

**GALVANIZING THE WHOLESACLE ADOPTION OF CLINICAL LEGAL EDUCATION BY
ESTABLISHING LAW CLINICS IN NIGERIAN UNIVERSITIES' LAW FACULTIES.**

Dr. Kingsley Omote Mrabure, Delta State University, Abraka, Faculty of Law, Oleh Campus, Delta State, Nigeria

ABSTRACT

The establishment of sixteen law clinics in Nigerian universities law faculties (NULF) by the pioneering efforts of Network of University Legal Aid Institutions (NULAI) though commendable is still a far cry from the desired expectation towards establishing more Governmental efforts, private initiatives and alumni endowments in the provision of resources are needed in galvanizing the establishing of law clinics in all NULF. The plausible reason being that clinical legal education (CLE) gears towards the inculcation of practical legal skills, a needed virtue in this 21st century to achieving a virile and an impactful legal education that is relevant to society.

KEY WORDS: Nigerian universities law faculties (NULF), clinical legal education (CLE), law clinics, pedagogy, establishing.

INTRODUCTION

The emergence of clinical legal education began in the United States (Winkler (2012)). When looking at the development historically it seems clear that it was two major forces that drove the development: an increasing need for legal aid and a need to reform legal education and bring in a more practical approach to law practice (Bloch et al, (2011)). Succinctly, the original aim of CLE from time immemorial is to assist the indigent in the resolution of any problem they may encounter in society.

WHAT IS A LAW CLINIC?

The term clinical legal education(CLE) or law clinic, traditionally refers to a nonprofit law practice usually serving a public interest or group in the society that are in a underprivileged or exposed situation and for various reasons lack access to the legal system (Winkler (2012)).

The use of the word 'clinic' prompts the analogy of trainee doctors meeting real patients in their medical clinics (Lewis (1998)). In the academic context, these clinics provide hands-on experience to law school students and services to various typically indigent clients. Many legal clinics offer pro bono work in one or more particular areas, providing free legal services to clients.

A law clinic is defined as;

a learning environment where students identify, research and apply knowledge in a setting which replicates, 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 (1996:138))

CLE is defined¹in the context of this article;

as widely acceptable theoretical and practical methods in the teaching and learning of the study of law for the ultimate benefit of self²,the state and humanity in tandem with the peculiar needs of that environment or society.

(Mrabure (2017:2))

CLE must involve a transition from doctrinal mode of learning to experiential mode that is by learning by experience in the Nigerian curriculum of legal education. Law faculties must make known their vision, mission goals to their students in order for a pragmatic synergy geared towards solving legal problems affecting society effectively and responsibly which is one of the hallmarks of CLE.NULF should help students acquire the necessary effective lifelong learning skills, intellectual and analytical skills, core knowledge and understanding of the law ,professional skills and professionalism in order to be relevant to the society in seeking social justice for all.

PEDAGOGY OF TEACHING

Two methods of teaching which are case and experiential based method used in legal education will be adumbrated on.

Case Method

The case method in legal education was invented by Christopher Columbus Langdell³. He conceived of a way to systematize and simplify legal education by focusing on previous case law that furthered principles or doctrines.

¹The attempt is made by the Author of this article as contribution to knowledge.

²Particular reference is to clinical legal education as it pertains to the pedagogy applicable to law students transcending to Lawyers.

³Dean of Harvard Law School from 1870 to 1895.

Students were called on to interpret and apply principles they had uncovered by reading primary legal texts (constitutions, statutes, regulations, and, most often, judicial opinions). Law students were pulled out of their passive silence. They could not become professionals by sitting and listening. They would learn to be professionals by doing one of the most important kinds of work that legal professionals do: constructing and arguing, interpreting existing legal texts in response to new questions or situations. Students were not told what the law became after an opinion was announced or a legal rule was enacted; they were invited to interpret the law in light of questions the opinion-writer did not confront or situations that legislators may not have contemplated. Students learned through their ability to reason and recognize the science of the law.

The Langdell method of teaching is still very prevalent in NULF. It is time that CLE is adopted fully by the law faculties as this will be tandem with the necessary requisite skills to groom a law student in this 21st century.

