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# Learning From the Unique and Common Challenges: Clinical Legal Education in Jordan

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# Learning from the Unique and Common Challenges: Clinical Legal Education in Jordan

Nisreen Mahasneh\* and Kimberly Thomas\*\*

## INTRODUCTION

Legal education worldwide is undergoing scrutiny for its failure to graduate students who have the problem-solving abilities, skills, and professional values necessary for the legal profession.<sup>1</sup> Additionally, law schools at universities in the Middle East have found themselves in an unsettled environment, where greater demands for practical education are exacerbated by several factors such as high levels of youth unemployment. More specifically, in Jordan there is a pressing need for universities to respond to this criticism and to accommodate new or different methods of legal education. Clinical legal education is one such method.

We use the term “clinical legal education” broadly to include law school programs that teach professional skills and values through

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1. *See generally* WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007) (offering an examination and critique of law schools in the United States before providing suggestions for improvement); *see also* Frank S. Bloch, *Introduction*, in THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE xxiii (Frank S. Bloch, ed. 2010) (describing a core feature of clinical programs around the world as “offer[ing] experientially based training in professional skills and values that emphasize critically important areas of professional and public interest that have been left out of the traditional law school curriculum”).

experiential learning.<sup>2</sup> Clinical legal education not only refers to “live-client” clinics, but also to other types of experiential legal education that shares these common features.<sup>3</sup>

As calls for clinical legal education in Jordan rise, legal academics and lawyers have begun to debate whether it is feasible. In this article, we analyze and assess the challenges facing the implementation of clinical legal education in Jordan. While some contend that clinics are impossible, we offer suggestions and solutions to address their challenges and, perhaps, pave the way for a meaningful experiential education course that enhances the skills and capacities of students, works within the current legal and educational framework, and serves the needs of the community.<sup>4</sup>

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2. See Frank S. Bloch, *Access to Justice and the Global Clinical Movement*, 28 WASH. U.J.L. & POL’Y. 111, 122 (2008) (using the term “experience-based socially relevant professional training” to encompass these elements). Depending on the speaker and the context, clinical legal education can have a range of meanings and can include a variety of different experiential learning activities. See, e.g., Elliott Milstein, *Clinical Legal Education in the United States: In-house Clinics, Externships, and Simulations*, 51 J. LEGAL EDUC. 375 (2001) (describing “three different branches of clinical education in the United States: in-house live-client clinics, externship programs, and simulation courses”). We appreciate that these experiences are not the same, and some types of clinical education experiences may better serve various pedagogical goals. See, e.g., Mao Ling, *Clinical Legal Education and the Reform of the Higher Legal Education System in China*, 30 FORDHAM INT’L L.J. 421, 432-34 (2007) (acknowledging the potential practical value of the traditional legal externship program in China while also complimenting new, student-centered methods such as moot courts and case studies).

3. We use this broad definition to acknowledge the range of educational experiences worldwide that are called “clinics,” and to signal that while the model that may develop in Jordan is not a traditional U.S. “live-client” clinic, it is a significantly different educational experience that involves the provision of legal information to an underserved group and shares many of the goals of clinical legal education. See generally THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE (Frank S. Bloch, ed. 2010) (describing, in various chapters, a wide range of legal education experiences, including work that is not for credit, street law and community outreach programs, and other examples under the heading “clinical education”); but see Peggy Maisel, *Expanding and Sustaining Clinical Legal Education in Developing Countries: What We Can Learn from South Africa*, 30 FORDHAM INT’L L.J. 374, 379 (2007) (distinguishing street law and community education work from clinical legal education, explaining that “clinical legal education refers to law students receiving course credit for the combination of their practical work on clients’ cases at a university-based clinic, and their participation in a classroom component or tutorial. This definition does not include courses that solely require students to engage in community education activities”).

4. This article explores many reasons why a live-client clinic model will be extremely challenging in Jordan. Educators have not always found that live-client or in-house clinics are optimal. See, e.g., Rodney J. Uphoff, *Why In-House Live Client Clinics Won’t Work in Romania: Confessions of a Clinician Educator*, 6 CLINICAL L. REV. 315,

Jordan, of course, does not exist in a vacuum. The current challenges and efforts to implement legal education are also reflected in nearby countries. Clinical legal education exists in the Arab world, although it is not widespread.<sup>5</sup> Clinics have been established for a few years in several countries in the Middle East such as Lebanon, Morocco and Iran. Similar to Jordan, other nations in the region are just beginning their efforts to bring clinical legal education to local law schools.<sup>6</sup> In addition to the clinics mentioned here, workshops on clinical education have been held in numerous Middle Eastern countries including Iran.<sup>7</sup>

An example of one of the more established clinics in the Middle East is at La Sagesse University in Lebanon,<sup>8</sup> which has been running a human rights clinic since 2007.<sup>9</sup> The clinic was started with the support of the ABA-ROLI, and initially faced skepticism from a number of stakeholders, including the Lebanese Bar Association. However, due in part to leadership by the law school dean, the program has grown and is now broadly supported. Students at La Sagesse complete a human rights course prior to enrolment in the clinic. Once in the clinic, students are placed in externships with a non-governmental organization or another group that addresses or researches human rights issues. In their

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346 (1999) (discussing bar association rules, funding, student capacity, and other obstacles to an effective in-house clinic).

5. Several law clinics exist in Israel, although there is little to no communication between these and those in the Arab world. *See, e.g.,* Neta Ziv, *Lawyers Talking Rights and Clients Breaking Rules: Between Legal Positivism and Distributive Justice in Israeli Poverty Lawyering*, 11 CLINICAL L. REV. 209, 213-14 (2004) (referencing the Yaffo Community Law Clinic at Tel Aviv Law School).

6. In December 2011, two law schools in Jordan signed memoranda of understanding with the ABA-ROLI to begin the implementation of clinics in February 2012.

7. *See* IBA Human Rights Institute – Iran, INTERNATIONAL BAR ASSOCIATION, *available at* [http://www.ibanet.org/Human\\_Rights\\_Institute/Work\\_by\\_regions/Middle\\_East/Iran.aspx](http://www.ibanet.org/Human_Rights_Institute/Work_by_regions/Middle_East/Iran.aspx) (last visited July 27, 2011).

8. Another example of a well-established clinic in the Middle East is at the Mofid University in Iran, which was established in 2007.

*See* Mohammad Mahdi Meghdadi & Ahmad Erfani Nasab, *The role of legal clinics of law schools in human rights education; Mofid University legal clinic experience*, 15 *PROCEDIA SOCIAL AND BEHAVIORAL SCIENCES* 3014 (2011).

9. The following information is based on the report, American Bar Association, Human Rights Clinical Education in Lebanon, Final Report, 2009, as well as conversations with current clinic professor, Karim El Mufti. *See also* ABA Rule of Law Initiative – Lebanon, AM. BAR ASS'N., *available at* <http://apps.americanbar.org/rol/mena/lebanon.shtml> (last visited October 12, 2011).

placements, students address a range of topics and engage with different client populations including: juveniles, workers, women, and stateless persons. Students work on individual cases by providing direct legal assistance, conducting monitoring, researching legal issues about statelessness and torture, and engaging in public education regarding children's rights and violence against women.<sup>10</sup> The clinic was initially set up with the support of the ABA, but it is currently fully operated by the law school. In fact, the law school has made the clinic mandatory and has started a second, commercial practice, clinic.

Many law schools in other countries in the region are either examining whether to begin clinics or have recently developed them. For example, the University of Alexandria in Egypt began a legal clinic in 2009 focusing on family law cases.<sup>11</sup> In the Arabic-speaking countries of North Africa, there is a well-established human rights clinic at the University of Hassan II in Morocco.<sup>12</sup>

Although the United Arab Emirates University has adopted a professional skills requirement in its law school, clinical legal education is not significantly developed in the Gulf States. The UAE University also places students in external legal offices, with an academic course component supervised by a faculty member.<sup>13</sup> An expansive view of the region might also include clinics in Turkey, such as the one at Bilgi

10. ABA Rule of Law Initiative, Human Rights Clinical Legal Education in Lebanon, final report Jan 1, 2007- Dec 31 2008, issued in April 7- 2009 at 7.

11. The Clinical Legal Education Network, THE PROTECTION PROJECT, *available at* <http://www.protectionproject.org/activities/the-clinical-legal-education-network/> (last visited Jul. 21, 2011).

12. *See* Moroccan Human Rights Legal Clinic Formally Incorporated into University of Hassan II Law Faculty Curriculum, AM. BAR ASS'N, (Jun. 11, 2007) *available at* <http://apps.americanbar.org/rol/news/news-morocco-curriculum-addition.html>. (This program, known as Le Centre de Conseil d'Assistance Juridique pour les Droits Humains, was initially supported by the ABA ROLI and is aimed at training students and recent graduates. Among other activities, participants conducted "live-client legal consultations on labor disputes to underserved Moroccan citizens, including textile workers, truck drivers, security guards, and agricultural laborers.")

13. *See* Professional Skills, FACULTY OF LAW – UNITED ARAB EMIRATES UNIVERSITY, *available at* [http://fl.uaeu.ac.ae/program/Program\\_Professional%20Skills.asp](http://fl.uaeu.ac.ae/program/Program_Professional%20Skills.asp) (last visited Jul. 21, 2011); Law – List of Courses, UNITED ARAB EMIRATES UNIVERSITY, *available at* [http://www.uaeu.ac.ae/catalog/auto/departement\\_LW\\_LW\\_LW.asp](http://www.uaeu.ac.ae/catalog/auto/departement_LW_LW_LW.asp) (last visited Jul. 21, 2011) (listing courses on "internal training," which provide skills training at the university, and "external training," in which students are placed with a legal office outside of the university).

University, which was supported by the Open Society Institute.<sup>14</sup>

Although clinics have begun in the Middle East, there is a paucity of academic literature. For example, there is very little English-language scholarship on legal clinics in Arabic-speaking countries.<sup>15</sup> Similarly, clinical legal education has no appreciable presence in Arabic-language legal journals or the Arab Law Quarterly, the premiere English-language law review that focuses on Arab countries. This article hopes to spark dialogue not only within Jordan, but within this broader audience.

As there is a lack of information in English about the Jordanian legal and legal education systems, in Part II of this article, we give an overview of the legal education system and the legal profession in Jordan. This overview will assist readers in contextualizing the question of Jordanian legal reform, as well as enabling them to examine similarities and differences with their own, more familiar system. Next, in Part III, we discuss the benefits of incorporating clinical education into Jordanian law schools. In Part IV, we examine the major challenges facing clinical education in Jordan related to the Bar Association, law schools, students and the community. We hope this part of the discussion will be useful not only for those in Jordan, or even the Middle East, but also for other countries with little experience in clinical legal education.<sup>16</sup> In Part V, we conclude with a discussion of what we see as an option for addressing these challenges and developing a sustainable, pedagogically -sound clinic.

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14. See, e.g., Legal Clinics: Serving People, Improving Justice, OPEN SOCIETY JUSTICE INITIATIVE (2009), available at [http://www.soros.org/initiatives/justice/focus/legal\\_capacity/articles\\_publications/publications/legalclinics\\_20090101/legalclinics\\_20090101.pdf](http://www.soros.org/initiatives/justice/focus/legal_capacity/articles_publications/publications/legalclinics_20090101/legalclinics_20090101.pdf) (last visited Jul. 27, 2011)

(describing work of Bilgi University clinic as a “clearinghouse” for others willing to work on pro bono cases). See also Bilgi Legal Clinic, FACULTY OF LAW – ISTANBUL BILGI UNIVERSITY, available at <http://www.bilgi.edu.tr/en/programs-and-schools/undergraduate/faculty-law/law/page/bilgi-legal-clinic/> (last visited Oct. 12, 2011) (detailing the street law and private law options for student clinicians, as well as the international cooperative character of the clinical program).

