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## QUALITY AND PLURALISM IN EUROPEAN LEGAL TEACHING

*ABSTRACT. In the field of modern legal education, the question we should ask our-selves is: what kind of jurists do we want to train? The answer to the question is crucial because the choice of educational model is neither ethically nor politically neutral, neither is legal education. The Clinical Legal Movement (CLM) might contribute to the purpose of reinventing legal education in Europe. I think the time has come for a systematic scholarly debate in the European legal academia and it seems to me that it should polarize around two issues: quality (ensure the inclusiveness of the quality dimensions for law clinics and the preservation of the diversity of the higher education institutions and teaching-learning modalities across the EU) and pluralism (of the models of clinical legal teaching -live-client, externship/internship programs-, of the areas of law covered -traditional/business-, of the students reached (politically minded, social committed or more business oriented)).*

**CONTENT.** 1. Introduction – 2. Legal education in European higher education area. Quality and pluralism – 3. Trends in clinical legal teaching: recognition and institutionalization – 4. Quality control in legal clinical teaching: the guidelines – 5. Pluralism: usiness (or transactional) clinics

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## 1. *Introduction*

In the occasion of the first Roma Tre Law Review Seminars, we, the editorial board, thought to start with one of the flagships of our Department: clinical legal education.

It is a well-known issue that European legal teaching is coming under increasing pressure to reimagine itself. Experts claim several deficiencies: legal teaching (especially in civil law countries) is too dogmatic, too much doctrinal subject centered, too passive, too textbook-based, not sufficiently assessed on the law in action and on the European legal order.<sup>1</sup>

We are also aware that the unprecedented times characterized by social and economic turmoil across Europe has revealed a gap between legal education and legal realities.<sup>2</sup>

Thus, continental legal teaching is experiencing a process of obsolescence, and would need a ‘Langdell revolution’, promoting new teaching strategies, introducing practice-oriented, student-centered, problem and community-based, interactive learning methods in law schools.

And although the European scholarship had been admonished for years to ‘sortir du néolithique’,<sup>3</sup> the issue of the education of the jurist remained *de facto* neglected.<sup>4</sup>

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<sup>1</sup> JH Merryman, ‘Legal Education in Civil Law and Common Law Universities: A Comparison of Objectives and Methods’ in N Picardi and R Martino (eds), *L’educazione giuridica, Modelli di Università e progetti di riforma*, vol 1 (2nd edn, Cacucci 1975) 168; LM Friedman and G Teubner, ‘Legal Education and Legal Integration: European Hopes and American Experience’ in M Cappelletti, M Seccombe and JHH Weiler (eds), *Integration Through Law. Europe and the American Federal Experience* (De Gruyter 1986) 345; M Vogliotti, ‘L’urgence de la question pédagogique pour le droit postmoderne’ (2014) 72 *Revue interdisciplinaire d’études juridiques* 73; R van Gestel and HW Micklitz, ‘Why Methods Matter in European Legal Scholarship’ (2014) 20 *European Law Journal* 292; P Calamandrei, *Troppi Avvocati!* (La Voce 1921) in M Cappelletti (ed), *Opere giuridiche*, vol 2 (Morano 1966) 65, 174 ff. discusses the ‘metodo chiacchieratorio’.

<sup>2</sup> B Garth and G Shaffer, ‘The Globalization of Legal Education: A Critical Perspective’ in B Garth and G Shaffer (eds), *The Globalization of Legal Education: A Critical Perspective* (Oxford Academic 2022); U Eco, *Sei passeggiate nei boschi narrativi* (La nave di Teseo 2018).

<sup>3</sup> A Tunc, ‘Sortir du néolithique (Recherche et enseignement dans les Facultés de droit)’ [1957] *Dalloz* 71.

