

International Conference on Clinical Legal Education, is an International Proceedings and equivalent with scientific journal, published annually by [Faculty of Law](#), Universitas Negeri Semarang, Indonesia. *International Conference on Clinical Legal Education* published both online and printed version. This conference intended to be international forum for legal practitioners and stakeholders discussing and debate on contemporary issues on clinical legal education and legal clinics. The conference held in cooperation between Faculty of Law Universitas Negeri Semarang, Law Clinics, Bridges Across Borders South East Asia Community Legal Education (BABSEACLE), and Indonesian Clinical Legal Education Associations.
Print ISSN 2614-1809 Online ISSN 2614-3224

Article Online Version

For online version, check: <https://journal.unnes.ac.id/sju/index.php/iccle>

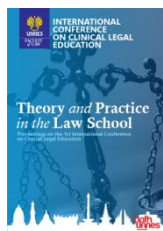
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BOOK Version



The proceedings also published in Book Version with special and standardized number **ISBN 978-602-61382-3-1** by BPFH UNNES (Faculty of Law Publishing House). For more information, please contact:

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HOW TO CITE THIS ARTICLE (APA Style)

Arifin, Ridwan. (2017). "Clinical Legal Education for Human Rights Issues: How Students Can Implement Their Basic Knowledge of Human Rights in Reality", *International Conference on Clinical Legal Education*, Vol. 1 No. 1, 2017. Semarang: Faculty of Law Universitas Negeri Semarang, pp. 325-336.

Arifin, Ridwan. (2017). "Clinical Legal Education for Human Rights Issues: How Students Can Implement Their Basic Knowledge of Human Rights in Reality", on Ridwan Arifin, Saru Arifin, Rahayu Fery Anitasari. (eds). (2017). *Theory and Practice in the Law School: International Proceedings of International Conference on Clinical Legal Education, April 2017*. Semarang: BPFH UNNES.

Clinical Legal Education for Human Rights Issues: How Students can Implement Their Basic Knowledge of Human Rights in Reality

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ABSTRACT

Human rights was recognized as a fundamental issue both international community and regional community like ASEAN. The student capability to transfer their knowledge concerning to the human rights was become very important thing for legal development as well as law enforcement. Through clinical legal education, students were be prepared to be available bring a justice in their real lives. Clinical legal education which specifically for human rights issues prepares student for lifelong careers in social justice advocacy around the globe. Through the Clinic, students join a community advocates working to promote human rights and recalibrate the global power imbalances that drive economic and political inequity, exploitation, threats to physical security, poverty, and environmental injustice. Through fact-finding, reporting, litigation, media engagement, advocacy, training, and innovative method, the Clinic seeks to prevent abuse, advance respect for human rights, and promote accountability for violations. The paper divided into three main folds, *first*, how was the human rights issues on clinical legal education in some practices, *second*, how was the student encourage the basic knowledge of human rights through clinical legal education, and *three*, how was the student use their knowledge in their reality lives. The paper emphasized that, at the intersection of theory and practice, the Clinic can be used as a laboratory for testing and modeling new and innovative modes of human rights work, and seeks to be a model of rigorous and critical human rights advocacy. This includes a focus on enhancing human rights methods through interdisciplinary partnerships, critical reflection on human rights practice, and sustainable advocacy through attention to vicarious trauma and resilience.

ARTICLE HISTROY

Received 10 March 2017

Accepted 12 April 2017

KEYWORDS

Clinical Legal Education (CLE), Human Rights, Student, Law Clinic(s)

Introduction

Human rights recognized as a fundamental issue, as well as in modern society, human rights become the most important thing. Every daily activities—24 hours—was always related to human rights, and it can be said that, for every our activities and attitudes will be always affected to other person. Human rights are universal and inalienable; indivisible; interdependent and interrelated. They are universal because everyone is born with and possesses the same rights, regardless of where they live, their gender or race, or their religious, cultural or ethnic background. Inalienable because people's rights can never be taken away. Indivisible and interdependent because all rights—political, civil, social, cultural and economic—are equal in importance and none can be fully enjoyed without the others. They apply to all equally, and all have

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the right to participate in decisions that affect their lives. They are upheld by the rule of law and strengthened through legitimate claims for duty-bearers to be accountable to international standards.

