



Research article

## The Prospects and Challenges of Law Clinics in Public Universities in Bangladesh

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### ABSTRACT

The concept of law clinic is an outstanding one as it empowers law students to engage in paralegal activities, thereby creating a bridge between society and law students. It can effectively ensure access to justice for those people who cannot afford to go for professional help. In Bangladesh, prominent public universities initially promoted clinical legal education into their curricula through law clinics, tailored to meet the specific needs and objectives of their law programs. These clinics were generally funded by the universities and other Non-Governmental Organizations (NGOs). This study aims to investigate the activities, success, and failure of these law clinics and assess their prospects and challenges. For this purpose, this study employs a qualitative methodology that utilizes thematic analysis. The findings of the study show that only six public universities have active or previously established law clinics, while the remaining nine universities lack such a structure. These clinics had an enthusiastic prospect but lacked funding and a proper monitoring system. Programs often continue to struggle without NGO support. Other challenges like limited integration into curricula and reduced student participation due to academic workload also hinder the sustained continuity of these programs. Lastly, the study recommends the establishment of a governing body by the university authorities and the government to oversee law clinics and ensure adequate funding opportunities. However, motivating the students for *pro bono* lawyering is the ultimate solution for sustaining these clinics and facilitating access to justice through them.

### Introduction

The traditional method of pedagogy in legal education lacks engagement with real-world paralegal activities, which could provide law students with unique opportunities to learn from the field and contribute to society. Law clinics under the scheme of clinical legal education can fill up the gap between practical and theoretical aspects of legal education. Keeping these things in mind, the clinical legal education movement gained momentum worldwide in the mid-90s due to increasing collaborations between clinical teachers in both the Global North and South (Boswell, 2018, p. 1083). Some of these collaborations have been self-generating, and others driven by support from international foundations, regional groups, and bar associations, leading to the establishment of various clinical programs (Wilson, 2018).

Bangladesh entered into the era of clinical legal education soon after its global inception, primarily funded by universities and Non-Governmental Organizations

(NGOs). However, the fate of these clinics shows that they were cut short before they could fully develop. Despite the short existence of these clinics, they had positive feedback from the side of the poverty-driven mass people. The students were being enlightened by the newly-found pedagogy. Calculating the success, it's not disappointing at all!

Now, as this study investigates why these clinics failed despite being popular among the stakeholders, it identifies several problems that can be broadly categorized into two areas, i.e. lack of funding and lack of effective monitoring system. Although the initial momentum may have diminished due to these problems, the core spirit endures. This study finds out the promising spirit that is hiding within justice-seeking individuals and enthusiastic law students, while also assessing the challenges and prospects that the law clinics have faced and continue to face.

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## Materials and Methods

This study employs a qualitative research approach to explore and understand the prospects and challenges of law clinics to date in Bangladesh. Building on existing literature, it adopts a thematic analysis framework to examine the challenges and opportunities associated with such law clinics. The framework has been used to identify core themes and patterns from participant interviews, focusing on the prospects and challenges to uncover feasible solutions.

For document analysis, this study reviews secondary sources including books, journal articles, blogs, and websites. Additionally, to explore obligations under the existing legal and policy framework, it draws on primary sources from national Acts and policies such as the National Education Policy of 2010 and the Bangladesh Legal Practitioner's and Bar Council Order of 1972. It also identifies, in this regard, relevant provisions of international policy instruments such as the UN Draft Declaration on the Independence of Justice (1989), the Basic Principles on the Role of Lawyers (1990), and the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice (2012).

## Sampling

The study involves a total of 55 participants. Among them, 15 are teachers from the law departments of public universities in Bangladesh. A purposive sampling technique has been utilized for selecting the public universities. Additionally, 20 participants represent students enrolled in law at these universities. The remaining twenty are community members from areas where programs affiliated with these law clinics are carried out. Interviewed teachers were selected based on their comprehensive awareness of the law clinic operations within their respective universities. In contrast, students and community members were chosen through random sampling.

## Data Collection and Analysis

The data collection process begins with document analysis, examining past activities and assessing the effectiveness of law clinics within the framework of clinical legal education in Bangladesh. Subsequently, structured questionnaire interviews are conducted with teachers and students from the Law departments of the selected universities, as well as with community members from areas where the law clinics operate. These interviews identified key themes and patterns as to the challenges and potential prospects of these law clinic programs. Following data collection, the findings are systematically arranged by being coded into different themes and analyzed in light of the extensive literature review. Lastly, the study outlines the suggestions to address the challenges to the prospects of the law clinics.

