

From the Field

INTERDISCIPLINARITY AND CLINICAL LEGAL EDUCATION: HOW SYNERGIES CAN IMPROVE ACCESS TO RIGHTS IN PRISON

Cecilia Blengino*, Università di Torino, Italy.

1. Clinical legal education in Italy: a fledgling movement at the crossroads of choice

From the outset, law clinics triggered a paradigm shift (Kuhn, 1970) involving foremost the issue of law education itself, and later, educational method. Indeed, Jerome Frank's appeal was not confined to the process of professionalization, but rather directed at the capability of this educational tool to oppose a dogmatic and artificial attitude towards law education, to integrate the teaching of law with social sciences, and to enable students to understand and to fill in the gaps and contradictions between law in books and law in action by means of the interaction of the law practice with society and everyday life (Frank, 1933, p.921).

His remarks are consequential to the ongoing process of development of the fledgling legal clinical movement in Italy. The establishment of the first legal clinics in Italy¹ has been characterized from the outset by an awareness of its potential to combine a practical approach with theoretical considerations, research, education and action (Barbera, 2011;

*Cecilia Blengino holds a PhD in Sociology of Law, and is Assistant professor in Philosophy and Sociology of Law, Coordinator of the "Prison and Rights" Legal Clinic and the "Human Trafficking Clinic", in the Department of Law at the University of Turin.

¹ The three years from 2009 to 2012 witnessed the rise of an awareness of the educational potential of clinic teaching in the training of jurists, and the start of the first experimental clinical legal education projects at the University of Brescia, the University of Turin, the International University College of Turin, and the University of Rome III. The synergies that emerged from these independently developed projects have created numerous opportunities for debate and common reflection. The implementation of training for trainers, mostly by the University of Brescia, has given rise to in-depth theoretical and methodological analysis and exchange among professionals.

Blengino, 2015, Marella and Rigo 2015; Blengino, 2018). However, the lack of experience of the clinical movement and its sudden growth are simultaneously an opportunity as well as a risk.

Legal clinics are an unprecedented opportunity to overcome the historical diffidence of Italian law faculties towards a practical dimension of education – often postponed until postgraduate training – and in particular towards the humanities and the idea of interdisciplinarity. Less than ten years ago, Richard Wilson (2009) pointed out the substantial lack of legal clinics in the continental countries of Western Europe when compared with its global spread elsewhere². Nowadays, the scenario described by Wilson has certainly changed and the current development of legal clinics have reached a point that was unthinkable just a short time ago³.

Among the many reasons for Italy's obstinacy to the innovative surge of the global clinical movement (Bloch, 2011) is mainly the opposition of law faculties with a legal positivist approach characterizing the civil law tradition (Wilson, 2009, p. 828) to challenge the legal educational model based on exegetic methods. Besides confining practice to a minor role, the educational model resulting from the primacy of statute law over other law sources has favoured the progressive affirmation of law as a self-contained technical subject. This model supports the concept of neutrality and the non-political nature of law, marginalising any

² The development and expansion of the clinical legal education model and its local characterizations are described in detail in the contributions collected by Bloch (2011).

³ A quite recent survey showed that fourteen legal clinics were already operational in Italy in 2015 and six were being implemented (Bartoli, 2015). Today, these figures have increased with the establishment of several other clinics.

understanding of how living law (Ehrlich, [1913] 2017) operates in its practical application and in courts, law firms, institutions and public offices.

Over the years, this dogmatic approach to education has held out against the most authoritative attempts to question it⁴. For this reason, the innovations brought about by the clinical movement in continental Western Europe have been greeted by lecturers with a sound law and society approach as a new opportunity to develop an anti-formalist educational course. The main purpose of the learning-by-doing method is to introduce students to law in context and force them out of “*the artificial world of the law in books and expose them to the complex and variegated world of the law in action*” (Kruse, 2011, p.295).

The European Higher Education Area process, initiated with the Bologna Process, is a unique opportunity and a source of motivation for steering educational methods towards the need for giving law students practical experience, and to enhance the social commitment of universities to society and their territories. However, this process also includes ambiguities that might scale down its potential to inspire critical thinking. For example, legal clinics risk being limited to the simple fulfilling of objectives that respond merely to the vocational trends that characterize competitive universities in today’s societies (De Sousa Santos, 2012; De Sousa Santos, 2016).

The choice that the newly-born Italian CLE movement now faces is the option to either become a new socio-legal epistemology of law in action (Perelman, 2014; Brooks and

⁴ An initial attempt to start a debate on the introduction of legal clinics in the Italian faculties of law as an educational tool can be traced back to the proposal made in the 1930s by, Franco Carnelutti, one of the most authoritative Italian jurists (1935).

Madden, 2011) and a social change-maker, or to ascribe to a simple restyling of legal education to include certain practical activities aimed at introducing students to the profession. The future of the movement will depend on whether the rapid increase in the number of clinics will be matched by appropriate reflection on *“how clinics might be consciously designed around exposing students to gaps between the law in books and the law in action”*⁵.