<sup>4</sup> B de Witte, ‘European Union Law: A Unified Academic Discipline?’ (2008) Working Paper, EUI RSCAS, 2008/34 <[https://cadmus.eui.eu/bitstream/handle/1814/10028/EUI\\_RSCAS\\_2008\\_34.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/10028/EUI_RSCAS_2008_34.pdf?sequence=1&isAllowed=y)>

On the contrary, it is urgent and topical, also considering that the role of the jurist requires a different training model from that which was conceived when State law was at the center of the legal universe and the function of the jurist revolved entirely around it.<sup>5</sup>

We need to re-think the role of jurists in society and, in the field of education, the question we should ask our-selves is: what kind of jurists do we want to train?

The answer to the question is crucial because the choice of educational model is neither ethically nor politically neutral,<sup>6</sup> neither is legal education.<sup>7</sup> It follows that legal education must, if it is to best serve all stakeholder interests, reflect this changing context.<sup>8</sup>

The Clinical Legal Movement (CLM) might contribute to the purpose of reinventing legal education in Europe.

And our Department has never shied away from scientific debate on the teaching of law either, promoting conferences<sup>9</sup> and publications on the subject.<sup>10</sup>

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accessed 16 June 2023; E Conte, 'Educare il giurista. Le sfide del terzo millennio e le tentazioni della conservazione accademica' in B Pasciuta and L Loschiavo (eds), *La formazione del giurista. Contributi a una riflessione* (Roma TrE-Press 2018) 115; Merryman (n 1) 168.

<sup>5</sup> V Zeno-Zencovich, *Ci vuole poco per fare una università migliore. Guardando oltre la 'Riforma Gelmini'* (Il Sirente 2011) 36; A Alemanno and L Khadar, 'Reinventing Legal Education: How Clinical Education Is Reforming the Teaching and Practice of Law in Europe' (CUP 2018) 18.

<sup>6</sup> M Vogliotti, 'Per una nuova educazione giuridica' (2020) *Dir e Quest Pubbl* 229, 246.

<sup>7</sup> S Cassese, 'Legal Education Under Fire' (2017) 25 *European Review of Private Law* 143, 146.

<sup>8</sup> C Amato, 'Experiential Learning from the Continental Viewpoint. If the Cap Fits...' in R Grimes (ed.), *Rethinking Legal Education Under the Civil and the Common Law* (Routledge 2017) 13, 19.

<sup>9</sup> Eg, 'La didattica innovativa: le cliniche legali in italia e il confronto con le esperienze straniere', Rome Tre University, Department of Law, 28<sup>th</sup> May 2013.

<sup>10</sup> Pasciuta and Loschiavo (n 4).

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## 2. *Legal education in European higher education area. Quality and pluralism*

As recalled, slowly, laboriously, not without idealistic swerves and persistent contradictions, we are witnessing a wave of modernization of legal teaching in continental Europe and in Italy in particular, as awareness of the need to review the relationship between theory and practice, between study and internship, has gradually consolidated.<sup>11</sup>

The profound change in perspective that, set within the European dimension of higher education (European Higher Education Area: EHEA), marks the transition from a monolithic model of knowledge transmission (based on frontal academic lecture modules), to a plural model, comprising alternative pedagogical modes that present the common trait of the experiential matrix (Learning by doing).

One of the most significant examples of these new teaching methods is the Clinical legal education, which is:

[A] teaching method based on experiential learning, which fosters the growth of knowledge, personal skills, competences and values, as well as promoting social justice, by providing pro bono services. Clinical legal education uses practice-oriented, student-centred, problem-based, interactive teaching methods including, but not limited to, the practical work of students on real cases and social issues supervised by academics and professionals. These educational activities aim to develop professional attitudes and foster the growth of the practical skills of students with regard to the modern understanding of the role of the socially oriented professional in promoting the rule of law, the effectiveness of protection, providing access to justice and peaceful conflict resolutions, and solving social problems.<sup>12</sup>

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<sup>11</sup> M Barbera, 'The Emergence of Italian Clinical Education Movement' in Alemanno and Khadar (n 5) 3.

