

## Introduction

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Given the dramatic recent transformations to legal professions and justice systems globally, one might expect to witness parallel developments in legal education. Yet despite the urgent need to reform the legal curriculum in light of these unprecedented, seismic developments, the curricula of law schools continue, in many respects, to resemble curricula in the time of law students' ancestors.<sup>1</sup> Despite the massive internationalization of legal practice and culture, law continues to be presented as a predominantly domestic affair. At a time in which individuals, businesses, and other organizations increasingly operate across jurisdictional lines,<sup>2</sup> we continue training law students to think as domestic lawyers. While the traditionally local nature of the law partly explains this situation,<sup>3</sup> there is a considerable risk that, by privileging the domestic perspective over an international perspective, the law curriculum remains largely insulated from major societal transformations, such as the democratization of knowledge through technological development or the disruptive effects brought about by the sharing-economy.<sup>4</sup> These are some of the forces that are reshaping all professions, including the legal profession.<sup>5</sup> The legal market is in a state of flux, and the legal professions are reluctantly undergoing radical

<sup>1</sup> Ernst van Bemmelen van Gent, *Legal Education: A New Paradigm*, *BYNKERSHOEK LAW REVIEW* 2–18 (2012), <http://ssrn.com/abstract=1273683>. (Arguing that “The curriculum and teaching techniques have remained largely the same as in the 1800 to 1950 era”); Aalt Willem Heringa, *Towards a Truly European Legal Education. An Agenda for the Future*, in *Educating European Lawyers* (Aalt Willem Heringa, and Bram Akkermans, eds., Antwerp: Intersentia, 2011), 3–18.

<sup>2</sup> Francis Snyder, *Economic Globalisation and the Law in the 21st Century*, in *THE BLACKWELL COMPANION TO LAW AND SOCIETY, BLACKWELL COMPANIONS TO SOCIOLOGY* (Austin Sarat, ed., Blackwell Publishing, 2004), 624–40.

<sup>3</sup> Carole Silver, *EDUCATING LAWYERS FOR THE GLOBAL ECONOMY: NATIONAL CHALLENGES*. (2009), 2. “This local nature of law, then, means that we cannot resolve the challenge of educating lawyers to work in a global economy simply by teaching global law. And we surely cannot teach the law of each nation; there are too many and too many differences among them. We probably cannot even accurately anticipate which national legal regimes will assume importance in the career of any particular student.”

<sup>4</sup> See, e.g., Susan McClellan, *Externships for Millennial Generation Law Students: Bridging the Generation Gap*, 15 *CLINICAL L. REV.* 255 (2009), <http://digitalcommons.law.seattleu.edu/faculty/157>.

<sup>5</sup> Richard Susskind and Daniel Susskind, *THE FUTURE OF THE PROFESSIONS: HOW TECHNOLOGY WILL TRANSFORM THE WORK OF HUMAN EXPERTS* (Oxford University Press, 2015).

transformation. In the meantime, we are assisting a progressive industrialization of the legal profession.

The gap between legal education and legal realities appears particularly striking in Europe, where legal scholars and their academic institutions persist with their historical reluctance to engage in self-reflection.<sup>6</sup> Due to their traditionalist, corporatist reflex to police disciplinary borders, European lawyers and scholars engage more frequently in “siloe debate” than in deeper, methodological thinking. In other words, the European legal academy remains more interested in debating *what* to teach than *how* to teach.<sup>7</sup> Concern for and interest in a debate on legal research methods is not necessarily greater.<sup>8</sup> Moreover, the overall contribution by European universities to community engagement is embarrassingly modest, especially if compared with their long-standing ties with their communities.<sup>9</sup>

As a result, by prioritizing a positivist and formalist approach to law and lawyering, Europe continues to shy away from self-reflection in legal education. In the absence of an Oliver Wendell Holmes Jr. or a Karl Llewellyn<sup>10</sup> or even anything similar to a “Langdell revolution,”<sup>11</sup> there is very little tradition of soul-searching and thinking beyond the classroom and beyond legal texts, in Europe.

*Reinventing Legal Education* responds to a desire to fill up a gap existing between the millenarian history of European legal education and the realities of today’s practice. But there is more. The need for law schools to teach students to understand the complexity of the law as it takes shape through practice appears heightened at unprecedented times characterized by social and economic turmoil across the continent.

