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## LEGAL CLINICS AS A LEADING FORCE FOR CHANGES IN LEGAL EDUCATION

*ABSTRACT. Criticisms of legal education have remained persistent over time, and the need for change and reform is a global concern. The current approach to legal education in civil law countries reflects the need to turn from a dogmatic to a problematic approach in order to consider both practical issues and social demands. Against this backdrop, the paper aims to explore the role played by clinical legal education in order to align continental legal education with this ambition, thereby making law school experiences more educational for students and, at the same time, promoting social justice and upholding the rule of law.*

**CONTENT.** 1. Entry restrictions to the practise of law and legal education under fire – 2. The spread of legal clinics around the world and its arrival in Europe – 3. Legal clinics as an innovative teaching method: knowledge, skills and values – 4. Legal clinics and the social justice paradigm – 5. Final remarks

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## 1. *Entry restrictions to the practise of law and legal education under fire*

The peculiarity of the professional legal services sector has over time legitimised the consolidation of a highly regulated professions market. These regulations include the entry barriers to the practise of law generally composed of academic studies, professional traineeship and bar examination(s).

Based on the need to protect the public interest, the entry restrictions are aimed at preserving the quality of professional services.<sup>1</sup> Setting the minimum requisites of human capital that must be possessed in order to enter into the legal profession (ie, regulating the ‘input’) is a way to ensure that only individuals with adequate training credentials are authorised to provide their services to the public and, thus, to ensure that a minimum quality of legal services is guaranteed (ie, ensuring the quality of the ‘output’). Entry restrictions curb the most extreme consequences of adverse selection and prevent opportunistic behaviour (ie, ‘moral hazard’); they also provide adequate protection for consumers despite the existence of strong information asymmetries, especially in the credence goods market.<sup>2</sup> Another rationale for professional regulation is the need to avoid negative externalities while protecting positive ones.<sup>3</sup>

At the European level, the possible deregulation of the professional sectors has gradually become one of the major concerns of the 21st century. Due to the absence of

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<sup>1</sup> D Heremans and T Heremans, *Towards Evidence-based Professional Regulation* (Hart Publishing 2012) 171.

<sup>2</sup> C Shapiro, ‘Investment, Moral Hazard, and Occupational Licensing’ (1986) 53 *Rev Econ Stud* 843; T Heremans, *Professional Services in the EU Internal Market: Quality Regulation and Self-Regulation* (Hart Publishing 2012) 49. I Paterson, M Fink and A Ogun, *Economic Impact of Regulation in the Field of the Liberal Professions in Different Member States: Regulation of Professional Services* (Institut für Höhere Studien 2003 - European Network of Economic Policy Research Institutes Working Paper 52, February 2007).

<sup>3</sup> Quality of the legal services might have a severe impact, not only on the single client but also on society as a whole due to the inner link existing between the delivery of legal services and the achievement of public goals such as the good administration of justice and a well-functioning judicial system. See RNM Graham, *Legal Ethics: Theories, Cases, and Professional Regulation* (3rd edn, Emond Publishing 2014); FH Stephen, ‘Regulation of the Legal Professions or Regulation of Markets for Legal Services: Potential Implications of the Legal Services Act 2007’ (2008) 19 *Eur. Bus. Law* 1130; N Semple, *Legal Services Regulation at the Crossroad. Justitia’s Legions* (Edward Elgar 2015) 28; B Hoorn Barton, ‘Why Do We Regulate Lawyers: An Economic Analysis of the Justifications for Entry and Conduct Regulation’ (2001) 33 *Ariz. State Law J.* 430, 470 ff.; F Zacharias, ‘Lawyers as Gatekeepers’ (2004) 41 *San Diego L. Rev.* 1387, 1394 and 1395.

competitiveness in the professional market, the alleged capacity of the regulatory restrictions to produce a reduction in consumer choice and an increase in price without also ensuring high quality standards has prompted the EU Institutions to advocate for a ‘better regulation’ of the professional sectors, including the legal sector.<sup>4</sup>

Notwithstanding the limited availability and fragmentary nature of empirical evidence on the complementary relation between qualification and entry requirements and the quality of legal services,<sup>5</sup> the Member States have not challenged or undermined the validity of such restrictions.

Despite the ongoing process of liberalising professions and on the wave of the Bologna Process, an increasing convergence of the legal educational system in Europe can be inferred,<sup>6</sup> as underlined in a statement by the EU Commission in 2016: ‘In terms of qualification, higher education is required in the large majority of Member States (a law degree being compulsory), followed by a mandatory traineeship and/or additional professional experience and bar examination’.<sup>7</sup> Thus, at the end of its evaluation process, the Commission did not find any criticalities or suggest any reforms regarding the legal educational path as regulated at the national level by Member States.<sup>8</sup>

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<sup>4</sup> COM(2004) 83 fin.; COM(2005) 405 fin.; COM(2013) 676 fin.; COM(2015) 550 fin.

<sup>5</sup> D Gillanders, J Love, A Paterson and F Stephen, ‘Spatial Aspects of Deregulation in the Market for Legal Services’ (1992) 26 Reg. Stud. 127; FH Stephen, JH Love and A Paterson, ‘Deregulation of Conveyancing Markets in England and Wales’ (1994) 15(4) Fiscal Studies 102; FH Stephen and JH Love, ‘Regulation of the Legal Profession’ in B Bouckaert and G De Geest (eds), *Encyclopedia of Law and Economics, Volume III: The Regulation of Contracts* (Edward Elgar 2000) 989; R Van den Bergh and Y Montangie, ‘Competition in Professional Services Markets: Are Latin Notaries Different?’ (2006) 2 J Competition Law Econ 189, 193–194.

<sup>6</sup> See, eg, the case of the Spanish system: the previous access pathway to become a lawyer – allowing law graduates to directly assume the title of ‘abogado’ – constituted a profound exception in Europe. In 2011, this system was reformed and aligned with the other MSs’ regulations with the provision of a professional training period and an entry exam: Real Decreto 775/2011, de 3 de junio, por el que se aprueba el Reglamento de la Ley 34/2006, de 30 de octubre, sobre el acceso a las profesiones de Abogado y Procurador de los Tribunales, in BOE, n 143, 16 June 2011, 61762.

<sup>7</sup> Commission, ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and The Committee of The Regions on reform recommendations for regulation in professional services’ COM(2016)820, 18.

<sup>8</sup> The EU Commission pointed out some criticisms on more circumscribed aspects, eg, the fact that in some MSs, ‘training and experience obtained abroad are not duly taken into account when allowing access to legal traineeships for lawyers’; in some other MSs, there is the provision of additional professional qualification requirements in order

Even if substantial homogeneity across Europe of the entry pathway has been recognised and the importance of entry restrictions has not only been affirmed but even strengthened, debates continue worldwide regarding how legal education should be reshaped and restructured to ensure that only highly specialised and properly trained human capital can enter into the market of the regulated legal profession.

Criticisms of the legal educational model have remained persistent and the need for reforms seems to be a global concern.