The concept of human rights as learned in the class room, in many cases cannot be implemented and transferred more as analytical learning in law school. The problems faced such as the lack of capability of law students to translate the issue into the real cases, lack of lecturer in learning method, and the law school curricula, especially in Indonesia, which still emphasized the general ability in theories but less of practice. These problems as emphasized by Susanti (2016, par.6) that law students, in many cases have a problem in legal reasoning. Even, Fokke Fernhout, the Professor from Maastricht University, Law School, the Netherlands, said that because of the lack of capability to use law in practice, people trust was slightly decrease into law enforcement. There a lot of judgment that not in line with laws and regulations (Razak, 2013, par.1). Furthermore, law students also have problem in good public speaking capability. Some researches stated that law students also have public speaking but less in analytical capability to link the issue with good argumentation (Sigit, 2016; Achmad 2015).

The Clinical Legal Education for Human Rights or Human Rights Clinic for Law Student—which not establish yet in Faculty of Law, UNNES—prepares students for lifelong careers in social justice advocacy around the globe. Through the Clinic, students join a community of advocates working to promote human rights and to recalibrate the global power imbalances that drive economic and political inequality, exploitation, threats to physical security, poverty, and environmental injustice. Through fact-finding, reporting, litigation, media engagement, advocacy, training, and innovative methods, the Clinic seeks to prevent abuse, advance respect for human rights, and promote accountability for violations. Embedded in the Clinic's work is a commitment to the values of equality and mutual exchange in transnational partnerships; respect for rights-holder autonomy, voice, and power; and diversity, inclusion, full participation, and justice within the human rights field in the context of Indonesian development.

The Human Rights Clinic can be used for student to close to the real case in human rights issues. Through a combination of Seminars and Project Work, and with the mentorship of the Clinic's professors and supervisors, students develop the wide range of skills necessary to be strategic and creative human rights advocates, critically analyze human rights, and advance the human rights methodologies of the Clinic and the human rights field. Clinic Seminars provide a map of the terrain of international human rights advocacy, including the field's dominant forms of action, strategies, methods and critiques, which equips students with the knowledge and the tools to navigate the field with confidence

and critical reflection. Students learn to assess where they and human rights projects are positioned, the available tools or routes for action, and how to ethically, pragmatically, and responsibly choose which steps to take toward which ends. They learn project selection, design, and strategy; choice and sequence of advocacy tactics; fact-finding methodologies and evidence assessment; interdisciplinary research methods; interviewing witnesses, experts, and perpetrators; digital and physical security; report and brief-writing; using judicial and quasi-judicial processes; advocacy options at the local, national, regional, and international levels; engaging the press and using social media; mitigating vicarious trauma and promoting resilience and well-being; ethical frameworks and the navigation of ethical dilemmas; and accountability and project evaluation. The Clinic engages students in an active and co-creator mode of education, and students are taught to self-assess and monitor their own progress, and are involved in building the methods, pedagogy, and institution of the Clinic itself.

One cannot start exploring human rights education without considering the various interpretations of this multifaceted topic. The term is subject to conflicting perspectives and overlapping definitions, which often “differ in their formulation of goals and principles” (Flowers, 2003, 2), so this paper, would examine some main points, namely, *first*, concerning to the concept of clinical legal education for human rights, *second*, human rights clinic concept for Faculty of Law, Universitas Negeri Semarang, and *third*, the effort to empower student abilities toward human rights cases.

Clinical Legal Education on Human Rights Issue: The Beneficial for Student

The concept law clinic is, as the name suggest, linked in some way to a legal education and regardless of the how the bond to an education entity is structured a law clinic always have some sort of pedagogic objective. It could be everything from a student initiative done on spare time, totally separated from the school environment, to a natural part of clinical university program. There are also examples of clinics driven by practicing lawyers that are more or less separated from law schools but with law students participating in the form of an externship.