15. The English-language writing includes Haider Ala Hamoudi, *Toward a Rule of Law Society in Iraq: Introducing Clinical Legal Education Into Iraqi Law Schools*, 23 BERKELEY J. INT’L L. 112 (2005); David F. Chavkin, *Thinking/Practicing Clinical Legal Education from within the Palestinian/Israeli Conflict: Lessons from the Al-Quds Human Rights Clinic*, 18 HUM. RTS. BR. 14 (2010).

16. See Maisel, 30 FORDHAM INT’L L.J. at 388 (describing the obstacles to clinical programs in South Africa and noting that “[w]hile the context for clinical education varies greatly between countries, and solutions to problems will necessarily vary, the challenges listed here for South Africa also exist in most other developing countries.”)

# I. JORDANIAN LEGAL EDUCATION AND LEGAL PROFESSION LEGAL EDUCATION IN JORDAN

Jordan follows a civil law system where all laws are codified and precedents are not binding. The laws in Jordan are derived from different sources, with civil law and family law largely influenced by Islamic law,<sup>17</sup> criminal law drawn from French law,<sup>18</sup> and corporate law derived mainly from English law.<sup>19</sup>

Like many countries around the world, law is primarily an undergraduate degree in Jordan.<sup>20</sup> In Jordan, nearly all of courses taught in law schools concentrate on the substance of law, such as contracts, commercial law, criminal law, administrative law, and international law.<sup>21</sup>

The first law school in Jordan was established in 1976 at Jordan University, the first university in the country. Now, there are four public and eleven private law schools,<sup>22</sup> as well as a few additional institutions that only grant graduate law degrees. Of these law schools, all four public institutions, as well as some of the private ones, grant both undergraduate and graduate degrees.

Admission is primarily based upon students' scores on the standardized national high school exam. No other admissions test is

17. Article 2 of the Jordanian Civil Code states that Islamic jurisprudence and the principles of Shari'a are sources of the legislation. See the Civil Code No 43 for the Year 1976.

18. The Jordanian Criminal Code is influenced by the Egyptian and Lebanese Criminal Acts which are, in turn, modeled on French laws.

19. For example, the English corporations law regarding the separation between owner and management, the classifications and types of companies, and the adoption of the so-called One-Man Company influenced Jordanian corporations law.

20. See Roy T. Stuckey, *Preparing Students to Practice Law: A Global Problem in Need of Global Solutions*, 43 S. TEX. L. REV. 649, 658 (2002); see also *id.* at 658, n.29 - 34 (referencing courses taught in undergraduate law programs in the Czech Republic, Spain, Turkey, Israel, Russia, and Austria).

21. See, for example, the Study Plan for the Faculty of Law at Jordan University, available at <http://law.ju.jo/BachAcademicPlan/Form/AllItems.aspx>; see also the Study Plan for the Faculty of Law at Yarmouk University, available at [http://www.yu.edu.jo/index.php?option=com\\_docman&Itemid=258](http://www.yu.edu.jo/index.php?option=com_docman&Itemid=258) (last visited Jan. 8, 2012).

22. See Jordanian Ministry of Higher Education, available at <http://www.mohe.gov> (last visited August 10, 2011); see also Mohammed Y. Olwan, *Legal Education in Jordan for the 21st Century*, available at [http://www.ialsnet.org/meetings/role/papers/OlwanMohamed\(Jordan\).pdf](http://www.ialsnet.org/meetings/role/papers/OlwanMohamed(Jordan).pdf) (last visited Aug. 11, 2011).

required. Public law schools normally require higher scores for admission than private universities.<sup>23</sup> Some other degree programs, such as medicine and engineering, require markedly higher scores for entry. In a standardized and regimented admissions system, students with the best scores enter degree programs with the highest standards. As a result, many students with top scores choose not to study law.<sup>24</sup> A large number of students, relative to the national population, graduate each year with law degrees, leading to concern about oversupply in the legal hiring market.<sup>25</sup>

The vast majority of law professors in Jordan use the traditional lecture format, although this is beginning to change.<sup>26</sup> This traditional

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23. The minimum score for admission at the law school at Jordan University was 87 (considered "very good") in 2008, 91 ("excellent") in 2009, and 91 ("excellent") in 2010. For the law school at Yarmouk University, minimum entry scores were 79 ("very good") in 2008, 82 ("very good") in 2009, and 84 ("very good") in 2010. Jordan University and Yarmouk University are both public law schools. List of Public Universities, MINISTRY OF HIGHER EDUCATION AND SCIENTIFIC RESEARCH, *available at* <http://images.jordan.gov.jo/wps/wcm/connect/gov/egov/home+citizen/services+for+citizens/most+used+services/list+of+public+universities> (last visited Jul. 27, 2011). The minimum high school score for admission in private law schools in Jordan is 70 ("good"). See Law No. 23 of 2009 (Law of the Higher Education for Scientific Research Act for the Year 2009), Section 6/a/5, Al-Jarida Al-Rasmiyya (Jordan). As a general rule, public law schools are perceived to be better than private law schools. Therefore, students with higher scores will choose to attend a public law school; the minimum scores reflect this reality.

24. Cf. Haider Ala Hamoudi, *Toward a Rule of Law Society in Iraq: Introducing Clinical Legal Education into Iraq Law Schools*, 23 BERKELEY J. INT'L L. 112, 113 (2005) (observing that "talented students generally avoid law school as a result" of the condition of law schools and the reputation of lawyers as facilitators of corruption).

25. American Bar Association, Legal Education Assessment, 2005 at p 3. The number of law students at the public law schools ranges between 500-1000, whereas private law schools are generally less populated. See also Maram al-Nabulsi, *Murshih "Bayda" al-Mohamin": Lan Yastati'a Ahad Akhafatna bil-Dimografiyah [Candidate of the "White Lawyers": No One Will Be Able to Frighten Us Through Demographics]*, AL-BOSALAH (Mar. 31, 2011), <http://www.albosala.com/Portals/Content/?info=YVdROU1qUTBNVGttYzI5MWNtTmxQVWk4xWW5CaFoyVWlkSGx3WlQweEpnPT0rdQ==.plx> (stating that the Jordanian legal market does not need more than 3,000 attorneys). In a country of approximately six million, there are approximately 10,000 active lawyers in Jordan and 3,000 trainee lawyers. See Jordan Bar Association, *available at* <http://www.jba.org.jo>. Cf. Dae-Kyu Yoon, *Current Reform Efforts in Legal Education and the Delivery of Legal Services in Korea*, in EDUCATING FOR JUSTICE AROUND THE WORLD: LEGAL EDUCATION, LEGAL PRACTICE AND THE COMMUNITY 64, 66 (Louise G. Trubek and Jeremy Cooper, eds., 1999) (comparing the number of lawyers per 10,000 people for Korea, Japan, the United States, Germany, and France).

26. See Philip M. Genty, *Overcoming Cultural Blindness in Clinical Collaboration:*



teaching style means students passively listen to the professor and any interaction is limited to taking notes. The underlying rationale for this method is that students can obtain the skills they needed during the two-year attorney training apprenticeship. These apprenticeships, however, are not regulated for the type of skills or methodology of training that must be given. Rather, the Bar Association Act merely sets out the formal training obligations of the trainee and the trainer lawyer.<sup>27</sup> Indeed, this entrenched teaching methodology in Jordanian law schools represents a challenge to change.<sup>28</sup> In the early 2000s, approaches to teaching started to gradually change, driven by young law professors with different views on education. These young professors were influenced by the new international and modern teaching trends they encountered while attending specialized workshops on interactive legal teaching organized by international development organizations. Several professors had a chance to see and discuss these techniques while visiting American law schools or meeting with American law professors in Jordan.<sup>29</sup>

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*The Divide Between Civil and Common Law Countries and Its Implications for Clinical Education*, 15 CLINICAL L. REV. 131, 139-40 (describing this approach of teaching, with the professor lecturing and students passively recording, as common in civil law countries, contrasting it with the dominant common law system style of Socratic dialogue, and pointing out that there may be nothing inherent in the civil law that necessitates this style). Passive, lecture-based teaching styles, along with large class sizes, have posed challenges for legal education reform in other countries. See, e.g., Sulhi Dönmezer and Feridun Yenisey, *The System of Legal Education and Training in Turkey*, 43 S. TEX. L. REV. 717, 720-21 (2001) (noting class sizes up to 400-500 students in Turkey; describing teaching of law as a “science” and the teaching style as “traditional,” although that term is undefined); Richard J. Wilson, *Western Europe: Last Holdout in Worldwide Acceptance of Clinical Legal Education*, 10 GERMAN L. J. 826, 828-29 (2009) (“particularly in Germany and France, where the traditional lecture method of law school teaching has held sway for centuries, indeed, as many authors note, since the Middle Ages”). Some authors have remarked that lecturing is well-suited to civil law systems. See, e.g., Eckhart Klein, *Legal Education in Germany*, 72 OR. L. REV. 953, 954 (1993).

27. See Art. 25-37, Law No. 11 of 1972 (Bar Association Law), Al-Jarida Al-Rasmiyya (Jordan).

28. Interactive teaching techniques and other pedagogical innovations are new in most Arab law schools. Indeed, some of these schools have started applying various new techniques such as problem solving and role play, but these innovations are still in their infancy and will take time to mature. Primarily, Arab law schools have confined themselves to the role of providing law students with the theoretical base of knowledge, leaving the practical side and skills to Bar Associations through their supervised two-year trainings for apprentice lawyers. This gap may explain why courses such as practical skills are not taught at law schools.

29. Law professors in Jordan can be roughly classified into three categories: Arab law schools graduates (mainly from Egypt, Morocco and Tunisia). French graduates, and

Until recently, law schools and their students have remained isolated from the legal profession and from society at large. Bridges between law schools and the world outside of the universities are a new innovation in Jordan. Law schools have recently started to cooperate with lawyers and judges, sending their students to law firms, courts, NGOs and government departments through externship programs.<sup>30</sup> However, no law school has yet reached out to the community. This lack of community outreach demonstrates how important clinics are at this juncture, since they can be the tool through which law schools can meet their communities' needs. These changes were supported by the American Bar Association Rule of Law Initiative (ABA-ROLI), which began its first project in Jordan in 2004.<sup>31</sup> The ROLI has provided interactive teaching workshops to professors at a large number of Jordanian law schools.

The ABA also organized extracurricular activities, such as moot court competitions, externships, and summer practicum. For example, the ABA-ROLI in Jordan has, in cooperation with the Ministry of Justice and the Judicial Council in Jordan, organized five moot court competitions. The first three were on international trade law, the fourth on environment law, and the most recent on human trafficking. Nearly one hundred and fifty Jordanian law students, representing seven to nine law schools, participated in these competitions each year.<sup>32</sup> Students expressed their satisfaction to the ABA, explaining that this new experience helped them crystallize their knowledge and skills and raise their confidence.<sup>33</sup>

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Commonwealth graduates (UK and Australia).

30. See, e.g., ABA Report, Quarter January-March 2011, 2-4.

31. Both authors have worked for the ABA-ROLI office in Amman.

32. See American Bar Association Rule of Law Initiative, Final Report for the Period July 2008 - June 2011 (September 2011) at 3.