This book is an initial attempt at promoting awareness about the importance of self-examination in European legal academia and teaching by shedding some light on some of the most promising transformations currently spreading across the continent. Indeed, behind the apparent status quo bias cloaking European legal academia, something is moving (in the legal curriculum). The major novelty of European legal education is the emerging, pan-European phenomenon of *clinical legal education* (CLE).

<sup>6</sup> See, e.g., Bruno De Witte, *European Union Law: A Unified Academic Discipline*, 1 CROATIAN YEARBOOK OF EUROPEAN LAW & POLICY 4 CROATIAN Y.B. E (2008); Miguel Poiars Maduro, *Legal Education and the Europeanisation and Globalisation of Law* [editorial note], CROATIAN YEARBOOK OF EUROPEAN LAW & POLICY 4 CROATIAN Y.B. E (2008); Julie Dickson and Petros Eleftheriadis, eds., *PHILOSOPHICAL FOUNDATIONS OF EUROPEAN UNION LAW* (Oxford University Press, 2012).

<sup>7</sup> *Id.*

<sup>8</sup> R. van Gestel and H.-W. Micklitz, *Why Methods Matter in European Legal Scholarship*, 20 (3) EUROPEAN LAW JOURNAL 292–316 (2014).

<sup>9</sup> P. Benneworth and M. Osborne, *KNOWLEDGE ENGAGEMENT AND HIGHER EDUCATION IN EUROPE* (Global University Network for Innovation, 2014).

<sup>10</sup> For a detailed review of the evolutions of US legal education see Paul D. Carrington, *Hail! Langdell!*, 20 (3) LAW & SOCIAL INQUIRY 691–760 (1995).

<sup>11</sup> For an insightful account of the “Langdell revolution,” see Daniel R. Coquillette and Bruce A. Kimball, *ON THE BATTLEFIELD OF MERIT: HARVARD LAW SCHOOL, THE FIRST CENTURY* (Harvard University Press, 2015).

Although largely an American invention,<sup>12</sup> today CLE is afoot in Europe. While legal clinics have been a consistent feature of legal education in Eastern and Central Europe since the mid-1990s – largely prompted by the fall of the Berlin Wall<sup>13</sup> – and in Britain, Norway, and the Netherlands since the early 1970s, they have developed much more slowly in the bulk of Western continental Europe.<sup>14</sup> However, the past five to ten years has seen a boom in CLE, first in Spain, then in Italy, France, and Germany. With the birth of the European Network for Clinical Legal Education<sup>15</sup> (ENCLE) in 2012 – whose goal is uniting clinics across the continent – CLE is now a truly pan-European phenomenon.<sup>16</sup> Over the past decade, a handful of specialist European Union (EU), European Convention of Human Rights (ECHR) and international law and advocacy clinics have begun to emerge. To name just a few, clinics such as the EU Rights Clinic in Brussels,<sup>17</sup> the European Human Rights and Migration Law Clinic in Turin,<sup>18</sup> the EU Public Interest Clinic in Paris,<sup>19</sup> or the Clinical Programme of the Graduate Institute in Geneva.<sup>20</sup>

The urgent need to reform legal education in light of the Europeanization and internationalization of national legal systems, the globalization of legal practice, and the equal demand for civic engagement in view of increasingly powerful supranational institutions and international actors appear among a number of catalysts and incentives for the emergence of university law clinics in Europe. Through the

<sup>12</sup> Although there exist early examples of clinics in European law schools, clinical education blossomed in the United States beginning in the 1960s. See, e.g., J. P. “Sandy” Ogilvy, *CLEPR’s 40th Anniversary: Papers and Speeches from the AALS-ABA-CLEA Celebration of CLEPR: Celebrating CLEPR’s 40th Anniversary: The Early Development of Clinical Legal Education and Legal Ethics Instruction in U.S. Law Schools*, 16 (1) *CLINICAL L. REV.* 9–18 (Fall 2009); Richard J. Wilson, *CLINICAL LEGAL EDUCATION IN DUTCH LEGAL CULTURE: CLASHES OF TRADITION, TOLERANCE AND PROGRESS IN GLOBAL LAW’S CAPITAL*. Digital Commons@ American University Washington College of Law (Working Paper 1-1-2010), 29. In addition, Edwin Rekosh cites even earlier examples in Copenhagen, Denmark, and Rostock, Germany. See Edwin Rekosh, *Constructing Public Interest Law: Transnational Collaboration and Exchange in Central and Eastern Europe*, 13 *UCLA J. INT’L L. & FOREIGN AFF.* 56, 84 (2008); L. Bojarski, *Społeczny aspekt działania poradni*, in *STUDENCKA PORADNIA PRAWNA. IDEA, ORGANIZACJA, METODOLOGIA* (Warsaw: Fundacja Uniwersyteckich Poradni Prawnych 2005), 1–16.