<sup>12</sup> Art. 2(1) ENCLE, 'Standards for European Clinical Legal Education' <<https://encle.org/upload/lg/news/ENCLE-Standards-Final-Version-July-2022.pdf>> accessed 10 June 2023; see also STARS, 'STARS Project Guidelines for Clinical Legal Education' (2021) <<http://www.lawstars.eu/articolo.aspx?id=273>> accessed 10 June 2023; Roma Tre University, 'Guidelines for the Legal Clinics of the Department of Law of the University of Roma Tre' <[https://giurisprudenza.uniroma3.it/wp-content/uploads/sites/3/file\\_locked/2022/12/Guidelines-LC-Roma-Tre-EN-DEF.pdf](https://giurisprudenza.uniroma3.it/wp-content/uploads/sites/3/file_locked/2022/12/Guidelines-LC-Roma-Tre-EN-DEF.pdf)> accessed 10 June 2023.

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In addition to the traditional and pre-eminent function of knowledge transmission in the proper sense, this new teaching method also has a further social and professionalizing function.<sup>13</sup>

Legal clinics represent also a tool of the Third Mission objective of universities, consisting in widening the traditional ‘missions’ (teaching and research) and adding a new one, ‘a contribution to society’ in cultivating social cohesion, reducing inequalities and raising the level of knowledge, skills and competences in society.<sup>14</sup>

It is well-known, in fact, that the movement for clinic-based legal education was inextricably bound up with the movement for community-based access to justice and other broader movements for social change and social justice,<sup>15</sup> in particular the access to justice movement of the 1960s and 1970s drawing on the work of Mauro Cappelletti.<sup>16</sup> From this background originates another deep link, the one between clinical legal education and legal aid programs.<sup>17</sup>

The need to bridge the gap between legal theorists and practitioners, the need to overcome the lack of interest in applied skills and, ultimately, the disconnect between law and society, constitute an added value of legal clinics, which become a bridge between the university and the labor market.<sup>18</sup>

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<sup>13</sup> C Blengino and A Gascón-Cuenca (eds), *Epistemic Communities at the Boundaries of Law: Clinics as a Paradigm in the Revolution of Legal Education in the European Mediterranean Context* (Ledizioni 2019).

<sup>14</sup> S Bergan and R Damian (eds), ‘Higher Education for Modern Societies – Competences and Values’ (2010) Council of Europe higher education series No. 15 <<https://rm.coe.int/higher-education-for-modern-societies-competences-and-values/168075dddb>> accessed 10 June 2023.

<sup>15</sup> J Giddings and others, ‘The First Wave of Modern Clinical Legal Education: The United States, Britain, Canada, and Australia’ in FS Bloch (ed), *The Global Clinical Movement: Educating Lawyers for Social Justice* (OUP 2010) 4; FS Bloch, ‘Access to Justice and the Global Clinical Movement’ (2008) 28 Wash. UJL & Pol’y 111; MR Marella and E Rigo, ‘Le cliniche legali, i beni comuni e la globalizzazione dei modelli di accesso alla giustizia e di lawyering’ (2015) 33 Rivista Critica di Diritto Privato 537.

<sup>16</sup> M Cappelletti and B Garth, ‘Access to Justice: The Worldwide Movement to Make Rights Effective: A General Report’ in M Cappelletti and B Garth (eds), *Access To Justice, A World Survey*, vol 1 (Giuffrè, Sijthoff/Noordhoff 1978). On the history of clinical legal movement: PA Joy, ‘The Uneasy History of Experiential Education in U.S. Law Schools’ (2018) 122 Dick L Rev 551.

<sup>17</sup> FS Bloch and MA Noone, ‘Legal Aid Origins of Clinical Legal Education’ in Bloch (n 15) 153.

<sup>18</sup> ‘With labour markets increasingly relying on higher skill levels and transversal competences, higher education should equip students with the advanced knowledge, skills and competences they need throughout their professional

I think the time has come for a systematic scholarly debate in the European legal academia and it seems to me that it should polarize around two issues: quality and pluralism.<sup>19</sup>

*Pluralism.* If one were to identify a common thread running through the numerous courses that make up the clinical programs offer, it would be that of pluralism. Pluralism of the models of clinical legal teaching (live-client, externship/internship programs), of the areas of law covered (traditional/business), of the kind of students addressed and reached (politically minded, social committed or more business oriented).<sup>20</sup>

*Quality.* In spite of the considerable diffusion of the clinical courses in Italy, there is no homogeneity of models with which these courses are implemented in Law Schools, and, on the contrary, the clinical method is applied with a quantity of variations that sometimes disregard its very nature.