33. See National Moot Court Competition Builds Participants' Legal Skills and Confidence, AM. BAR ASS'N. (May 2010) available at [http://apps.americanbar.org/rol/news/news\\_jordan\\_national\\_moot\\_court\\_competition\\_0510.shtml](http://apps.americanbar.org/rol/news/news_jordan_national_moot_court_competition_0510.shtml). Further, the ABA-ROLI has organized two consecutive summer practicum for Jordanian law students, which helped provide students with some skills like problem solving and legal research and writing. In the first year, the organizers and trainers were mostly American law professors, while Jordanian law professors gave the training in the second year. As part of that summer practicum, students were placed with law firms, NGOs or courts. ABA ROLI has also led an externship program twice during which students were placed in law firms, government ministries, NGOs and courts during semester breaks. Students benefited from this experience to the extent that many of them continued, after graduation from law schools, to work with the institution they were placed with during the externship program. See ABA Report, Quarter January-March

As in many other countries where law is an undergraduate degree, graduates in Jordan must complete a two-year training at a law office in order to become a lawyer.<sup>34</sup> Afterwards, the trainee lawyer must pass both oral and written exams before being admitted to the Jordanian Bar Association as a licensed lawyer.<sup>35</sup> Instead of pursuing work as a lawyer, law graduates can also attend judicial training schools in order to become a judge or public prosecutor. Alternately, graduates can directly seek employment in the government, business offices, or other settings.<sup>36</sup>

### A. Legal Profession in Jordan

In this subsection, we give a brief overview of the Jordanian legal profession.

The Jordanian Bar Association regulates all matters relating to the licensing and practicing of law.<sup>37</sup> The Bar Association's rules and regulations are mandatory for all lawyers, and the Bar Association has the authority to discipline its members for any violation. If the Bar Association in Jordan does not mandate a particular aspect of legal practice, it is not likely to be done. For example, lawyers are not

2011, p. 2-4.

34. See Law No. 23 of 2009, *supra* note 23; see also Law No. 11 of 1972 (Bar Association Law), Al-Jarida Al-Rasmiyya (Jordan). Mandatory post-graduation apprenticeships are common in other jurisdictions. See, e.g., Nigel Duncan, *Gatekeepers Training Hurdles: The Training and Accreditation of Lawyers in England and Wales*, 20 GA. ST. U.L. REV. 911, 913 (2004) (noting that attorneys in the United Kingdom on both legal tracks must complete an undergraduate degree or a one-year post-graduate diploma followed by specialized coursework and an apprenticeship).

35. Cf. Lawrence M. Grosberg, *Clinical Education in Russia: "Da and Nyet"*, 7 CLINICAL L. REV. 469, 478-79 (2001) (pointing out that in order to become a trial lawyer in Russia, "the applicant must be accepted by the group and undergo a lengthy apprenticeship followed by some kind of examination process.")

36. Compare Wilson, *Western Europe*, 10 GERMAN L. J. at 831 (stating that "at least as of 1995, fewer than half of law graduates in Germany practicing as traditional advocates") and Peter A. Joy et. al., *Building Clinical Legal Education Programs in a Country Without a Tradition of Graduate Professional Legal Education: Japan Educational Reform as a Case Study*, 13 CLINICAL L. REV. 417, 424, 426 (2006) (describing the Japanese legal education system: "[T]he creation of law faculties at universities in the 1870s until 2004, university attendance and the study of law have not functioned primarily as training for legal professionals but rather have served chiefly as training for entry into government or business.").

37. Law No. 11 of 1972, *supra* note 15. In contrast to the American Bar Association, which is a voluntary membership organization that promotes the profession and the goals of its members, the Jordanian Bar association requires attorneys to be members in order to practice. Therefore, the membership requirement is similar to the state bars in each U.S. state.

required by the Bar to maintain insurance coverage for professional liability. Additionally, continuing education for lawyers does not exist, and there is no mention of it within the Bar Association Act. Fees for lawyers in Jordan are regulated by the Bar, and are not high as other countries in the region..<sup>38</sup> Still, many Jordanians waive their legal rights because they cannot afford to retain a lawyer.<sup>39</sup>

There is no strong tradition of pro bono work within the legal profession or within law schools. No law school or law firm in Jordan has any formal program for pro bono legal services. In a limited number of situations, the Bar Association may require a lawyer to represent someone.<sup>40</sup>

## II. THE POTENTIAL BENEFITS OF CLINICAL LEGAL EDUCATION IN JORDAN

The two primary reasons Jordanian law faculties should invest in

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38. Article 46/1 of Law No. 11 of 1972 provides that the maximum attorney fees awarded by agreement between the lawyer and the client must not exceed 25% of the actual value of the disputed right, unless in exceptional cases under the discretion of the Bar Council. Section 4 of the same article provides that the court may award the attorney fees upon request of a party which should not be lower than 5% of the value of what the court awards to the other party, and not to exceed in any case 500 Jordanian Dinars (equivalent to approximately \$700 U.S. dollars). Article 208 of the Criminal Procedure Law, however, obligates the court to ensure that any person facing a penalty of death or life imprisonment with hard labor should be represented by a licensed lawyer. In the event that the defendant is financially unable to hire a lawyer, the law requires the court to appoint a lawyer on his or her behalf. In such cases, the appointed lawyer will be paid from the court budget, with the lawyer's fees set between 200 and 500 Jordanian Dinars. See Law No. 9 of 1961 (Criminal Procedures Law), *al-Jarida al-Rasmiyya* (Jordan).Official Gazette, Vol. 1-1/1539.1961, p. 311.

39. There are no available statistics as to the number of Jordanian people who waive their litigation rights.

40. Article 100/7 of Law No. 11 of 1972 states that if it is proven that someone is poor and cannot retain a lawyer, the Bar chief may ask any licensed lawyer to defend the individual for free. However, this provision in practice is not applied except in criminal cases and, even then, only in very serious offenses. The same Article mentions other tasks that might be given for a lawyer by the Bar to perform for free, such as giving lectures to trainee lawyers, and writing articles for the Bar Journal or conferences. The final part of this Article provides sanctions for lawyers who do not comply. In a ruling of the High Court of Justice, the Court stated: "Article 54 of the Bar Law requires the lawyer to commit himself to moral principles in practicing law and otherwise in his private life. Failing to adhere to such principles, the lawyer maybe subjected to sanctions ranging from notice, reproofing, preventing from practicing law for a maximum period of 5 years, and removal from lawyers register."

Case No. 459/2000/High Court of Justice, (Jordan).

legal clinics are narrowing gaps in current student education and fulfilling community need.

### *A. Filling Gaps in Current Curriculum*

Jordanian law schools are mainly designed to teach codified law rather than build students' skills in oral argument, legal writing, group work or client communication.. Most courses provide the students with a large amount of substantive law,<sup>41</sup> but schools overlook the need to provide students with the methodological approach for identifying and solving legal problems.<sup>42</sup> On exams, students are tested almost exclusively for their memorization of this substantive law. Anecdotally, students complain that their grades were lower when they did not regurgitate the exact words used by their professors and tried putting the substantive concepts in their own words. They are not generally required to learn the methods used to conduct legal research, orally communicate legal ideas, or work in groups. Many critical legal skills are not introduced to Jordanian law students. They are rarely exposed to negotiation, interviewing, presentation, problem solving, fact investigation and several other areas. Additionally, students rarely address issues of professional ethics.<sup>43</sup> Feedback from graduates indicates there is an overwhelming gap between what they have learned in law school and what occurs in their day to day work.<sup>44</sup>

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41. See, e.g., Study Plan for Mu'tah Law Faculty, *available at* <http://www.mutah.edu.jo/index.php/en/law/study-plan.html> (last visited Jan. 8, 2012); Study Plan for Yarmouk Law Faculty, *available at* [http://www.yu.edu.jo/index.php?option=com\\_docman&Itemid=258](http://www.yu.edu.jo/index.php?option=com_docman&Itemid=258) (last visited Jan. 8, 2012).

42. Cf. Matthew J. Wilson, *U.S. Legal Education Methods and Ideals: Application to the Japanese and Korean Systems*, 18 CARDOZO J. INT'L & COMP. L. 295, 317-18, 325 (2010) (criticizing the Japanese "cram school system" as producing students with a narrow focus, and shielding students from interactive discussion that may generate problem solving skills).

43. A "Legal Ethics" course has been added to the curriculum of one private law school in Jordan. Jordan University, the oldest and a prestigious public law school is working on adding a legal ethics course to the curriculum, in conjunction with the ABA. See Jordanian University Adopts a Professional Legal Ethics Course, AM. BAR ASS'N. (Aug. 2009), *available at* [http://apps.americanbar.org/rol/news/news\\_jordan\\_university\\_adopts\\_professional\\_legal\\_ethics\\_course\\_0809.shtml](http://apps.americanbar.org/rol/news/news_jordan_university_adopts_professional_legal_ethics_course_0809.shtml). See ABA Quarterly Report April-June, 2009, p. 3.

44. For example, the School of Law at Yarmouk University implemented its own externship program, held during semester breaks, as an extra curricular activity twice a year. Participating students gave their feedback about the program by mentioning the gap between what they learn in school and what they see in courts and law firms. At the end

In response to these frustrations, some law schools have implemented curriculum changes. Three public law schools, along with several private law schools, have added a legal research and writing course to their curriculums. Others now require a course called judicial applications,<sup>45</sup> which is designed to expose students to the implementation of the law learned in other courses. This judicial applications course sometimes includes moot court exercises and could, but rarely does, include externship or other experiential learning opportunities.<sup>46</sup>

The student legal clinic, in its various iterations, stands as a practical and logical method for developing some of these skills in students. Generally speaking, clinical legal education adds to the capabilities of the law students as they learn about cooperation,<sup>47</sup> responsibility, and problem solving, especially under real-world conditions where students are uncertain of the outcome of a particular case.<sup>48</sup> A legal clinic also boosts students' confidence in their own abilities<sup>49</sup> and gives them a

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of each externship program, students were asked to provide long-form feedback by answering questions about the benefits they gained. There is space as well for negative comments they have.

45. Judicial Applications is a mandatory course at Yarmouk and Jordan University law schools; it is an elective course at Mu'tah law school. See the study plans for each law school, *supra* notes 21 and 41.

46. For example, the Judicial Application course at Yarmouk tackles two main components: first, the practical side of civil and criminal procedures laws, including exposure to real cases, moot court activities and field visits. Second, students are also exposed to other facets of the legal profession such as ethics and dealing with clients. See the Study Plan for the Law Faculty of Yarmouk, *available at* [http://www.yu.edu.jo/index.php?option=com\\_docman&Itemid=258](http://www.yu.edu.jo/index.php?option=com_docman&Itemid=258) (last visited Jan. 8, 2012).

47. See generally Catherine Gage O'Grady, *Preparing Students for the Profession: Clinical Education, Collaborative Pedagogy, and the Realities of Practice for the New Lawyer*, 4 CLINICAL L. REV. 485 (1998) (describing development of students' ability to collaborate as a central feature of clinical education and cautioning clinicians to consider the real-world collaborative context that their students will experience after leaving clinic); see also David F. Chavkin, *Matchmaker, Matchmaker: Student Collaboration in Clinical Programs*, 1 CLINICAL L. REV. 199 (1994) (discussing the advantages and disadvantages of student teamwork in a clinic setting).

48. See, e.g., Roy Stuckey et al., *Best Practices for Legal Education*, CLIN. LEGAL EDUC. ASS'N at 109 (2007), *available at* [http://www.cleaweb.org/best\\_practices-full.pdf](http://www.cleaweb.org/best_practices-full.pdf) ("Students cannot become effective legal problem-solvers unless they have opportunities to engage in problem-solving activities in hypothetical or real legal contexts.").