Although credit must be given to new contributions on theoretical reflection on clinics in Italy, these do not assess their experiential approach. On the other hand, those practicing clinical legal education are compelled to process, assess and organize the material that is available to them. This helps foster empirically-based theoretical reflection on the epistemological, educational and social significance of clinical experience.

“Clinicians” as Kruse says, *“are naturally situated to answer”* the *“call for embedded research, which fits closely with the social justice goals and reflective practice methods that have developed within clinical legal education since Jarome Frank”* (2011, p. 297). Legal clinics are a natural laboratory to observe how law can integrate field research and interdisciplinarity to include stakeholders and factors that are not normally part of traditional academic knowledge. This combination of education and research can generate initiatives from the bottom up in order to promote rights as a direct consequence of the social engagement of scholars and students

⁵ As a matter of fact, similar problems also occur in milieus where CLE is more consolidated. As Kruse notes *“although clinical scholars have grappled with the complexities of implementing the dual goals of pedagogy of lawyering skills and social justice mission”* there has been *“relatively little analysis of how clinics might be consciously designed around exposing students to gaps between the law in books and the law in action”* (2011, p. 297).

who have experienced the gaps that divide law in action from law in books and have consequently identified the correct strategy of action.

The development of clinical pedagogy in Italy is aligned with the progress of the Italian Access to Justice movement that emerged in the 70s. The movement was echoing the call of Mauro Cappelletti (1979) for an understanding of how the rigid apparatus of formal justice was inadequate in responding to unequal opportunities in terms of access to rights. His commitment was to act to overcome economic, social and cultural impediments that prevented certain people from fully enjoying their rights⁶.

From the Access to Justice movement, CLE also derives its awareness that the multiplicity of issues preventing full access to justice for all require different strategies. The traditional resolution of disputes in court is not always the most effective way to safeguard an individual's rights (Cappelletti, 1981). Clients' issues "*are not typically only legal in nature*" (Galowitz, 2012, p. 166) and the growing recognition within CLE that legal problems arise in larger contexts that require additional services beyond legal ones favours the open approach of legal clinics to interdisciplinary cooperation among law students, students of other disciplines, and other professionals (Galowitz, 1999; Golick and Lessem, 2004; Janus and Hackett, 2004; Galowitz, 2012).

The measures to effectively respond to a multidimensional issue such as that of obtaining equal access to justice often imply interdisciplinary action. The combination of this awareness and the aspiration of CLE to guide law students in understanding the reality of

⁶ It is no coincidence that the first clinical experiments in Italy started in the field of human rights and social rights, and were addressed to immigrants, asylum seekers, detainees and vulnerable persons.

legal professions opens up interesting scenarios. Law students are encouraged to move to deeper levels of complexity and become aware that a good lawyer cannot settle for merely studying the law but rather must be able to relate to other professionals and different disciplines on a daily basis.

“Each of the professions in an interdisciplinary collaboration has its own culture, values and definitions of roles that impact effective collaboration. Exposing students to these different professional cultures can create opportunities for improved, more complete service for our clients and for students to develop into more reflective practitioners as they use the other professions’ approaches as a mirror to deepen reflections on their own professional role. The clinics also provide opportunities for clients/patients to be part of the collaborative team” (Galowitz, 2012, p.165).

2. Clinical legal education and Italian prisons: why and how

Although it is a newly emerging reality, the Italian clinical movement already contains the conditions to begin developing empirically-based considerations while critically questioning the capability of the methods and models currently in use to respond to CLE aspirations. The intent is to develop the critical capacities of students, to promote a pedagogy of lawyering skills and to carry out a mission of social justice through experiencing the actual difficulties of vulnerable persons in accessing their rights.

The intention of this paper is to stimulate a reflection based on our six years of experience in the application of clinical educational methods in prisons. The considerations that we are making in this paper retrace the path that led us to think, plan, achieve and revise the implementation of a legal clinic in a specific situation, such as the complex environment of a prison. An experience where the interdisciplinary cooperation between law and

architecture students aimed at the renovation and upgrading of prison buildings has unexpectedly proven to be one of the most effective tools for accomplishing the diversified objectives of clinical legal education and responding to the wide-ranging needs of students and inmates.

Prisons in Italy are both an exceedingly interesting context as well as a challenge for the work of legal clinics, since the entire Italian penitentiary system is undoubtedly one of the contexts where law in books and law in action are very distant from one another.

The Italian Constitution states that punishment cannot be inhumane and must be aimed at the inmates' rehabilitation⁷. Current legislation aspires to the principles of humanizing the sentence and formally tends toward the individualization of the inmate's rehabilitation treatment⁸. The execution of the sentence must occur in conditions that are suitable to these objectives. For this reason, law dictates that prisons be equipped with suitable sleeping quarters and appropriate areas for carrying out common activities. The inmate's treatment must primarily take place through educational and work experiences along with cultural, recreational and athletic activities. The inmate must also be facilitated in his/her contact with the outside world and in his/her family relationships⁹.

⁷ Article 27 Italian Constitution.