Part of the Italian clinical legal courses do not, despite their names, have even the minimum characteristics of legal clinics. The most recurrent misunderstanding, for instance, appears that of labelling as clinics courses those actually of a mere seminar nature, aimed at the retrospective analysis of cases decided by the courts. There are even abuses of the name that leads to depreciating the ‘genuine’ law clinics and fostering misconceptions regarding their role (the case of the ‘fake clinics’).

The fact that the student has to deal with real and not simulated cases is, on the other hand, a distinctive feature of legal clinics, as is the necessary supervision by a professional (at least according to our Guidelines, although Paul Mckeon has introduced, in his paper in this Issue, a new topic: that of the recognition of simulation courses as Legal clinics).

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lives. Employability empowers the individual to fully seize the opportunities in changing labour markets’: Communiqué of the Conference of European Ministers Responsible for Higher Education, Leuven and Louvain-la-Neuve, 28-29 April 2009 <[https://ec.europa.eu/commission/presscorner/detail/en/IP\\_09\\_675](https://ec.europa.eu/commission/presscorner/detail/en/IP_09_675)> accessed 16 June 2023.

<sup>19</sup> E van Bemmelen van Gent, ‘Legal Education: A New Paradigm’ [2012] *Bynkershoek Law Review* 2; C Blengino and A Gascón-Cuenca (eds), *Epistemic Communities at the Boundaries of Law: Clinics as a Paradigm in the Revolution of Legal Education in the European Mediterranean Context*; A Alemanno and L Khadar, ‘Conclusion’ in Alemanno and Khadar (n 5) 341.

<sup>20</sup> M Ball, ‘Legal education and the “idealistic student”: using Foucault to unpack the critical legal narrative’ (2010) 36 *Monash University Law Review* 18.

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### 3. *Trends in clinical legal teaching: recognition and institutionalization*

Our Law School has been, since the very beginning (1996), focusing on teaching methods strategies practice-oriented, student-centered, problem and community-based.<sup>21</sup>

We have faced some many challenges which are common to all or most European legal clinics.

We have some achievements but also ongoing challenges.

If we want to resort to a broad periodization of the implementation of the Roma Tre clinical courses, we may distinguish an early stage period (starting from early 2010s, characterized by the implementation of the first 3 law clinics: Immigration, Children and Small savers' rights); a second phase (late 2010s: where LCs had experienced a boom but suffered of lack of recognition and institutionalization being developed from volunteer arrangements (as in the rest of the Continental Europe); nowadays, we are witnessing to the path towards institutionalization.

In November 2022 have adopted a Regulation (which regulates the procedural requirement and organizational aspects of all the activities carried out by the Legal Clinics of the Department of Law and is tailored for the needs and context of our university) and the Guidelines (whose aim is to guarantee the quality of the activities carried out by the Legal Clinics and to ensure the transparency of the educational pathway and teaching model offered).

We suffered of lack of dedicated coordination; but now we have a Board of clinicians<sup>22</sup> and a coordinator, who is also the contact person for the enhancement of the Department's clinical expertise.

These are all tools to contribute to the recognition of LCs, help LCs to have a clear status within university courses and to gain public recognition, also, they promote the expansion of quality-ensured legal clinics.

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<sup>21</sup> A Alemanno and L Khadar, 'Introduction' in Alemanno and Khadar (n 5) 1; M Mekki (ed) *Réformer l'enseignement du droit en France à la lumière des systèmes étrangers* (LexisNexis 2017).

<sup>22</sup> 'Whose activity is aimed at coordinating clinical activities within the Department, as well as ensuring the quality of the courses, the transparency of the training path and the teaching model offered': art. 2(7) Regulation on Legal Clinics.

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#### 4. *Quality control in legal clinical teaching: the Guidelines*

Quality measures for legal clinics consist of criteria formalizing the teaching methods and creating performance indicators in the field of legal clinical teaching.