49. See, e.g., Angela McCaffrey, *Hamline University School of Law Clinics: Teaching Students to Become Ethical and Competent Lawyers for Twenty-Five Years*, 24 HAMLINE J. L. & PUB. POL'Y. 1, 44 (2002) (noting that a clinical supervisor can "nurture

sense of satisfaction about helping society.<sup>50</sup> Additionally, students can obtain hands-on information about how the substantive law they learn in class actually works. A law school clinic could offer exposure to a wide range of practical legal topics, ranging from employment law and tenant and landlord law to contract law and property law among others. Moreover, a clinic in the law school would provide a good opportunity for students to benefit from the experience of practicing professors.<sup>51</sup>

### *B. Filling Gaps in the Legal Profession*

As previously indicated, the concept of legal aid in Jordan is nascent. For example, there are no government-supported legal aid or criminal defense offices. Although the Jordanian Bar Association rules do have a provision for pro bono services, including service to other attorneys or trainees, lawyers do not regularly provide pro bono counsel to the indigent. According to the provision governing free services, the head of the Bar may, in his sole discretion, delegate the task of providing one free legal service a year to any practicing lawyer.<sup>52</sup> The provision, Article 100, lists services that can be considered, including defending a person who the head of the Bar Association determines is unable to pay attorney's fees.<sup>53</sup> In practice, however, this power is rarely applied other than in serious criminal cases.<sup>54</sup> In sum, Article 100 has not established a solid base for legal aid and does not ensure that a large number of indigents will benefit from it.

There are, however, some non-governmental organizations (NGOs)

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the self-confidence" of students and that students can see their ability to make legal decisions in the face of uncertainty).

50. See, e.g., Felisa Tibbitts, *Manual On Street Law-Type Teaching Clinics At Law Facilities*, HUMAN RIGHTS EDUCATION ASSOCIATES 13-14 (2001), available at <http://www.hrea.org/pubs/tibbitts01.pdf>.

51. It is not mandatory for a law professor to be a practicing attorney. For example, Article 34/1 of Yarmouk University Law only requires a university professor to hold a Ph.D. degree in his or her specialization. The number of professors who are also practicing varies with the university and geography, as more professors practice in Amman, where there is greater demand for legal services. Overall, only a minority of professors concurrently serve as practicing attorneys.

52. See Article 100 of the Law No. 11 of 1972, *supra* note 40 and accompanying text.

53. *Id.*

54. The Bar, as a result, receives very few applications for legal aid from Jordanians in need. In 2011, there were approximately three applications for the first nine months of the year; all of which were approved. Phone conversation between Nisreen Mahasneh and Chairman of the Jordanian Bar Association, September 28, 2011.

in Jordan offering free legal assistance, mainly in family law, human rights, and other specified fields. These NGOs provide services like legal advice, mediation, public awareness, and in some cases, legal representation before courts.<sup>55</sup> The NGOs cannot, however, adequately reach all those who need legal aid, since NGOs work mainly in the capital city, Amman, and have limited influence in other cities. Additionally, the activities of a number of NGOs are limited to one topic or a specific target population,<sup>56</sup> resulting in several other areas being largely unaddressed.<sup>57</sup> Therefore, a legal clinic in a university outside the capital which dealt with a new topic could complement the role of these NGOs.<sup>58</sup>

Legal clinics could play a major role in strengthening citizens' use and understanding of the legal system. When faced with a legal problem, some Jordanians will choose not to go to courts either because they do not trust the legal system, or because they do not have access to lawyers who can educate them about their rights. This dilemma leaves many people in the country with no legal protection.<sup>59</sup>

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55. One significant NGO is Mizan, which is supported by the European Union and Dutch embassy in Jordan. Mizan works mainly in the field of honor crimes and with juveniles, elderly people, children and people with special needs. See Law Group for Human Rights, MIZAN GROUP, available at [http://www.mizangroup.jo/index\\_en.php](http://www.mizangroup.jo/index_en.php) (last visited August 7, 2011). Another institution that works in Jordan for human rights and provides legal assistance is the National Center for Human Rights, which receives complaints and opens investigations, and plays the role of watchdog in relation to any human rights matter. They also issue an annual report on human rights breaches in Jordan. See Riyadh al-Subuh, *The National Center for Human Rights and Human Rights Education in Jordan*, HUMAN RIGHTS EDUCATION IN ASIAN SCHOOLS, 11-16, available at <http://www.hurights.or.jp/archives/pdf/education12/hreas-12-02-jordan.pdf>.

56. See, e.g., Tamkeen, available at <http://www.tamkeen-jo.org> (last visited Sep. 22<sup>nd</sup> 2011) (addressing legal issues of migrant workers).

57. There are gaps in many fields, including environment and water law, health care, rights and obligations of citizenship, prisoners' rights, legal malpractice victims, and domestic workers' rights. See, e.g. MIZAN – LAW GROUP FOR HUMAN RIGHTS, available at [http://www.mizangroup.jo/index\\_en.php](http://www.mizangroup.jo/index_en.php) (last visited Oct. 12, 2011) (offering programs in juvenile legal aid, legal protection for asylum seekers, family reconciliation, support for at-risk women, and human rights education for vulnerable groups).

58. Of the four public law schools, only one – Jordan University – is in Amman. Of the eleven private law schools, six are in Amman.

59. For more information about access to legal rights, see Legal Aid Organization, "Enhancing the Role of Legal Aid in the field of Criminal Justice" A paper submitted by the Legal Aid Organization on the 9<sup>th</sup> of December 2010 (paper on file with author) (criticizing the criminal procedural law for confining court-appointments to death penalty and life imprisonment cases and, in those cases, providing paltry compensation). See also The Annual Report for the Year 2010 issued by the National Center for Human



Clinical education would help in the development of *pro bono* legal work in the Jordanian legal community. It could also provide indigents with legal representation, advice, and awareness of how the system works. For example, the public can benefit from a clinic by obtaining basic legal knowledge in the areas that are most relevant to their lives.<sup>60</sup> A clinic can also encourage the public to seek remedies provided by law when they have the right to do so.<sup>61</sup> These innovations will contribute to serving justice and implementing human rights.<sup>62</sup>

As previously mentioned, law school clinics would serve two distinct and important purposes: first, they would provide a more complete education to Jordanian law students, and second, they would give back to the community.<sup>63</sup> As discussed below, we believe that one viable model for Jordanian clinical education is a clinic that provides legal information to underserved adults and young people. In addition to serving the distinct interests of students and the public, a community legal education clinic could also help build bridges between the host

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Rights in Jordan at 25-26 (on file with author) (criticizing the increase in litigation fees which deprive many people from claiming their rights as well as the length of litigation process); *see also id.* at 87 (expressing concern that 76% of the women living in the city of Irbid, for example, do not receive their full and fair inheritance rights and noting that 15% of these women are forced to waive such rights due to social considerations, with full absence of proper legal protection).

60. *See* Kimberlee K. Kovach, *The Lawyer As Teacher: The Role of Education in Lawyering*, 4 CLINICAL L. REV. 359 (1998) (stressing that clinics can both improve the image of lawyers and provide services to underserved areas of the public); *see also* Bloch, *Access to Justice*, 28 WASH. U. J.L. & POL'Y at 123-24 (noting that "street law" provides a common model for clinical programs internationally); *see also* Ajay Pandey & Sheena Shukkur, *Legal Literacy Projects: Clinical Experience of Empowering the Poor in India*, in THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE 241-251 (Frank S. Bloch, ed. 2010).

61. *See* Pandey and Shukkur, *supra* note 40, at 241 ("Legal literacy is particularly important in India because while there are many laws and regulations aimed at security a just and fair society, their effective implementation will always remain incomplete if the common population does not have adequate information about these provisions.").

62. Tibbitts, *Manual on Street-Law* at 16; *see, e.g.*, Richard Grimes et. al, *Street Law and Social Justice Education*, in THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE 227-28 (Frank S. Bloch, ed. 2010) (describing the mission and impact of Street Law in apartheid-era South Africa).

63. *See generally* Juliet M. Brodie, *Little Cases on the Middle Ground: Teaching Social Justice Lawyering in Neighborhood-Based Community Lawyering Clinics*, 15 CLINICAL L. REV. 333 (2009) (listing the benefits of a community-centered model of clinical education, including both training elements and engagement with people from different economic classes).

university and the broader society.<sup>64</sup>

To illustrate, a clinic providing information about employment issues could be run from the law school with support from the Bar Association, the Ministry of Labor, schools, factories, and other groups. This interconnection between the law schools and the civil society is healthy as it leads to graduates who will later join the civil society organizations that form the backbone of a functional state. While the mission of legal education should mirror market needs and societal expectations, there is currently no coordination between the academy and civic institutions or NGOs. Such collaboration would enhance student education by exposing students to other actors and experiences and better preparing them for their professional lives after graduation.

### III. THE CHALLENGES OF LEGAL CLINICAL EDUCATION IN JORDAN.

There are several challenges that could potentially jeopardize the establishment of legal clinics in Jordan. Each challenge is related to the primary stakeholders in legal education: the Bar Association, the law schools, students, and the general public. Within these communities, there are a variety of legal, administrative and cultural challenges that are discussed below.<sup>65</sup> We believe that while each university and country presents a unique context for clinical education, many of these challenges will be familiar or similar to those found in other locations, especially other countries with civil law systems and little prior exposure to clinical education. In particular, by discussing these challenges in the Jordanian context, and developing strategies to overcome them, we hope

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64. See Kristin Booth Glen, *The Law School In and As Community*, 35 UNIV. TOLEDO L. REV. 63, 63, 64 (considering the law school in the context of the various communities in which it participates, noting law schools' "responsibility for the well being of its immediate neighbors" usually occurs in clinics and pro bono programs and asserting that these programs help reduce tension between the school and its community); cf. Adam Babich, *Controversies, Conflicts, and Law School Clinics*, 17 CLINICAL L. REV. 467, 502 (2011) (noting that "working with public interest organizations can enhance a clinic's—and law school's—national reputation and funding base, because it helps the clinic's work become better known within the nonprofit community and among charitable foundations").

65. By "cultural," we mean to speak broadly about the attitude or way of thinking of a group of people based on the combination of their social, economic, political, religious and other beliefs. For a discussion on how even different legal cultures can challenge outside lawyers, see generally Andrea M. Seielstad, *Unwritten Laws and Customs, Local Legal Cultures, and Clinical Legal Education*, 6 CLINICAL L. REV. 127 (1999) (discussing both how unwritten, localized rules come about and how outsider clinicians can address some of the challenges they present).

to galvanize a scholarly discussion of clinical education in the Middle East and contribute to the development of effective and pedagogically sound clinics in the region.

### *A. Bar Association*

#### *1. The Bar Association Act.*

The practice of law in Jordan is totally controlled by the Jordanian Bar Association Act of 1972. The phrase “lawyer” in Jordan is used to indicate a person who gives legal opinions as well as represents clients before the courts.<sup>66</sup> There is no legal distinction in Jordan between working in-house at an office and working in the courtroom, and the same regulations apply to both.

