

**THE ‘SECOND WAVE’ OF SPANISH CLINICAL LEGAL EDUCATION:
EMPIRICAL, PEDAGOGICAL, AND INSTITUTIONAL LESSONS FOR A PILOT
COURSE AND PROGRAM AT THE UNIVERSITY OF GRANADA**

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Spanish clinicians today benefit from the ‘first wave’ of early adopters. We also benefit from decades of clinical scholarship—most recently about the Western European and global clinical legal education movements—and empirical data on what lawyers actually do and need in practice. In this article, the authors summarize key empirical, pedagogical, and institutional lessons to ground the creation of a pilot course and program at the University of Granada.

I. Introduction

The benefit of being a later adopter is that we learn from our predecessors. Having blazed the trail, the founders of Spanish clinical legal education—the “first wave” of clinicians—have provided important lessons for those of us now embarking on the project of creating a clinical course and program at the University of Granada. Our nascent endeavor also benefits from the broader European experience, from the clinical legal education movement internationally, and from studies of present-day lawyering. No longer do we proceed from conviction but, apropos of our project, now proven experience.

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At the 2018 European Network for Clinical Legal Education Conference in Turin, Laura Scomparin called for a “deeper theoretical framework” for the integration of clinical methodology into the entire European legal curriculum.¹ In this article, we offer a modest response to this call by describing the project to create a clinical course at the University of Granada—the first of its kind at the University and hopefully the precursor of a program—that we ground in three sets of lessons: the empirical, the pedagogical, and the institutional. Empirically, we draw from actual law practice, in particular studies of what lawyers need in their day-to-day work—especially during their first years after graduation—and the use of such data to reverse-engineer a modern legal curriculum. Pedagogically, we draw from what is now an international canon on clinical legal education. And institutionally, we draw lessons from Spanish clinicians who have successfully translated personal interest into institutional commitment.

II. Spanish Clinical Legal Education: Innovation in the Context of the European, U.S., and Global Movements

We begin with a brief history of Spanish clinical legal education. Unlike our counterparts in Central and Eastern Europe—which, during the mid-1990s, received considerable financial and training resources for the creation of legal clinics in that region²—clinical

¹ Conference notes on file with authors.

² A brief description of this financial aid can be found in ALBERTO ALEMANNINO & LAMIN KHADAR, *REINVENTING LEGAL EDUCATION: HOW CLINICAL EDUCATION IS REFORMING LAW TEACHING AND PRACTICE IN EUROPE*, 9 (Cambridge Univ. Press 2018) [hereinafter ALEMANNINO & KHADAR].

legal education arrived in Spain during the first decade of the 21st century, with no such help other than the influence of and contacts with Latin American and U.S. clinicians. Until then, the Spanish academy had been focused on “what to teach” rather than on “how to teach” law students.

It has been common in European clinical literature to point to the Bologna Process as the catalyst for the creation of legal clinics in that period.³ This is so because the Bologna Process concerned itself in part with how to teach and learn law.⁴ In Spain, in addition, the public debate caused by the Bologna Declaration of 1998 made it possible to update, in 2010, a curriculum that had not undergone any significant reform since the end of the Franco dictatorship in 1975. Alberto Alemanno and Lamin Khadar cite other concurrent factors that may have caused such a development and that occurred simultaneously with the implementation of the Bologna Declaration; they include:

the internationalisation and Europeanisation of domestic legal fields; the emergence of supranational and international jurisdictions and tribunals; the emergence of a European and a global market for legal education; increasing demands for relevance in law school education; the emergence of CSR/Service learning/community engagement ethic within European higher education institutions; increased focus on innovation and practical-skill-based education within European higher education institutions.⁵

³ See, e.g., DIEGO BLÁZQUEZ-MARTÍN, *THE BOLOGNA PROCESS AND THE FUTURE OF CLINICAL EDUCATION IN EUROPE: A VIEW FROM SPAIN*, in FRANK S. BLOCH, *THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE* 125 (Oxford Univ. Press 2010).

⁴ *Id.*

⁵ ALEMANN & KHADAR *supra* note 2, at 17.

Spain was in the vanguard of the clinical movement in Western continental Europe, but was quickly followed by Italy, France, and Germany. What is now known as the “first wave” of Spanish clinical legal education refers to the four universities that initiated the clinical movement in Spain during the process of reforming the law curriculum to adapt it to the European Higher Education Area: the Rovira i Virgili University in Tarragona, the pioneer, with its establishment of a penitentiary clinic in 2002; Carlos III University of Madrid (2005); the University of Barcelona (2005); and the University of Valencia (2006).⁶

Since then, the Spanish clinical legal education movement has grown and consolidated slowly. It has taken time to introduce clinical legal education to both universities and professors, an introduction that has occurred mainly through the exchange of experiences in conferences focused on innovative law teaching.⁷ Another factor influencing the development of the clinical legal education movement has been specific national meetings of legal clinics, at times during the Congress on Teaching Innovation in Legal Studies. These initiatives have bolstered the clinical movement and led to the creation of

⁶ See PILAR FERNÁNDEZ ARTIACH, JOSE GARCÍA AÑÓN & RUTH MESTRE I MESTRE, *THE BIRTH, GROWTH AND REPRODUCTION OF CLINICAL LEGAL EDUCATION IN SPAIN*, in RICHARD GRIMES, *RE-THINKING LEGAL EDUCATION UNDER THE CIVIL AND COMMON LAW: A ROAD MAP FOR CONSTRUCTIVE CHANGE* 148 (Routledge ed., Taylor & Francis Group 2018).

