol. 25, no. 3, pp. 85–134, Dec. 2018, doi: 10.19164/ijcle.v25i3.769.