Experiential Method

Experience-based learning found its roots in the work of the early 20th Century philosopher John Dewey (1938), who addressed himself in some of his work to extolling the benefits of experience-based learning. He believed that the central dilemma of education is to acquaint the young 'with the past in such a way that the acquaintance is a potent agent in appreciation of a living present,' (Dewey (1938:23))and that one of the best ways to do this was to expose students to the experience of the working world of which they were soon going to be a part. He noted that the central problem of an education based upon experience is to select the kind of present experiences that live fruit-fully and creatively in subsequent experiences.

Experiential learning are the methods of instruction that regularly or primarily place students in the role of Attorneys, whether through simulations, clinics, or externships. Such forms of instruction integrate theory and practice by providing numerous opportunities for students to learn and apply lawyering skills as they are used in legal practice. These learning opportunities are also designed to encourage students to begin to form their professional identities as lawyers, through experience or role-playing with guided self-reflection, so that they can become skilled, ethical, and professional life-long learners of the law.

On our part, this is so because as students put themselves to work ,their teachers being their facilitators discover solutions on their own thereby gaining insights into their own performance and acquiring life-long practical applicable skills and knowledge as they solve

problems. We are of the view also that the more practical problems⁴ they encounter and solve, the more they are embolden to confront difficult problems which they may ultimately also solve. This leads to assurance and self-confidence which are core parts of CLE.

NULF should wholesomely embrace and adopt this method fully. A situation where only few law faculties have keyed into this method is alarming, calamitous, disturbing and calls for urgency for a wholesale change and adoption.

This method of learning and teaching is a core aspect of CLE and has gained prominence in some law faculties in Nigeria. Precisely, sixteen law faculties have adopted it as a form of acquiring knowledge and needed skills in this era and beyond. This innovation in the law faculties became possible through the efforts of Network of University Legal Aid Institutions (NULAI).

LEGAL EDUCATION IN NIGERIA.

History of legal profession and legal education dates back to the advent of colonialism in 1860s (Okonkwo (2000)). An intending legal practitioner may attend a Nigerian University or an accredited foreign University. The first faculty of law in Nigeria was established in 1961 at the University of Nigeria Nsukka. From the 1970s, several Universities were established by both the Federal and State Governments with most of the Universities having law faculties (Onalaja (2010)).

A uniform curriculum designed by the Nigerian Universities Commission (NUC) and approved by the Council of Legal Education is taught by all the Nigerian Universities in order to maintain the benchmark minimum academic standard. The subjects are divided into two categories: compulsory and optional. All law faculties must teach the compulsory subjects. Some optional subjects should also be taught. The compulsory law subjects are: legal methods, constitutional law, law of contract, criminal law, commercial law, equity and trusts, law of evidence, land law, Nigerian legal system, law of torts, jurisprudence, legal research, and methodology, and company law.

Following the NUC report on the minimum standard of academic legal education from 1990/1991, the period of academic legal education has been put at five years for those possessing senior secondary school certificates and four years for direct entry students with a Higher National Diploma or a First Degree. Most of the 1st year and some part of the 2nd year is

⁴This could be likened to some situations which we all are accustomed to. Someone who has undergone teaching on the theoretical aspect of driving but refuses to drive on the road. A person who has undergone theoretical swimming classes but refuses to go into the water to swim. Further, a science student that is not willing to carry-out experiments on the theories he has been taught. These three instances amount to exercises in futility if no practical tests are undertaken. We wonder why clinical legal education should be different.

devoted to studying non-law subjects while the remaining four years are spent on the law courses. This stage of legal education in Nigerian is undertaken at the Nigerian Law School established and run by the Council of Legal Education in accordance with the Legal Education Act.