This fact becomes much clearer when reading Article 6 of the 1972 Bar Association Act, as amended, which defines lawyers as the “people whose profession is to give judicial and legal aid to others who require it for money.”<sup>67</sup> This provision specifies some areas of work for lawyers: acting, through a power of attorney, on behalf of others before a court, arbitrators, or any other administrative body, whether in claiming or defending, drafting contracts; as well as giving legal advice.<sup>68</sup> Article 6 notes the existence of more than one type of lawyer, as defined by the lawyer’s function. The first is an agent who acts on behalf others in a court, while the second is a lawyer who drafts contracts and conducts related procedures. The third type is a lawyer who merely gives legal opinions on various matters.<sup>69</sup> Additionally, Article 6 mentions that legal work must be paid for, which means there may be no room for free

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66. Conversely, in the United Kingdom, there is a distinction between solicitors and barristers; no person is allowed to practice as a barrister and as a solicitor at the same time. See Denis Keenan, SMITH AND KEENAN’S ENGLISH LAW 106 (8th ed. 1986). This historical distinction means, in present day, that solicitors deal with paper work, the preparations of litigations and evidence, interviewing witnesses, issuing writs, drafting contracts and wills and others that they can do at their offices, whereas, barristers perform primarily as advocates, in the sense that they appear before all kinds of courts. Solicitors have a limited right to appear in the courts. See P.W.D. Redmond, GENERAL PRINCIPLES OF ENGLISH LAW 49-50 (5th ed. 1973).

67. See Art 6 Law No. 11 of 1972 (Bar Association Law) Al jarida Al Rasmyya (Jordan).

68. *Id.*

69. Nisreen Mahasneh and Ayman Massadeh, *The Professional Liability of the Legal Advisor from a Jordanian and English Law Perspective: A Critical Study*, 38 SHARI’A & LAW J. 23, 62 (2009).

legal services for the community, apart from the possibility that the head of the Bar Association will appoint an attorney for an indigent client, as explained earlier. This provision, stating that legal work is paid, has never been interpreted or applied in a situation like a law school clinic. The provision, however, must be accounted for in establishing any Jordanian clinic.

There is also no student practice rule<sup>70</sup> and it is unlikely one would be approved, mostly because of the prevailing attitude in Jordan that practical skills should be acquired in the course of an apprenticeship, not as a student. In addition, there are fears of competition between clinics and law schools on the one hand, and practicing lawyers on the other hand. Under the existing provisions, it can be inferred that law students are not allowed to perform the work of licensed lawyers, particularly since law students are not eligible to appear before courts or give legal advices.<sup>71</sup>

A related challenge is the attitude of the Bar Association. The Bar Association in Jordan is an independent legal and financial entity with an elected head and council. No individual is eligible to practice law in Jordan unless he is a member of the Bar Association. While there are provisions that speak to providing to legal aid as one of the Bar's objectives,<sup>72</sup> this article appears subject to Article 100, which defines the free legal services that can be offered and restricts them according to the sole discretion of the head of the Bar Association.<sup>73</sup>

The Bar Association is expected to be unsupportive of, and perhaps

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70. This is true in a number of countries. See, e.g., Uphoff, 6 CLINICAL L. REV. at 318 ("Romanian law forbids anyone but a licensed lawyer from giving legal advice or appearing in court.").

71. Cf. Kara Abramson, *Paradigms in the Cultivation of China's Future Elite: A Case Study of Legal Education in Western China*, 7 ASIAN-PACIFIC L & POL'Y J. 302, 323 (2006) (noting that Chinese students in a Sichuan criminal law clinic are permitted to serve only as "citizen representatives" and lack the authority and privileges of certified lawyers).

72. See Article 5/5 of the Law 11 of 1972, *supra* note 29 (stating that "providing lawyers with legal work and organizing cooperation in practicing law and provide judicial aid to the people in need"). Article 3 and Article 5 of Law 11 of 1972, *supra* note 15, provide for the objectives of the Bar. Some of these objectives are: defending the interests of the Bar and lawyers and protecting the legal profession, developing legislations, supporting legal research, providing economic, social and cultural services to the members. See *id.*

73. See Article 100 of the Law No. 11 of 1972, *supra* note 40 and accompanying text.

hostile to, legal clinics.<sup>74</sup> First and foremost, the Bar and its members may be worried that the existence of such a clinic will negatively affect lawyers' work in Jordan by reducing the number of clients who may hire lawyers, since such a clinic offers free legal services.<sup>75</sup> In other words, in part because the Bar Association is unfamiliar with legal clinics and in part because clinics are not yet well-defined in Jordan, they perceive that the legal profession will face competition from legal clinics.<sup>76</sup>

Furthermore, politics plays a role here. Like other professional organizations in Jordan, the Jordan Bar Association is involved in political issues in the country.<sup>77</sup> Legal clinics will need financial support, and schools may seek this support from international

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74. See Richard J. Wilson, *Training for Justice: The Global Reach of Clinical Legal Education*, 22 PENN ST. INT'L L. REV. 421, 430 (2004) ("Ironically, perhaps, the greatest resistance to the development of [clinical] programs comes from faculty members whose sense of tradition and place is threatened, or from the organized bar, which sees clinics as a potential threat to their control over the practice of law and the earning of fees."). It is unclear to what extent the Bar Association would oppose legal education clinics, or whether it would actively try to take legal action to close a legal clinic. For example, the Bar recently disbarred a lawyer because she formed an NGO and received people in need and provided them with free legal services. The Bar argument was twofold. On the one hand, these free services affect the work of other lawyers; on the other hand, the NGO formed by the lawyer was funded by foreign body where the Bar is against such interference from any foreign body. See AMMANET (Mar. 29, 2011) <http://ar.ammannet.net>

75. But see Andrew Novak, *The Globalization of the Student Lawyer: A Law Student Practice Rule for Indigent Criminal Defense in Sub-Saharan Africa*, 3 HUM. RTS. & GLOBAL L. REV. 33, 40-41 (2009) (observing that rules governing the unauthorized practice of law are rarely enforced in South Africa and Zambia because of the challenge in policing such rules and the absence of lawyers in rural communities).

76. As a comparison, this is not usually seen as a problem in the United States because law clinic students primarily serve indigent clients or otherwise represent interests that are underserved by paid attorneys and student practice rules were initiated, in part, to fill a gap left by the paid bar. See, e.g. Ursula H. Weigold, *The Attorney-Client Privilege as an Obstacle to the Professional and Ethical Development of Law Students*, 33 PEPPERDINE L. REV. 677, 709 (2006) (stating that student practices rules were primarily enacted to promote student education, but that "[o]ther goals included serving indigent clients and assisting state and governmental agency lawyers. Many practice rules are based on the American Bar Association's Model Student Practice Rule, adopted in 1969 to encourage clinical programs in law schools and to provide legal services to indigent persons.").

77. See, e.g. *Arab Political Systems: Baseline Information and Reforms - Jordan*, CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE, 16 (stating that "[p]rofessional organizations are effective political pressure groups in Jordan"), available at [www.carnegieendowment.org/files/Jordan\\_APS.doc](http://www.carnegieendowment.org/files/Jordan_APS.doc).

organizations.<sup>78</sup> If international organizations are involved, the Bar Association may consider the initiative to be foreign interference in the business of Jordanian lawyers. A potential counter to the Bar Association's hostility is the interest of the Bar in a skilled and well-trained membership. While this concern with adequate training has been expressed, at the moment it does not counter the other concerns the Bar has. Given the lack of experience in Jordan with clinics, we remain optimistic that as clinics develop, and the Bar becomes more familiar with the benefits to its future membership, there may yet be common ground between the Bar, its members, and legal educators.

The Bar Association Act poses additional significant, but surmountable, problems to the creation of an experiential course for students. For the foreseeable future, the Act will bar students from representing clients in court. However, there are possible active, and instructive, legal roles that law students could still have. For example, it may satisfy both the letter and the spirit of the Bar Association Act to have students working under the supervision of a bar member, who, when necessary, is the public face of the legal team. These licensed attorneys could be practicing professors who teach and supervise the clinic.<sup>79</sup> The Bar Association members themselves can also assist in legal clinics, and lawyers nominated by the Bar could become directly involved in the work of clinics. Those lawyers will be hired and paid for

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78. See Richard J. Wilson, *Three Law School Clinics in Chile, 1970-2000: Innovation, Resistance and Conformity in the Global South*, 8 CLINICAL L. REV. 515, 518 n.8 (2002) (listing five organizations involved in supporting clinics in the "global south," including the American Bar Association's CEELI institute, since renamed as ROLI; the Public Interest Law Initiative at Columbia University, now referred to as PILNet; the Open Society Institute; and the Ford Foundation); Richard J. Wilson, *Training for Justice: The Global Reach of Clinical Legal Education*, 22 PENN. ST. INT'L. L. REV. 421, 424-27 (2004) (discussing these and noting other potential supporters of law clinics, including the World Bank and other international financial institutions). See also Louise G. Trubek and Jeremy Cooper, *Rethinking Lawyering for the Underrepresented Around the World: An Introductory Essay* in EDUCATING FOR JUSTICE AROUND THE WORLD: LEGAL EDUCATION, LEGAL PRACTICE AND THE COMMUNITY 1, 10 (Louise G. Trubek & Jeremy Cooper eds., 1999) (noting that external funding is a central example of transnational interdependence, which, while "seductive" comes with costs).

79. According to Article 11 of Law No. 11 of 1972 a lawyer in Jordan is independent, in the sense that he must not practice law and have another job, such as commercial business, being a Minister, or an official employee or any other kind of job that is inconsistent with being a lawyer, and undermines the lawyer's independency. However, a lawyer can join the academic staff of any of the law schools in Jordan, and/or work as a member in some boards and in the legal mass media.

by the university as part-time employees.<sup>80</sup>

Despite the potential limitations in some portions of the Bar Association Act, at least one other provision in the Act suggests that the Act is flexible enough to accommodate clinics. Article 38/2 provides that “no one but registered lawyers is allowed to practice law *except where the law allows otherwise*.”<sup>81</sup> This article suggests that persons other than registered lawyers – such as law students – may engage in the range of legal practice under certain circumstances, such as for educational purposes.<sup>82</sup> However, it is also possible that an amendment to the Bar Association Act will be needed to ensure students’ ability to practice law through the clinic.

Another legal challenge relates to professional responsibility. Work performed at a legal clinic may cause some harm or loss to clients. This raises the question of who would be responsible for damages in the case of negligence committed by one or more students. Students in the clinic are not subject to the law of the Bar since they are not licensed lawyers. However, the supervising professor may find himself or herself liable for any loss or damage caused by students’ acts. Unlike many other countries, however, there is no legal malpractice insurance coverage required for practicing lawyers.<sup>83</sup> As such, the brunt of liability would fall on the individual supervising lawyer. This heavy liability might be a strong reason for hesitation by many law professors to participate in legal clinics.<sup>84</sup>

80. See, e.g., Mariana Berbec-Rostas et al., *Clinical Legal Education in Central and Eastern Europe: Selected Case Studies*, in *THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE* 53, 61 (Frank S. Bloch, ed. 2010) (noting use of part time teacher practitioner at University of Sofia and University of Rousse clinics in Bulgaria); Erika Castro-Buitrago et al., *Clinical Legal Education in Latin America: Toward Public Interest*, in *THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE* 69, 76 (Frank S. Bloch, ed. 2010) (highlighting the use of part-time professors and private attorneys in two different clinic models in Chile, as well as the financial support provided to part-time faculty used in Colombian legal clinics).

81. See Law No. 11 of 1972, *supra* note 15 (emphasis added). Article 38/4 imposes penalties on any person violates this requirement by being subject to maximum 50 JD fine or detention for up to two months or both. See *id.*

82. Even a limited opening may be enough to develop student practice over the long term. See Wilson, 8 *CLINICAL L. REV* at 536-37 (stating that, over time, resistance to student practice in Chile has been chipped away due to both the formal nature of Chilean law and the quality of legal clinical programs).

83. See, e.g., Nisreen Mahasneh and Ayman Massadeh, *The Professional Liability of the Legal Advisor from a Jordanian and English Law Perspective: A Critical Study*, 38 *SHARI’A & LAW J.* 23, 62 (2009).