<sup>13</sup> For an account of the drivers leading to the development of CLE in Central and Eastern Europe, see, e.g., Dubravka Aksamovic and Philip Genty, *An Examination of the Challenges, Successes and Setbacks for Clinical Legal Education in Eastern Europe*, 20 *INT’L J. CLINICAL LEGAL EDUC.* 427, 429–30 (2014).

<sup>14</sup> For an account of the late development of CLE in Western Europe, see, Richard Wilson, *Western Europe: Last Holdout in the Worldwide Acceptance of Clinical Legal Education*, 10 *GERMAN LAW JOURNAL* 825 (2009).

<sup>15</sup> See <http://encle.org/>. <sup>16</sup> See Chapter 7 in this volume.

<sup>17</sup> See Chapter 10 by Anthony Valcke in this volume, and, for a brief overview, <http://blogs.kent.ac.uk/eu-rights-clinic/>.

<sup>18</sup> See Chapter 7 by Ulrich Stege and Maurizio Veglio in this volume, and, for a brief overview, <http://www.iuctorino.it/content/clinical-programme-o>.

<sup>19</sup> See Chapter 9 by Alberto Alemanno and Lamin Khadar in this volume, and, for a brief overview, <http://elabeurope.eu/hec-nyu-clinic/>.

<sup>20</sup> See Chapter 15 by Joost Pauwelyn and Mattia Salamanca Orrego in this volume, and, for a brief overview, [http://graduateinstitute.ch/home/executive/masters\\_executive/llm/llm\\_programme/llm-clinic-programme.html](http://graduateinstitute.ch/home/executive/masters_executive/llm/llm_programme/llm-clinic-programme.html).

European clinical movement, spurred on by this restructuring of the European legal field, European legal teaching – historically formalistic, doctrinal, hierarchical, and passive (lecture- and textbook-based)<sup>21</sup> – is coming under increasing pressure to reimagine itself as pragmatic, policy-aware, and action-oriented. In line with its genesis and development in the United States, European CLE emerges today in response to the limits of traditional legal education to teach students in the complex ways of thinking and acting increasingly required of lawyers if they are to fulfil their vital roles in society.

*Reinventing Legal Education* is a first attempt to gather, in a scholarly and systematic manner, reflections on the fascinating and rapid developments taking place in European legal teaching and practice as witnessed through the prism of CLE. It examines the various and typically entrepreneurial academic efforts touching in various ways on the practice and teaching of European and international law. It thus presents a range of views from practicing European legal clinicians and practitioners reflecting on how they are challenging the *status quo* of law teaching and lawyering. In particular, it collects a series of guides and narratives that offer insights into how this emerging phenomenon is impacting legal teaching and practice in Europe. The open, provocative question addressed by this volume is whether CLE might contribute to reinventing legal education in Europe.

#### CONTEXTUALIZING CLINICAL LEGAL EDUCATION IN EUROPE

Recent years witnessed a rapid diffusion of legal clinics within law schools across the globe, leading some to talk of a “global clinical movement.”<sup>22</sup> Although far from becoming an essential component of legal education across the globe, CLE and its method of exposing law students to their future professional role has witnessed over the past half a century a notable expansion.

Unlike traditional legal education, clinics provide hands-on, professional skills training that relies on experiential learning methods. The aim is to place students in the role of lawyers, generally in real-life scenarios, forcing them to not only face but also react to a concrete problem. Although several accounts exist about its origins and evolution, it appears undisputed that CLE finds its roots in the establishment of the university-based legal aid bureau (i.e. legal services aimed

<sup>21</sup> See, e.g., R. van Gestel and H-W. Micklitz, *Why Methods Matter in European Legal Scholarship*, 20 (3) EUROPEAN LAW JOURNAL 294 (2014). Richard Ball and Christian Dadomo, UKCLE Law Subject Survey: European Union Law (2010), 89 and 104. Project Report. Unpublished. <http://eprints.uwe.ac.uk/14747>. This survey related to EU law teaching in the UK and found that such teaching (at least at universities) was primarily conservative and doctrinal. However, anecdotal evidence suggests that this would be even more so for continental Europe, which is traditionally far more conservative in its approach to legal education.