⁸ Italian penitentiary law was significantly reformed in the 70s, according to the solicitations from international organizations (United Nations, Standard Minimum Rules for the Treatment of Prisoners, 30 August 1955 adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 30 August 1955, and Council of Europe, Committee of Ministers, Resolution (73) 5 Standard Minimum Rules for the Treatment of Prisoners, 19 January 1973). It is important to note that the Reform Law n. 354 of 26 July 1975 in which Italy ended the justice system from the fascist period, which was based on a system of punishment primarily based on atonement, was approved almost thirty years after the democratic Constitution of 1948.

⁹ The execution of criminal sentences in Italy is managed entirely by state administration, and the penitentiary administration is tasked with guaranteeing and fostering the rights that the prison system recognizes for inmates. The duty to work toward the reintroduction of detainees into society is elaborated through the fact

However, despite the law in books, the Italian prison system in action presents numerous problems.

Over the years, the chronic shortage of public resources allocated to the prison system needed to carry out prison activities and the political tendency to increase the number of police staff at the expense of pedagogical staff have seriously hindered the achievement of the objectives of rehabilitation foreseen by the law.

The oppressive and inhumane conditions of the Italian prison system came to light in 2013 when the European Court on Human Rights cited Italy for violation of art. 3 ECHR¹⁰. This sentence stated that the structural conditions of Italian prisons represent a case of “State-torture”, and made clear that the overcrowding, poor functioning, and large number of detainees awaiting trial transformed prisoner sentences into a “*punishment that is above the inevitable level of distress inherent to detention*”.

Despite the effort made by the Italian government to ensure compliance of the penitentiary system with the principles of safeguarding humanity and human rights, the situation of prisons in Italy remains intolerable (Aranda, 2015). This necessitates urgent action to ensure that detainees can have access to those rights that - although formally granted by law - are regularly denied. It is likewise crucial to raise awareness of the issue of detention conditions

that the prison staff is composed of a variety of professional roles. In fact, law dictates that prison staff must be made up of more than just police personnel, but also educational prison officials, social workers and psychologists. These figures are entrusted with carrying out inmate rehabilitation. Within the national legal framework, each prison is managed by a warden who is a state official, and penal treatment is organised through institutional regulations, which should take into account the needs of the groups and the type of detainees that are found in a given prison.

¹⁰ Torreggiani and Others v Italy 43517/09 (ECHR, 8 January 2013).

in Italy in society and in the universities. The relationship between legal clinics and prisons provides a significant opportunity for action for students who would normally have no access to the reality of prison life due to a lack of interest shown in the traditional curricula of law degree courses and of the insular approach that characterises the total institution¹¹.

Such opportunities require appropriate methods for the achievement of experiential learning that combines theoretical knowledge and a practical approach as well as for the achievement of CLE objectives, including a full understanding of the Italian penitentiary system, the acquisition of critical faculties, the acquisition of lawyering skills, and a true accomplishment in providing real assistance to detainees that allows them to gain access to their rights.

The establishment of an educational project that is capable of combining all these objectives is a demanding task given the characteristics of the institutions themselves and those of the detainees.

The insular nature and the internal dynamics of the total institutions strongly impact on the implementation of laws and access to rights. Prisons remove societal awareness, making the average person disinterested in what happens within the walls by preventing the entry and movement of information. The lack of communication channels for information that might ensure the awareness and understanding of legal rules and proceedings adds to additional reclusion and difficulties that are not law-related, hindering the understanding and

¹¹ According to Goffman's concept, total institution "may be defined as a place of residence and work where a large number of like-situated individuals cut off from the wider society for an appreciable period of time together lead an enclosed formally administered round of life" (2007, p. 11).

implementation of fundamental rights such as those connected to health, family, work and a multitude of others.

As segregationist institutions, prisons are characterized by an internal conflict (Garfinkel, 1956; Hester and Eglin, 1992; Goffman, 2007) that is not limited solely to the obvious one between the prisons and the detainees but also prison staff themselves in relation to their various tasks and objectives, such as penitentiary police personnel, educators and social workers. This conflict, which is complex and difficult to understand from the outside and often related to power-relationships, accounts for the fact that the caged communities in prisons give rise to rather independent social systems where unwritten rules overlap formal rights.

The relevance of “detainees’ subcultures” and “inmate’ codes” (Hester and Eglin, 1992) as regulatory systems that compete with law, is another hindrance to the understanding and safeguarding of rights in prisons. In addition to a general diffidence shown by the detainees towards the institutions and their representatives, we must also be aware of the prisonisation and infantilisation effects produced by imprisonment (Clemmer, 1958), as they prevent independent action on the part of detainees aimed at pursuing the enforcement of their rights. In Italian prisons, these effects are further strengthened by the presence of a large number of foreigners that, due to language issues and different “legal consciousness” (Ewick and Silbey, 1998), experience even greater frustration in the attempt to access their rights.

Succeeding in working within prisons therefore becomes an interesting opportunity and an imperative prerequisite for students in order for them to confront a misunderstood reality and to realize how far law truly is from being a well-ordered set of verbal formulations (Kruse, 2011).