After a successful completion of the course, a person is issued with a qualifying certificate by the Council of Legal Education. The certificate qualifies the person for Call to the Nigerian Bar by the Body of Benchers, which is a body of the highest distinction in the legal profession, comprising of eminent judges as well as distinguished members of the Bar. However, a person will not be called to the Bar by the Body of Benchers, regardless of the class of his degree in the University or his certificate at the Nigerian Law School, unless he has been screened by the Body of Benchers and he is found to be fit and proper to be called to the Nigerian Bar. The emphasis here is on the moral character and integrity of the aspirant to the Bar. After Call to the Bar, the new entrant enrolls at the Supreme Court. Thereafter, he becomes entitled to practice as both a Barrister and Solicitor.

Before the students produced by a University can be admitted into the Nigerian Law School, the University must have been accredited by the Council of Legal Education. For this purpose, the University must comply with both the NUC requirements as to minimum academic standard³¹ and the Council of Legal Education guidelines.

The present state of legal education though plausible but a lot still needs to be done in the wholesale adoption of CLE by all law faculties in Nigerian Universities. Acquisition of knowledge must go side by side with the acquisition of necessary practical skills needed. This in a nutshell is the whole essence of CLE. Making law students to be real professionals before they are called to the bar.

CLINICAL LEGAL EDUCATION.

Prior to the emergence of CLE in Nigeria, the legal education curriculum had been very rigid and confined to theoretical methods of teaching. This theoretical approach in the Universities did not present law students with the platform for developing practical skills which caused them to be ignorant of the professional skills that are important to the profession. These skills include, research skills, communication skills, interviewing of clients and witnesses, counseling, drafting, negotiating and problem solving skills.

The objectives of CLE curriculum was put by Ojukwu (2008) thus:

a law clinic provides the platform for the academic and service components of the

goal of legal education. The Clinic... does provide an opportunity of addressing both what is taught at law schools (faculties) and, most importantly, how to achieve many of the teaching and learning goals implicit in educating lawyers.

(Ojukwu (2008:8-9))

CLE is also believed to promote reflection and self-examination since it gives students the opportunity to explain why they are taking certain actions and they are able to discuss and reconsider their actions. Legal practitioners themselves rarely have the time or opportunity to do this. Students, by contrast, can examine the legal and social issues in some depth, and they can form the basis for looking at the lawyer's role and at legal ethics within a practical context. The result is that what is learned is far more likely to remain with the student than the knowledge crammed for an extremely artificial examination paper.

CLE embraces a skills-based approach which means that students to a larger extent will be educated in the processes associated with legal practice e.g. the structure of a letter, the interview with the client, face to face negotiation as to the legal content of the rules forming the background to the work done.

Many students who work in a legal clinic are enthusiastic about their experience. They are self-motivated and often highly committed to the work. The students show more responsibility for what they do and how they do it. In theory, the teacher's role becomes more facilitative, helping students discover solutions for themselves (Lewis (1998)).

Clinical Model Programmes in NULF

Faculty-supervised clinics

This is CLE model programme that is internship in nature. They are common in NULF. Delta State University law faculty has such a law clinic. Students are made to interview clients and take notes in the course of the interview under the supervision of the teacher attached to the law clinic. Credits or points are given or awarded to students based on their performance as they are made to write their legal opinions based on the interview conducted with clients.

In some instances in some NULF, when such matters are instituted in the court for adjudication, the teacher take some students with him at the hearing pendency of the case in court. The teacher conducts the proceedings and the students take notes in the course of the trial.

Students are required to ask their teachers questions on their observations(s) if any on their

return from court. The essence is to ascertain whether the students are abreast with the nuances of practical knowledge based on theories that they have been taught.

Simulations

This is also a common CLE model programme in NULF through the moot courts located in law faculty. Kogi State University, Ambrose Alli University, University of Benin amongst others have moot courts. Simulations are not real life situations but are arranged or make-belief real life situations in CLE to ascertain the ability, capability of law students to react in dealing appropriately with such problems when they occur. This helps law students in practicing law principles enshrined in theories. It helps makes learning easier and not in the abstract. This further helps in reducing the complexity of such problems. Law students become active and more involve in solving daily legal problems by applying practically legal principles.