## Conceptual Discussion

A law clinic serves as a key training platform for students aspiring to become legal professionals, closely paralleling the role of medical clinics in the practical training of medical students (Uyumaz & Erdoğan, 2015, p. 2116). These clinics operate as non-profit organizations and do not charge fees for their services. It is a type of clinical

legal education that trains law students in the spirit of social justice, ethical lawyering, rule of law, and public service (Madhloom & Antonopoulos, 2022). Law clinics worldwide typically follow a similar model, where law students offer *pro bono* legal assistance to underprivileged individuals within their local communities (Uyumaz & Erdoğan, 2015, p. 2117). Common activities of a law clinic may include providing legal advice, drafting legal documents, conducting community outreach, facilitating alternative dispute resolution for disputes, offering *pro bono* representation to marginalized clients, and organizing simulated trials and mock hearings, among others.

## Existing Legal and Policy Framework

### National Laws and Policies

In 2010, the Bangladesh government introduced the National Education Policy, which included a section on legal education in Chapter 15. It asserts that the main goals of legal education are to ensure people's legal rights, train skilled professionals like teachers, lawyers, and judges, promote justice and uphold ethical standards, improve laws and the judicial system, and adapt legal education to the changing needs of society. To achieve these goals, the policy includes 11 strategies, one of which is to use more hands-on approaches in legal education like Moot court, Mock Trial, and Clinical Legal Education.

This policy aims to move beyond traditional, theory-focused teaching methods by acknowledging the role of legal professionals not just as practitioners but as key contributors to societal justice. The inclusion of hands-on approaches as strategic measures also signals a forward-thinking approach. However, the intended goals have not fully translated into practice.

Clause (i) of Article 10 in the Bangladesh Legal Practitioner's and Bar Council Order, 1972 states that one of the functions of the Bar Council is to promote legal education and establish standards for it in consultation with the universities in Bangladesh offering such education. For this purpose, Article 11(1)(d) stipulates that the Bar Council must establish a Legal Education Committee comprising nine members: five elected from among its members and four co-opted from individuals outside the Council. At least two of the co-opted members must be teachers of law in any university or college in Bangladesh. Although such a committee has been formed periodically, there is no known record of this committee actively consulting with universities in promoting legal education.

### International Standards

Various international human rights instruments recognize the importance of integrating *pro bono* activities into a country's legal education system. The UN Draft Declaration on the Independence of Justice of 1987, one of such instruments, in article 72 underscores that apart from prioritizing technical skills only, legal education should also generate among the lawyers an ethical obligation to promote human rights and fundamental freedoms with the aim of serving public interest. Besides, article 73 asserts that programs of legal education shall be provided in such a manner that lawyers are taught about their social responsibilities such as offering legal services to those who cannot afford them.

Principle 14 of the Basic Principles on the Role of Lawyers, another instrument adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Cuba in 1990, acknowledges the responsibility of lawyers to uphold human rights and fundamental freedoms while defending their clients' rights and facilitating justice. To do so, Principle 9 requires institutions to ensure that lawyers receive adequate education and training that will make them aware of the ideals and ethical duties relevant to their profession.

It is worth noting that while the responsibility of lawyers is highlighted in these instruments, this obligation extends beyond just practicing lawyers. Since these instruments underscore the significance of legal education in fostering ethical obligations, raising awareness of human rights and fundamental freedoms, and providing legal services to the underprivileged, they inherently encompass law students undergoing such legal education.

In December 2012, the UN General Assembly adopted the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems. These principles and guidelines allow states to collaborate with various legal aid providers to improve outreach and quality of legal aid services. One model supported by these guidelines involves establishing law clinics within university law departments. For example, as per Guideline 16, States bear the responsibility of promoting and supporting the establishment of legal aid clinics within university law departments to foster clinical and public interest law programs among faculty members and the student body, including their incorporation into the accredited curriculum of universities. Additionally, Guideline 12 requires states to allocate sufficient and dedicated funding for legal aid services which include the establishment of a legal aid fund to back the university law clinics in providing legal aid services in rural and disadvantaged areas.

These instruments collectively underscore the foundational role of legal education in shaping future legal professionals and mandate a holistic approach to promoting such education. Therefore, equipping law students with values and skills that are responsive to the needs of all members of society, especially the underprivileged, is essential.