The creation of a model of legal clinics able to meet this requirement while also effectively supporting the pursuit of full access to rights on the part of detainees is no simple task.

The legal aid model can address individual cases in which a person requires legal assistance in prison. However, its practical application has shown certain issues and shortcomings in responding to actual student learning requirements and inmate needs.

Legal aid clinics have to account for the fact that - according to the Italian legal system - many inmates in Italian prisons are already formally assisted by a lawyer¹², although in reality these individuals are in great need of legal advice as they have but formal and sporadic contact with their lawyers. This makes it difficult for a clinic to take any action.

The risk that this experience of gaining access to prisons is limited is twofold.

From an educational point of view, one peculiarity in the development of legal clinics in Italy is that graduates from Italian law schools are not only future lawyers¹³. Therefore,

¹² One of the main problems in the functioning of the Italian prison system can be seen in the high number of detainees awaiting trial. These detainees, which constitute more than a third of overall numbers (Fairtrial, 2016), are legally guaranteed a lawyer of their choosing or assigned one by the state. Italian law guarantees free legal representation at the State's expense for those with low income. Although the income threshold to access this service limits the efficacy of the institution, impeding numerous individuals who indeed require it, many detainees satisfy the requirements and thus can avail themselves of free legal representation. It is also not rare that these detainees maintain a relationship of trust with their lawyers after the process is concluded.

¹³ Traditionally, Italian schools of law have implemented a common curriculum aimed at training different legal professionals such as lawyers, judges, public prosecutors, public officers, etc. Practice and apprenticeship for access to these professions are left to post-graduation. The feedback delivered by the Bologna Process has

clinics can also address other types of law professionals¹⁴ with a consideration of the critical role that these figures play in the promotion of access to justice, although in different ways than providing legal aid.

The second limitation on the effectiveness of legal aid clinics is related to their social justice mission. Most issues that remain unresolved in Italian prisons are inherent to how the punishment actually translates into prisoners' everyday life. They relate to accessibility to information and the lack of knowledge on how to exercise their rights to health and work, social rights, religious rights, and how to deal with visitations and contact with their families. A useful strategy to enable students to operate effectively in prisons is to cooperate with NGOs and with prison ombudsmen¹⁵ collecting claims from inmates and involving various public authorities to provide solutions.

These issues are sometimes best addressed by street law clinical programs (Grimes *et al.*, 2011) or community lawyering programs. Students can participate in gatherings, deliver presentations, seminars and training courses to inmates on specific subjects. They can also

partially modified this trend and curricula have been supplemented with legal courses aimed at training specialized professionals, like penitentiary and law enforcement officers, work advisors, public officers or mediators. Practical experience for students is expected from all degree courses.

¹⁴ Examples of this type of legal clinics are the legal clinic of the University of Brescia for the training of work advisors, the clinic of the University of Florence, where students work with public prosecutors in the review of asylum applications, the legal clinic of the University of Turin where students work in local authority offices providing services to immigrants and victims of trafficking, and in local ombudsmen's offices.

¹⁵ Prison ombudsmen are quite a new figure in the Italian penitentiary system. At a national level, the National Prison Ombudsman has been established by the Law n. 10 of 21 February 2014 as a non-jurisdictional actor tasked both with the power to visit prisons and enforces assessment and surveillance on prisons and other places where freedom is deprived. Many regions and municipalities have also established regional and local prison ombudsmen. These figures meet prisoners and receive reports on failures to comply with prison legislation, and address the competent authorities for clarifications or explanations, demanding the necessary steps or actions.

produce informational materials aimed at explaining the rules in a way that is easily understandable to the intended recipients, keeping their cultural and linguistic backgrounds in mind (Tokarz *et al.*, 2008).

As the author has personally experienced, this working strategy can prove especially useful when detainees are involved in meetings and interviews both at the stage of claims collection and in the process of devising suitable solutions. Unlike the legal aid model, community lawyering benefits from the fact that the interaction time of students with detainees is sufficient to gain an understanding of the milieu and of real needs. New opportunities for interdisciplinarity are provided: interviews can be conducted by law students together with other professionals such as psychologists or social workers. Informational guides can be produced with the help of students from communication sciences or cultural mediation. However, we must be clear on the limitations that these actions have in actually addressing real needs. This is a paradoxical consequence of prison organization that is rooted in the dynamics of the total institution and in the boundaries imposed by it: inmates eligible for the interviews are chosen by the institution on the basis of motivations that do not necessarily pertain to their needs. For example – due to safety reasons or because of special conditions of detention¹⁶, or due to work organization for prison workers – not all prisoners are admitted to the seminars or classes. Neither the interviews nor the written reports issued by clinical students can reach certain groups of detainees when language or social barriers or the psychological vulnerability of the

¹⁶ For example, due to the crimes committed and the consequent detention regime, certain prisoners are not allowed to meet people from the outside or to meet other prisoners.

prisoners are too high, though these are the cases where assistance in gaining access to justice is most needed.