Externship

This form of model of CLE is not common in NULF as it involves lots of resources financially that is funding to accomplish. This form of model CLE programme is evident at Afe Babalola University. Law students are sent out to various law offices and courts for attachment during vacations with their log book to take notes in day to day legal issues they encounter in the courts and law firms where they are attached. This is called chambers attachment and court attachment. The purpose is for students to learn the practical rudiments of legal principles in theories.

Teachers are sent to monitor these students in the various law firms and courts they are assigned to in order to ascertain their progress. Credits that is points are awarded to students on submission of log books .Assessments are also administered on students where marks are also awarded.

Community Model

This is common in NULF as this model of CLE renders social responsibility to meet social justice. This form of law clinic finds out the needs of the community by interacting with the indigenes.

The law student begins to initiate and play roles as a student cum legal practitioner. He becomes fully exposed to the role of law as social engineering to society based on the legal services he will be offering to the community. The student balances his background with those of other members of the community. This helps in shaping the mind of the student in their training to become lawyers. It transforms their minds greatly.

Services are usually rendered pro bono to such communities. The community model of law clinic

places the community in vantage or priority position. This helps in offering solutions to myriad of problems be deviling the community. This goes a long way in fostering a cordial and harmonious relationship between the faculty, University on one hand and the community on the other.

THE EFFORTS OF NIGERIAN NETWORK OF UNIVERSITY LEGAL AID INSTITUTIONS (NULAI)

The introduction of CLE in Nigeria was the brainchild of the Network of University Legal Aid Institutions (NULAI)⁵as part of its efforts to reform legal education and expand access to justice for the poor. NULAI was established in 2003. Its vision is to promote and sustain the development of CLE reform of legal education and enhance legal aid and access to justice.

Its mission is to build a network of cohesive university-based law clinics providing pro-bono legal services to the indigent and underserved; while training a new generation of skilled law students committed to public service and justice. Its objectives are to generate sufficient interest in the legal education sector to encourage universities and law schools to set up law clinics and reform legal education. Further to provide technical and institutional support to university/law school law clinics, a medium for exchange of ideas and peer review among law clinics, a link between and among law clinics and relevant institutions in Nigeria and similar organizations, and access to training for law teachers. It will assist law clinics to develop and sustain human rights based programmes such as human rights education, legal aid and access to justice that impacts on community development and promote a culture of public/community service in budding lawyers.

Some of its most significant efforts with respect to clinical education were the setting up of four (4) pilot clinics in 2004⁶and producing a model CLE curriculum for Nigerian Universities in 2006 which was reviewed in 2012. From the introduction of CLE in 2003 that clinical education has been introduced in Nigeria. From four clinics in 2004, a total of sixteen (16) law clinics have so far been established at law faculties through NULAI efforts. This is far cry considering the number of NULF⁷.

⁵ NULAI is a non-profit, non-political and non-governmental organization established in 2003 and dedicated to promoting clinical legal education, reform of legal education, legal aid and access to justice. Its membership is open to law clinics/legal aid institutions in Nigeria's universities/law schools.

⁶At Abia State University, University of Maiduguri, University of Uyo, and AdekunleAjasin University, Akungba, Ondo State.

⁷There are 49 approved NULF.15 in Federal Universities, 19 in State Universities and 15 in Private Universities.

NULAI Nigeria in its bid to improve legal education and legal capacity in Nigeria has developed and institutionalized CLE. This feat was achieved through the undertaking of expository and intellectual seminars and workshops which yielded tremendous results. The overall objective of the colloquium was the integration of CLE into the Nigerian legal education.

NULAI Nigeria also participated in the 1st African CLE teacher training at Durban South Africa 4th-9th October, 2004 with 4 Nigerian teachers trained.

In January 2006, to promote a standard for CLE curriculum for Nigerian universities law clinics and NULAI Nigeria constituted a CLE curriculum development committee with members drawn from NULAI and University Law clinics. The committee embarked on a study tour to the University of Kwa-Zulu Natal law clinic and the University of Johannesburg law clinic from the 29th January - 3rd February, 2006. Committee members also facilitated a curriculum development workshop leading to the publication of CLE during this period. NULAI also organized the 1st Nigerian client interviewing and counseling skills competition, which was held at Maiduguri in Borno State of Nigeria, on the 17th-18th February 2006.