⁷ Notable among these conferences was the II National Congress held in Malaga in 2007—considered the place and time of the official birth of the Spanish clinical movement, *see* BLÁZQUEZ-MARTÍN *supra* note 4, at 129, and the V National Congress held at the University of Valencia in 2013, which featured panels exclusively devoted to clinical legal education and the presence of foreign professors who specialized in the subject.

the Spanish Network of Legal Clinics.⁸ To date, the Network has a registry of 26 legal clinics.⁹ A final, no less important, factor is the participation of Spanish clinicians as active members in European and international networks.¹⁰ The last meeting of the Network, in October 2018, saw the approval of the so-called “Declaration of Salamanca,” which, among other content, pledged the promotion of the clinical legal education in Spain.¹¹

⁸ The network was established through different meetings held in 2007 at the Universitat Rovira i Virgili, in Tarragona; in 2010, 2013, and 2016 at the University of Valencia; in 2014 at the Carlos III University, in Madrid; in 2017 at the University of Alcalá in Madrid; and in 2018 at the University of Salamanca.

⁹ RED ESPAÑOLA DE CLÍNICAS JURÍDICAS, Quienes Somos, <http://clnicas-juridicas.blogspot.com/p/quienes-somos.html> (last visited January 7, 2019).

¹⁰ In this regard, there are Spanish professors appointed as members of the Board of Directors of the European Network for Clinical Legal Education (ENCLE) and members of the Steering Committee of the Global Alliance for Justice Education (GAJE); meetings or conferences of these networks have been organized in Spain, specifically at the University of Valencia, where Spanish clinicians actively participate as panelists or lecturers.

¹¹ The text of the Declaration reads, “DECLARATION OF SALAMANCA LEGAL CLINICS AND UNIVERSITY SOCIAL RESPONSIBILITY (October 19, 2018). Members of the Spanish University Network of Legal Clinics, gathered in Salamanca on October 19, 2018, in the context of the 7th National Meeting of Legal Clinics and the 8th centenary of the University of Salamanca, joining the European and global movement that defends the relevance and necessity of clinical legal education, and considering:

That society needs professionals who, in addition to having solid technical knowledge, exhibit and deploy a critical thinking for the defense and guarantee of our system of rights and freedoms.

That the need to train professionals with an open and creative mind should be vindicated to address the new challenges that contemporary societies face, with special attention to the situation of the most vulnerable groups.

That the clinical legal method promotes the acquisition of skills, abilities and competences that are essential for a rigorous and committed performance of the legal profession.

That the University, for the sake of its social responsibility, may and should contribute to building a more equitable and just society, in which the principles and values associated with the social and democratic State of Law inform its action.

We proclaim the following commitments:

First: To promote and improve active and experiential learning and practical training of students, through clinical legal education.

Second: To contribute to the training of critical of the system professionals and sensitive to the idea of social justice in the current socio-political context, linking learning to social needs existing in the vicinity.

Third: To promote the defense of the rights of persons and less favored groups, at risk of social exclusion, in a situation of special vulnerability, or who have been subjected to some form of inhuman or degrading treatment or discrimination.

Fourth: To promote in students the social conscience, ethical values and commitment in the defense of human rights and the Rule of Law in the local, state and international context.

Fifth: To promote the creation of joint knowledge, between civil society and the University, as well as to promote the transfer of knowledge and research generated at the University.

Sixth: To contribute to the development of university social responsibility as a strategic factor for the involvement of the University in society and the presence of society in the University.

Currently, the main challenge for the Network is the signing of a framework agreement for collaboration between it and the General Council of the Legal Profession,¹² so that legal clinics can use the agreement as a referent with regional bar associations, in case there are no specific agreements in this regard. According to the agreement's provisional content, the parties' aim is to reinforce the teaching of values and social responsibility to undergraduate and postgraduate students of law and facilitate practical training of students through participation in socially responsible activities and pro bono cases related to persons and groups in vulnerable situations, supervised by volunteer lawyers and professors.

Since clinics (as yet) do not have legal status and, therefore, cannot participate directly in the signing of the agreement, the Conference of Rectors of Spanish Universities (CRUE) has been the elected delegate to represent them. The text of the agreement, which is awaiting final signature, includes, among other issues, the collaborative working commitments assumed by clinics and bar associations—it regulates cases in which non-profit entities participate, the voluntary nature of all activities, and the confidentiality of information handled and developed during the collaborative work.

Seventh: To promote the networking and collaborative work of the Legal Clinics in the state, European and international context, encouraging new Universities to join the clinical legal movement and sharing experiences and knowledge.” (The translation are the authors’.)