<sup>22</sup> See, generally, Frank S. Bloch, ed. *THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE* (Oxford University Press, 2010). See also Jocelyn Kestenbaum Getgen, Esteban Hoyos-Ceballos, and Melissa C. del Aguila Talvadkar, *Catalysts for Change: A Proposed Framework for Human Rights Clinical Teaching and Advocacy*, 18 CLINICAL L. REV. 462 (2011).

at the unprivileged).<sup>23</sup> From the outset, legal clinics have been characterized by two major aims: to enable law students to put into practice what they learn and – while doing so – to serve the public interest so as to pursue social justice objectives.

It is during the American civil rights and public interest law movements of the 1960s and 1970s that CLE went through a period of rapid expansion in the United States, largely spearheaded by the Ford Foundation. During this period, the Ford Foundation provided extensive financial support towards the establishment of university legal clinics. In concrete terms, just short of \$12.5 million was granted to US law schools towards CLE between 1959 and 1978.<sup>24</sup> This was followed up by an \$87 million investment by the US Congress geared towards institutionalizing CLE in the United States between 1978 and 1997.<sup>25</sup> Law clinics are now a feature of virtually every US law school and are growing in number and acceptance.<sup>26</sup> Today, around 75% of students enrolled at Harvard Law School experience clinical teaching in their curriculum.<sup>27</sup>

In parallel to the US clinical experience, clinics emerged in the 1960s and 1970s in other countries such as Australia, Canada, and the United Kingdom<sup>28</sup> (see Chapter 13 by Lynn Welchman in this volume for more on the evolution of CLE in the UK). In 1973, the Ford Foundation sponsored a conference on legal aid held at the University of Natal in Durban, South Africa. This proved to be the spark of a South African CLE movement, which resulted in clinical programmes being established in sixteen of the (then) twenty-one South African universities.<sup>29</sup> The mid-1970s through the 1980s was perhaps the starting point and initial phase of the global clinical movement as it also saw the emergence of clinical programmes in India, Botswana, Tanzania, Australia, Chile, Peru, and Argentina.<sup>30</sup>

Meanwhile, in Europe, there was some very early experimentation with “CLE” (or at least similar practices) in the late nineteenth and early twentieth centuries in Russia, Germany, Denmark, Scotland, Norway, and no doubt other countries across Europe.<sup>31</sup> Subsequently, the mid-60s through the early 70s witnessed reinvigorated interest in transforming the provision of legal services in Europe. Emboldened by

<sup>23</sup> Marshall J., Breger, *Legal Aid for the Poor: A Conceptual Analysis*, 60 N.C. L. REV. 281 (1981–1982).

<sup>24</sup> See Margaret Martin Barry, Jon C. Dubin, and Peter A. Joy. *Clinical Education for this Millennium: The Third Wave*, 7 CLINICAL L. REV. 18–19 (2000).

<sup>25</sup> *Id.*

<sup>26</sup> Robert R. Kuehn and David A. Santacroce. *The 2010–11 Survey of Applied Legal Education* (Center for the Study of Applied Legal Education 2012), 7.

<sup>27</sup> See Harvard Law School Clinics, <http://hls.harvard.edu/dept/clinical/>.

<sup>28</sup> Giddings et al., *The First Wave of Modern Legal Education*, in *THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE* (Frank S. Bloch, ed., Oxford University Press 2010), 4.

<sup>29</sup> Willem De Klerk, *University Law Clinics in South Africa*, 122 (4) SOUTH AFRICAN LAW JOURNAL 930 (2005).

<sup>30</sup> *Id.*, at 934; Richard J. Wilson, *Training for Justice: The Global Reach of Clinical Legal Education*, 22 PENN STATE INT'L. L. REV. 421 (2004).