84. Most cases that reach courts in relation to lawyers’ practice are misconduct

### *B. Community*

Newly formed legal clinics in Jordan, and elsewhere, face additional hurdles to developing partnerships and understanding with communities of clients, participants, and civil society organizations. As previously mentioned, a legal clinic's success will be bolstered by the cooperation of local entities, such as courts, the Bar Association, governmental bodies, and civic institutions. The Bar's stance on legal clinics has been discussed earlier; therefore, this section will mainly discuss the role of other organizations within the community, such as governmental departments and private sector institutions.

Currently, most of these community and governmental bodies in Jordan do not know about legal clinics. Therefore, a bridge of understanding must first be built between the clinic and the community. A clinic could choose to build these connections only with persons directly involved in the clinic's legal work, or it could choose to develop a broader outreach or public relations campaign. A broader campaign would have the advantage of not only introducing law schools and others typically involved in legal education, but also others, including private sector counterparts and citizens, to the clinic and its efforts.<sup>85</sup> For now, however, we limit our consideration to reaching out to those who may be direct partners with the clinic.

Potential community partners, whether organizations or individuals, will first need to be introduced to the concept of a legal clinic and the services one may provide. A first step is to reach out to the individuals or groups who will benefit most from the services of the clinic and the organizations that would be involved in supporting the clinic. It may take time to build understanding and trust, particularly trust in the work that student attorneys will perform, as the community may not have faith

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cases. The process of suing a lawyer is specified under Article 68 of Law No. 11 of 1972, which provides that complaints against lawyers must be addressed to the Bar in writing. The law mentions that complaints might be submitted by the Minister of Justice, the Attorney General, any other lawyer, or a client. A punitive council investigates the complaint and recommends a sanction, while the verdict is to be issued by the Bar council. The Bar council decision can be challenged in front of the High Court of Justice, its ruling is final. The sanctions provided for under the Bar Association Act for misconduct are notification, reproof and preventing the lawyer from practicing law. If someone wants to sue a lawyer for damages he/she must go to civil court.

85. To introduce the clinic to the broader community, various public relations tools could be utilized, such as brochures, media messages, workshops and lectures. These tools can also be used to highlight clinic accomplishments, once the clinic is started. To the extent that Jordanian clinics, whose universities are under-resourced, wish to obtain outside funding from Jordanian sources, this type of outreach may be crucial.



in the work of the clinic or the capacity of the students. Working within the community will be difficult at first, as Jordanian civil society has generally not engaged with higher education.<sup>86</sup> Further, if community partners are not engaged or do not participate, students could become frustrated or lose motivation to perform well. A legal clinic under such circumstances will likely not achieve its objectives of building up students' legal skills or serving the community.

To help overcome these initial challenges, some benefits should be given to institutions involved in legal clinical work. The clinic should treat these institutions as partners and provide them a role in the development and early operation of the clinic. For example, while still forming, a new clinic would want to seek the input of potential community partners about legal topics relevant to the community partner's work but that those potential partners are not equipped to address. The clinic should also organize activities and workshops that relate to the partners' missions and objectives.<sup>87</sup> In addition, providing media coverage of partners' cooperation with the clinic would be beneficial. Finally, we encourage recognition of the partners' work, such as conducting a ceremony to honor them at the end of the semester. When beginning, clinics will want to work with a small number of community partners, so that each partner can understand the goals of the clinic, can give input into clinic decision-making, and can offer feedback into whether the clinic is benefiting its members. In these and other ways, the clinic can slowly build the community support and trust that will sustain the clinic over time.

Additionally, legal clinics will need to work with the bureaucratic structures of their partners. For example, if a Jordanian government ministry is involved,<sup>88</sup> the clinic may need to obtain authorization from

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86. Cf. Workshop on the Role of the Private Sector in Funding Scientific Research, ASS'N. OF ARAB UNIVERSITIES, [http://www.aaru.edu.jo/index.php?option=com\\_content&task=view&id=522&Itemid=38](http://www.aaru.edu.jo/index.php?option=com_content&task=view&id=522&Itemid=38) (Ar.) (last visited Oct. 21, 2011) (listing goals and discussion points for an event to be held at a Jordanian university in November 2011, addressing, among other things, the lack of cooperation between, universities and private sector organizations and the potential for such cooperation).

87. See Frank S. Bloch and M. R. K. Prasad, *Institutionalizing a Social Justice Mission for Clinical Legal Education: Cross-national Currents from India and the United States*, 13 CLINICAL L. REV. 165, 174, 204 (2006) (describing "legal aid cells" composed of Indian lawyers who coordinate with NGOs and work with local administrators in order to provide competent representation to citizens); see also Tibbitts, *Manual on Street Law*, 30-36.

88. For example, if the clinic is specialized in labor law, the Ministry of Labor can

more senior officials, while also developing a working relationship with those lower-level bureaucrats who are actually involved in the work of the clinic. In many cases, a memorandum of understanding between the university and a community partner will be necessary.

### C. Law Schools

#### 1. University Regulations.

National education laws bind all public universities in Jordan.<sup>89</sup> Each university has regulations that set out the contours of a student's education. These regulations, as well as other standards, such as those promulgated by the Higher Education Accreditation Commission, govern large-scale requirements as well as minute details.

For example, the regulations stipulate that students must physically sit in class three hours a week for each three-credit course. This regulation might restrict the scope of clinic work, or require students to spend significant "volunteer" time working in their clinic. This is because, while clinical work can include attending in-class lectures, it also includes fieldwork, interviewing people, library research, visiting courts and other institutions, collecting legal information, and giving presentations.<sup>90</sup>

Grading and evaluation are also significant concerns. Clinical work can, and should be, evaluated, as assessments help determine whether students are learning what is being taught<sup>91</sup> and students improve based on assessments, especially formative assessments, of their work.<sup>92</sup> In

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be a partner in all activities. If the clinic's focus is on children rights or works in schools, then the Ministry of Education could be involved.

89. See Law No. 23 of 2009, *supra* note 23. See also Law No. 20 of 2009 (Public Universities Act), al-Jarida al-Rasmiyya (Jordan).

90. Cf. 2010- 2011 ABA Standards for Approval of Law Schools and Interpretations, Standard 304(b); *available at* [www.abanet.org/legaled/standards/standards.html](http://www.abanet.org/legaled/standards/standards.html), (last visited Jun. 20, 2011) (setting a requirement for the number of hours that must be gained "by attendance in regularly scheduled class sessions at the law school"); *id.*, Interpretation 304-3(e) (including as "classroom" time spent in an in-house clinical work which also has a classroom component). This concern is not isolated to Jordan. For example, a new environmental clinic beginning in Egypt at Helwan University will conduct all of its fieldwork on a "volunteer" basis, in part because of the pre-existing regulations.

91. See Rogelio A. Lasso, *Are Our Students Learning? Using Assessments to Measure and Improve Law School Learning and Performance*, 15 Barry L. Rev 73 (2010).

92. See, e.g., WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION

addition, all coursework in Jordan is graded; in order to be viewed as an accepted part of the curriculum, the clinic work should also be graded. In countries familiar with clinical education, there is ongoing discussion about the best way to evaluate and grade students.<sup>93</sup> Jordanian faculty will have to develop criteria for evaluation and give students tasks that allow for this evaluation. For example, grades could be based on the level of preparation by the students, as well as the clarity, thoroughness, or persuasiveness of written work. Clinical educators may also assess students on their oral performances, such as community legal presentations. Students may be asked to write reports about their activities in the clinic, and feedback from community partners or other organizations can be used to help evaluate students.<sup>94</sup>

However, the regulations of the university narrow the range of grading options. For example, educational regulations stipulate a set number of exams that must be taken by students. Also, students must be tested while physically in the classroom.<sup>95</sup> These requirements pose additional challenges to professors, who will have to develop meaningful in-class examinations that can fairly assess student work in the clinic.<sup>96</sup>

## 2. The Study Plan and Offering the Clinic as a Course.

In order to implement legal clinical education in Jordan, the clinic should be part of the curriculum. Study plans at Jordanian law schools contain both mandatory and elective courses. Adding a new mandatory course is difficult since it would replace an existing mandatory course,<sup>97</sup>

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FOR THE PROFESSION OF LAW, 171-80 (2007); Jerry R. Foxhoven, *Beyond Grading: Assessing Student Readiness to Practice Law*, 16 CLINICAL L. REV. 335 (2010).

93. See, e.g., Margaret Martin Barry, et. al, *Justice Education and the Evaluation Process: Crossing Borders*, 28 WASH. U. J.L. & POL'Y 195 (2008).

94. Tibbitts, *Manual on Street-Law* at 72-73.

95. Regulations No 6 for the year 2008, Yarmouk University. These requirements may be changed or challenged over time; but change will be slow. For example, in her Legal Research and Writing course, Professor Mahasneh has students prepare a legal database instead of the first exam and a legal memorandum instead of the second exam, however, students must still physically sit for the final exam.

96. See generally Ian Weinstein, *Testing Multiple Intelligences: Comparing Evaluation by Simulation and Written Exam*, 8 CLINICAL L. REV. 247 (2001) (discussing the limitations of exam-based assessments and reliance on one type of evaluation method, stressing the failure of exam success alone to predict successful lawyering). The course and evaluation methods that Weinstein describes are instructive, as he combined experiential instruction with several methods to demonstrate aptitude, including exams.

97. The Accreditation Commission requires that all Jordanian law students graduate with a set number of credit hours. The Accreditation Commission also requires that,

adding the clinic as an elective course is easier. Nonetheless, the process of reviewing study plans, including any change of elective courses, occurs only once every few years and normally entails a drawn-out administrative process.<sup>98</sup>

Of course, clinics around the world are started, and thrive, outside of the curriculum.<sup>99</sup> While perhaps not ideal, a Jordanian clinic could be started as an extracurricular activity supported by an outside entity, such as an NGO.<sup>100</sup> This model has been used by a few professors at Jordan University in Amman. These academics are local partners of American law schools who take immigration and asylum clients of, for the most part, Iraqi descent living in Jordan.<sup>101</sup> Jordanian students interview these potential clients, conduct fact-finding, and perform legal research, which is then passed on to their U.S. counterparts. This experiential learning does not provide class credit for students or teachers, but students gain experience interviewing, examining issues around human migration, and other areas.

In the long term, however, the clinic as an extracurricular activity will not achieve the objectives of sustainability and legal education development. This is because, in part, of the limited time that students

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within this total number, a certain number of those credits are in mandatory courses. It also specifies subject matters that must be covered within these mandatory courses. In addition to these mandatory courses, students have 12 credit hours (4 courses) of law school electives. While there is some minor variation between law schools in which courses are mandatory, for the most part, these mandatory courses are the same from law school to law school. In order to add a new mandatory course, a law school would have to delete an existing mandatory course (so that the total number of mandatory credits is the same). The difficulty of this might be compared, in a U.S. law school, with the decision to drop first-year civil procedure from the curriculum and replace it with legal clinic.

98. There are no specific regulations governing the process of amending the study plan at law schools in Jordan. Instead, academic traditions normally prevail over this process whereby several university commissions review the proposed changes, starting from the section, the faculty, and at the level of university higher administration. Deans' councils endorse the final study plan.

99. See Frank S. Bloch & M.R.K. Prasad, *Institutionalizing a Social Justice Mission for Clinical Legal Education: Cross-National Currents from India and the United States*, 13 CLINICAL L. REV. 165, 176 (2006) (noting that, in the context of an early clinic at Delhi University in the 1960s, "in spite of the fact that the students were offered no credit, the legal aid clinic attracted many students").