In 2022 we adopted Guidelines (which are an adaptation of the Erasmus Plus project named ‘Skills Transfers In Academia : A Renewed Strategy Enhancing LEGAL CLINICS in the European Union’ – STARS, that Roma Tre legal clinic on Small Savers Protection granted along with other 4 partners<sup>23</sup>) which aim to ensure the inclusiveness of the quality dimensions for law clinics and the preservation of the diversity of the higher education institutions and teaching-learning modalities across the EU (and the Bologna process members).

The Guidelines goal is to upgrade the quality of all legal clinics of our Department, to create a sense of common framework and general objectives associated with the clinics, to harmonize and upgrade the practices at the legal clinics in our Department. For clinics already established, the Guidelines help them to stay on the right track and make sure they constantly strive for rigor and quality. For newly established clinics, or clinics-to-be, they provide a model based on best practices.

Originally labelled ‘quality standards’, their name changed (the shift was decided by the STARS Project) as it was perceived too binding, so the final version is ‘Guidelines’.

It is a set of 8 articles divided in four sections, available on the Law School website, both in Italian and in English.

A first section covers the goals and definitions, a second part focuses on the overall structure and functioning, a third part offers guidelines for pedagogical purposes, and the last part deals with the quality of the legal services provided.

A detailed definition Legal Clinic (Art. 2(1)<sup>24</sup> is provided, along with the criteria

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<sup>23</sup> It was a consortium, composed by 5 Universities (Luxembourg, Roma Tre, Brescia, Palackeho V Olomouci, Romano-Americana) that have granted the Erasmus Plus Programme (the European Commission’s Programme for education, training, youth and sport), which aims to develop innovation in higher education, especially regarding to the innovative teaching methods (ie legal clinics).

<sup>24</sup> ENCLE (n 12); see also STARS (n 12).

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defining clinical legal education and the distinction (as in the American Bar Association – ABA – revised Standards and Rules of Procedure for Approval of Law Schools, 2022-23) between legal clinics and other types of experiential courses, such as simulations and Moot Courts. Art. 2(2) provides, in fact, that:

Legal clinics are educational organizational units applying clinical legal education methodology. Legal clinics differ by their methodology from other student-centered educational programs such as, for example, moot courts or (in civil law jurisdictions) student presentation and analysis of existing case-law, since in legal clinics students are not involved in simulated proceedings but operate on the contrary in a real-life context.

The Guidelines cover students' well-being and information, transparency, resources, the quality of the service provided, users' positions and interests, confidentiality and use of personal data, and conflict of interest; they emphasize on the pedagogical tools the clinic should use, and define its methodology as 'practice-oriented, student-centered, problem-based, interactive teaching'. They also stress on ethics, deontology and confidentiality rules.

They also focus on the key risks to be prevented and the likely remediation to envisage when the risks materialize and may affect the quality of the legal clinics (for example a limitation of the number of students per supervisor, or the estimated desirable workload for students).

## **5. *Pluralism: business (or transactional) clinics.***

One of the main issues discussed when drafting the Guidelines was the terminological one related to the use of the word *client* instead of *user*.

Finally, we all agreed on the term *user* rather than *client* since it, having a wider meaning, may include consumers organizations, enterprises community or also associations, NGOs, organizations and institutions, giving the possibility to a wider range of subjects to benefit from the legal clinics services.

Here raises the issue of the business clinics (as in British English) or transactional

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clinics (according to American English),<sup>25</sup> clinical courses which address to a variety of the targeted users representing clients who, in their business, would have no access to legal advices.<sup>26</sup>

Many reasons on several levels (economic, social, cultural and educational) pushed for the development of the business clinics:<sup>27</sup> The failure of the public interest law practice of litigation;<sup>28</sup> the rapid decline of public legal aid in many countries, which has meant that those with limited means are increasingly unable to get advices, vindicate and enforce their legal rights;<sup>29</sup> the need to broaden the clinical curriculum;<sup>30</sup> the Pandemic emergence.<sup>31</sup>

The trend towards business pro bono in clinical legal education has as many detractors as apologists.