## Results

### Document analysis

#### a. Secondary Sources

In Bangladesh, there is a notable absence of clinical legal education programs in law school curricula, hindering the integration of legal aid activities (Akter, 2016, p. 191). To be more specific, legal education in Bangladesh lacks both a clinical and an interdisciplinary approach (Mizan, 2019, p. 48). However, the Ford Foundation took the initiative to establish law clinics for the first time in Bangladesh around three decades ago, specifically in the mid-90s, at the University of Dhaka, Chittagong, and Rajshahi (Mahdi, 2018). Initially emphasizing classroom-based training with a focus on practical skills rather than theory, these law clinics later facilitated students in gaining hands-on experience in fieldwork and court procedures through

internships with former Ford grantees and other NGOs (McClymont et al., 2000).

In 1996, the Bangladesh Law Commission (BLC) made recommendations for legal education reform, including the introduction of clinical legal education to provide students with opportunities to apply their legal knowledge and be sensitized to the rights of marginalized communities (Asaduzzaman & Karim, 2013, p. 246). Later in 2009, the BLC proposed that the government introduce mandatory clinical legal education in law schools, aiming primarily to provide legal assistance to underserved populations (Akter, 2016, p. 192). However legal education in the post-independence era held a vision that ultimately remained unrealized (Mizan, 2019, p. 47). The argument is that Bangladesh's legal education curriculum, influenced by its colonial legacy, favors barristers over advocates and promotes costly UK law programs accessible mainly to wealthy families. This, in turn, produces elite lawyers who are often disconnected from the needs of the poor and lack awareness of the challenges they face in accessing justice (Mizan, 2019, p. 48).

Additionally, developing countries, including Bangladesh, encounter the common challenge of funding, alongside other significant obstacles rooted in cultural and national values, as well as political realities (Mizan, 2017, p. 11). This is because government funding is typically directed towards pressing issues like infrastructure, healthcare, etc. leaving higher education institutions under-resourced. Within universities again, priority is often given to traditional classroom-based education, leaving little support for community-oriented initiatives. Political realities often complicate matters, as empowerment of marginalized communities may be seen as challenging existing power structures, creating potential tension with government or political interests.

Other challenges include maintaining student enthusiasm, opposition from academia and legal professional bodies, sustaining belief in the program, inability to serve the maximum possible schools and institutions, class size, and static design and curriculum issues (Mizan, 2017, pp. 11-16). Despite recent initiatives such as the establishment of law clinics by Bangladesh Legal Aid and Services Trust (BLAST) at the University of Dhaka and the University of Rajshahi, as well as the inclusion of 'Law Clinic' as a compulsory course at Jahangirnagar University (Mahdi, 2018), the disparity between aspirations and reality in Bangladesh persists. Additionally, while the University of Chittagong includes clinical legal education in its syllabus, the clinic's activities have primarily focused on organizing workshops and lectures, thus neglecting its intended clinical nature (Hoque, 2012). Even more surprising is the finding from a study that clinical legal education has yet to take root in Bangladesh, and that clinics begun at Dhaka and Chittagong Universities, with funding from the Canadian offices of the Ford Foundation, have since closed down (Hasan et al., 2013, p. 59).

### Field Data Analysis (Themes)

#### a. Evolution of Law Clinics: past and present scenario in Bangladesh

The earlier setting of legal education in Bangladesh indicates the presence of law clinics in a handful of public

universities, including Dhaka, Chittagong, and Rajshahi (McClymont et al., 2000, pg. 144). Non-governmental organizations often supported these clinics and worked as the focal point for community engagement. Both Dhaka and Rajshahi University carried out notable activities relating to law clinics under different nomenclature like Legal Aid Forum or Legal Aid Clinic at various timeframes. As time follows, these clinics have played an essential role in providing legal aid to underprivileged communities on one hand and offering law students hands-on experiential learning on the other.

The present situation demonstrates a shift in the prevalence of law clinics across public universities in Bangladesh. Based on the list of public universities provided by the University Grants Commission (UGC) and an examination of their respective websites, there are currently fifteen public universities in Bangladesh that offer law programs. According to data gathered from interviews, only a selected few institutions namely, Dhaka University, Jahangirnagar University, University of Rajshahi, Comilla University, Islamic University, and Khulna University currently have or have previously operated dedicated law clinics. They operate under different names, including the Office of Clinical Legal Education at Dhaka University, the Law Clinic at Comilla University, the Juristic Clinic at Islamic University, Clinical Legal Education Program at Rajshahi University, and the Students Legal Aid Desk at Khulna University. Although the titles are distinctive, the activities that are carried out under such initiatives are almost identical to the traditional functions and objectives of the law clinics. One of the teacher respondents, who has been involved in such an initiative, stated, 'Though the names vary, we do more or less the same things as law clinics do.'