Since the 17th and 18th centuries, continental legal education has been associated with the characteristics of abstract and dogmatic legal thinking. The shift towards natural law conveyed an approach in which private law was to be understood as pure science, disconnected from factual demands. This disconnect between law and society was later exacerbated with the rise of legal positivism: jurists faced with the comprehensiveness of national codes assumed the role of mere exegetes of the rules, abandoning the mission of serving the real needs of the society. This led to a formalistic, conceptual and positivistic approach to the study of law.<sup>9</sup> This perspective was only questioned after the Second World War when critical thinkers started to challenge the traditional approach to law. The emergence of a problematic approach to law in which there is an awareness that legal rules and principles are social constructs created by individuals in response to specific historical contexts and social needs rather than derivatives of a universal and timeless law also forced a rethink of legal education. Thus, law also needs to be taught taking into consideration these practical implications.<sup>10</sup>

Critiques of the English educational system are also noteworthy. In the mid-20th century, some government reports<sup>11</sup> criticised the poor standards of English legal

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to practise before the highest courts, and so on. See *ibid* 18-19.

<sup>9</sup> P Grossi, *La cultura del civilista italiano. Un profilo storico* (Giuffrè 2002)

<sup>10</sup> C Amato, 'Experiential Learning from the Continental Viewpoint: If the Cap Fits...' in R Grimes (ed) *Rethinking Legal Education Under the Civil and Common Law. A Road Map for Constructive Change* (Routledge 2017) 13. C Amato, 'Il modello clinico bresciano' in A Maestroni, P Brambilla and M Carrer (eds), *Teorie e Pratiche nelle Cliniche Legali, Vol. II Cliniche Legali* (Giappichelli 2018), 145, 149; C Amato and E Poillot, 'Towards a European Culture of Legal Clinics: Trasplanting the American Cincinal Model', in A Janssen e H Schulte-Nölke (eds), *Researches in European Private Law and Beyond. Contributions in Honour of Reiner Schulze's Seventieth Birthday* (Nomis 2020) 383, 392; F Macario e M Lobbuono, *Il diritto civile nel pensiero dei giuristi* (Cedam, 2010) 373.

<sup>11</sup> See, in particular: *Report of the Legal Education Committee* (Cmd 4663, 1934) ('Atkin Committee'); *Report of the*

education and the inefficiency of the system, pleading for reforms – notwithstanding that English legal education and training was born as a product of the legal profession. The dissatisfaction with the English education system has made it possible to advocate for the introduction of a three-stage model of legal education: an academic stage, a professional stage and a continuing stage.<sup>12</sup> This allows for the recognition of an educational model that would evaluate not only the practical training but also the university studies, thus making academic studies a key component of the teaching and learning pathway of future barristers and solicitors (at least until the recent reform for solicitors, according to which the Solicitors Regulatory Authority (SRA) decided to abandon the qualifying law degree (QLD) and the Legal Practice Course (LPC) in favour of a centralised examination system, the Solicitors Qualifying Exam – SQE).<sup>13</sup>

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*Committee Appointed by the Prime Minister under the Chairmanship of Lord Robbins* (Cmnd 2154, 1963) ('Robbins Report'); *Report of the Committee on Legal Education* (Cmnd 4595, 1971) ('Ormrod Report'); Royal Commission on Legal Services, *Final Report* (Cm 7648, 1979) ('Benson Report'); *A Time for Change: Report of the Committee on the Future of the Legal Profession* (1988) ('Marre Committee'); Lord Chancellor's Advisory Committee on Legal Education and Conduct, *First Report on Legal Education and Training* (1996) ('ACLEC'); *Review of the Regulatory Framework for Legal Services in England and Wales* (2004) ('Clementi Report'); *Legal Education and Training Review, The Future of Legal Services Education and Training Regulation in England and Wales* (2013) <<http://www.letr.org.uk/the-report>> accessed 9 June 2023.

<sup>12</sup> Ormrod Report. See also *Legal Education and Training Review* (n 11) xiv: 'A number of recommendations are made in respect of the Qualifying Law Degree (QLD) and Graduate Diploma in Law (GDL). These continue to provide an important pathway into the legal services sector for a range of authorised persons, and thus constitute an important foundation for professional training'.

<sup>13</sup> SRA, *Statement of Solicitors Competence* (2015) <<https://www.sra.org.uk/solicitors/competence-statement.page>> accessed 9 June 2023; SRA, *Training for Tomorrow: Assessing Competence, Consultation Paper* (2015); SRA, *A New Route to Qualification: The Solicitors Qualifying Examination, Consultation Paper* (2017); SRA, *A New Route to Qualification: New Regulations, Consultation Paper* (2017) <<https://www.sra.org.uk/sra/consultations/new-regulations.page>> accessed 9 June 2023. For a comment on the SRA initiative, see R Fletcher, 'Legal Education and Proposed Regulation of the Legal Profession in England and Wales: A Transformation or a Tragedy?' (2016) 50 *The Law Teacher* 371; E Hall, 'Notes on the SRA Report of the Consultation on the Solicitors Qualifying Exam: "Comment is Free, but Facts are Sacred"' (2017) 51 *The Law Teacher* 364; E Fry and R Wakeford, 'Can We Really Have Confidence in a Centralised Solicitors Qualifying Exam? The Example of the Qualified Lawyers Transfer Scheme' (2017) 51 *The Law Teacher* 98; C James and J Koo, 'The EU Law "Core" Module: Surviving the Perfect Storm of Brexit and the SQE' (2018) 52 *The Law Teacher*, 68; J Gibbons, 'Policy Recontextualisation: The Proposed Introduction of a Multiple-choice Test for the Entry-level Assessment of the Legal Knowledge of Prospective Solicitors in England and Wales, and the Potential Effect on University-level Legal Education' (2017) 24 *Int J Leg Prof* 227; M Davies, 'Changes to the Training of English and Welsh Lawyers: Implications for the Future of University Law Schools' (2018) 52 *The Law Teacher* 100; P Leighton, 'Legal Education in England and Wales: What Next?' (2021) 55 *The*

Even today, the need to rethink approaches to teaching and learning law in theory and practise continues to inflame the debate among scholars.<sup>14</sup> This also stems from the economic, social and political challenges of the present time and the ongoing changes in the legal profession, which force questions about the validity of the current educational system in the face of new needs.

Indeed, the legal services landscape is rapidly changing, and the legal profession is facing a working environment marked by competition and deregulation, increasing globalisation and technological innovation. This new reality will have a deep impact on the traditional business work structures of professionals and the way in which legal services are provided and delivered. Even the content of the practise of law is going to be reshaped, influenced as well by the possibility of automatisations of some activities and the emerging tendency to the commodification of some legal services due to technological advancements. The global legal market is becoming more diverse with the entry of new players (such as Legal Tech startups), and innovation in the legal sector would require outside thinking and views; moreover, new legal skills, abilities and

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Law Teacher 405. See also C Hood and C Simmonds, 'The Solicitor Apprenticeship' (2022) 56 *The Law Teacher* 420, with a focus on the relationship between the SRA reform and the solicitor apprenticeship.