Detractors believe that business clinics fail in pursuing the social justice mission and go against the spirit of the CLE movement; that clinics should focus on the

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<sup>25</sup> For the terminological issue see D Schlossberg, 'An Examination of Transactional Law Clinics and Interdisciplinary Education' (2003) 11 *Journal of Law and Policy* 195.

<sup>26</sup> L Thomas and N Johnson (eds), *Clinical Legal Education Handbook* (University of London Press 2020).

<sup>27</sup> A detailed history of the development of transactional legal clinics in SR Jones, 'Small Business and Community Economic Development: Transactional Lawyering for Social Change and Economic Justice' (1997) 4 *Clinical L Rev* 195.

<sup>28</sup> LG Trubek, 'The Worst of Times... And the Best of Times: Lawyering for Poor Clients Today' (2011) 22 *Fordham Urb. LJ* 1123.

<sup>29</sup> M Ahmed and X Kramer, 'Global Developments and Challenges in Costs and Funding of Civil Justice' (2021) 14 *Erasmus L Rev* 181.

<sup>30</sup> SR Jones and J Lainez, 'Enriching the Law School Curriculum: The Rise of Transactional Legal Clinics in U.S. Law Schools' (2014) 43 *Wash UJL & Pol'y* 85, 94-95; Trubek (n 28).

<sup>31</sup> During the Pandemic there has been a massive development of business clinics, as a response to the legal issues business were going through (Washington: Entrepreneurship Law Clinic; New York University: Client Work; Yale: Entrepreneurship & Innovation Clinic; Small Business and Community in a Time of Crisis; Financial Markets and Corporate Law Clinic; UCI Law: Startup and Small Business Clinic; University of Michigan: Entrepreneurship Clinic; Harvard University: Predatory Lending and Consumer Protection Clinic; Federal Tax Clinic; Columbia: Entrepreneurship and Community Development Clinic; University of Chicago: Institute for Justice Clinic on Entrepreneurship; University of Pennsylvania: Entrepreneurship Legal Clinic; University of Virginia: Entrepreneurial Law Clinic; University of California—Berkeley: New Business Community Law Clinic; Duke University: Community Enterprise Clinic + Start-Up Ventures Clinic; Cornell University: Entrepreneurship Law Clinic; UCLA: Corporate Practice Clinic; George Town: Social Enterprise and Nonprofit Clinic; University of Texas - Austin: Entrepreneurship and Community Development Clinic).

provision of legal advice about personal matters to individuals who cannot afford a lawyer,<sup>32</sup> instead than give their free legal advices to entrepreneurs or other existing businesses that can afford a lawyer.<sup>33</sup>

They claim explicitly that the duty of the LCM is teach the lessons of social justice<sup>34</sup> – so that pro bono business assistance must be considered an oxymoron<sup>35</sup> – and advocate the depoliticization, gentrification<sup>36</sup> and agnostication<sup>37</sup> of clinical education.<sup>38</sup>

On the other hand, apologists underline the educational value, the economic benefits for the society and the strong social dimension of business clinics.

Representing business entities does not mean representing the elite<sup>39</sup> but, on the contrary, economically disadvantaged small business owners. These may be No-profit organizations, microenterprise (with no employees) or (very) small businesses, or individuals belonging to social disadvantaged groups, such as women<sup>40</sup> or minority owners firms.<sup>41</sup>

Let's just think about the case of the start-ups clinics: In this case legal advices

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<sup>32</sup> S Wizner, 'Is Social Justice Still Relevant?' (2012) 32 Boston College Journal of Law and Social Justice 345, 346.

<sup>33</sup> V Roper and others, 'Understanding the Scope of Business Law Clinics: Perspectives from the United Kingdom, Israel and the United States' (2018) 5 J Int'l & Comp L 217, 218.

<sup>34</sup> F Quigley, 'Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics' (1995) 2 Clinical L Rev 37, 38 (advocating that a complete legal educational 'should include lessons of social justice').

<sup>35</sup> Jones, 'Small Business and Community Economic Development' (n 27).