¹² In Spanish, *Consejo General de la Abogacía Española*, a body similar to a national bar association.

III. Empirical, Pedagogical, and Institutional Lessons for Second-Wave Spanish Clinicians

A. Empirical Data: Lawyering and Modern European Practice—What Do Spanish Lawyers Actually Do?

For the clinical legal education movement, the motivating question always has been: what are we preparing students *for*? This threshold question ought to define curricular content—and is the reason we are intent on reforming Spanish legal education. In Spain, as elsewhere, a chasm continues to exist between what and how law students are taught and what and how they are expected to be able to do upon graduation. Global as the clinical legal education movement has become, the law school curriculum remains mired internationally in doctrinal instruction. In the U.S., the case-dialogue method conducted in the large lecture class continues to dominate the first year of law school. The same is true in Spain.

In contrast, actual lawyering and, in particular, empirical studies of actual law practice, repeatedly and consistently have emphasized the need for law students to develop professional skills and values. In the U.S., these studies date at least as far back as 1914, when the Carnegie Foundation published a study of the Socratic method.¹³ That study

¹³ See WILLIAM M. SULLIVAN, AFTER TEN YEARS: THE CARNEGIE REPORT AND CONTEMPORARY LEGAL EDUCATION, 14 Univ. of St. Thomas L.J. 331, 332-33 (2018) (discussing *inter alia* 1914 and 1921 Carnegie Reports).

was followed by Alfred Reed's seven-year examination of the legal curriculum, which was published in 1921.¹⁴ More recently and influentially among these studies are the 1992 MacCrate Report, the 2007 Carnegie Report, and Roy Stuckey's 2007 book on "Best Practices for Legal Education."¹⁵

Richard Wilson summarized four recent sets of supporting data in his recent book on the global clinical legal education movement:¹⁶ the 2008 Shultz-Zedeck study, which interviewed hundreds of lawyers, law faculty, law students, judges and clients;¹⁷ the 2012 National Conference of Bar Examiners study, which looked at the work of more than 1,500 lawyers in practice from one to three years;¹⁸ the 2016 Institute for the Advancement of the American Legal System (IAALS) study, which examined the work of 24,000 attorneys representing all 50 states;¹⁹ and a 2013 University of Dayton law school study, which analyzed a focus group of 19 Dayton-area practitioners.²⁰ Like findings before them, these studies show that knowledge of legal doctrine or theory is only one among numerous other competencies required for able practice. For example, the Shultz-Zedeck

¹⁴ *Id.*

¹⁵ See also DEBORAH MARANVILLE, LISA RADTKE BLISS, CAROLYN WILKES KAAS & ANTOINETTE SEDILLO LOPEZ, BUILDING ON BEST PRACTICES: TRANSFORMING LEGAL EDUCATION IN A CHANGING WORLD (Carolina Academic Press eds., 2015).

¹⁶ RICHARD J. WILSON, THE GLOBAL EVOLUTION OF CLINICAL LEGAL EDUCATION (Cambridge Univ. Press 2018) [hereinafter WILSON].

¹⁷ *Id.* at 18-19; see MARJORIE M. SHULTZ & SHELDON ZEDECK, FINAL REPORT: IDENTIFICATION, DEVELOPMENT, AND VALIDATION OF PREDICTORS FOR SUCCESSFUL LAWYERING, 24-25, (Sept., 2008), <https://www.law.berkeley.edu/files/LSACREPORTfinal-12.pdf> [hereinafter SHULTZ & ZEDECK].

¹⁸ *Id.* at 20.

¹⁹ *Id.* at 21.

²⁰ *Id.* at 21-22.

study identified eight categories of “effectiveness factors” that, in addition to the doctrinal knowledge—which they grouped under the “intellectual and cognitive”—includes “research and information gathering,” “communications,” “planning and organizing,” “conflict resolution,” “client and business relations,” “working with others,” and “character”.²¹

These findings are nearly identical to those of a similar studies of lawyering in Europe. In 2005, for example, the Law Society of England and Wales developed a list of “core general characteristics and abilities that solicitors should have on day one in practice.”²² These characteristics include the ability to: “effectively use current technologies and strategies to store, retrieve and analyze information,” “apply techniques to communicate effectively with clients, colleagues and members of other professions,” “manage their personal workload and manage efficiently and concurrently a number of client matters,” “effectively approach problem-solving,” “recognize clients’ financial, commercial, and personal constraints and priorities,” “demonstrate the capacity to deal sensitively and effectively with clients, colleagues and others from a range of social, economic and ethnic

²¹ SHULTZ & ZEDECK, *supra* note 17.