<sup>14</sup> See R Grimes (ed.), *Rethinking Legal Education Under the Civil and Common Law* (n 10); O J Gstrein, M Fröhlich, C van den Berg and T Giegerich (eds), *Modernising European Legal Education (MELE). Innovative Strategies to Address Urgent Cross-Cutting Challenges* (Springer 2023); S Cassese, 'Legal Education Under Fire' (2017) 1 *Eur Rev Priv Law* 143, 144–145: the Author considered the French model and underlined that 'Teaching methods and materials are criticized as being too dogmatic and doctrinal, closed to the social sciences, and oriented towards the study of law as set out in books rather than to the study of law in action'; C Jamin, 'L'enseignement du droit à Sciences Po: autour de la polémique suscitée par l'arrêt du 21 March 2007' (2010) *Jurisprudence: Revue critique* 125; C Jamin, *La cuisine du droit: L'École de Droit de Sciences Po: une expérimentation française* (LGDJ 2012); M Vogliotti, 'L'urgence de la question pédagogique pour le droit postmoderne' (2014) *RIEJ* 72, 73 ff; C Jamin and M. Xifaras, 'De la vocation des facultés de droit (françaises) de notre temps pour la science et l'enseignement' (2014) *RIEJ* 107; C Jamin and M Xifaras, 'Retour sur la "critique intellectuelle" des facultés de droit' (2015) 4 *La Semaine Juridique* 155; R Sefton-Green, *Démoules: Du carcan de l'enseignement du droit vers une éducation juridique* (Société de législation comparée 2015); referring to the situation of legal education in Germany, it was affirmed that: 'German experts too complain that doctrinal subjects are central in legal education, that legal education does not focus sufficiently on the application, active creation and implementation of the law, that law teaching does not pay enough attention to the European legal order and to the comparative approach, that academic reflection prevails over practice-oriented studies, and that there is not enough interdisciplinary cooperation' (Wissenschaftsrat, *Prospects of Legal Scholarship in Germany. Current Situation, Analyses, Recommendations*, Hamburg 9 November 2012). See also A Von Bogdandy, 'Le sfide della scienza giuridica nello spazio giuridico europeo' (2012) 2 *Il diritto dell'Unione Europea* 22.

attributes will become increasingly essential in the practise of law.<sup>15</sup>

Against this backdrop and starting from the Bologna Process,<sup>16</sup> European input to rethink the educational models remains extremely topical. Law schools must be engaged not only in the transmission of *knowledge* but also in the development of *skills* supported by *values*.<sup>17</sup>

In fact, legal education is an essential component in the creation of future professionals who will be able to face the new and unexpected challenges of the legal world and to take an active role in society, contributing to the improvement of legal systems towards justice.<sup>18</sup> The shift towards a legal educational model that encompasses knowledge, practical skills and values will contribute to meeting this expectation. In this context, this essay will attempt to demonstrate that clinical legal education is going to play a pivotal role in moving continental legal education towards these outcomes, making the law school experience more educational for students while also promoting equal justice and the rule of law.

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<sup>15</sup> On the evolution of the legal profession see recently, among others: R Susskind, *Tomorrow's lawyers* (3rd eds, Oxford 2023); F Gianaria and A Mittone, *L'avvocato del futuro* (Einaudi 2022); L Bugatti, *La professione forense tra tradizione e innovazione* (Giappichelli 2022).

<sup>16</sup> On the Bologna Process, see LS Terry, 'The Bologna Process and Its Impact in Europe: It's So Much More Than Degree Changes' (2008) 41 Vand J Transnat'l L 107. Recommendation of the European Parliament and of the Council 2008/C 111/01 of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning [2008] OJEU C11/1; Council Recommendation 2017/C 189/03 of 22 May 2017 on the European Qualifications Framework for lifelong learning and repealing the recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning [2017] OJEU C 189/15.

<sup>17</sup> The need for a legal educational process that encompasses both knowledge and practical skills has also been suggested by the Council of Bars and Law Societies in Europe (CCBE), which has highlighted the importance of training and learning outcomes and competencies that include both theoretical and practical knowledge. See, eg, CCBE, *Comments on European Legal Training* (2010); CCBE, *Recommendation on Training Outcomes for European Lawyers* (2007), in which the CCBE has substantiated the training outcomes for European lawyers in terms of substantive knowledge as well as practical knowledge and skills; see also CCBE, *Recommendation on Continuing Training* (2003).

<sup>18</sup> On the purpose of legal education, see D Goldsworthy, 'The Future of Legal Education in the 21st Century' (2020) 41 Adel Law Rev 243.

## 2. *The spread of legal clinics around the world and its arrival in Europe*

Clinical legal education (CLE) in law schools is an increasing phenomenon. The roots of this movement can be traced to the United States in the early 20th century. At that time, the ‘legal realism’ movement began to criticise the revolutionary case method introduced at Harvard by Professor Christopher Columbus Langdell,<sup>19</sup> which was based on a ‘Socratic approach’ that moved from the analysis of concrete cases towards the reconstruction of legal principles in order to develop students’ analytical and critical thinking skills rather than pursue the mere memorisation of rules and doctrine.<sup>20</sup> The legal realists challenged the formalistic and abstract approach to law in favour of a functional approach, arguing that law was a social phenomenon that could only be understood in its historical, political and cultural context and that legal rules and principles were shaped by power and social dynamics. According to this approach, the law was considered as a constantly evolving instrument at the service of social and economic needs, and the critical and proactive role of legal professionals in shaping law and further social ends was recognised.<sup>21</sup> It was in this context that legal clinics began

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<sup>19</sup> CC Langdell, ‘The Harvard Law School’ (1887) 3 *Law Quarterly Review* 118, 123 ff. The case method was, indeed, already implemented, albeit with less resonance, in other law schools, such as the New York University: J Seligman, *The High Citadel: The Influence of Harvard Law School* (Houghton Mifflin 1978) 32–42; R Stevens, *Law School: Legal Education in America from the 1850s to the 1980s* (University of North Carolina Press 1983) 52 n 14; A Chase, ‘The Birth of the Modern Law School’ (1979) 23 *Am J Legal Hist* 329, 333. On the link between the case method introduced during the 19th century at Harvard Law School and the English learning experience of the Inns of Courts during the Middle Age, see C Amato, ‘Il modello clinico bresciano’ in A Maestroni, P Brambilla and M Carrer (eds), *Teorie e Pratiche nelle Cliniche Legali, Vol. II Cliniche Legali* (Giappichelli 2018) (n 10) 145, 147–148; see also GK Gardner, ‘Why Not a Clinical-Lawyer School? – Some Reflections’ (1934) 82 *U Pa L Rev* 785, which, by contrast, emphasises the similarities between ‘Mr. Frank’s ideal law school and the “legal university” which existed at the Inns of Court during the Middle Ages’: ‘There is the same emphasis on the arts of forensic disputation, the same emphasis on the training of apprentices through watching and taking part in the work of courts and lawyers; the economics and social sciences which Mr. Frank would have young lawyers study corresponds to the English land law-which was the economics and social science of the middle ages-and which then furnished the substance of the business of the Court’ (799–800).

<sup>20</sup> Langdell (n 19).

<sup>21</sup> J Frank, ‘A Plea for Lawyer-Schools’ (1947) 56 *The Yale Law Journal* 1303; J Frank, ‘Why Not a Clinical Lawyer School?’ (1933) 81 *U Pa L Rev* 907; J Frank, ‘Both Ends Against the Middle’ (1951) 100 *U Pa L Rev* 20; KN Llewellyn, ‘On What Is Wrong with So-Called Legal Education’ (1935) 35 *Columbia Law Rev* 651.