<sup>36</sup> Panel Discussion, 'Clinical Legal Education: Reflections on the Past Fifteen Years and Aspirations for the Future' (1987) 36 Cath U L Rev 337, 342.

<sup>37</sup> JC Dubin, 'Clinical design for Social Justice Imperatives' (1997-1998) 51 SMUL Rev 1461, 1466.

<sup>38</sup> A Lopez, 'Learning Through Service in a Clinical Setting: The Effect of Specialization on Social Justice and Skills Training' (2001) 7 Clinical L Rev 307, 317.

<sup>39</sup> BG Garth and JS Sterling, 'Diversity, Hierarchy, and Fit in Legal Careers: Insights from Fifteen Years of Qualitative Interviews' (2018) 31 Geo J Legal Ethics 123.

<sup>40</sup> On women-owned businesses see biz2credit, 'Annual Women-Owned Business Study 2023' (2023) <<https://www.biz2credit.com/research-reports/annual-women-owned-business-study-2023>> accessed 10 June 2023.

<sup>41</sup> SR Jones, 'Promoting Social and Economic Justice Through Interdisciplinary Work in Transaction Law' (2004) 14 Wash UJL & Pol'y 249.

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are provided to potential entrepreneurs which are usually young people with no income.<sup>42</sup>

Also, small enterprises play an important role in any economy: today small business is viewed as the new public interest law.<sup>43</sup>

So I think that in the modern clinical design features, there should be no tension between traditional and business clinics, intended as the contrast between social justice and education, between values and training. Traditional and business clinics can coexist without clash of values, without necessarily seeing in business clinics the deemphasize of the idealism, the public service goals and the concerns of access and justice towards the primacy of skills acquisitions. Once again, pluralism. The cultural, social and economic scenario is different than the one in the 1960s.

The law and the legal framework changed. The current legal system requires a greater range of competencies; corporate law developments, influenced by the social entrepreneurship movement, have altered the legal environment and the landscape of corporate practice.

Professionals changed. Since the 1990s scholars have been advocating ‘the changing nature of work in law and the changing nature of the profession itself’<sup>44</sup> and claiming that ‘the constant expansion of legal regulation means that rather than provide students with an exhaustive (but highly temporary) knowledge of the minutiae of legal rules in any one subject area, it has become more important to ensure that jurists have excellent research and problem-solving skills that enable them to continue to develop and enhance their knowledge once in practice’.<sup>45</sup>

Clinicians changed: modern clinicians are, for obvious generational reasons, less rooted in the 1960s ideology. They won the long battle for the integration of clinics within the law school curriculum and the regularization of the status of clinical faculty, so they are now (more) institutionalized (surely in the U.S, almost in Europe).

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<sup>42</sup> Roper and others (n 33) 242.

<sup>43</sup> Jones, ‘Small Business and Community Economic Development’ (n 27).

<sup>44</sup> A Sherr, ‘Foreword’ in J Webb and C Maug (eds), *Teaching Lawyers’ Skills* (Butterworths 1996) vi.

<sup>45</sup> J MacFarlane, ‘The Legal Skills Movement Ten Years On: Triumph or Compromise’ (1997) 24 *JL & Soc’y* 440.

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Students changed: they are Digital Natives, which is the most racially, ethnically diverse, entrepreneurship generation ever;<sup>46</sup> they look for professional identity formation, as they are more careerists; they are more focused on their post-graduate marketability.<sup>47</sup>

I think that there is nothing wrong in this. I think that participate to a clinic having both the aims of a different intellectual perspective on legal doctrine (or practice or institutions) and the opportunity to be trained to be successful practitioners, does not diminish the social dimension of clinical legal teaching.<sup>48</sup>

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<sup>46</sup> SK Berenson, 'Educating the Millennial Law Students' (2008) 1 Charlotte LR 51.

<sup>47</sup> MJ Kotkin, 'The Violence Against Women Act Project: Teaching a New Generation of Public Interest Lawyers' (1996) 4 JL & Pol'y. 449.

<sup>48</sup> Ibid 202 (discussing how small business development is also part of the multifaceted quest for economic justice for indigent people and others marginalized by the dominant society).

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