The summary of the report of the Council of Legal Education committee on the review of legal education in Nigeria submitted on 29th July 2004 was to the effect that law faculties and the Nigerian Law School should 'as a matter of urgency' introduce CLE and that 'the faculties are required to provide appropriate facilities, such as clinical consultation rooms' and that 'for purposes of achieving interactive teaching, proper training will have to be given to lecturers at the various law faculties.'

NULAI also participated in the stakeholders meeting on the Nigerian draft Legal Aid Bill to fine-tune the draft bill which has provisions for supporting legal clinics in the universities. Consequently, in 2011, the Legal Aid Act by its section 17 recognizes law clinics as legal aid providers.

Due to the advocacy efforts of NULAI Nigeria on the subject of integration of CLE into the Nigerian Legal Education, the National Universities Commission's draft benchmarks and minimum academic standards in the law programme released in August 2004 has identified cognitive and skills competencies as a learning outcome and also introduced a community based course: community legal assistance to the poor, minority and the under privileged in the 4th year class. Benchmark was reviewed in 2010/2011 CLE curriculum compulsory for new faculties to have law clinic.

The laudable efforts of NULAI since 2003 must be commended in the establishment of law clinics. Much still needs to be done as there are forty nine approved NULF.

AFFIRMATION OF CLE IN NIGERIA

The Council of Legal Education which is one of the bodies regulating legal education in Nigeria, in its revised accreditation guidelines now requires the introduction of clinical education and the setting up of law clinics in law faculties as one of the best paths to the development of the faculties of law in Nigeria. Legal Aid Council now recognises law clinics as providers of legal aid.

The NUC benchmark minimum academic standards for undergraduate programmes in NULF now recognises clinical work, amongst other means of determining students' academic competence for the award of bachelor's degree, apart from script/examination assessment. The NUC has now introduced in its minimum benchmarks, community service, as a compulsory course, an ideal already encapsulated by clinical education (Ojukwu (2006)).

The capacity of legal aid in Nigeria has been expanded by an additional 2,000 law students working in the clinics offering pro bono services throughout the country. Law graduates with clinical experience are more skilled in problem solving in law practice than their non-clinical colleagues. At the 2013 Freedom of Information Teacher Training workshop for clinical law Teachers, staff clinicians attest to the quality of clinical law graduates, in terms of their communication, critical thinking and problem solving skills, etc.

Establishment of law clinics improves the ratings of faculties during accreditation exercises by NUC and Council of Legal Education. The affirmation is a clear signal that CLE has been recognized in Nigeria via its introduction into NULF.

CHALLENGES OF CLE

The challenges facing CLE in NULF will be discussed under the following headings.

Resources:

The major challenge is that of resources or funding. Apart from the commendable efforts of NULAI, a non-government organization in carrying out pioneering work in the establishment of law clinics in NULF. No other private organization has undertaken this initiative. The few number of law clinics in NULF is attributable to lack of resources needed for the eventual running of such law clinics. There is great need for the involvement of more private non- governmental organizations (NGOS) in the establishing of clinics. Government needs to inject colossal funds towards the establishment and overall success in the manning of such clinics in order to accomplish the aim for which they are established by such law faculties. Government's role should go more than just the payment of salaries.

Resources that is monetary consideration is needed particularly in these areas:

a. Remuneration:

Teaching and supporting staff manning the law clinics need to be properly remunerated in the payment of allowances or any sum of monies that they may be entitled to .Adequate provisions should be made for prompt remuneration when due. However, in most cases, funds are not made available at all or when made too meagre to take care of the requisite needs of such staff. Where this is not done, it leads to lack of motivation and the needed synergy on the part of the staff in making the law clinic to function maximally will be reduced. The resultant effect of this is that the needed enthusiasm to impart knowledge on the law student is lost.

b. Assessment and Supervision:

Connected to the issue of funding is assessment and supervision of students in law clinics. This is usually noticeable in clinics of externships where students are placed on attachments to law firms or courts usually far away from the location of such clinics. In such cases, effective supervision and assessment of such students may not be possible as the needed funds to make such trips by the law teachers maybe too meagre and sometimes it may not be available at all. This greatly affects the psyche, morale and productivity of the staff and the students of such clinics.