The remaining nine universities: Jagannath University, University of Barishal, University of Chittagong, Patuakhali Science and Technology University, Noakhali Science and Technology University, Bangabandhu Sheikh Mujibur Rahman Science and Technology University, Jatiya Kabi Kazi Nazrul Islam University, Bangladesh University of Professionals, and Bangabandhu Sheikh Mujibur Rahman Maritime University currently do not have dedicated law clinics in operation. However, in the Maritime University, there is a 6-credit internship program in the last semester involving tasks like case studies, court visits, drafting, and client handling at different institutions for six months. Jahangirnagar University also offers a course titled 'Law Clinic.'

#### **b. Societal benefits from Law Clinic programs**

From the participants' interviews, two distinct types of benefits associated with the law clinic programs emerge: direct benefits and indirect benefits. The former occurs when the members of a society put forward their legal problems to the law clinic and receive guidance on how to solve them. This direct assistance can be invaluable for individuals who may not have the means to afford professional legal help.

On the other hand, indirect benefits stem from the outreach efforts of law clinics or when people seek help from them initially. Through these programs and interactions, individuals become more aware of their legal

rights and responsibilities. This increased awareness equips them to handle future disputes more effectively. Interviews from some of the community members reveal that law clinics have benefitted themselves by giving legal advice and holding yard meetings regarding family matters, land disputes, etc. They also provide opportunities for community members to present their disputes, which are often resolved through mediation. Overall, the combination of direct and indirect benefits provided by law clinic programs contributes significantly to enhancing access to justice and legal literacy within communities.

#### **c. Challenges faced by Law Clinics**

Law clinics, both in the past and present, face several challenges. Firstly, funding is a major issue because running these programs involves costs for activities like outreach programs, court visits, and organizing seminars or mock trials. Due to funding limitations, the law clinics at Dhaka, Comilla, Rajshahi, and Khulna universities have become non-functional. However, structural issues and the lack of integration of law clinics into the curriculum often hinder such initiatives at newly established law departments, such as those at Patuakhali and Noakhali. One of the respondents from the teachers asserted,

We received financial support from an NGO to operate Law clinic programs for five years straight. During this time, we held seminars, community meetings, awareness campaigns, and provided legal assistance, which had a significant impact on society. Unfortunately, once the funding ceased, we were unable to keep the program running.

Secondly, interviews taken with students reveal that they often struggle to find the right balance between their studies and participating in these programs, causing many to decide not to get involved. Another student respondent added, 'Some sort of apathy had [have] grown among students toward pro-bono advocacy.' However, all student respondents expressed unanimous agreement regarding the need for clinical legal education at their respective universities.

Lastly, since these programs are often funded by non-governmental organizations (NGOs), the original purpose of law clinics, which is to help society, might not always be the top priority. Sometimes, there's more focus on doing activities and creating reports rather than making a real impact on society.

#### **d. Prospects of Law Clinics**

Law clinics hold promising prospects for the future of legal education and community engagement in Bangladesh. Ensuring the effectiveness and sustainability of it lies in integrating these programs directly into the academic curriculum. One of the student respondents said, 'If activities relating to *pro bono* lawyering are integrated into the curriculum with assigned credit hours for it, it will be an engaging opportunity for us.' Other stakeholders also explore avenues to enhance the long-term viability and impact of law clinics. One of the respondents among teachers mentioned,

The Bangladesh National Qualifications Framework (BNQF) emphasizes *pro bono* activities across all disciplines for accreditation. Therefore, all the public universities having law programs will be willing

enough to establish law clinics and additionally, universities and departments will be expected to fund these programs directly, reducing reliance on NGOs for support.

### Discussion

Both the document analysis and field data highlight the limited presence of clinical legal education programs in law school curricula in Bangladesh. The field data reveals that today, only a few public universities maintain dedicated clinics under different names. Nearly every literature, including Akter (2016), underscores this point by emphasizing the absence of clinical approaches in legal education in Bangladesh. Mizan (2019) takes a step further by asserting that legal education in Bangladesh not only lacks a clinical but also an interdisciplinary approach and suffers from a colonial hangover, leading to an ignorance of the societal needs within Bangladesh. Even the National Education Policy (2010) acknowledges that the proper development of both professional and practical aspects cannot be observed in the conventional legal education of the country. Again, Mahdi (2018) highlights a crucial point that echoes the field data: only a handful of public universities, such as Dhaka, Chittagong, and Rajshahi, sustain law clinics with NGO support.