The effectiveness of this type of street law clinics can also be undermined by the lack of real commitment on the part of prison authorities tasked with ensuring that the students' work is made available to all detainees. Regrettably, this variable is beyond the control of legal clinics as it pertains to the internal organization of the penitentiary institution¹⁷. The risk is that this action will never produce any positive social effects, even though students benefit from the opportunity to understand and observe the milieu, to acquire communication and writing skills and to promote social awareness.

3. Law and architecture: an unexpected way to promote rights

The ascending alchemy (Perelman, 2014, p.135) resulting from studying the penitentiary system from within the walls of a prison, and carefully observing the use of space and the relationship dynamics at play among detainees and operators, can dramatically improve a student's capacity to envision the actions that are capable of substantially promoting access to justice by endorsing radical changes of perspective (Cappelletti, 1979).

The objective to build a learning experience entirely based on the needs of detainees that were empirically collected by the students – and thus capable of responding to such needs – has elicited the reconsideration of the traditional tools used for access to rights, improving realization on the part of lecturers and students of the weakness of self-referential legal

¹⁷ Among others, local penitentiary regulation governs the access of people and materials from the outside. If, when and how material such as books and brochures can circulate among prisoners ultimately depends on the will of the prison management.

knowledge. Due to their multidimensional nature, problems must be addressed by resorting to interdisciplinarity (Galowitz, 2012).

A unique experiment of the interdisciplinary legal clinic in prisons has developed through a bottom-up process where a team of architecture students and a team of law students have unexpectedly joined forces as a result of shared feelings of shock in viewing the reality of detention.

When entering a prison, students are confronted with the state of severe deterioration of most of the buildings. The inhumane living conditions of detainees for which Italy has been condemned are not only related to overcrowding but also to the structural conditions of state prisons. This situation prevents penal institutes from performing their function of rehabilitation as provided for in Art. 27 of the Italian Constitution, and it deprives detainees of their right to spend the daytime outside their cells as provided by Italian law. All the activities guaranteed by law – such as working, studying, meeting families, exercising religious rights - are precluded de facto or seriously limited by the lack of space or the deterioration and mismanagement of those spaces.

The sentence against Italy for not granting a minimum surface of 3 square-meters per prisoner has notoriously made it widely known that detainees in Italian prisons are living in undignified conditions, in promiscuity and in the total absence of privacy. Cells are typically occupied by a number of persons that exceeds the regulations of law, and often double as bedrooms and toilets. However, when entering a prison, one immediately realizes that the irrational and intolerable situation of detention space far exceeds what a law student

can envisage from reading the formal motivations of the sentence. Besides the personal surface space available within the cells, it is also important to consider the existence of and opportunity that inmates have to access other spaces, such as common areas for socialisation and spaces for rehabilitation activities. A large portion of prison space is in fact precluded to detainees entirely – as areas reserved to prison staff – or in part – as corridors, common areas, or green areas with strictly controlled access. This means that a prison that complies with the requirements of square footage per prisoner does not always make common spaces available to the detainee during the day. Guaranteeing access, usability and suitability of common areas thus becomes an issue of crucial importance.

The commitment to changing detention spaces to comply with the provisions of the law is a motivating challenge for a legal clinic. Clinics meet the requirement of endowing students with practical skills and provide a systematic approach to the solution of real problems, as indicated by the claims collected from the detainees. The development of a suitable tool to achieve these objectives has given rise to an innovative educational method that brings together community lawyering with the architectural theory of self-made architecture¹⁸. These models share several common points: the merging of theory and practice through a learning-by-doing approach, the aspiration to respond to the social needs of marginalised communities, and the involvement of members of such communities. This common ground has brought together the objectives of law students to understand and enforce the law for social purposes, and those of architecture students to practise as future architects in a real

¹⁸ Unfortunately, this is not the place to elaborate on this theoretical approach. For that theory see Oppenheimer and Hursey (2002) and Bruni (2016,2017) among others.

physical space. As the basic principle of self-made architecture is to work in deprived urban areas, any chance for concrete intervention in a real physical space like that of a prison is an ideal opportunity.

The internal spaces dedicated to socialising, visitations, study and work, and infirmaries are those most requiring renovation and redefinition. The aim is to enable detainees to exercise their rights.

An indispensable prerequisite for any architectural modification is the involvement of prison wardens who are in a position to request and authorize such interventions. This may cause a certain degree of ambiguity between contractors and users. Although the final users are the detainees, the project must be commissioned by the warden and be in line with the requirements of the penitentiary administration.

However, such complexity – characterising the adversarial relationships at play in total institutions – is an excellent occasion for students to practice the professional skills that are essential when it comes to working in complex organizations: problem-solving and mediation among different viewpoints, relating with professionals and clients, and learning how to account for a multitude of variables that affect the completion of a task.

One of the rights that the law guarantees to all detainees – with the exclusion of certain exceptional cases – is that of maintaining family relationships. Prison visitations play a primary role in the treatment of detainees and are a critical issue, especially when underage children are involved. Visitations require dedicated spaces and suitable conduct in consideration of the impact that a child meeting his or her parents in a prison could have.