²² ROY STUCKEY, BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP 53-54 (Clinical Legal Education Association 1st eds. 2007) at http://www.cleaweb.org/Resources/Documents/best_practices-full.pdf, citing THE LAW SOCIETY, SECOND CONSULTATION ON A NEW TRAINING FRAMEWORK FOR SOLICITORS, § 4, ¶ 46 (2003) [hereinafter STUCKEY].

backgrounds,” and “demonstrate appropriate behavior and integrity in a range of situations.”²³

Most notable from this data is that doctrinal knowledge ranks *below* the other competencies required of the new lawyer. For example, the central question the IAALS study asked was “what do attorneys need right out of law school to succeed?”²⁴ Alli Gerkman and Zachariah DeMeola found that new lawyers needed three types of foundational skills, competencies, and characteristics: legal skills, cross-vocational professional competencies, and characteristics such as integrity and trustworthiness.²⁵ It is worth quoting their findings with respect to doctrinal knowledge at length:

[S]urvey results suggest that it is not the granular, practical knowledge or knowledge of substantive law that new lawyers need to have in hand immediately. In fact, foundations that fell into the legal skills type made up only 16 of the 77 foundations identified as being necessary for practice right out of law school—by far the lowest among the three foundation types. Moreover, of the legal skills that practitioners believed new lawyers need to be successful, maintaining core knowledge of substantive and procedural law in the relevant focus area(s) was low on the list. Only 50.7% of respondents believed that maintaining core knowledge of the substantive and procedural law was necessary right out of law school. Indeed, that foundation barely made the list of 77 foundations that are necessary out of law school.²⁶

²³ *Id.* at 52-53. See also GOLD, MACKIE, & TWINING, W. (EDS.), *LEARNING LAWYERS' SKILLS* (Butterworths: London 1988); CAROLINE MAUGHAN & JULIAN WEBB, *LAWYERING SKILLS & THE LEGAL PROCESS* (Cambridge Univ. Press 2005).

²⁴ ALLI GERKMAN & ZACHARIAH DEMEOLA, *THE BAR EXAMINER: FOUNDATIONS FOR PRACTICE*, 17 (Summer ed. 2018), http://www.ncbex.org/assets/media_files/Bar-Examiner/issues/BE-870218-Online.pdf [hereinafter GERKMAN & DEMEOLA].

²⁵ *Id.* at 18.

²⁶ *Id.* at 25.

Such knowledge becomes even less important when we consider how it is taught—i.e., impractically or abstractly, and passively, usually, as mentioned, through lectures in large classes. In other words, the data on actual practice make clear the irrelevance of most legal instruction—a finding stunning in its absurdity and consistency.

The empirical data also call into question not just how we teach but what we teach. As Alemanno and Khadar observed, European lawyering is undergoing internationalization and Europeanization. No longer is practice defined by national boundaries. Instead:

any lawyer, regardless of the geographical scope of her practice, is increasingly expected to work and research across countries and regions with differing legal traditions ... it is no longer possible to teach consumer law, tax law, or environmental law, to name just a few, without at least some basic notions of international law. Yet the progressive internationalization of law has not been followed up by a parallel internationalization of legal education. In other words, the traditional legal curriculum has not been denationalized.²⁷

According to Alemanno and Khadar, internationalization and Europeanization have come alongside the proliferation of other professional roles²⁸ and the emergence of a European and global market for legal education.²⁹

²⁷ ALEMANNINO & KHADAR, *supra* note 2 at 13.

²⁸ “The new legal professions include compliance officers, regularly affairs specialists, and in-house lawyers, as well as policy-makers and legal consultants (e.g. tax experts, lobbyists, regulatory affairs).” *Id.* at 15.

²⁹ *Id.* at 17-23.

Actual practice demands training equal to these challenges. Empirical data must be the bases upon which any reform of legal study ought to come. Hence, there are two lessons here: first the need to study the actual practice of Spanish lawyers and, second, to use such data to reform legal education—at least on the master’s level—to better prepare lawyers for such actual practice. We need a concrete understanding of what modern law practice looks like in order to reform curricula accordingly. What do lawyers actually do? What substantive knowledge do they need? What skills? What values? How should we equip them—particularly in light of the current historical moment?

B. Pedagogical Theory

In the U.S., as mentioned, critics have long criticized American law schools for not sufficiently preparing students for the practice of law. As Roy Stuckey observed:

Since the 1970’s, numerous groups of leaders of the legal profession and groups of distinguished lawyers, judges, and academics have studied [American] legal education and have universally concluded that most [United States] law school graduates lack the minimum competencies required to provide effective and responsible legal services.³⁰

In addition, a consensus has emerged from these assessments that the best way to prepare U.S. law students for practice is through experiential learning in clinics or field placements.³¹ Participation in experiential learning has been associated with many

³⁰ STUCKEY, *supra* note 22.

³¹ *Id.*; see also GERKMAN & DEMEOLA, *supra* note 24.

positive educational outcomes. For example, “[e]xperiential education gives students opportunities to be actively involved in their own education, and it has positive effects on their motivation, attitudes toward the course, willingness to participate in class, ability to ask insightful questions, and acquisition of knowledge and skills.”³² More importantly, clinical education has been identified as critical to “responsible professional training.”³³ As the Carnegie Report noted, experiential learning is “the law school’s primary means of teaching students how to connect the abstract thinking formed by legal categories and procedures with fuller human contexts.”³⁴

In response to these insights, the American Bar Association—the body responsible for establishing U.S. law school accreditation standards—has recently adopted a requirement that all U.S. law students must receive some experiential learning and that law schools must provide “substantial opportunities” for students to participate in law clinics and field placements.³⁵

According to the ABA standards, to be considered a field placement or a clinic, a course must satisfy ten requirements. The field placement course must (1) be “primarily

³² *Id.* at 122.