However, the identification of three scenarios in this study highlights phenomena that have not been documented in prior studies. Firstly, this study finds that all law clinics previously identified as operational have ceased functioning due to issues related to funding and other constraints, except for the one at Islamic University. Secondly, it identifies the distinct names under which these clinics operate. Additionally, it reveals that nine public universities currently lack any form of law clinic. This limited presence has far-reaching implications for access to justice, legal education, and the effective functioning of the justice system. It may also affect the broader community's legal literacy and empowerment.

Responses from respondents indicate struggles with funding, highlighting the practical challenges faced by law clinics in Bangladesh. Mizan (2017) suggests that countries like Bangladesh face funding challenges, along with cultural, national, and political obstacles, which are echoed in the field data. This study additionally identifies student enthusiasm as another challenge that is on par with the challenge of 'balancing program participation with academic commitments' pointed out in the field data. In addition, Hasan et al. (2013) accentuate that the clinics that were established at Dhaka and Chittagong Universities with the funding of the Ford Foundation had to come to a stop when the funds were closed. These all-around limitations create consequential barriers to the smooth and enduring functioning of law clinics.

The societal benefits of the law clinic programs are evident from the field data which includes offering guidance on resolving legal issues, particularly for those unable to afford professional help. This type of activity ultimately enhances access to justice and legal literacy within communities. Wizner (2002) concurs with this position and highlights the fact that law clinics first acquaint students with hands-on learning about the challenges and societal injustice faced by the marginalized and then encourage them to perform their ethical

responsibility to the community by providing legal aid to low-income clients. He also posits that the concept of equal access to law taught in traditional legal education fails to acknowledge the inherent realities and to familiarize the students of law with such realities.

Data taken from the field also points out that law clinics can have promising prospects for legal education and community engagement in Bangladesh if it is integrated into the academic curriculum and aligned with the accreditation standards outlined by the BNQF. This will eventually enhance student engagement and reduce overreliance on NGO funding. Though Wilson (2017) argues that the aspirations do not seem to be matched by reality in Bangladesh, there is a pressing need to incorporate clinical legal education at present. Mahdi (2018) echoes that need by advocating for law clinics as the optimal solution to improve the legal education system in Bangladesh. The finding emerges as a recurrent theme in a study by Hasan et al. (2013), where they advocate for the urgent implementation of Clinical Legal Education as a mandatory course to enhance legal education and address the evolving challenges of society and the legal profession.

### Conclusion

Law clinics tend to bridge the gap between legal education and societal needs, particularly in providing access to justice for underserved communities. Hence, the formal inclusion of clinical legal education is imperative for the advancement of social and economic justice. There have been some optimistic efforts in this regard by a few public universities in Bangladesh but they encounter serious challenges like logistical and situational limitations to make or implement the required structural reforms. Confronting these challenges by borrowing support from the stakeholders will be crucial in maximizing the full potential of law clinics, that is to serve the legal needs of Bangladeshi society.

To conclude, there are three recommendations to better address the challenges identified. Firstly, the students and teachers need to take the spirit of *pro bono* work to their heart to keep law clinics running smoothly. This includes active participation in such activities by offering their time and expertise to assist those in need on a regular basis.

Secondly, universities must play a more direct role in funding law clinics. It can be done by giving financial support and essential resources, for instance, office space and equipment necessary to run the clinics effectively rather than heavily depending upon external organizations like NGOs.

Last but not least, since NGOs are known for their commitment to promoting social justice through strong advocacy efforts, they can still play a notable role, if not by just funding, in supporting these law clinics. To do so, NGOs have to align their *pro bono* advocacy efforts and outreach programs with the activities of these clinics. It will contribute to a common goal of providing accessible legal aid and facilitating a more just society for both of them.

If these recommendations are taken into consideration and implemented timely and properly, the progress of the law clinics, as it stands now, will be strengthened. The law clinics in every public university in Bangladesh should not

just be a nipped-in-the-bud initiative rather they need to be watered and nurtured to grow the fruit of social justice in its actual sense in the community.

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### Conflict of Interest

None of the authors present any conflict of interest.

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