<sup>31</sup> A clinic was apparently established by Professor Rudolf von Jhering in Rostock in 1847; a clinic was established by Professor Dmitrij Mejer in Kazan at around the same time; the Copenhagen University Student Union Legal Aid for the Poor organization was founded in 1885 and is still in operation today;

the rebellious spirit of the 1970s and often taking inspiration from the US Office of Economic Opportunities Legal Services Programme, legal aid organizations typically staffed by students and academics were established in Norway, the Netherlands, Belgium, and the UK. For example, *rechtswinkels* (“law shops”) were established throughout the Netherlands starting at the University of Tilburg in 1969. *Wetswinkels* and *boutiques de droit* were established throughout Belgium starting in 1972, in Ghent and Louvain. Meanwhile, in Norway, the *Juss-Buss* (“law bus”) was launched at the University of Oslo in 1971, literally bussing law students out to the suburbs of Oslo to provide free legal advice.<sup>32</sup>

Finally, in the mid-1990s, following the fall of the Berlin Wall (and through to the early 2000s), the CLE movement reached Europe in a significant way (see Chapter 1 by Philip Genty and Chapter 2 by Katarzyna Ważyńska-Finck in this volume for a more detailed reflection on this). However, these developments were exclusively confined to Central and Eastern Europe (CEE), where not only the Ford Foundation, but various other mainly US donor organizations – including most notably the Open Society Institute (through the Constitutional Law and Policy Institute (COLPI)) and the American Bar Association Central European and Eurasian Law Initiative (ABA CEELI) but also USAID, the German Marshall Fund, the MacArthur Foundation, and even UNHCR and the OSCE – collectively invested significant resources into the establishment of legal clinics in the region.<sup>33</sup> COLPI and the Columbia University, Public Interest Law Initiative (PILI; now PILnet) helped to set up more than seventy-five law school clinical programmes in several Central and Eastern European countries,<sup>34</sup> while CEELI helped to establish more than one hundred law school clinics in Russia.<sup>35</sup> To get a sense of the scale of the investment, funding for individual clinics typically ranged from \$10,000 to \$25,000 annually. In addition the funders paid for regional conferences and colloquia, training events, and educational exchanges. Open Society alone was investing in the region of \$1,000,000 annually into CLE in CEE between around 1998 and 2002.<sup>36</sup> Meanwhile, the Ford Foundation invested

and the Edinburgh Legal Dispensary was founded in 1900. See Rekosh, *supra* note 12; and Hector Lewis MacQueen, *Lawyers' Edinburgh 1908–2008*, 8 BOOK OF THE OLD EDINBURGH CLUB (NEW SERIES) 11 (2010). Meanwhile, legal clinics have reportedly existed in Norway since at least 1920. See Jon T. Johnsen, *Nordic Legal Aid*, 5 (2) MARYLAND J. CONTEMP. LEGAL ISSUES 305 (1994).

<sup>32</sup> Bryant G. Garth, *NEIGHBORHOOD LAW FIRMS FOR THE POOR: A COMPARATIVE STUDY OF RECENT DEVELOPMENTS IN LEGAL AID AND IN THE LEGAL PROFESSION*, BRILL 118–29 (1980); unpublished 2011 article on the origins of the *Juss-Buss* written by Jon T. Johnsen on file with authors.

<sup>33</sup> Rekosh, *supra* note 12 at 75.

<sup>34</sup> Armenia, Belarus, Bosnia, Bulgaria, Croatia, Czech Republic, Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Macedonia, Moldova, Montenegro, Poland, Romania, Russia, Serbia, Slovenia, Slovakia, and Ukraine. See Mariana Berbec-Rostas, Arkady Gutnikov, and Barbara Namysłowska-Gabrysiak, *Clinical Legal Education in Central and Eastern Europe: Selected Case Studies*, in *THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE* (Frank S. Bloch, ed., Oxford University Press 2010), 55.

<sup>35</sup> Wilson, *supra* note 30 at 426.

<sup>36</sup> Stephen Golub, *Forging the Future: Current and Potential Soros Foundations Network Support for Clinical Legal Education and Related Law Programmes* (2002).

nearly \$1 million into one clinic alone (at Jagiellonian University Law School) between 1998 and 2004.<sup>37</sup> Collectively, the investment made by donors into CLE in this period (1998 to 2004) was likely in the tens of millions of dollars.