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to flourish.<sup>22</sup>

Legal clinics immediately acquired a dual purpose. First, clinics were an alternative teaching method to the traditional pedagogical approaches, requiring an active and critical involvement of the student, who is placed at the centre of the learning process and called upon to act as a legal professional in real contexts, applying legal knowledge to real cases according to the ‘learning by doing’ model.<sup>23</sup> Second, since the very beginning, legal clinics have embraced a social justice orientation and a marked anti-individualism. Legal clinics assumed a fundamental role in strengthening the legal aid system, furthering access to justice for disadvantaged and vulnerable individuals.<sup>24</sup> Moreover, during the 1960s and 1970s<sup>25</sup> – in an era of political and economic turmoil

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<sup>22</sup> JS Bradway, ‘Legal Aid Clinic as a Law School Course’ (1930) 3 South Calif Law Rev 320; JS Bradway, ‘New Developments in the Legal Clinic Field’ (1928) 13 St Louis L Rev 122; Frank, ‘Why not a Clinical Lawyer School?’ (n 18); Gardner (n 19); WV Rowe, ‘Legal Clinics and Better Trained Lawyers – A Necessity’ (1917) 11 Ill L Rev 591. On the roots of legal clinics in the US, see also L Serafinelli, ‘Alle origini delle cliniche legali nella formazione del giurista statunitense: tra nativismo e New Deal’ (2022) 49 DPCE Online <<https://www.dpceonline.it/index.php/dpceonline/article/view/1436>> accessed 9 June 2023.

<sup>23</sup> PK Kenneth, ‘Clinical Education and Lawyer Competency: The Process of Learning to Learn from Experience through Properly Structured Clinical Supervision’ (1981) 40 Md Law Rev 284: ‘Traditional classroom legal education primarily is concerned with the process of learning through information assimilation. Usually the information to be assimilated is applied within the narrowly circumscribed confines of the instructor-defined classroom. In contrast, clinical education is primarily concerned with the process of learning from actual experience, learning through taking action (or observing someone else taking action) and then analyzing the effects of the action. The data of learning are provided primarily by the students’ actual performances and experiences with clients who have legal problems. Such problems arise in a world where some facts cannot be ascertained, where personal qualities and interpersonal relationships often are crucial, where the “problem-solver” must take action and choose solutions while faced with unforeseeable contingencies. Clinical education provides a model of the multi-dimensional world of practice that traditional legal classroom education simply cannot provide. Education conducted in this true-to-life setting ensures that students have an opportunity to apply their learning to circumstances faced in actual practice’.

<sup>24</sup> The first legal clinics (at the beginning of the 20th century) were ‘legal aid dispensaries’, aiming to offer legal services to individuals in need: JS Bradway, ‘The Nature of Legal Aid Clinic’ (1930) 3 South Calif Law Rev 173; WP Quigley, ‘Introduction to Clinical Teaching for the New Clinical Law Professor: A View from the First Floor’ (1995) 28 Akron L. Rev. 463, 467 ff.; FS Bloch and MA Noone, ‘Legal Aid Origins of Clinical Legal Education’ in FS Bloch (ed.), *The Global Clinical Movement. Educating Lawyers for Social Justice* (OUP 2011) 153, 156.

<sup>25</sup> P McKeown and E Hall, ‘If We Could Instill Social Justice Values Through Clinical Legal Education, Should We?’ (2018) 5 Journal of International and Comparative Law 143, 145. More generally, the markedly social and political contestation approach characterized the Critical Legal Studies: D Kennedy, ‘The Political Significance of the Structure of the Law School Curriculum’ (1983) Seton Hall Law Rev 1; D Kennedy, ‘The Critique of Rights in Critical Legal Studies’ in W Brown and J Hallen (eds), *Left Legalism/Left Critique* (Duke University Press 2002) 176;

and social upheaval including the civil rights and women's rights movements – CLE became a form of reaction to the deep-rooted social injustices with the aim of reducing inequalities and, more broadly, contributing to the promotion of social justice.<sup>26</sup>

With the inner dual foci of providing marginalised people with access to justice and teaching students practical legal skills and competences, the legal clinic movement subsequently expanded to other legal systems, acquiring a global dimension.<sup>27</sup> Between the 1960s and 1970s, the clinical legal movement spread to other common law jurisdictions, including the United Kingdom, Australia and Canada.<sup>28</sup> In South America, where the clinical movement initially resulted from forced transplant by American foundations and Universities in the early 1960s, it gained greater momentum in the 1990s, thanks as well to the support of a local clinical network known as 'public

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D Kennedy, *Legal Education and the Reproduction of Hierarchy. A Polemic Against the System* (New York University Press 2004); A Hunt 'The Theory of Critical Studies' (1986) 6 Oxf. J. Leg. Stud. 1; R Mangabeira Unger, *The Critical Legal Studies Movement* (Harvard University Press 1986).

<sup>26</sup> MM Barry, JC Dubin and PA Joy, 'Clinical Education for this Millennium: The Third Wave' (2000) 7 Clinical L. Rev. 1, 8: 'The dearth of clinical legal education programs in the first half of the twentieth century reflects several conditions that law schools faced in that era. First, law schools were distinguishing themselves from apprenticeships, and clinical legal education efforts to create "model law offices" as part of law school education did not further this market differentiation. Second, law schools of this era were terribly underfunded and clinical legal education courses with intensive faculty supervision were not as economical as large classes employing the casebook Socratic method. Third, law school teachers of this era disagreed about the value – and feasibility – of teaching lawyering skills other than legal analysis'. The Authors have defined the development of CLE between the '60 and the '90 as 'the second wave of clinical legal education' (ibid 12). The development of legal clinics in the second half of the twentieth century also depended on the funding coming from Ford Foundation, as well as on the 'demands for social relevance in law school, the development of clinical teaching methodology, the emergence of external funding to start and expand clinical programs, and an increase in the number of faculty capable of and interested in teaching clinical courses' (ibid). LG Holland, 'Invading the Ivory Tower: The History of Clinical Education at Yale Law School' (1999) 49 J Leg Educ 504, 516-517; S Wizner, 'The Law School Clinic: Legal Education in the Interest of Justice' (2002) 70 J Leg Educ 1929, 1933.

<sup>27</sup> Regarding the expansion of CLE worldwide: Bloch (n 24); MC Romano, 'The History of Legal Clinics in the US, Europe and Around the World' in C Bartoli, *Legal Clinics in Europe: for a Commitment of Higher Education in Social Justice* (2016) Diritto & Questioni Pubbliche, 27; McKeown and Hall (n 25). As evidence of the current global dimension of the clinical movement, see the growing of the CLE network 'Global Alliance for Justice Education' (GAJE), <<https://www.gaje.org/>> accessed 9 June 2023.

<sup>28</sup> J Giddings and others, 'The First Wave of Modern Clinical Legal Education: The United States, Britain, Canada and Australia' in Bloch (n 24) 3; McKeown and Hall (n 25).

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interest law clinics'.<sup>29</sup> After first being established in the Eastern regions of Africa in the early 1970s,<sup>30</sup> the clinical movement expanded to the rest of the African continent. In 1972, the first clinical programme was established in South Africa at the Cape Town University; there was a close connection between the expansion of clinical initiatives in South Africa and the end of apartheid in the 1990s.<sup>31</sup> Throughout the 1980s, CLE spread throughout southern Africa and more recently to other regions of East Africa (such as Kenya and Somaliland)<sup>32</sup> and in West Africa.<sup>33</sup>

In India, in the late 1960s-1970s, some prestigious universities started to include clinical courses<sup>34</sup> – although the evolution of clinical programmes as part of the curriculum came later – following some Bar Council and Government initiatives, focusing on the importance of practical aspects in legal education and advocating a greater involvement from law schools in legal aid systems through legal clinics. The CLE movement also spread in South and Southeast Asia, even if universities are still

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<sup>29</sup> Romano (n 27) 30; E Castro-Buitrago and others, 'Clinical Legal Education in Latin America: Toward Public Interest', in Bloch (n 24) 69; JP Beca, 'The Civil Law Tradition... But with Clinics – A Case Study from Chile' in Grimes (ed.), *Rethinking Legal Education Under the Civil and Common Law* (n 10) 181.