The roles of alumni of such law faculties need to be emphasised. There should be synergy and collaboration between law faculties and their alumni as alumni can provide the needed funds in the form of donations and endowments which will help a lot in the provision of the funds in establishing and running of such law clinics.

c. Non–challenge attitude to CLE:

The reason for apathy to CLE by some staff in NULF is that persons are usually reluctant to change. Most law teachers still prefer the doctrinal method of teaching as some still find it difficult to adopt to new approaches of learning through CLE.

In a nut shell, some law teachers' pay lip service to the adoption of clinical methodology, while in actual fact, they still continue with traditional habits and practices, making legal education business as usual (Adekoya (2014)).

d. Incessant disruption in academic calendar:

Most law clinics in Nigeria are situated within faculty premises in the campuses. When there is a strike action, especially by the Academic Staff Union of Universities (ASUU) whether at national or local level, to press governments and university authorities for various demands, clinical services/projects in public universities are disrupted. Some of the strike actions can last for

several months.⁸

This often does not augur well for sound CLE as most often, most practical skills that have been impacted on such students will be forgotten by them as a result of such long strikes resulting in irreparable damage to the educational system.

Government should play her role effectively by providing adequate funds to ensure stability in the university system to make room for proper planning for the right impacting of practical skills in making learning to be experiential and meaningful to law students in NULF in this 21st century.

Most importantly, a healthy, harmonious and beneficial relationship between law clinics and the local legal profession that is the Bar should exist. Although, some may fear that a legal clinic offering free legal work will upset the law school's relationship with the local legal profession.

GAINS FOR ADOPTION OF CLINICAL LEGAL EDUCATION

Adequate funding should be prioritized by the Nigerian government by extending some to NULF. This will go in a long way in ensuring law students have the necessary skills to meet the challenging global demands they will encounter in the profession in their service to their clients and society.

This is obvious as they will face in the real world the stark reality that the theories of law taught to them in school is at totally variance with the practical aspect of law. They will realize that more energy will be needed to be expended by them in gaining more skills in the pursuit of their practice of law in solving practical life situations. Doing this and succeeding in it gives utmost satisfaction and joy.

Law students need to see law as social engineering and its inter-relationship with other disciplines of human endeavors and offering efficient and qualitative legal services to solving the needs of society adequately.

This experiential based method of learning will impact the necessary practice skills needed in solving myriads of societal injustice especially deliberate infringement of fundamental rights issues prevalent among the vulnerable, the indigent and the poor in the society.

⁸The nationwide strike declared on 2nd of June, 2013 by ASUU, for instance, to compel the Federal Government to honor an agreement reached with the Union in 2009 on adequate funding of universities and provision of infrastructure lasted for almost six months. ASUU embarked on yet another strike in August 2017.

Clinical students are expected to learn how to respond to various problems in the Nigerian societal setting at a lower stage of their legal training and to sharpen their skills to evaluate the basic needs of their clientele as well as the community within broader paradigm of social justice, conciliation and humanism.

Law students have a greater awareness of their role in society as this is necessary for a healthy society. NULF have a responsibility to remind law students that by studying law they have the power to transform thoughts, policies and lives and that law is not just about financial rewards but the ultimate reward of contributing to the betterment of the society.

The cure is a standard educational practice which reflects in the training and development of would be lawyers with the requisite skill to render services optimally at local and international levels. Well-rounded law graduates are needed who will engage with legal concepts and contribute to the legal profession and society.

CONCLUSION

The genuine and laudable efforts of NULAI should be complemented greatly by other relevant stakeholders to seeing to the wholesale adoption of CLE in NULF through the establishing of law clinics in all NULF. The set time to do it is now as the future is now. It is time NULF law students hit the ground walking by solving society's problems by the practical application of applicable legal principles practically as a result of their early exposure and training on CLE.

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