Regrettably, most penal institutions in Italy do not have dedicated spaces for this use: visitations take place in noisy rooms crowded with other families and visitors. The green areas that the Italian judicial system envisages for the detainees to meet their minor children are often unused or abandoned.

Our first occasion to experience interdisciplinary cooperation was in the prison of Turin, where a green area formally designated for visitations was deteriorated and entirely unusable (Figure 1 and 2), and the prison warden, although willing to refurbish it into an appropriate visiting area, did not have the financial means to do so¹⁹.

¹⁹ This inability on the part of the director to access the necessary resources to refurbish the prison directly likely requires a certain clarification on the inner workings of the Italian penitentiary system. More than any sector, the penitentiary administration has suffered the reduction in public spending that has plagued Italy in recent years. The scarce resources that the State gives to individual prison institutions are insufficient for wardens to face even the normal expenses for the upkeep and running of the prison, and therefore it is impossible for wardens to make use of funds to carry out extraordinary interventions. The situation here described is a fundamental example of the engagement of a network of numerous wardens and partnerships aimed at establishing collaboration among public and private people and institutions, such as local institutions, associations, volunteers and local businesses.



Figure 1 (photo Spaziviolenti)



Figure 2 (photo Spaziviolenti)

These were the premises needed to draw up a project for refurbishing this area²⁰, while reconciling technical and legal issues.

This experience is the tangible outcome of a bottom-up process in which – following the initial incentive from an interdisciplinary team of lecturers – all steps were entirely managed by the students themselves under the supervision of the lecturers and with the involvement of both penitentiary staff and inmates¹⁸.

The redesigning and implementation of this visiting area mirrored the procedures that typically apply to architectural interventions in real life: feasibility studies, preliminary designs, presentations and discussions with the contractor, the final design and implementation.

From fundraising¹⁹ to the actual work, this project was entirely managed by the students. In accordance with the principles of self-made architecture, works were carried out by recycling materials and turning to the skills and abilities made available by the prison community. This outstanding co-working experience involving students, inmates and penitentiary officers was

²⁰ We are referring a common initiative promoted by the Architecture Department of the Turin Polytechnic and the Law Department of the University of Turin in order to reflect on and to rethink the urban spaces of marginalization, such as prisons. The name of the project is Spaziviolenti (<https://spaziviolenti.wordpress.com/>) which in Italian means “violent spaces”, as they consider spaces characterized by physical or social barriers that marginalise vulnerable people and groups. What we are describing in this issue is the output of the 2014- 2015 edition of the project.

¹⁸ <https://spaziviolenti.wordpress.com/chi-siamo/>. The team of supervisors involves Valeria Bruni, Polo Mellano and Marco Vaudetti (Architecture Department of the Turin Polytechnic), Claudio Sarzotti, Cecilia Blengino, Silvia Mondino and Michele Miravalle (Law Department of the University of Turin).

¹⁹ The funds required for land reclamation and for the procurement of construction materials were entirely raised by the students through a call for tender by the local polytechnic university to support student initiatives. Students had to prepare a project proposal, including the estimation of completion time and costs. These were entirely novel tasks that do not belong to the curricula of law or architecture courses.

extremely interesting in the perspective of social architecture and was the subject of thoughtful consideration²⁰.

In particular, this paper wishes to emphasise the role that law students played in the development of this project and how this experience has affected their educational path.

The collaboration of architecture students and law students was of the utmost importance in the preliminary design stage as the architectural project could not be approved by the warden unless it was fully compliant with specific provisions of the law governing penitentiary institutions. As architecture students were lacking in this competence, the necessary legal framework was provided by the law students. This involved supplying information on health, safety and security regulations, public works and penitentiary rules. For example, law students undertook to explain the specific restrictions imposed on technical design by security regulations and by the requirement to guarantee non-invasive surveillance of visitations. Similarly, compliance with safety regulations in terms of construction materials was required when designing a children's playground, as well as the general provisions of the law regarding parental rights and children's rights. This task proved particularly useful from a didactic perspective as law students were compelled to study the law from a problem-solving perspective and to develop the communication skills required to deliver legal advice to other professionals who were entirely unfamiliar with the language of rights.

A clear understanding of the legal framework was essential to the feasibility study as well.

Law students delivered indispensable notions to the future architects concerning the

²⁰ These aspects together with a technical description of the project and an explanation of architectural solutions and the reasons behind the choice of materials have been investigated by Bruni (2016, 2017).

rehabilitation function inherent to sentencing and further explained the detailed set of rules regulating prison visitation. A thorough description of the various roles of penitentiary officers was necessary for enabling architecture students to operate within a penitentiary institution with a competent understanding of internal conflictual relationships. In another perspective, this experiment also helped law students to directly experience the gap between practice and law in books.

Specific socio-legal research tools – interviews and focus groups – were used to involve both inmates and penitentiary staff in the process of collecting complaints and claims. This helped maintain focus on all issues at stake.