<sup>30</sup> Such as the University of Dar-Es-Salaam in Tanzania: McKeown and Hall (n 25) 149; D McQuoid-Mason, E Ojukwu and GM Wachira, 'Clinical Legal Education in Africa: Legal Education and Community Service' in Bloch (n 24)

<sup>31</sup> McQuoid-Mason, Ojukwu and Wachira (n 30) 23; R Grimes and others, 'Street Law and Social Justice Education' in Bloch (n 24) 225, 228; B Lasky and MRK Prasad, 'The Clinical Movement in Southeast Asia and India: A Comparative Perspective and Lessons to be Learned' in Bloch (n 24) 37; SP Sarker (ed.), *Clinical Legal Education in Asia. Accessing Justice for the Underprivileged* (Palgrave Macmillan 2015); MA (Riette) du Plessis, 'Forty-five Years of Clinical Legal Education in South Africa' (2019) 25 *Fundamina* 12; P Maisel, 'Expanding and Sustaining Clinical Legal Education in Developing Countries: What We Can Learn from South Africa' (2005) 30 *Fordham Int. Law J.* 374.

<sup>32</sup> As underlined in McKeown and Hall (n 25), concerning East Africa, 'Other clinics, such as the one at University of Addis Ababa, Ethiopia, and Makerere University, Uganda, were set up but did not survive the political turmoil of the time. Throughout the 1990s and 2000s, law clinics have been established in countries such as Kenya, Rwanda and Somaliland'.

<sup>33</sup> For more details, see McKeown and Hall (n 25) 149 who describe the peculiarities in the evolution of CLE West Africa, coming from the differences between anglophone and francophone countries.

<sup>34</sup> SP Sarker, 'Empowering the Underprivileged: The Social Justice Mission for Clinical Legal Education in India' in Sarker (n 301) 177; N Sharma, 'Clinical Legal Education in India: A Contemporary Legal Pedagogy' (2017) *Indian JL & Just* 165, 172 ff.

struggling to integrate clinics as credit-based clinical courses.<sup>35</sup>

The CLE movement has started to infiltrate Europe as well. In the mid-1990s, CLE was adopted in Central and Eastern Europe<sup>36</sup> – with Poland leading the way<sup>37</sup> – in a momentum of great transition resulting from the fall of the communist regime and the recognition of legal professionals' unprecedented role in contributing to the construction of the new legal system based on the 'rule of law'. In contrast, law schools in Western Europe have proved to be more resistant to embracing CLE, and are defined as the 'last holdout' in the worldwide acceptance of legal clinics;<sup>38</sup> nevertheless, we have recently witnessed an increased interest in CLE and an expansion of legal clinics even in such civil law countries.<sup>39</sup>

According to the local needs, circumstances and backdrop, in some regions, CLE has infiltrated the legal education system predominantly in response to a demand for educational reform in order to provide educational benefits for students, enhancing their learning experience through practical experience and in relation to the development of skills and competences essential for legal practise. In some other

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<sup>35</sup> Bloch (n 24); M Dev, 'M Frank S Bloch (ed.): *The Global Clinical Movement: Educating Lawyers for Social Justice*' (2020) 11 JGLR 409; Lasky and Prasad (n 31). In China, the development of legal clinics is more recent, dating back to the 2000s: S Miyagawa and others, 'Japan's New Clinical Programs: A Study of Light and Shadow' in Bloch (n 24) 105, 108 ff.

<sup>36</sup> D Aksamovic and P Genty, 'An Examination of the Challenges, Successes and Setbacks for Clinical Legal Education in Eastern Europe' (2014) 20 IJCLE 427; M Tomoszek, 'Legal Clinics and Social Justice in Post-Communist Countries' in C Ashford and P McKeown (eds), *Social Justice and Legal Education* (Cambridge Scholars 2018); M Urban, L Krasnitskaya and KJ Kowalski, 'Re-Thinking Legal Education in Central and Eastern Europe' in Grimes (ed), *Rethinking Legal Education Under the Civil and Common Law* (n 10) 155, 166–167; M Berbec-Rostas, A Gutnikov and B Mamyslovska-Gabrysiak, 'Clinical Legal Education in Central and Eastern Europe: Selected Case Studies' in Bloch (n 24) 53; V Tomoszková and M Tomoszek, 'A New Dawn in the Czech Clinical Movement: The Clinical Programme at the Law School of Palacký University in Olomouc' in A Alemanno and L Khadar (eds), *Reinventing Legal Education. How Clinical Education Is Reforming the Teaching and Practice of Law in Europe* (CUP 2018) 76.

<sup>37</sup> VK Wazynska-Finck, 'Poland as the Success Story of Clinical Legal Education in Central and Eastern Europe: Achievements, Setbacks, and Ongoing Challenges' in Alemanno and Khadar (n 36) 44.

<sup>38</sup> R Wilson, 'Western Europe: Last Holdout in the Worldwide Acceptance of Clinical Legal Education – Part I/II' (2009) 10 Ger Law J 823.

<sup>39</sup> C Bartoli, 'The Italian Legal Clinics Movement: Data and Prospects' (2015) 2 IJCLE 22; D Blazquez-Martin, 'The Bologna Process and the Future of Clinical Education in Europe: A View from Spain' in Bloch (n 24) 121; Alemanno and Khadar (n 36).

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countries – in contexts of extreme poverty or political and social turmoil and upheavals, such as the civil rights and women’s movement, the downfall of communist regime and the consequences of apartheid – the main mission of CLE was identified as pursuing social justice values, fighting against inequalities and providing public services for the benefit of the poor.

While CLE has assumed specific features depending on the historical, political and legal context in which it was implemented,<sup>40</sup> it has nevertheless retained its core composite nature as it has been spread worldwide, which unfolds between the goals of promoting social justice and innovative teaching.

The clinical movement in Europe is no exception. These two-fold traits of CLE clearly emerged from the definition provided by one of the main CLE networks at the European level:

Clinical legal education is a legal teaching method based on experiential learning, which fosters the growth of knowledge, personal skills and values as well as promoting social justice at the same time. As a broad term, it encompasses varieties of formal, non-formal and informal educational programs and projects, which use practical-oriented, student-centered, problem-based, interactive learning 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, providing access to justice and peaceful conflict resolutions, and solving social problems.<sup>41</sup>

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<sup>40</sup> E Poillot, ‘Comparing Legal Clinics: Is There a Way to a European Clinical Culture? The Luxemburg Experience’ in A Abbignente (ed.), *Diffusione dell’insegnamento clinico in Italia e in Europa: radici teoriche e dimensioni pratiche* (ESI 2016); Alemanno and Khadar (n 36).

<sup>41</sup> ENCLE (European Network of Clinical Legal Education): for more information, see <<https://www.encl.org/>> accessed 9 June 2023. The definition has also recently been taken up in the ‘Quality guidelines for Legal Clinics’ created in the framework of the European Project Erasmus Plus ‘STARS - Skills Transfer In Academia: A Renewed Strategy’ (University of Luxembourg, University of Brescia, University of Roma Tre, University Palackeho V Olomouci, Romanian-American University) <<http://www.lawstars.eu/default.aspx>> accessed 9 June 2023.