100. Having proved a success, it can then be offered as a credited course.

101. See Chapters, IRAQI REFUGEE ASSISTANCE PROJECT, <http://iraqirefugee.us/lang/en-us/our-work/chapters/> (last visited Jul. 27, 2011). This description is also based on discussions with the Jordan University faculty members and students involved in this project.

will be devoted to the clinic, given their higher priority graded work, and the other demands on professors' time.<sup>102</sup> Additionally, students will be more motivated to work in the clinic if they receive credit.<sup>103</sup> Finally, adding the clinic as an academic course encourages professors to teach clinics, as their efforts with the clinic would be calculated within their paid academic teaching load. Otherwise, law professors affiliated with the clinic will be doing additional, uncompensated, work for the university. Therefore, we suggest that, while clinics could be run as extracurricular projects during the time it takes to incorporate them into the study plan, legal clinics will need to be incorporated into the curriculum if they are to thrive.

### 3. Lack of Faculty Expertise

A small number of law professors in Jordan recently started exploring clinical education and experiential methods of teaching,<sup>104</sup> but almost none of them experienced this pedagogy as a law student. The concept of legal clinics was introduced to Jordan in the early 2000s, in part by the ABA through workshops and study trips to the United States. But there still remains no dedicated and sustainable legal clinic that is part of a Jordanian law school curriculum.<sup>105</sup> Law school deans have yet to be convinced that clinical legal education merits the lengthy

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102. Cf. Russell Engler, *From the Margins to the Core: Integrating Public Service Legal Work Into the Core of Legal Education*, 40 New England L. Rev. 479, 487-488 (2006) (stating that public service programs should incorporate courses like clinics, instead of only volunteer opportunities, because these courses will require a greater time commitment and, as a consequence, allow for greater learning, and have stronger instruction).

103. There is not a robust history or practice of student organizations and independent volunteerism in Jordan and, for the most part, these types of activities are not supported by the universities. These activities are further hindered by limited funding, as the public universities depend mainly on students fees and governmental support. See Taher H. Kanaan et al., *Higher Education in Jordan: Access and Equity in Its Financing*, JORDAN CENTER FOR POL'Y RES. AND DIALOGUE, 3-4 (March 2009), available at <http://www.jcprd.org/Files/ResearchDatabase/Financing%20Higher%20Education%20in%20Jordan.pdf> (noting that the government subsidy and fees make up over 85% of public university income).

104. See Regional Workshop in Jordan Focuses on Improving Skills-Based Legal Education, AM. BAR ASS'N. (June 2010), available at [http://apps.americanbar.org/rol/news/news\\_mena\\_legal\\_education\\_workshop\\_0610.shtml](http://apps.americanbar.org/rol/news/news_mena_legal_education_workshop_0610.shtml) (pointing out that just over 20 educators attended a workshop on how best to teach practical lawyer skills).

105. Professor Mahasneh is scheduled to teach the first clinic offered for credit at a Jordanian law school in the spring 2012 semester.

administrative process involved in changing the curriculum and funding the new programs. Therefore, the first legal clinic in Jordan will still need a lot of patience, support and hard work to become a reality.

Faculty who want to teach a clinic will need training and support, both within and outside of their universities.<sup>106</sup> For example, professors will need to develop their teaching capacity to incorporate clinical pedagogy. In addition to an interest in and a willingness to learn interactive teaching and clinical methodology, we note that professors teaching clinics should be willing to engage in a more sustained relationship with students.<sup>107</sup> These academics must be willing to model the self-reflective practices that they are asking their students to engage in, and learn from their mistakes.<sup>108</sup>

Due the lack of the relevant experience among professors, co-teaching could be a useful option. First, co-teaching could distribute the significant burden of developing a new clinical course and teaching the clinic between two professors. Second, it opens the door for one professor to learn from the other, especially when one of them is more experienced than the other.<sup>109</sup> Additionally, it would be ideal to have more than one faculty member involved in establishing the clinic, as it would help build and maintain the capacity to run a clinic, as well as build support within the law faculty. Unfortunately, university regulations do not contemplate co-teaching in law schools, and schools will not give credit to both professors.<sup>110</sup>

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106. Even in countries with extensive clinical legal education programs and faculty, new teachers need help learning clinical methodology. See Justine A. Dunlap & Peter A. Joy, *Reflection-in-Action: Designing New Clinical Teacher Training by Using Lessons Learned From New Clinicians*, 11 CLINICAL L. REV. 49, 50-52 (2004). Some Jordanian professors have current or former practice experience, while others do not. This may further increase the challenge. Other participants, such as university support staff, will also need training. For example, they should understand the goals of the clinic, the teaching approach, legal ethics requirements, such as confidentiality, as well as other information or skills that may be new to them.

107. See Kimberly O'Leary, *Evaluating Clinical Law Teaching – Suggestions for Law Professors Who Have Never Used the Clinical Teaching Method*, 29 N. KY. L. REV. 491, 498 (2002) (“The discussions between a student and his or her faculty supervisor is the core of the clinical experience.”). At present, there is relatively little interaction between Jordanian students and faculty, even by standards of a U.S. law school, for example, where all students are expected to discuss the material in class.

108. Tibbitts, *Manual on Street-Law* at 32.

109. Cf. Dunlap & Joy, *Reflection in Action*, at 94 (noting that at some law schools, new clinical professors co-teach with more senior faculty to help teach new faculty).

110. For example, Article 21 of the Regulations of member staff at Yarmouk specifies the teaching burden for each professor individually; there is no mention to the

#### 4. Law Faculty Resistance to Clinical Education

Some law professors, including those professors in a position to decide whether to adopt clinics into the curriculum, might reject clinical education in Jordan.<sup>111</sup>

Some professors will reject a clinic because they are unfamiliar with it or unclear about what it entails. Others understand what clinical legal education means, but they question whether this idea will work in Jordan. For example, they note that a clinic would not be a traditional course and that none of the staff has experience teaching a clinic. Even those professors who understand and like the idea might think that it is not feasible because faculty members are already overloaded. The clinic will require additional work, especially if offered for no credit. As a practical matter for faculty, that means uncompensated teaching on top of the standard teaching load.<sup>112</sup> Further, professors may share our worries about the viability of some types of clinics, especially in light of the Bar Association Act.

How can this possible rejection be overcome? For those who do not have a clear picture about legal clinical education, the idea has to be explained thoroughly. Some of this education may be international, given the limited capacity among Jordanian law professors currently. The ABA or other international organizations can help with this aspect until local clinicians are capable of professional presentations on the goals and actions of legal clinics.

Fear of failure is harder to counter. Administrators and professors may be persuaded by understanding how the clinic might reflect positively on the law school, by seeing clinics at other law schools in the same country or region, and by obtaining outside funding, at least

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case where two or more professors share teaching one course. Academic salary regulations also play a factor, as each professor is paid on the basis of teaching individual classes, without an option to “split” time investment and compensation. See Law No. 9 of 1976 (Yarmouk University Law), al-Jarida al-Rasmiyya (Jordan). This is due in part to a need to staff as many classes as possible with the existing professors. Like some American professors, most Jordanian professors also teach in the summer, in addition to during the fall and spring semesters.

111. In the United States, battles over clinical education and the future of the legal curriculum are still being fought. See Lauren Carasik, *Renaissance or Retrenchment: Legal Education at a Crossroads*, 44 IND. L. REV. 735, 738-40 (2011).

112. But see John M. Burman, *The Role of Clinical Legal Education in Developing the Rule of Law in Russia*, 2 WYO. L. REV. 89, 113-14 (2002) (describing the commitment of students and three unpaid faculty supervisors at the legal clinic in Bashkir State University).

initially, so that they are not paying for something they see as experimental.<sup>113</sup>

Finally, even though clinical legal education is a tool for building the capacity of the students, acknowledging that it also can serve the interest of professors by strengthening their teaching skills and giving them new ideas could be helpful. A legal clinic would allow supervising faculty to see tangible growth in their teaching ability.<sup>114</sup>

#### *5. Infrastructure and Expenses Necessary for a Clinic*

Even the most basic clinics have different and likely additional, equipment needs and expenses than a traditional lecture-based course. At the very least, a legal clinic would need access to a copying machine, phone, and computer. Additional requirements might include trained support staff to receive calls and reply to emails and a designated physical space for confidential client meetings and files. Furthermore, the clinical work may involve some expenses, such as organizing workshops, transportation costs, or filing fees.<sup>115</sup>

These needs would normally be added to the university budget only after being approved by committees within the university. The process of changing or adapting the budget is bureaucratic and time-consuming. Further, the budgets of Jordanian universities are limited, and legal clinics are not yet seen as a teaching necessity or priority. Therefore, as a practical matter, NGOs, companies, institutions and other bodies will need to be involved in the work of the clinic not only by giving technical assistance, but also by offering financial support.

#### *D. Students*

Are Jordanian students ready to participate in legal education clinics? If they are, should a new clinic only take those who are excelling in law school? What else must be taught to students in order to create a successful clinic? These questions are particularly difficult

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113. Tibbitts, *Manual on Street-Law* at 20.

114. See Irene Scharf, *Nourishing Justice and the Continuum: Implementing a Blended Model in an Immigration Law Clinic*, 12 CLINICAL L. REV. 243, 271 (2005) (referencing a supervisor's continued improvement after attending class sessions).

115. See also Peggy Maisel, *The Role of U.S. Law Faculty in Developing Countries: Striving for Effective Cross-Cultural Collaboration*, 14 CLINICAL L. REV. 465, 496-98 (2008) (suggesting that, in addition to traditional expenses on technology and lower faculty/student ratios, U.S. academics must be willing to spend time and material to teach local academics and make the clinic sustainable).



because the success for individual students, and for the clinic itself, depends on the answers.

Some Jordanian law students came to law school with low grades and enrolled because they had few other university options. Further, the quality of the students differs from one university to another, based on the reputation of the law school, geography, and other factors. Students from rural areas may have had an inferior high school education and even fewer choices about where to attend law schools as a result of their exam scores. Students who performed better in high school tend to gravitate towards the law schools in the capital and larger cities.

Notably, there are differences in admission policies between public and private law schools as well. Students with higher scores in high school are more likely to be admitted to public law school, where others with lower scores can only be admitted to private ones.<sup>116</sup> The implications for legal clinics are unclear. An initial assumption may be that students who perform better on examinations – those who largely end up at public universities – will perform better in clinic. However, legal clinics involve a range of skills, including legal and factual research, analysis, problem-solving, writing, and discussing law in field visits. Students who have excelled in traditional courses and at test taking may not perform well when called upon to exercise other competencies such as communicating legal information to poor people.<sup>117</sup> Additionally, taking a clinic will require more student participation than passively sitting through a lecture. What is the best way to enroll students who will put in the required effort and have the necessary ability to learn?

We anticipate that there will be sufficient student demand for legal clinic work. Students may perceive that having an opportunity to do something practical while in law school will give them skills that they can take with them to the job market. It also may enable them to make professional connections.<sup>118</sup> Although we expect students will sign up

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116. See Law No. 23 of 2009, *supra* note 9.

117. In particular, determining legal clinical placement by early success in memorization tests may be both unfair to students and unlikely to provide the clinic with the best practitioners. See John O. Sonsteng, et al., *A Legal Education Renaissance: A Practical Approach for the Twenty-First Century*, 34 WM. MITCHELL L. REV. 303, 344-45, 417-18 (2007) (offering a harsh critique of comparative grading systems as a predictor for U.S. legal practice, in contrast with clinical education, which prepares students for practice).

118. Students participating in a selective legal aid clinic will be able to take advantage of institutional relationships with local groups as well. See Abramson, 7

for clinic, these students will be unfamiliar with clinics and the expectations for students in clinics. As a result, faculty may have concerns about students' readiness for clinic work and their willingness to put in the effort needed to succeed.