³³ *Id.* at 123 *citing* WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND & LEE S. SHULMAN, EDUCATING LAWYERS 98 (Draft July, 2006).

³⁴ *Id.* at 123.

³⁵ ABA STANDARD AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2018-2019, 16 (2018) https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2018-2019.

experiential;” (2) be integrated in teaching legal knowledge, skills, and values; (3) theorize skills instruction; (4) provide “substantial lawyering experience;” (5) provide “multiple opportunities” for student performance; (6) be directly supervised by a faculty member and placement staff attorney; (7) be accompanied by a seminar or tutorial; (8) have formative and summative assessment ; (9) include student self-reflection; and (10) be “sufficient[ly] control[led]” to ensure quality.³⁶

These requirements serve to distinguish clinical learning from classroom education and to emphasize that clinics and field placements—or externships—engage students in actual law practice under the supervision of a licensed practicing attorney and a faculty member. Because students are engaged in the actual practice of law, a clinic or externship necessarily integrates the teaching of substantive knowledge (legal doctrine), professional skills, and professional identity, values, and ethics,. A clinical course is not just about the law but also about lawyering, in particular, skills and ethics, and how these competencies interrelate in a practitioner’s day-to-day work.

As Stuckey noted in Best Practices, the primary value of field placements and clinics is to assist students to “adjust to their roles as professionals, become better legal problem-solvers, develop interpersonal and professional skills, and learn how to learn from

³⁶ *Id.* at 17.

experience.”³⁷ These are the fundamental competencies needed to successfully practice law. Clinics and field placements, therefore, help students obtain “minimum competencies required to provide effective and responsible legal services.”³⁸

C. Institutional Support

Today, first and foremost on the Spanish clinical legal education movement agenda is institutionalization.³⁹ As our predecessors have found, personal commitment is not enough to sustain a program of legal education.⁴⁰ Maria Marques-Banque has observed that “[a]t a time in which law teachers are compelled to focus on research and the resources available are scarce, the creation of legal clinics cannot rely on the initiative of those personally committed to the idea of educating lawyers for social justice. Again, what is required is an institutional approach to expanding [clinical legal education].”⁴¹

Institutionalization has at least five pillars. First, As Marques-Banque and others suggest, second-wave Spanish clinicians should tie their projects to their institutions’ missions: How does clinical legal education fit into a school’s and University’s strategic plan and social responsibility mission? The Bologna Process provided the impetus for this second

³⁷ STUCKEY *supra* note 22, at 124.

³⁸ *Id.* at 1.

³⁹ MARIA MARQUÈS I BANQUÉ, *TOWARDS THE INSTITUTIONALIZATION OF LEGAL CLINICS IN SPAIN*, in ALEMANN & KHADAR, *supra* note 2.

⁴⁰ See, e.g., WILSON, *supra* note 16.

⁴¹ BANQUE *supra* note 39, at 98.

clinical wave.⁴² How do we follow through with this agenda? Second, faculty interest and support are key; without them, any program is doomed to failure. Third, support from bar associations—as well as from intermediary organizations—is also key, hence the Network’s current effort on executing and implementing a framework agreement. The bar needs to be assured that clinics are not a market threat but rather are a means of supplementing services, promoting *pro bono publico* service, and ensuring graduates better able to practice. Fourth, these self-same lawyers and organizations are sources of both external clinic placements and co-instructors. As externship clinicians long have found, broad and deep relationships with lawyers and offices in the community are mutually beneficial: they enrich students’ education, address gaps in legal assistance, and forge a closer relationship between law schools and the bar. Fifth and finally, the services provided by the clinic ought to be based on community need. Addressing community need reinforces all the other pillars of institutionalization: it discharges the school’s and university’s social responsibility mission, orients faculty to important social issues, serves those marginalized by the legal market, and fuses the university with the broader community.

⁴² FRANK S. BLOCH, *THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE* (Oxford Scholarship Online 2011).

IV. 'Proceso Administrativo' at Universidad de Granada

Again, as others have observed, "European lawyering is undergoing internationalization ... yet the progressive internationalization of law has not been followed up by a parallel internationalization of legal education."⁴³ Aware of this deficiency at the University of Granada, the dean asked a few years ago for faculty to collaborate on introducing English as the working language in a number of courses. As a member of the dean's team at that time, and vice-dean for international relations, Professor Lopez Sako obliged. As a result, he began teaching a course in English in the academic year 2015-2016. Only one other professor would be willing to do likewise. As a result, there are just two English taught courses in the Faculty of Law at the moment. The course our project is "clinicalizing" is one of them. Thus, to the novelty of using English as a vehicular language we are going to add another challenge that will hopefully contribute to addressing the internationalization of legal education.