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### 3. *Legal clinics as an innovative teaching method: knowledge, skills and values*

As already pointed out, CLE can be seen as an innovative and interactive legal teaching method that exposes students – in a student-centred learning environment – to the practical application of legal knowledge and enables them to acquire legal skills and competencies and develop values essential for legal practise. Students placed in a real-life environment learn through experience, by doing and reflecting. The learning comes from the direct exposure to real casework as well as from a deconstruction of that experience and an active reflection on it – on what has been done and what happened (or not) and the reasons.<sup>42</sup> Students are not only able to ‘learn by doing’, but also to maximise their learning through reflective practise.<sup>43</sup> During clinical courses, students are usually guided to reflect both during and retrospectively after their actions.<sup>44</sup> This process can involve supervisors’ feedback and mentoring, peer-feedback and self-assessment, assisted by the use of appropriate tools, such as ‘reflective journals’. These reflective moments, which allow the identification of areas of growth and change, prompt students to improve their future actions and their skills and knowledge.

As an experiential teaching method, CLE allows theoretical legal study to be combined with practical experience during the whole learning process. In legal clinics, the apparent conflict between theory and practise is overcome due to the opportunity to appreciate how law functions in a real-world setting.<sup>45</sup> The inductive method (moving

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<sup>42</sup> R Grimes, ‘Faking It and Making It? Using Simulation with Problem-Based Learning’ in C Stevens and others (eds), *Legal Education: Simulation in Theory and Practice* (Routledge 2016) 171, 172.

<sup>43</sup> C Blengino, ‘Che cosa (ci) insegnano le cliniche legali?’ (2021) *Diritto & Questioni Pubbliche* 41, 48; C Blengino, ‘Clinical Legal Education and Reflective Practice: The Epistemology of Practice on the Boundaries of Law’, in C. Blengino and A. Gascon-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) 21, 29; JS Balsam, SL Brooks and M Reuter, ‘Assessing Law Students as Reflective Practitioners’ (2017-18) 62 *NY.L. Sch. L. Rev.* 49; Evans and others, ‘Reflective practice: The essence of clinical legal education’, in Evans and others, *Australian Clinical Legal Education: Designing and operating a best practice clinical program in an Australian law school* (ANU Press 2017) 153–178.

<sup>44</sup> DA Shon, *Il professionista riflessivo. Per una nuova epistemologia della pratica professionale* (Dedalo Edizioni 1993); G Gibbs, *Learning by Doing: A Guide to Teaching and Learning Methods* (FEU 1988).

<sup>45</sup> Blengino (n 43) 46.

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‘dal concreto all’astratto anziché discendere dall’astratto al concreto’)<sup>46</sup> imposes a shift from the continental traditional teaching method (dogmatic and deductive in its nature) in favour of a problem-based approach that unfolds from a concrete instance that comes from social reality and questions the law and its interpretation and application.<sup>47</sup> In particular, through the implementation of Problem-Based Learning (PBL) and the constant interaction with supervisors, students are guided in a learning process that allows them to acquire and develop a broad range of skills, attributes, competencies and abilities essential to workplace practices and to their future (professional) life.

As an example, due to the exposure to real casework, students are required to develop fact-finding competencies in order to gather, select and interpret factual information relevant to the case. Moreover, to navigate the complexity of the legal system(s), the ability to find legal information is crucial: students are required to conduct legal research by consulting relevant research tools and electronic legal databases. In doing so, students are engaged in the evaluation of factual and legal information and critical analysis in order to find solutions and make reasoned choices between alternatives based on well-reasoned arguments. The application of legal rules to a concrete case presupposes not only legal reasoning and argumentation skills but also a propensity for creativity in finding solutions and formulating multiple alternative strategies as well as critical thinking attributes. Working on real cases implies and fosters students’ problem-solving skills. Moreover, both drafting/writing skills and rhetorical/communication skills are fundamental in order to perform legal tasks and, ultimately, to disclose the outcomes of those activities.<sup>48</sup> Interaction with real clients will also

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<sup>46</sup> F Carnelutti, ‘La Clinica del diritto’ (1935) 1 Riv dir proc 169, 173.

<sup>47</sup> C Blengino, ‘Fondamenti teorici di una pratica: approccio bottom up, prospettiva interdisciplinare e impegno civile nella clinica legale con detenuti e vittime di tratta’ in Maestroni, Brambilla and Carrer (n 19) 231, 240.

<sup>48</sup> On Problem Based Learning, see R Grimes, ‘Delivering Legal Education Through an Integrated Problem-Based Learning Model – The Nuts and Bolts’ (2014) 21 IJCLE 228; R Grimes, ‘Problem-Based Learning and Legal Education – A Case Study in Integrated Experiential Study’ (2015) 13 Revista de Docencia Universitaria 361; R Grimes, ‘Clinical Legal Education and Problem-Based Learning: An Integrated Approach to Study – Fit for Purpose?’ in *Transformations in Legal Teaching and Learning: Proceedings of the Fifth National Spanish Conference on Legal Education* (Tirant lo Blanch 2014) 34. Among Italian Scholars, see G Pascuzzi, *Giuristi si diventa. Come riconoscere e apprendere le abilità proprie delle professioni legali* (il Mulino 2019); G Pascuzzi, *Il problem solving nelle professioni legali* (il Mulino 2017); G Smorto (ed.), *Clinica Legale. Un manuale operativo* (Edizioni NEXT 2015) 75 ff.

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support the development of students' interviewing and counselling skills. Students placed in a grounded and situated learning environment are required to develop interpersonal skills: working with peers and supervisors as well as meeting multiple stakeholders (among others, lawyers and clients) allows them to understand how to communicate efficiently, to collaborate with others and to coordinate the activities to reach the outcomes. Working effectively as part of a team implies the development of time management, leadership and negotiation skills, the ability to share and delegate tasks, to be committed to work, to make decisions and to take responsibility for individual and team choices and actions.

These aforementioned practical, professional legal skills are just an example of the potentiality of CLE in developing professional attitudes and abilities among law students.

Legal clinics also offer a valuable opportunity for students not only to acquire new knowledge and develop skills and abilities but also to develop their ethical and value dimensions: CLE allows students to work directly with real cases and/or real-world legal issues, providing a unique opportunity to cultivate a strong sense of professional responsibility and a commitment to ethical conduct. Legal clinics give evidence of the need to extend the educational experience to legal ethics, values and professionalism components. In fact, in legal clinics, students are compelled to behave as actual competent and responsible legal professionals. Legal clinics also embody a privileged context for conveying such an educational experience.<sup>49</sup> The connection between clinical teaching and ethics is evident: in legal clinic courses, there is a palpable connection between what legal professionals do, the rules that govern how they should behave and the professional contexts in which they operate.<sup>50</sup> Students involved in legal

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<sup>49</sup> D Nicolson, 'Ethics and Professional Responsibility, Part I – Teaching And Learning Legal Ethics: What, How and Why?' in Grimes (ed.), *Rethinking Legal Education Under the Civil and Common Law* (n 10) 68, 92 ff.