One approach would be for a law school to choose only among elite students. Alternatively, registration could be open to all after professors convey the difficulty of the course, with the hope that only the best, most enthusiastic students will choose to register. These enrollment plans might maximize potential for clinic success. However, these scenarios also carry with them the risk of limiting the benefit of the clinic and minimizing its role in legal education.<sup>119</sup>

Further, because of the course selection and structure of Jordanian law schools, the clinical professor will have to cover additional material that, in other countries, might be taught in another course. For example, most law students in Jordan do not study legal ethics. However, law student-practitioners should begin to understand their ethical obligations during law school, regardless of the scope of their clinical work. These legal and professional principles will first be introduced to students in the clinic.<sup>120</sup>

#### IV. A DIRECTION FOR CLINICAL LEGAL EDUCATION IN JORDAN

Taking into consideration all the challenges that legal clinics in

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ASIAN-PACIFIC L. & POL'Y J. at 321-23 (noting the good relations between the Chinese clinic and arbitration committees, trade union groups, and newspapers).

119. See David F. Chavkin, *Spinning Straw Into Gold: Exploring the Legacy of Bellow and Moulton*, 10 CLINICAL L. REV. 245, 266-67 (2003) (discussing this tension in student selection and discouraging clinical professors from taking only the most talented or motivated students); Grady Jessup, *Symbiotic Relations: Clinical Methodology – Fostering New Paradigms in African Legal Education*, 8 CLINICAL L. REV. 377, 400 (2002) (stating that “[d]esperate times often require desperate measures” and advocating for taking the “best and brightest” into a development law clinic). As a practical matter, even with a specific goal, professors can choose a variety of methods to screen potential students; however none are foolproof. Professors may, for example: interview the students before allowing them to register the clinic; look at the earlier coursework for each student and its relation to the clinic's topic; examine the students' grades; assign and review essay in a certain topic; and give priority to the first to express interest. 5- First come, first served. See Tibbitts, *Manual on Street-Law* at 20.

120. There are several duties resting upon the lawyer in the course of practicing law profession. These duties are provided for under Law No. 11 of 1972, as amended in 1985, as well as the Bar Code of Conduct, and they relate to the followings: integrity and respect, conflict of interests, the relationship between the lawyer and the client, confidentiality, independency and others.

Jordan may face, we propose that a new Jordanian clinic should focus on public legal education, rather than placing graduates in private legal practice.<sup>121</sup> Like many other “street law” clinics, the first Jordanian clinic should seek to educate lay people on the laws that affect their day-to-day lives. Students in the clinic can prepare presentations, develop training resources in class, and then address targeted groups with an interactive presentation. For example, law students could discuss unjustified termination of employment contract under the Jordanian Labor Law with a group of workers.

A public education clinic, as compared to a clinic that provides direct client representation or works through external NGOs, for example, is most responsive to the specific challenges facing Jordan and Jordanian legal education reform, including opposition from the Bar Association, integration within the community, constraints within the legal academy, and general expectations as to student ability.

First, a public legal education clinic will conform to the challenges the Bar Association Act presents. It is possible that the current Bar Association Act would be flexible enough to allow students giving legal advice, as the Bar Association mentions legal aid<sup>122</sup> and situations in which non-lawyers are allowed to practice, if the law allows them to do so.<sup>123</sup> Here, there is an opening to suggest that the Bar could allow law students to perform some legal work for educational objectives based on Article 38/2. However, it seems that the Bar Association Act would still have to be amended to allow student legal work.<sup>124</sup>

In the future, changes to the Bar Association Act might be beneficial. But imminent change is not foreseeable, given the inexperience with, and potential skepticism of, clinics, especially by those in leadership positions in the Bar. In this respect, we have chosen the path of least resistance, since students at a public legal education clinic will not go to courts or give directly legal advice.<sup>125</sup>

121. We use “public legal education” to describe clinic field work in which students give presentations to citizens about relevant legal information. This type of clinic is often called “street law.”

122. Articles 100 and 5/5 of Law No. 11 of 1972, *supra* note 15.

123. Article 38/2 of Law No. 11 of 1972, *supra* note 15.

124. See, *supra*, notes 66—71 and 79—82 and accompanying text (discussing the challenges posed by the Bar Association Act).

125. See Barry, *Justice Education*, 28 WASH. U. J.L. & POL’Y at 211 (noting that “many clinical programs in the international realm do not involve students engaging in client representation in court”).

Further, a public education clinic could draw on the expertise of local members of the Bar in its work. Through this collaboration, members of the Bar would see the work of the clinic and its students. Experience in other contexts, such as Lebanon, has shown that this interaction can, over time, lead to a greater understanding of clinical education by the Bar Association and its members.<sup>126</sup> Bar members could come to appreciate that legal clinics do not take paid work away from licensed lawyers. Members will also see that clinics do not conflict with the educational role of the Bar Association, which supervises trainee lawyers in Jordan.

The local community could also benefit from a public education clinic. For example, at Yarmouk University, we are considering a public education clinic that focuses on employee rights. At present, there are only a few civic institutions that address employment issues<sup>127</sup> facing Jordanian or migrant workers. The latter group makes up a significant number of employees.<sup>128</sup> These workers are often in a vulnerable position and could benefit from knowing their rights and understanding when they can seek remedies from the legal system. Before registering for the clinic, students complete a mandatory course in employment law. At clinic, students will be exposed to the realities of practice, ethical rules, interactive methods of teaching, and the concept of clinical legal education. The clinic could focus its efforts on a specialized free-trade zone,<sup>129</sup> a vocational education school, and the training institutes that are attached to the government-run worker training program, called the Vocational Training Corporation, all located in the city of Irbid. Law

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126. See Center in Northern Lebanon to Offer Legal Aid, Mediation Services, AM. BAR ASS'N (December 2009) [http://apps.americanbar.org/rol/news/news\\_lebanon\\_legal\\_aid\\_center\\_1209.shtml](http://apps.americanbar.org/rol/news/news_lebanon_legal_aid_center_1209.shtml) (mentioning that a new legal training and public service program in Lebanon is a partnership between the Tripoli Bar Association and the ABA-ROLI).

127. See, e.g., Tamkeen Center for Legal Aid and Human Rights, <http://www.tamkeen-jo.org/> (last visited Jul. 27, 2011).

128. According to the last report published by the Ministry of Labor in Jordan, there are nearly 340,000 registered foreign workers in Jordan, 55,000 of whom are female. They work in various sectors such as agriculture, industrial, construction, tourism, and housekeeping. Most migrant workers are either illiterate or poorly educated. See *Annual Report 2009*, JORDANIAN MINISTRY OF LABOR, 40-43 (2009), available at <http://www.mol.gov.jo/Portals/0/Annual%20Report/%20Report%20-%202009.pdf>.

129. These zones, called Qualified Industrial Zones, are a special industrial area whose products are exported to U.S. markets according to conditions provided for under trilateral agreements between Jordan, Israel and the United States. See <http://www.jordan.gov.jo/wps/portal/ut/p/c4/04> (last visited Jan. 9, 2012).

students would be able to target the vocational students, government workers, and trainees at the Ministry-affiliated institute.

This structure would allow clinic students to develop presentations on various topics involving employment law, ranging from the right to wages, how to address an unlawful termination of an employment contract, the concept of overtime, when an employee waives his legal rights, the right to strike, and other employment-related issues. Under the supervision of the clinical professor, students will gather legal substantive information first, develop their ideas, write up their own essays, and, lastly, present their finding in front of the targeted group using interactive methods.

More generally, public education clinics can fill a geographical gap in the provision of legal service. As noted earlier, most of the NGOs and civic institutions are located in Amman, and their legal services are provided to people living in the capital.<sup>130</sup> Public education clinics in other cities would complement and support the role of the NGOs in the capital city and spread legal awareness to underserved communities

Third, a public education clinic fits into the current law school structure and within administrative constraints. As an initial matter, this type of clinic would probably be less costly than a clinic that gives direct legal advice, as it does not require confidential client meeting space, payment of court fees, or specialized equipment.<sup>131</sup> To address other constraints, an elective course titled "public legal education clinic" could be added to the study plan, but the substantive content of this course could vary over time, including rotating curriculum topics such as employment law, leasing and tenant law, and criminal law.<sup>132</sup> While there are advantages to developing a stable curriculum, this mechanism will build in flexibility and encourage the involvement of multiple professors in teaching the clinic. It will also allow professors to share the burden of teaching an additional course and the clinic to reach out to a

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130. *Cf.* Novak, 3 HUM. RTS. & GLOBAL. L. REV. at 41 (relating similar circumstances regarding the paucity of legal services in rural communities of Sub-Saharan African countries.).

131. *See also* Grosberg, 7 CLINICAL L. REV. at 484-85 (extolling the benefits of using practicing lawyers as part-time clinicians to keep costs down in a "street law" clinic in St. Petersburg, Russia).

132. Two disadvantages of changing substantive content is that students and professors will not have "canned" education plans that they can use semester after semester; nor will the clinic have developed relationships with community partners in all of these substantive areas. These hurdles are not unique and would have to be considered by any clinical teacher.

variety of community partners over time, depending on the chosen focus.

The essential structure of a community education clinic, whatever the legal substance of the information conveyed, can remain steady over time. In terms of the course work, students will need to learn the substantive law they are conveying, as well as skills like making oral presentations, understanding legal ethics; interactive teaching, and legal writing and research methods. For each substantive topic, students can develop a community resource guide describing available legal and social services. Such guidance does not exist in any area of Jordan right now. The required class time can also be used for preparing student presentations, mock presentations, and reflection on experiences. The clinic can attempt to schedule public education sessions during the allocated class period as well, but we assume that this will not always be possible.

In order to satisfy the university examination requirements, each group can be graded on their community presentations and other participatory work, in addition to an in-class final exam as required by Jordanian educational regulations. This exam could cover both the specific field of substantive law used by the clinic, as well as testing students on other competencies learned in the clinic.

As for professors, writing and delivering presentations is one of the most common activities carried out by law professors in Jordan. While professors will need to develop further expertise in clinical pedagogy, even Jordanian law professors who are not practicing lawyers could develop the capacity to teach a legal education clinic.

A public education clinic is also a feasible starting point, given current student expectations and capabilities.<sup>133</sup> The clinic should be structured to maximize the possibility of success for all students. Ideally, the number of the students in the clinic should be less than twenty, as a small group would make it easier for students to work on the presentations in teams. Moreover, the clinic should be a fourth year course, as students would be mature enough to deal with the outside community in a professional way. Fourth-year students will also be better prepared to conduct research and write presentations, as they have taken more substantive courses.

A public education clinic will attract students with varying levels of academic accomplishment. There are several reasons for this; some students will want to contribute to the surrounding community, others

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133. See Kovach, *The Lawyer as Teacher*, 4 CLINICAL L. REV. at 370-72.

will want to add an exceptional experience to their curriculum vitae that may open good job opportunities for them after graduation. On the other hand, a public education clinic involves something different and, perhaps, more interesting than memorization of substantive law. A different setting would give below-average students an opportunity to prove themselves, since the clinic would appeal to talented communicators, whatever their grades may have been in substantive courses. Finally, it would help to shape the professional personality of the students by providing them with confidence and communication skills. These benefits and others will serve students in whatever path they choose to take in their professional life, be it as a lawyer, judge, civil servant, or businessperson.

In sum, there are indeed many challenges that face implementation of clinical legal education in Jordan, including Bar Association law, university regulations, law professor experience and expertise, and funding. Keeping these challenges in mind, we are optimistic that a clinic that considers these can succeed and benefit students, the university and the community.