However, as funding for CLE in CEE declined in the mid-2000s, largely as a result of shifting priorities of the donors and a mistaken belief (or justification) that the EU would take over funding CLE in CEE following accession, most of these law school clinics proved to be unsuccessful or unsustainable over the long term.<sup>38</sup> Many of them closed almost immediately when the funding dried up, and, arguably, some of the funders did not have an adequate sustainability strategy. However, there are a few success stories, most notably in Poland, where CLE is now institutionalized in much the same way as it is in the United States (there being a clinic in every Polish law school), and this largely the result of a national funding organization, Fundacja Uniwersyteckich Poradni Prawnych, which took it upon itself to plan for and implement a sustainability strategy that gradually shifted funding responsibility away from foreign donors and onto Polish law departments themselves.<sup>39</sup> Other success stories, albeit to a much to a lesser degree, are Russia, where ABA CEELI was most active and scores if not hundreds of clinics (or clinic-like structures) have survived to this day, and the Czech Republic, where CLE has had something of resurgence in recent times (see Chapter 4 by Veronika Tomoszková and Maxim Tomoszek in this volume for more on this).

Presently (in the past five to ten years), after much inactivity, we are witnessing a CLE boom in Western Europe. In spite of persistent claims that CLE is incompatible with<sup>40</sup> or rendered redundant by civil law legal systems,<sup>41</sup> Western European universities are turning to CLE at an astonishing pace. Recent ENCLE and Open Society Justice Initiative surveys (recording more or less formalized clinics; i.e. with some degree of academic oversight/supervision) suggest that there are more than thirty clinics in Germany alone (at separate universities), more than twenty in Italy, more than twenty in the UK, at least five in France, at least five in Spain, between three and six apiece in the Netherlands and Belgium, and several others dotted across Scandinavia and southern Europe.<sup>42</sup> Counting clinics is a notoriously difficult exercise, and so there are likely many more than these surveys reveal. Considering that just ten or even five years ago these figures (certainly in continental Western Europe) would have been at or near zero, this is a significant increase.

<sup>37</sup> Ford Foundation grant reports for Jagiellonian University (1998–2002) on file with authors.

<sup>38</sup> See Rekosz, *supra* note 12 at 92; see Irina Gross Grudzinska, Reflection Memo (2002), on file with author, reshifting funding priorities of donors; interview with Filip Czernicki, June 23, 2016.

<sup>39</sup> Interview with Filip Czernicki, June 23, 2016.

<sup>40</sup> *E.g.* because of the more formalist or positivist conceptions of law in the civil law traditions or the unique role of the civil law professoriate in the formation of law. See Wilson, *supra* note 14.

<sup>41</sup> *E.g.* because of the apprenticeship system that dominates civil law jurisdictions or the generous state legal aid systems found in Western European civil law jurisdictions. *Id.*

<sup>42</sup> See Clelia Bartoli, *Legal Clinics in Europe: For a Commitment of Higher Education to Social Justice*, Special Issue DIRITTO E QUESTIONI PUBBLICHE (2016) and records kept by the Open Society Justice Initiative on file with the authors.



Moreover, networks of law clinics are emerging in France (Réseau Francophone pour l'enseignement Clinique du Droit) and Italy (Rete Cliniche legali in Italia) and at the pan-European level (European Network for Clinical Legal Education).

Unlike the first generation of CLE in (Eastern) Europe, the recent boom does not seem to have US donor organizations as the primary engines of growth, although Open Society continues to fund a handful of clinics in Italy, France, and Germany.<sup>43</sup> While often still partially US-inspired or involving collaboration with US universities – as in the case of the EU Public Interest Clinic in Paris – these clinics seem to be European initiated, highly entrepreneurial, and even, in a few exceptional instances, also EU funded (e.g. the European Social Fund or the Jean Monnet action of the EU's Lifelong Learning Programme) affairs, thus proving the theory (or hope) of the exiting US funders in the mid-2000s not entirely without merit.<sup>44</sup> The reasons for this recent growth are, however, unclear and are explored for the first time in this volume. Maxim Tomoszek, co-founder and president of the European Network for Clinical Legal Education and director of the Olomouc Law School Clinic (and a contributor to this volume) speculates that it may be due to a gradual realization of the merits of CLE (both in terms of teaching law and in terms of advancing social justice), or indeed – he goes on to say – it may simply be a fad.<sup>45</sup> Whatever the case, European CLE literature points towards the so-called *Bologna Process*, which has prompted a pragmatic reconsideration of *inter alia* higher legal education, as a major source of inspiration (or justification) for change.<sup>46</sup> Many authors see CLE as an answer to the Bologna Process's call for “increased attention to competences and skills in university education” (so that graduates may better participate in economy and society following graduation).<sup>47</sup> Other authors point towards globalization, East–West European integration, domestic reform of the regulation of the legal professions, and even the recent economic crisis as factors energizing the recent take-up of CLE in Western Europe.<sup>48</sup>