<sup>50</sup> JE Moliterno, 'On the Future of Integration Between Skills and Ethics Teaching: Clinical Legal Education in the Year 2010' (1996) 46 J Leg Educ 67, 68: referring to the US experience, the Author underlined that 'It seemed natural to incorporate professional responsibility teaching, which was, after all, about the ethics of and the rules governing lawyers, into skills teaching, which was, after all, about how lawyers do what they do. Indeed, the integration of mission between clinical education and ethics teaching has become so strong that any reference to one automatically includes the other'.

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clinics who have to act as legal professionals in a real-life context and assume the related responsibilities (albeit under the supervision of academics and/or professionals) not only need adequate knowledge of legal rules and the ability to correctly apply them to concrete cases but also must be able to understand the context in which they operate, manage interactions with other stakeholders (clients, colleagues, judges and, more generally, society) and adopt appropriate and correct behaviours<sup>51</sup> in light of the ethical principles and in respect of the values and ideals of the legal profession that they embody.

Through legal clinics, students are given the opportunity to become aware and, to some extent, to directly experience the complexity of the ethical decision-making process<sup>52</sup> and appreciate its steps, which imply: (i) the ability to recognise the existence of ethical problems in complex and ambiguous situations and perceive the consequent need to make a moral decision ('moral sensitivity'); (ii) the ability to address mature ethical reasoning that is capable of leading to a morally defensible decision ('moral reasoning'),<sup>53</sup> (iii) the ability to prioritise the moral decision over other interests at stake, such as personal ones ('moral motivation'); and (iv) the ability to effectively implement the identified moral decision in practise ('effective implementation').<sup>54</sup> Moreover, discussing legal ethics, values and professionalism in legal clinics can assist students to

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<sup>51</sup> Cf G Pascuzzi, *Diventare avvocati e riuscire ad esserlo: insegnare l'etica delle professioni forensi attraverso le trame narrative* (Trento Law and Technology Research Group, Research Papers Series 11, 2012).

<sup>52</sup> JR Rest, *Moral Development: Advances in Research and Theory* (Praeger 1986); JR Rest, 'Research on Moral Judgment in College Students' in A Garrod (ed.), *Approches to Moral Development* (Teachers College Press 1993) 201; JR Rest, 'Background: Theory and Research' in JR Rest and DF Narvaez (eds), *Moral Development in the Professions: Psychology and Applied Ethics* (Lawrence Erlbaum 1994).

<sup>53</sup> LA Kohlberg, *The Psychology of Moral Development: The Nature and the Validity of Moral Stages* (II, Harper & Row 1984); LA Kohlberg, 'A Current Statement on Some Theoretical Issues' in S Modgil and C Modgil (eds), *Lawrence Kohlberg: Consensus and Controversy* (Palmer 1986) 485; J Rest, DF Narvaez, MJ Bebeau and SJ Thomas, *Postconventional Moral Thinking: A Neo-Kohlbergian Approach* (Erlbaum 1999); DF Narvaez and J Rest, 'The Four Components of Acting Morally' in WM Kurtines and JL Gewirtz (eds), *Moral Development: An Introduction* (Allyn and Bacon 1995) 385; Nicolson (n 49) 88 ff.

<sup>54</sup> J Webb, 'Ethics for Lawyers or Ethics for Citizens? New Directions for Legal Education' (1998) 25 J Law Soc 134, 140; Rest and Narvaez (n 52), 23–24; CD Cunningham, 'Learning Professional Responsibility' in RV Magee and others (eds), *Building on Best Practices: Transforming Legal Education in a Changing World* (Carolina Academic Press 2015) 280, 289, from which are also borrowed the expressions 'moral sensitivity', 'moral reasoning', 'moral motivation', 'effective implementation'.

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begin to identify their own professional sense, 'to develop their professional identities and to consider their roles within the legal profession'.<sup>55</sup>

#### 4. *Legal clinics and the social justice paradigm*

Clinical legal education is not simply a teaching method based on experiential learning that develops students' knowledge, skills and values; legal clinics also play a very prominent role in promoting social justice.

Despite sharing a propensity towards a social dimension, clinical experiences that have emerged in continental Europe accommodate different models of legal clinics, and in line with this variety, the social mission of legal clinics can assume distinct and unique features.

In most cases, clinical activities aim to provide access to justice for individuals who are vulnerable, poor or marginalised (due to economic and/or social conditions) and offer needed legal services in underserved communities in fulfilment of the legal clinics' social justice mission.

This is what usually happens in live client clinics. In the in-house live clinics,<sup>56</sup> students work in the university environment under the constant supervision of academics and professionals to provide (usually pro-bono) legal assistance or perform other legal tasks in favour of the clients. In order to solve the client legal problems, the legal work of the law students may include problem analysis, factual investigation, legal research, client interviews, the drafting of legal documents, conflict management and so on. In externship experiences, the legal work is moved into a professional legal setting outside the university; these legal clinics are usually managed by (or in collaboration

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<sup>55</sup> MA (Riette) du Plessis, 'The Role of Clinical Legal Education in Developing Ethical Legal Professionals' (2021) 54 *De Jure Pretoria* 278.

<sup>56</sup> See, as an example, the Legal Clinics of the University of Brescia: a C Amato, 'Il modello clinico bresciano', in Maestroni, Brambilla and Carrer (eds), *Teorie e Pratiche nelle Cliniche Legali, Vol. II Cliniche Legali* (n 10); C Amato and E Poillot, 'Towards a European Culture of Legal Clinics: Trasplanting the American Clinical Model' (n 10) 383, 392; M Barbera, 'The Emergence of an Italian Clinical Legal Education Movement: The University of Brescia Law Clinic', in Alemanno and Khadar, (n 36) 59.

with) non-profit organisations, government agencies, community legal centres, professional bodies or penitentiary institutes. In these situations, students – appropriately guided by tutors belonging to the host agency and, in some cases, also by academic staff – offer their collaborative work in providing legal assistance to marginalised individuals who face barriers to accessing justice.

In some legal clinics, the focus is shifted from assisting individual clients towards the community: students are required to offer assistance and advice in favour of groups of individuals with common concerns or interests in order to strengthen the protection of collective and public goods (such as the environment or consumer protection).

In street law clinics,<sup>57</sup> students are prompted to share legal knowledge with specific segments of the population (eg, migrants, young people and inmates) to educate lay people about their legal rights and about the means at their disposal to enforce them. Such clinics allow legal literacy among the community of reference to be improved by promoting the understanding of law.

The transformative power of legal clinics is particularly evident in the commitment of some clinics to conducting advocacy and policy actions on current and strategic issues of great social relevance.<sup>58</sup> Students are involved in empirical research aiming to discover ‘how systems and policies can be improved for the betterment of the real world’.<sup>59</sup> These action research activities can materialise in reports aimed at raising public awareness or exerting pressure on political and institutional stakeholders<sup>60</sup> as well as in other activities of analysis, monitoring and in-depth study of the law in order to recommend or influence policy and/or law reform, moving the law towards the greater

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<sup>57</sup> See, as examples: R Grimes, D Mcquoid-Mason, E O’Brien and J Zimmer, ‘Street Law and Social Justice Education’, in Bloch (n 24) 225; T Krupová and M Zima, ‘Street Law and Legal Clinics as Civic Projects: Situation in the Czech Republic’ (2017) 7(8) *Oñati Socio-legal Series* [online], 1647; R Grimes, ‘Sample Handbook for Street Law Clinic’ (2020) 4(1) *Int J Public Leg Educ*.