Along with internationalization, we also plan to add another aspect of legal training that the Bologna Process addresses: socialization. Public university students in Spain have an added obligation or duty to return to society something in exchange for what they have gotten almost free compared to other countries (the tuition fee for one year of study at

⁴³ ALEMANN & KHADAR, *supra* note 2, at 13.

the Faculty of Law is less than 1,000 euros). In this context, turning a course into a clinical one or introducing at least some clinical component into a course allows students to give something back to society, which promotes justice. As well, increasing the practical side of legal training has been a long-asked-for request or desire from the majority of our undergraduate law students, as the current study load consisting of practical activities in the undergraduate degree is embarrassingly low.

“Proceso Administrativo” may be translated into “Administrative Court Procedure” or “Judicial Review Procedure.” As the object of study is Spanish national law (civil law system), it is sometimes difficult to produce a reliable translation into English (common law system). Nonetheless, the course, which is offered in the spring, contemplates a study of four months. Its current syllabus is as follows:

- LESSON I: THE ‘CONTENTIOUS-ADMINISTRATIVE’ JURISDICTION (JURISDICTION FOR JUDICIAL REVIEW).
 - 1) Historical evolution. The system in Spain and other European countries. The legal reform of 1998.
 - 2) The judicial review of the activity of public Administration.
 - 3) The scope of judicial review.
 - 4) The judicial bodies in the Administrative jurisdiction.
- LESSON II: THE APPEAL FOR JUDICIAL REVIEW.
 - 1) Introduction.
 - 2) The parties to the court proceedings.
 - 3) The object of the appeal.
- LESSON III: THE JUDICIAL REVIEW PROCEDURE.
 - 1) The ordinary procedure.
 - 2) The short procedure.
- LESSON IV: THE SPECIAL PROCEDURES.
 - 1) Procedure for the protection of fundamental personal rights.

- 2) Questions of illegality.
 - 3) Procedure in cases of prior administrative suspension of resolutions.
 - 4) Procedure to ensure market unity.
 - 5) Procedure for a court order extinguishing a political party.
- LESSON V: THE APPEALS AGAINST PROCEDURAL DECISIONS.
 - 1) Appeals against writs and orders.
 - 2) Ordinary appeals to the next higher court.
 - 3) Appeals to the Supreme Court.
 - 4) Review of a final judgment.
 - 5) Appeals against decisions issued by the court clerk.
 - LESSON VI: THE EXECUTION OF RULINGS.
 - 1) The obligation to execute.
 - 2) Execution modes.
 - 3) Voluntary execution (compliance).
 - 4) Forced execution (enforcement).
 - LESSON VII: THE PRECAUTIONARY (INTERIM) MEASURES.

As currently taught, apart from being almost entirely in English, it is mainly based on the traditional teaching method of master classes together with some supplementary practical activities such as: small group preparation of certain specific issues and subsequent presentation of the results and debate in the classroom; individual elaboration of diagrams and/or summaries; reading and discussion of rulings; and group preparation and presentation of mini lessons to their classmates. These clearly are not enough, on the one hand, for the student's training in skills and abilities to perform as future lawyers and, on the other hand, for gaining consciousness of their training as a meaningful activity within and for society.

A. Introducing a clinical approach: preliminary considerations

There are a number of preliminary issues that need to be addressed prior to the introduction of a clinical course in a Spanish university. Many of these concerns have been gleaned from the experience of the “first wave” clinicians. In order to be successful, a clinic needs institutional support, should have a narrow practice focus, needs protection against malpractice, supervision by practicing attorneys, and qualified students. Each of these considerations will be addressed in turn.

Changing the content of any mandatory or elective course of a degree program in a Spanish university is not an easy task; it has to undergo and overcome several bureaucratic requirements starting—after all the preparatory work of designing the changes to be introduced to the course—from the approval by the faculty board (*junta de centro*), which may be the first (and hopefully not) insurmountable barrier. And even if you have the approval by the faculty board, the subsequent support of the rectorate is necessary. The dean of the faculty of law of the Public University of Navarra, for example, tried to implement a legal clinic in his faculty (he already supposedly had the approval of the faculty board), but could not go any further due to the lack of support from the rector of the university.

Aside from the formal requirements and conditions that are to be met, the choice of the approach to be given to the clinic is fundamental. As mentioned, there are quite a few legal clinics functioning in Spain. Some of them are more successful than others. Success depends, mainly, on the scope that has been pursued in each case; the clinics that work best are those that do not have a general character but rather focus on a specific object—as an example, environmental law (Rovira i Virgili in Tarragona) or human rights (University of Valencia). But the main challenge seems to be the lack of institutional support and the lack of commitment of teaching staff (faculty members).

It seems essential, as well, to have some other institution different from the university that can act as an intermediary between the university and larger community: for example, a foundation linked to a law firm, a non-governmental organization, the ombudsman, the city council, or the autonomous communities. Having this intermediate institutional support helps to solve one of the most challenging problems that arise: the responsibility in the face of possible unsound advice; this institution would be accountable and not the University. On the other hand, the involvement of the bar association may be key to success; as mentioned above, to reach an agreement with the bar associations so that they do not see the clinics as a threat but as a collaboration with the university. Legal clinics in Spain do not provide actual representation and legal defense in courts. Rather, they are limited to consultation and advice. It can even be

pointed out that the academic advisor could recommend the subsequent advice of a lawyer.