The use of the word ‘clinic’ prompts the analogy of trainee doctors meeting real patients in their medical clinics.¹ In the academic context, these clinics provide hands-on experience to law school student and services to various (typically indigent) clients. Many legal clinics

¹ It also has been emphasized on the opening speech of International Conference on Clinical Legal Education, in which, Fathur Rohman, Rector of Universitas Negeri Semarang—with a linguistic expertise—on his speech stated that term of clinic commonly related to doctor or medical business.

offer pro bono work in one or more particular areas, providing free legal services to clients.

Law clinic or clinical legal education is not a term of art, it can be mean different things in different contexts. Grimes in Webb & Maugham (1996) defined a law clinic as a learning environment where students identify, research, and apply knowledge in a setting which replicate, at least in part, the world where it is practiced. It almost inevitably means that the student takes on some aspect of a case and conducts this as it would, be conducted in the real world (Grimes, 1996, p.138).

Clinical Legal Education (CLE) as highlighted by Marson, *et.al.* (2015) provides a learning experience that is difficult to replicate in any classroom setting. With the benefit of academic guidance and structure, an ability to instill values into the students' practice of law, and exposure to real clients with problems which are beyond mere textbook exercises, the students learn key skills and are encouraged to reflect on their experience and their role in the advice process. All students at the case study institution were provided with 'lawyering' skills through compulsory mooted sessions. These involved mock courtroom situations, senior academics acting as judges and arbiters, and a competitive and practical element being added through judging and prizes awarded by local law firms. These skills are vital to increase experience, raise confidence, and offer the students an insight into how the law is actually different in practice to that learned through textbooks.

Beyond these skills is the awareness of real life advice and ability for the students to gain experience of dealing with people with problems—and the consequences of these problems. Students advising clients are exposed to the emotion faced by clients, an awareness of their obtaining the relevant facts from the client and focusing their advice on areas of law where the client has a legal challenge; a sense of responsibility to be honest to the client—even where this may involve informing clients of outcomes which may be unpopular; and an appreciation of the pressure and dedication which is required of lawyers. All of these elements contribute to the professionalism which students are expected to demonstrate when they train and begin to practice, and as such they are required to be introduced as soon into the students' education as possible (Marson, *et.al.*, 2015, pp. 31-33).

Student Benefit from Human Rights Clinic

The first, and perhaps salient, benefit of clinical education is that the overwhelming majority of students enjoy the experience and have found it to provide different benefits from classroom study. There are, perhaps, a variety of reasons for this. First, students can see their work directly benefiting a real person and obtain personal satisfaction from

impacting positively on someone's life. Second, they can see the vocational, and academic, significance of the skills they are developing. Third, they have been given responsibility and empowerment, which is often alien to students (this is something generally reserved for practicing solicitors), and they feel a duty towards their client. Enjoyment is naturally a desirable end in itself but it also serves the function of ensuring students actively engage with the process of learning. The energy of firm meetings frequently compares favorably to the apathy-induced somnambulism pervasive to more traditional seminars. Active engagement creates an atmosphere conducive to learning which is almost infectious amongst the students. A team spirit is achieved where students assist each other rather than viewing others in the class as competition for grades or jobs.

A further benefit is that many students grow in confidence because of the 'close-knit' community of the clinic. By working in small firms a supportive, secure atmosphere is, usually, forged. Students quickly feel at ease with other firm members through sheer exposure and feelings of shared experience. Equally, there is no hiding place in clinical education. Students are required to participate in firm meetings and to develop assertiveness skills required to chair meetings. Students in seminars frequently do not participate in discussions and fail to achieve their potential, but clinics require full participation. It is also evident that academic ability is not necessarily predictive of clinical ability. Many students who are less able academically than their peers thrive in the clinic setting and their confidence blossoms, which then reflects positively in their other module assessment.

A related, but distinct, feature is that interpersonal skills are nurtured. Students must be able to empathize with a client's perspective and this 'human' aspect is also coupled with the 'commercial' element of the case. This feature assumes salient importance and as such cannot be underestimated. Such facets are typically ignored in an academic exposition of the law. A further benefit of CLE is that it shows the practical relevance of the law studied on other modules. This renews interest in the law program holistically. Furthermore, by applying the law to an actual case students frequently understand concepts previously less clear to them.