<sup>58</sup> On Policy Clinic, see R Dunn, L Bengtsson and S McConnell, ‘Building A Policy Clinic Network – Cleo Workshop 13th May 2021’ (2021) 28 *IJCLE* 244; R Dunn, L Bengtsson and S McConnell, ‘The Policy Clinic at Northumbria University: Influencing Policy/Law Reform as an Effective Educational Tool for Students’ (2020) 27 *IJCLE* 68.

<sup>59</sup> Dunn, Bengtsson and McConnell (n 58) 80.

<sup>60</sup> U Stege, M Veglio, E Roman and A Ogada-Osir (eds), *Betwixt and between: Turin’s CIE. An investigation into Turin’s Immigration Detention Centre, International University College* (Torino 2012, <[http://www.ristretti.it/commenti/2012/ottobre/pdf3/rapporto\\_cietorino.pdf](http://www.ristretti.it/commenti/2012/ottobre/pdf3/rapporto_cietorino.pdf)>).

public good. This allows the students to assume a critical approach, looking for what the law should be rather than what it is,<sup>61</sup> and they are given the opportunity to make their voices heard.

Few legal clinics pursue strategic litigations, that is, bringing single cases that can have a broader impact on society.<sup>62</sup> Clinics that bring strategic litigation cases are concerned not only with the win of the single case but also (and more) in using that case in creating fundamental changes in society, raising awareness of specific issues and promoting rights whether that is through challenging laws, clarifying laws, enforcing laws and/or building new laws.

Finally,<sup>63</sup> to address contemporary legal needs, in part emerging from the rapid development of technologies and current economic and financial advances, there is a growing expansion around the world of the so-called 'business legal clinics'. Students working in business legal clinics represent for profit (mainly early-stage startups, micro businesses and social enterprises) or non-profit organisations in order to support the entrepreneurial ecosystems while pursuing economic and social justice.<sup>64</sup> In most cases, the social dimension of clinical legal education is not abandoned: together with the traditional paradigm of offering services (pro bono) to entrepreneurs and small businesses that cannot afford to hire a lawyer to ensure access to justice to underserved entities, new social justice paradigms seem to emerge that encompass, for example, assisting businesses and non-profits to prioritise social and environmental impact over profit or directly addressing issues related to economic inequality, such as discrimination

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<sup>61</sup> Amato, 'Il modello clinico bresciano' in Maestroni, Brambilla and Carrer (eds), *Teorie e Pratiche nelle Cliniche Legali, Vol. II Cliniche Legali* (n 10) 145, 158.

<sup>62</sup> L Masera, 'La tutela dei diritti dei migranti nell'attività delle cliniche legali dell'Università statale di Brescia: un caso di contenzioso strategico' in M Colombo (eds), *Immigrazione e contesti locali* (Annuario CIRMIB, Vita e Pensiero 2015) 155; L Minniti and S Spina, 'Introduzione. Le cliniche legali nelle università e negli uffici giudiziari. Realtà e prospettive' (2019) 3 *Questione e Giustizia* 75, 76.

<sup>63</sup> These clinical models should be seen as a continuum; they are often complementary or, in some instances, overlapping. There is scope for variations and hybrids depending on the aims and objectives of each clinical course: Evans and others, 'Reflective practice: The essence of clinical legal education', in Evans and others (n 43) 48.

<sup>64</sup> On the growth of the Business Law Clinics movement, see J Thompson and SR Jones, 'Law & Entrepreneurship in Global Clinical Education' (2018) 25 *IJCLE* 85; the Author also underlined the fact that, 'Some BLCs very deliberately stayed within the social justice mission of traditional law clinics, but some have chosen to stray from that mission' (ibid 93).

in employment. In addition, providing legal services to small businesses and non-profits contributes to the promotion of entrepreneurship growth that, in turn, can help to boost local economies, create more jobs, support employability, advance the ethical ethos of business and improve the overall standard of living and working in the community.

Following the adaptation of the US CLE model to the peculiarities of the European systems<sup>65</sup> and – more generally and worldwide – according to the evolution of the pedagogical mission of law schools as well as the deep evolution of the legal professions,<sup>66</sup> the social justice paradigm has been challenged, and it has proven to be a construct with mobile boundaries capable of accommodating the new needs of an ever-evolving society.

What is more constant is the ability of CLE to deeply enrich and impact the students' understanding of law and to influence their future actions as conscious professionals, 'provide students with the framework to critique the world in which they live and strive to develop their own moral position'.<sup>67</sup> Legal clinics offer students the possibility to think critically about the role of law in society, to cultivate a critical approach to existing rules, to understand the potential impact that professionals can have on law and on society, to learn 'that knowledge is constructed, and to gain the ability to challenge assumptions and explore alternatives'<sup>68</sup> and to acquire a positive attitude towards influencing the development of the law and even to contribute to challenging, shaping and changing the law if needed. From this prospective, CLE is a key tool for the transformation of legal education with the goal of creating future legal professionals committed to upholding and improving the rule of law and promoting social justice.

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<sup>65</sup> J Weinberg, 'Preparing Students for 21st Century Practice: Enhancing Social Justice Teaching in Clinical Legal Education' (2021) 28(1) *IJCLE* 5, 10 ff: the Author highlighted the fact that 'Social justice' is a debated concept that is applied differently in different contexts, as well as the possibility to find out distinguishable elements of the notion.

<sup>66</sup> P Kosuri, 'Losing My Religion: The Place of Social Justice in Clinical Legal Education' (2012) *BC JL & Soc Just* 338; McKeown and Hall (n 25).

<sup>67</sup> McKeown and Hall (n 25).

<sup>68</sup> J Aiken, 'The Clinical Mission of Justice Readiness' (2012) 32 *BC JL & Soc Just* 231, 288.

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## 5. *Final remarks*

The widespread movement towards CLE even in Europe and the fact that in most jurisdictions legal clinics have been accepted as part of mainstream legal education testify to the success of this teaching and learning method and the unbounded capacity of CLE to advance legal education.

Legal clinics are implementing a learning by doing approach that exposes students to practical legal experience and seeks to build the capacity of law students to practise law by applying their knowledge and skills in the provision of legal assistance, legal services and legal activities.

This does not mean transforming law schools into trade schools and professional traineeship experiences that aim to provide only professional and technical training to equip future legal professionals with practical skills, competences and attributes.

On the contrary, CLE involves the constant interaction of theory and practice, merging theoretical knowledge with practical abilities and combining experience and reflection. Students dealing with selected real cases with the help of professors/supervisors and the feedback of peers have the chance to experience the law in practice and then to discuss, debate and reflect in order to understand how the law functions (or fails to function).<sup>69</sup> The deductive method traditionally applied in law schools belonging to civil law countries has merged with the inductive method proper to problem-based learning, providing a more meaningful learning experience for students. Moreover, the possibility for students to experience the law in action stimulates their critical thinking and social commitment.<sup>70</sup> As underlined elsewhere, through CLE, ‘law students learn about their professional responsibility for – and develop a personal commitment to – sustaining and supporting the rule of law, human rights, and social justice’.<sup>71</sup>

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<sup>69</sup> DL Rhode, *In the Interests of Justice: Reforming the Legal Profession* (OUP 2000) 199.

<sup>70</sup> Critically, see E Santoro, ‘Cliniche legali e concezione del diritto’ (2019) 3 *Questione Giustizia* 122.

<sup>71</sup> Open Society Justice Initiative, ‘Legal Clinics: Serving People, Improving Justice’ (2009) 1.

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