As for the teaching staff (which is not easy to secure, as our experience in implementing English as vehicular language in our Faculty of law tells us), the ideal is to have teachers with practical experience and to whom this experience would be useful, either because the time devoted to clinical activity counts as normal teaching time for them or because they have some type of economic supplement or incentive. It would also be advisable to have a practicing attorney teach with a faculty member, as is the practice in externships. But all this takes money and an open mind on the part of the decision-making bodies to accept the extra cost and consider it as a forward-looking investment for the future.

The selection of students who can participate in a future clinic or clinical activity is another important question. In the Faculty of Law at the University of Granada the number of undergraduate students enrolling in the law degree every year is very high: about 500. And the number of students admitted to each group is also very high; in *Proceso Administrativo* during the spring semester of 2018 there were nearly 90 students enrolled in the English-taught group (there's another group in which the vehicular language is Spanish). Providing clinical opportunities for each and every student may be complicated if there is no support from the rectorate in terms of hiring new teaching

staff in order to be able to split current groups into smaller, more manageable ones. In this regard, the selection of just a few students within the group to participate in a given clinical activity may be necessary. But how to select them if there's a larger number of students wanting to participate?

As well, in Spain, law studies are divided into undergraduate and postgraduate degrees. Even though we inevitably intend to focus on the latter, it is worth asking: is it better for the training of law students to have some kind of clinical experience during their undergraduate studies or is it better to wait until they are at the graduate level? From the point of view of fulfilling the needs of society, it may be too challenging for undergraduate students, at least in their first or second year; but from the point of view of their training, a more practical approach is something that most students feel is lacking from the very beginning in their current undergraduate program. At the University of Granada, it's not until their fourth and last year of undergraduate studies that students have their first—and only—practical experience with the mandatory course *prácticas externas* (or externships), which are only three weeks long.

B. 'Clinicalizing' *Proceso Administrativo*

To establish this clinical foothold at the University of Granada, among the threshold questions we need to answer are: do we want to start right away even though we have to

make do with a modest beginning and develop a more complete and definitive plan on later, based on the results of first experiences? Or is it better to have an ideal plan, very well-defined and designed from the beginning, and stick to it even though the conditions to make it possible are not in place for a long time (or maybe forever!)? If we pursue the second option some further questions are appropriate: what do (administrative) lawyers actually do? What parts of the syllabus are best taught experientially? Or from another point of view, what does the community need? If we opt for the first alternative, the questions to be made in the beginning are quite different: what *can* be done to start with? What is feasible right now taking into account the human and material resources available? Further development, of course, would require answering the other questions, but that could be done at a later stage.

Since turning *Proceso Administrativo* into a clinical course needs the initial approval of the decision-making bodies of the university and having some previous positive experience would help convince these bodies, introducing some clinical component to the course as it is now, just by changing one or some of the current practical activities into an activity or activities with a clinical approach, would allow us to start right away with little effort and to ensure positive results (for example, in the form of students' or external institutions' opinions) thanks to the limited and easily manageable scope of the

experience. We decided, therefore, that the first step would be just an individual decision with no institutional involvement or commitment.

Given these initial considerations and constraints, a “street law” model may be most appropriate here at the outset. There’s a good example of this model in Spain in the University of Oviedo.⁴⁴ The model aims to teach law in a practical way to non-lawyers, so that it can be useful in daily experience—i.e., “in the street.” In this model, law students (under- or post-graduate) supervised by their teacher turn into educators, trainers or disseminators with respect to a certain social group in a given subject matter while they reinforce the theoretical and practical training they have just acquired at the law school by presenting what they have learned in a clear and pedagogical way to an audience with little or no legal knowledge.⁴⁵

The street law model adopted by the University of Oviedo is aimed at high school students, as would our clinical activity in *Proceso Administrativo*. But some important differences may be found between the experience in the University of Oviedo and the

⁴⁴ 8 MIGUEL ÁNGEL PRESNO LINERA, UN PROYECTO DE INNOVACIÓN DOCENTE Y DE TRANSFORMACIÓN SOCIAL: LA CLÍNICA DEL MÁSTER EN PROTECCIÓN JURÍDICA DE LAS PERSONAS Y LOS GRUPOS VULNERABLES DE LA UNIVERSIDAD DE OVIEDO (A TEACHING INNOVATION AND SOCIAL TRANSFORMATION PROJECT: THE CLINIC OF THE MASTER ON LEGAL PROTECTION OF VULNERABLE PEOPLE AND GROUPS FROM OVIEDO UNIVERSITY) (Oñati Socio-legal Series 2018) <http://ssrn.com/abstract=3126178>

⁴⁵ *Id.* at 3-4.

one we intend to develop: in the case of the University of Oviedo the participants are postgraduate students of the “master on legal protection of vulnerable people and groups” with different academic backgrounds (not law graduates, but from social work, psychology, pedagogy, education, labor relations, etc.). In ours, they are undergraduate law students in an elective course—*Proceso Administrativo*; in Oviedo, the language in which the classes are taught is Spanish, in our case it is English (which may make it difficult for the students to communicate what they learn in a different language); the master course of Oviedo has a duration of one year (which they consider to be a short time), in *Proceso Administrativo* it is even shorter – only four months.