The preparation of a preliminary project and its presentation to the warden came after the students engaged in intensive training where they were grouped in mixed-proficiency teams. These teams debated specific issues under the supervision of lecturers in both law and architecture, and in this way they acquired the necessary competences to discuss their proposals with the warden and his staff. For law students, a public presentation of the project was a unique occasion to practice communication with clients, and an opportunity to critically consider how – as indicated by the concerns and issues raised by some of the penitentiary staff – the cultural attitude of prison operators is generally oriented toward enforcing the repressive side of the sentence rather than ensuring access to rights.

During the debate with the contracting authority, the students accepted some of the notions put forth by the contractor while also defending their original proposals on other occasions.

From the Field

In this way they practised debate skills that would not normally have been part of their customary learning process.

Finally, after breaking ground at the worksite, legal advice proved necessary to assist architects in solving certain issues that arose during work in relation to prison rules, formal roles and practice.

One year later, this unique collective process involving students, inmates and prison operators has led to the creation of a renovated and upgraded green area that is currently used in good weather by the detainees while meeting their children (Figure 3)²¹.



Figure 3 (photo Spaziviolenti)

²¹ All of the technical aspects of the project and its material construction were carried out by the architecture students of the Spaziviolenti working group.

4. What we learned

At the conclusion of this initial interdisciplinary clinic experiment we have reconsidered the extent to which we have achieved our original objectives, i.e. enhancing learning by means of new practical skills, providing law students with an insight into the functioning and contradictions of penitentiary law in real life, and pursuing a mission of social justice.

The experiment has proven particularly challenging for the students, but perhaps the supervisors had to deal with even more complex issues. Interdisciplinary collaboration has given rise to new debate on consolidated outlooks and well-established teaching models in their respective contexts and brought about the need to share vocabulary, perspectives and concepts through constant interaction. In light of a problem-based learning approach (Grimes, 2015), working for the common goal of achieving a dignified environment for detainees to meet their children was particularly helpful. Other requirements inherent in the experiment, such as the need to meet deadlines established by contractors, or budget restrictions, added a number of variables that students do not normally face but nonetheless make up the vicissitudes of their real life professional situation. Problem-solving learning helped students to cooperate, become organized and respond to unexpected events. Studying with the realistic purpose to deliver much-needed legal advice for architectural design enhanced their ability to learn law regulations for practical application. Interacting with other professionals, contractors and users has helped students to develop the communications skills needed to deliver legal advice to different recipients.

The need to collect complaints from the users and claims from other stakeholders in the feasibility study compelled students to use the typical methods of social research such as

From the Field

interviews and focus groups with inmates and operators. Our intervention was thus based on empirical data that was regularly collected by the students rather than on a theoretical set of requirements.

There is no doubt that entering a prison with the aim of implementing concrete action has provided the opportunity to observe and investigate internal dynamics as no other experience could. During the experiment, students visited the prison several times, each time interacting with different penitentiary operators – the warden, police officers and social workers - to understand their attitudes and operating methods. Informal discussions with inmates allowed students to understand various nuances of what life in prison is like and helped them move beyond a stereotypical vision of detainees and allow them to assess their proposals accordingly. Students had to face bureaucratic apathy and realized the difficulty of working within institutions. They were also faced with the diffidence and reticence of certain operators, who were apparently concerned about the impact that opening the new space would have on the organization of their work.

In spite of all the difficulties, our experience of interdisciplinary learning has achieved important objectives in the realm of social justice.

The significant difference between architectural interventions and legal aid or street law programs in the promotion of access to rights in prisons is related to the potential of physical work to positively and permanently change a situation in which rights are denied, and actually affect prisoners' life. Due to the visibility of this type of intervention, the resulting effects are meant to last in time and are not confined to sporadic actions. As for the

community of users, this intervention affects a larger number of detainees than legal advice delivered to individuals, or any other action that the author has so far undertaken.

As a result of the interaction between CLE and the principles of self-made architecture, detainees actively participated in the works. For some of them, this was an opportunity to put their skills as carpenters, construction workers, plumbers, or electricians into practice, and for others to learn new skills that might be put to use both inside and outside the prison.

In light of these considerations, this model of social justice aimed at learning-by-doing has proven both effective and reproducible.

Typically, the feasibility of experiential learning is faced with the difficulty of identifying physical spaces suitable for intervention. This is often linked to legal restrictions, the goodwill of authorities and the availability of funds. This last point is critical in the case of penitentiary administrations that cannot count on their own financial resources²². However, new opportunities are emerging as a result of the social impact of this type of intervention and its ability to attract media interest, thus fostering the involvement of a variety of public stakeholders and local private entities. The inauguration of the new visitation space is a case in point, as it has drawn the attention of the municipality, which donated a fountain and some trees. Thanks to the interest of other prison wardens, this project will be replicated in another prison with the contribution of private funds and, in all likelihood, of private sponsors. Addressing this type of issue is a valuable occasion for students to deal with real life scenarios and enhance their planning skills.

²² For this reason, student funding was used to support our first experiment.