CLE may fundamentally offer tangible benefits for the students as it has the capacity to achieve deep learning—for numerous reasons. First, students must engage in fact analysis. In academic modules students are furnished with a question which requires the law to be applied to a series of distinct facts. In clinical education students are deprived even of a set of coherently presented facts. They must understand the law in sufficient depth to determine for themselves which elements of the client's story are important to the case, and which

should be disregarded. In addition, practical problems, as found in clinics, rarely adhere to neat, distinct compartments. A case may require consideration of perhaps company law, land law, tort, civil procedure, professional ethics, evidence, negotiation, drafting and remedies. The ability to forge coherent links between such distinct and diverse elements, and view the cases as often a mixture of different legal jurisdictions, requires clarity of mind.

Human Rights Clinics Concept for Faculty of Law Universitas Negeri Semarang

Human rights education as emphasized by Pallau and Wollfe (2016) that one of the prerequisites of a human rights education project is that those responsible for delivering it be acquainted with and adhere to the human rights legal framework, which includes the principal normative instruments such as the Universal Declaration of Human Rights (United Nations, 1948), the Convention on the Rights of the Child (United Nations, 1989), or international agreements specific to youth rights (Campbell, 2012). This acceptance also involves an understanding of the basic principles of universality, indivisibility, participation, accountability, and non-discrimination, all of which are enshrined in the Universal Declaration of Human Rights. These elements must be explicitly and clearly conveyed to learners by the human rights educator. Similarly, learners should be made aware that such principles are not embraced by all. For instance, philosophers from cultural relativist schools criticize the concept of 'universality,' which in their opinion ignores regional belief systems. They regard the Universal Declaration of Human Rights as a form of cultural and political imperialism (Perrin 2005). In his recent publication, *The End times of Human Rights* (2013, 13), Stephen Hopgood goes even further, comparing the human rights movement to a secular religion that has created a "market of suffering" by using liberal capitalist mechanisms.

In addition to discussing adhesion to the human rights legal framework, familiarization with the main legal instruments, as well as with issues of respect, rights, and obligations should form the starting point of any human rights curriculum. However, the content of any programming will be largely influenced by the methodology used in that field.

Project Work

Students at the Clinic work in teams on research and advocacy briefs of varying sizes and deadlines through Term One and half of Term Two. Team-work is integral to the concept of the Clinic; as well as their substantive work, students are expected to develop effective team-working modalities and to reflect on the challenges of cooperative

endeavor in human rights related work. The precise nature of the work depends on the briefs and requests coming from Indonesian (especially Semarang, Central Java)-based institutional partners engaged in national human rights work or domestic human rights work with an national and/or comparative dimension. These may include not only human rights organizations but also law firms with human rights specialization and other institutional partners with particular pro bono research needs to which Clinic teams are able to respond.

In the first seven years, Clinic teams worked on briefs from, inter alia, National Human Rights Commission, Indonesian Human Rights Watch, Indonesian Legal Aid Center, National Children and Women Protection, Legal Aid Center in regional level, Indonesian Legal Research Center, Indonesian Clinical Legal Education, eLSAM Jakarta, Ministry of Law and Human Rights (Jakarta), Labor Association. Areas addressed in particular project work included domestic violence legislation, the protection of cultural property, the right to water, violence against women, corporal punishment, human rights and public health emergencies, the treatment of refugees, universal jurisdiction and its implementation in national legislation, corporate social responsibility, emergency legislation, disability rights, litigation remedies for the protection of housing rights in occupied territory, and the compliance of domestic legislation with applicable international obligations.

In their project work, clinic teams are briefed by partners but supervised by Faculty of Law UNNES academic staff, and conduct their work at UNNES, unless exceptionally they are required to work in situ by partner institutions. Project partners provide input into completed drafts at agreed intervals. Supervision at UNNES is provided by the Clinic facilitator, some law professors, in cooperation with Law School colleagues available to give expert input into particular areas of research.

Class time is structured in the first term and a half to allow for an hour devoted to issues related to project work (Wednesdays 12.00-13.00). The Clinic site is used extensively to provide course materials and other documents and facilities. The site also provides access (restricted circulation in some cases) to most of the projects on which Clinic teams have worked in previous years. Some of these have been separately published, while the input of some other projects has been acknowledged in documents subsequently published by the partner organizations.