<sup>43</sup> Interview with Zaza Namordaze, director of the Open Society Justice Initiative's Budapest office, June 22, 2016.

<sup>44</sup> Maxim Tomoszek, *The Growth of Legal Clinics in Europe—Faith and Hope, or Evidence and Hard Work?*, 21 (1) INT'L. J. CLINICAL LEGAL EDUC. 96 (2014). See also Chapter 4, co-authored with Veronika Tomoszková, in this volume.

<sup>45</sup> Id., at 97–100.

<sup>46</sup> See, e.g., Lusine Hovannisian, *Clinical Legal Education and the Bologna Process*, 2 PILI PAPERS (2006); Andreas Buckner and William A. Woodruff, *The Bologna Process and German Legal Education: Developing Professional Competence through Clinical Experiences*, 9 GERMAN L. J. 575 (2008); Marie-Luce Paris and Lawrence Donnelly, *Legal Education in Ireland: A Paradigm Shift to the Practical*, 11 GERMAN L. J. 1067 (2010); and Diego Blázquez-Martín, *The Bologna Process and the Future of Clinical Education in Europe: A View from Spain*, in *THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE* (Frank S. Bloch, ed., Oxford University Press 2010); Jeremy Perelman, *Transnational Human Rights Advocacy, Clinical Collaborations, and the Political Economies of Accountability: Mapping the Middle*, 16 YALE HUM. RTS. & DEV. L. J. 89 (2013).

<sup>47</sup> Id.; see also Buckner and Woodruff, *supra* note 46, at 614–17.

<sup>48</sup> Dubravka Askamovic, Philip Genty, and Ulrich Stege, *Evidence of Successes and Challenges in Clinical Legal Education in Europe* (unpublished, on file with author) (2015), 8.



## CONTEXTUALIZING THE STUDY OF CLINICAL EDUCATION IN EUROPE

In the midst of these sometimes institutionalized and sometimes sporadic efforts at establishing legal clinics in Europe over the past twenty years, a growing body of literature has emerged in relation to university law clinics in Europe. Initially, these articles were primarily written by American clinicians who were directly involved in running and establishing clinics in CEE.<sup>49</sup> More recently, we have seen articles produced by local (European) clinicians – as mentioned in the preceding section – and relating also to law clinics in Western Europe.<sup>50</sup>

However, much like the efforts at establishing clinics themselves, this literature is often sporadic, generally a mosaic of introspective accounts with the inevitable result that authors talk past one another. To the extent that a real conversation has emerged, it largely concerns legal imperialism/US legal transplants.<sup>51</sup> Authors tend to seek to downplay the importance of US actors in the development of legal clinics in Europe and aim to establish the European credentials of CLE. While US authors obsess over the scale and appropriateness of American involvement, European authors are overly keen to justify and promote the growth of CLE in Europe by reference to the local context. However, this conversation somewhat misses the point that great changes are taking place in European legal education and legal practice, and CLE is intimately bound up in these changes. The simple question that commentators have universally failed to ask is: “*What does the emergence and growth of CLE mean for European law teaching and practice?*” This is the leading research question that we intend to address in this volume and which will be central to the set of queries addressed by our contributors.