The first difference implies that our students are less academically prepared in general, but they also are more specifically trained in legal matters. It also may be more difficult to attract the interest and attention of high school students as the content of *Proceso Administrativo* is probably much less attractive to them than the protection of vulnerable groups. That means we’ll have to focus on the preparation of the presentations so as to be able to capture the attention of high school students in the usefulness of administrative law, which is a subject law students themselves usually need to know and to be aware of (though they tend to think of administrative law as a boring and not practical subject). Thus, the handicap is turned into an incentive.

The language of instruction is another important issue. *Proceso Administrativo* is taught almost entirely in English, but the presentations to the high school students must be done in Spanish as their level of English is not enough to understand a topic which is difficult enough for them even in their mother tongue. That poses a further complication and a greater challenge. On the other hand, it may serve as a way to check our law students' level of understanding—in Spanish—of some difficult-to-translate legal terms and concepts that are taught directly in English. Again, in the face of this difficulty, the clinical activity favors a positive outcome.

The short duration of *Proceso Administrativo* compared to Oviedo's master course has to be taken into account as well. The shorter duration is a strong reason to choose the street law model, since other clinical activities require longer dedication and follow-up. But the effective organization of the preparation, execution, and assessment of the sessions becomes paramount. In Oviedo, in the first two weeks, the students enrolled in the master course are informed of the existence of the clinic, its objectives, functioning rules, and activities. When they are about to finish the classes corresponding to the elective modules of the course (mid-January), they are reminded again about the clinic and asked for their collaboration. At the end of January, once the number of students willing to participate is known, an intensive session with students and teachers is conducted to explain the organizational and operational details. During the month of February the

groups (which consist of a teacher and several students) are formed based on the different topics (gender violence, asylum and refuge, school bullying, gender equality in labor relations, poverty and social exclusion, and disabled persons' situation). During the months of February and March the groups and their respective teachers, together with the coordinator of the clinic, establish ongoing contacts with one or more high school teachers in order to select the audiences of the presentations, outline the topics, and organize the sessions—as many as 13 in the master course's second edition. Between February and April, the teacher of each group guides the students in the realization of content and supervises the preparation of teaching materials for the sessions at the high schools. Finally, during the months of May and June, the planned presentation sessions are carried out.

Obviously, in *Proceso Administrativo*, the timeline, although very similar in content and sequence, must be shortened and some changes must be introduced in order to start the clinical component: the initial information about the clinical activity would be given in the first instructional day; during the month of February, the group or groups (the topics for the presentations, at least at first, should be limited to the first and second lessons of the syllabus), depending on the number of students interested in participating, should be prepared and then formed and the organizational and operational details explained in one single session before the end of February; the contacts with the high school teacher/s

would be established as soon as possible after the previous explanatory session; at the same time, the teacher (the only one, in our case) will start guiding and supervising the students in the preparation of the presentations at the high schools; finally, at the end of April or, at most, in the first week of May the presentation session/s should be carried out as the term (instructional period) finishes on May 14, 2019.

C. Assessing the Pilot

We plan on implementing these changes in the spring term of 2019. And to further our goal of institutionalization, or at least sustainability, we of course plan on assessing how we meet all our goals.⁴⁶

Among such assessments will have to be surveys of all the stakeholders: our law students in the first place, high school students, high school teachers, and other professionals who may occasionally collaborate. In line with best practices, we will also assess whether students have achieved their learning outcomes—from there, their instructors', and third-party perspectives. As is done in Oviedo: "Once the activities are carried out in each high school, they are assessed by collecting the opinions of the participants in the group that made the presentation, of the teacher of the Clinic that accompanied them and of the high

⁴⁶ See JOSE GARCIA AÑON, *HOW DO WE ASSESS IN CLINICAL LEGAL EDUCATION: A REFLECTION ABOUT REFLECTIVE LEARNING*, 23 INT'L J. CLINICAL LEGAL EDUC. 48 (2016).

school teachers that attended the presentation, who may also provide us with the impressions of the [high school] students.”⁴⁷ We also will need to assess institutional outcomes, that is, whether we’ve progressed on convincing our law and wider university colleagues of the importance of clinical teaching. Among other measures, this would be concretized by actual support—financial and otherwise—from the law school, the university, the bar, and the wider community.

V. Conclusion

We have a ways to go at the University of Granada. But we have a deep well from which to draw, empirically, pedagogically, and institutionally. We have empirical consensus on what it takes to be a competent practitioner. We have scholarly consensus on how to teach competence. And we have consensus on an institutional agenda. Above all, perhaps, we have a network of active Spanish—and European, U.S., and other international—clinicians as comrades. We’ve attempted to sketch a plan for the University of Granada in this article. With this solid grounding, we are hopeful in taking the first step.

⁴⁷ See N.44.