Weekly Seminar

The weekly two-hour seminar (Wednesdays 10-12) addresses a range of issues in human rights advocacy, strategies and challenges. The seminar is led by the course facilitator, but also involves a number of

guest speakers, including practitioners engaged in different aspects and strategies of human rights work (mostly Semarang or Central Java based project partners) and academic colleagues from the School of Law and other UNNES departments engaged in relevant research. The seminar provides a forum for learning, exchange and reflection on the particular themes addressed, and on international human rights work more generally, as well as providing an unusual opportunity to engage intensively with senior practitioners and to discuss their experiences in the field. Readings include both academic and practitioner materials, and will mostly be made available through links or postings on the Clinic's site. The Clinic's site will also build a library of links to key documents and sites, and those taking the course in this are invited to assist in the development of this resource for the Clinic.

Learning Outcomes

At the end of the course students should have an understanding of the rigors and challenges involved in international human rights practice and be equipped to research and write on this area; understand the dynamics of team work; be able to conduct research, individually and in teams, on case-specific themes and country situations, through a variety of media and sources, including web-based resources; understand, and be able to analyze, the application of international human rights instruments in and to specific situations; and be able to reflect constructively on the dynamics involved in building and sustaining relationships with partners in a variety of countries and situations. Particular focuses are likely to develop from the nature of the project work engaged in by individual students. Students who work with the Human Rights Clinic are critical to the development of the Clinic at Faculty of Law UNNES, its approaches to project work and the strengthening of the Clinic's contribution to the human rights efforts of its partners.

Empowering Student Abilities on Human Rights Issues

The term empowerment refers to measures designed to increase the degree of autonomy and self-determination in people and in communities in order to enable them to represent their interests in a responsible and self-determined way, acting on their own authority. Empowerment as action refers both to the process of self-empowerment and to professional support of people, which enables them to overcome their sense of powerlessness and lack of influence, and to recognize and use their resources.

The term empowerment originates from American community psychology and is associated with the social scientist Julian Rappaport (1981). However, the roots of empowerment theory extend further into

history and are linked to Marxist sociological theory. These sociological ideas have continued to be developed and refined through Neo-Marxist Theory (also known as Critical Theory) (Burton & Kagan, 1996).

Robert Adams points to the limitations of any single definition of *empowerment*, and the danger that academic or specialist definitions might take away the word and the connected practices from the very people they are supposed to belong to (Adams, 2008, p.6). Still, he offers a minimal definition of the term: 'Empowerment: the capacity of individuals, groups and/or communities to take control of their circumstances, exercise power and achieve their own goals, and the process by which, individually and collectively, they are able to help themselves and others to maximize the quality of their lives (Adams, 2008, p. xvi)

Student empowerment means giving young people the opportunity to actively participate in school activities and decisions that will shape their lives, the lives of their families and the lives of their peers. Student empowerment is student-led, and will therefore look different in every school. The fresh perspective of youth coupled with imagination and enthusiasm means that there are no limits to what students could propose and achieve. Empowering students is a process of discovery, surprise and serendipity. When students have the right knowledge, skills, support and environment, it's amazing what they can produce (MindMatter, pp.4-5).

Genuine empowerment means that students are supported by adults in leading projects and discussions in real case, for example about mental health. Although students require preparation and support, this process may challenge existing power relations in a school. It can sometimes be really hard for an adult to be quiet and give students space to explore mental health promotion—for this case in human rights issues. Adults knowing when and how to step back as well as when and how to step forward is important. (MindMatter, p.5).

Conclusion

Clinical legal education (CLE) in human rights can be implemented through human rights clinic to support and promote the protection of human rights in Indonesia. The students have important roles in human rights issues especially concerning to cases advocacy and social services. Human rights clinic will provide a great experience with direct approach on human rights cases. Students will naturally learn to solve problems faced concerning to human rights such as discrimination, gender equality, unfair treatment, and many more case. Human rights clinic, beside increase the student capability on legal reasoning, it will also increase the awareness of student in their environment. Human rights clinic will involve some certain parties directly, such as Ministry

of Law and Human Rights, Indonesian Legal Aid Center, National Human Rights Commission, National Children and Women Protection.

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