<sup>49</sup> Philip M. Genty, *Overcoming Cultural Blindness in International Clinical Collaboration: The Divide Between Civil and Common Law Cultures and Its Implications for Clinical Education*, 15 (1) CLINICAL L. REV. (2008); Leah Wortham, *Aiding Clinical Education Abroad: What Can Be Gained and The Learning Curve on How to Do So Effectively*, 12 CLINICAL L. REV. 615 (2006); Wilson, *supra* note 30 at 421, 428; Emilija S. Karajovic, *ABA/CEELI's Clinical Legal Education Programme in Serbia*, 4 INT'L. J. CLINICAL LEGAL EDUC. (2004); Steven Austermler, *ABA/CEELI's Law Clinic Programmes in Croatia*, 3 INT'L. J. CLINICAL LEGAL EDUC. (2003); John M. Burman, *The Role of Clinical Legal Education in Developing the Rule of Law in Russia*, 2 WYO. L. REV. 89 (2002); Lawrence M. Grosberg, *Clinical Education in Russia: "Da and Nyet,"* 7 CLINICAL L. REV. (2001); Stephan Anagnost, *The Challenge of Providing High Quality, Low Cost Legal Aid for Asylum Seekers and Refugees*, 12 INT'L. J. REFUGEE L. 577 (2000); Rodney J. Uphoff, *Why in-House Live Client Clinics Won't Work in Romania: Confessions of a Clinician Educator*, 6 CLINICAL L. REV. 315 (1999); James C. May, *Creating Russia's First Law School Legal Clinic*, 23 VERMONT BAR J. L. DIGEST 43 (Aug. 1997); and C. Nicholas Revelos, *Teaching Law in Transylvania: Notes from a Different Planet*, 45 J. LEGAL EDUC. 597 (1995). For an overview of this literature, see Chapter 1 by Philip Genty in this volume.

<sup>50</sup> See, e.g., Bartoli, *supra* note 42; Askamovic, Genty, and Stege, *supra* note 48; Askamovic and Genty, *supra* note 13; Berbec-Rostas, Gutnikov, and Namyslowska-Gabrysiak, *supra* note 34; Blázquez-Martín, *supra* note 46; Paris and Donnelly, *supra* note 46 at 1067; and Bucker and Woodruff, *supra* note 46 at 575.

<sup>51</sup> See, e.g., Richard J. Wilson, *Beyond Legal Imperialism: US Clinical Legal Education and New Law and Development*, in *THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE* (Frank S. Bloch, ed., Oxford University Press 2010), 135 ss.

In 2014, the European Network for Clinical Legal Education teamed up with a Member of the European Parliament (Cécile Kyenge) to embark on a survey-based project aimed at mapping CLE in Europe (i.e. identifying which legal clinics are currently in operation and what activities they are engaged in).<sup>52</sup> As useful as this preliminary effort may be, particularly for engaging the EU in the promotion of CLE, what is also needed is a systematic scholarly review of CLE in Europe – specifically in the context of reforming the teaching and practice of European law, especially as it relates to EU law, ECHR law, and international law – that goes beyond merely the tracing of history and mapping of current practice and reflects normatively on these developments and places them in the broader context of reforming legal education and legal practice in Europe.

#### AIMS AND STRUCTURE

The major aim of the volume is to deepen our theoretical understanding of the rapid diffusion of CLE and measure its impact on the teaching and practice of law in Europe. In other words, we are interested in exploring how CLE is transforming law teaching and practice in Europe. Other, ancillary aims are to promote self-reflection in European legal education, to disseminate new ideas about legal education and research to build a case for European law clinics, and to do so well beyond traditional academic audiences.

To unpack the multifarious phenomenon of CLE in Europe, we have asked leading clinicians and practitioners based and active across the continent to share their experience in their individual chapters.<sup>53</sup> Therefore, in addition to a first introductory set of chapters setting the historical scene, the second part builds upon the experiences and reflections of leading clinicians in Europe. To frame their contributions and align them to the aims pursued by this volume, our contributors have followed a set of questions – that were originally organized in the form of a survey. This served to structure their contributions, thus facilitating comparability and learning.

#### METHODOLOGY

To further deepen our methodological reflection, we have encouraged each contributor to the volume to address the growing European phenomenon of CLE as if it were a biological process. At a first glance, given its major indebtedness to the United

<sup>52</sup> Bartoli, *supra* note 42.

<sup>53</sup> To make the edited volume coherent, the scope has been limited to contributions from clinicians and practitioners based in Europe and engaged (broadly speaking) in the teaching and practice of EU, ECHR, and international law. Clinics with a domestic focus were included only so far as they are engaging, to some extent, with supranational and international law and legal institutions. Clinics focusing *purely* on domestic law fall beyond the scope of this volume.