A new episode of this experiment has already begun in a prison whose warden has commissioned a new multipurpose space. This space shall comply with the provisions of the law that involve so-called “dynamic security”²³ according to which detainees should remain in prison cells only overnight and then spend the daytime engaging in various activities outside. This is a condition that is often prevented in Italy due to the lack of suitable spaces.

However, this experience has highlighted the potential for interdisciplinary cooperation between CLE and self-made architecture. It could be replicated in different environments, such as deteriorated urban areas, with the involvement of marginalised and disadvantaged communities. This is a scenario that offers a variety of opportunities, allowing for the experimentation of a synergy between legal and technical competencies that are likely to lead to concrete outcomes in terms of social impact. The extension of this experiment to other stakeholders in local communities is a huge challenge and a great opportunity for the future.

References

Aranda, M. (2015). National monitoring bodies of prison conditions and the European standards. Rome. Antigone Edizioni. Available at: <http://www.prisonobservatory.org/upload/National%20monitoring%20and%20EU%20standards.pdf>. [Accessed 20 December 2017].

²³ Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules (art.51.2).

- Bartoli, C. (2015). The Italian Legal Clinics Movement: Data and Prospects. *International Journal of Clinical Legal Education*. 22 (2), pp. 213-229. Available at: <http://dx.doi.org/10.19164/ijcle.v22i2.427> [Accessed 10 January 2018].
- Barbera, M. (2011). The making of a civil law clinic. In: *6th Global Alliance for Justice Education Worldwide Conference together with the 9th IJCLE Conference "Combating Social Injustice through Justice Education*, Valencia: GAJE. Available at: https://www.gaje.org/wp-content/uploads/gravity_forms/12/2011/08/Marzia%20Barbera%20-%20Brescia%20Legal%20Clinic%20-%20final-1.pdf [Accessed 10 January 2018].
- Blengino, C. (2015). Formare il giurista oltre il senso comune penale: il ruolo della clinical legal education in carcere. In C. Blengino, ed. *Stranieri e sicurezza. Il volto oscuro dello stato di diritto*. Napoli. ESI, pp.151-183.
- Blengino, C. (2018). Fondamenti teorici di una pratica: approccio bottom up, prospettiva interdisciplinare e impegno civile nella clinica legale con detenuti e vittime di tratta. In A. Maestroni, P. Brambilla and M. Carrer, ed. *Cliniche Legali in Italia Vol. I Cliniche Legali tra teorie e pratiche*, Torino. Giappichelli, pp.231- 258.
- Bloch, F., ed. (2011). *The global clinical movement. Educating lawyers to social justice*, Oxford. Oxford University Press.
- Brooks, S. and Madden, R.G. (2011). Epistemology and Ethics in Relationship-Centered Legal Education and Practice. *New York Law School Law Review*, 56, pp. 331-365. Available at: <https://pdfs.semanticscholar.org/9d8d/5d892a7cd1354d3c4d3a8accacd78c25a89.pdf> [Accessed 10 January 2018].
- Bruni, V. (2016). Adattare gli ambienti delle prigioni, autodeterminazione e umanizzazione, *Urbanistica Tre*, 9, aprile-giugno, pp. 39-46.
- Bruni, V. (2017). *L'autodeterminazione dello spazio nel carcere italiano*, Doctoral dissertation, DAD, Politecnico di Torino & DG, Università degli studi di Torino.
- Cappelletti, M. (1979). Accesso alla giustizia: conclusione di un progetto internazionale di ricerca giuridico-sociologica. *Foro Italiano*, 54, pp. 54-61.
- Cappelletti, M., ed. (1981). *Access to Justice and the Welfare State* vol. 4. Firenze. Le Monnier.
- Carnelutti, F. (1935). Le cliniche del diritto. *Rivista di diritto Procedurale Civile*, 2 (1), pp. 169-175.
- Clemmer, D. (1958). *Prison community*. New York. Holt, Rinehart and Winston Publisher, 1st ed. 1940.
- De Sousa Santos, B. (2012). La Universidad en el siglo XXI. Para una reforma democrática y emancipadora de la Universidad. In R. Ramirez, ed. *Transformar la universidad para transformar la sociedad*, 2nd ed. Quito. Senescyt, pp. 139-194.

- De Sousa Santos, B. (2016). *The Universities at a Crossroads*. In R.Grosfoguel, R.Hernandez. and R.R Velasquez, ed. *Decolonizing the Westernized University*. Lanham Maryland. Lexington Books, pp. 295-302.
- Eglin, P. and Hester, S. (1992). *A Sociology of Crime*. London. Routledge.
- Ehrlich, E. ([1913] 2017). *Fundamental Principles of the Sociology of Law*, Law and Society Series. London and New York. Routledge.
- Ewick, P. and Silbey, S. (1998). *The Common place of law. Stories from everyday life*. Chicago. The University of Chicago Press.
- Fairtrial (2016). *A Measure of Last Resort? The practice of pre-trial detention decision making in the EU*. Report available at: <https://www.fairtrials.org/wp-content/uploads/A-Measure-of-Last-Resort-Full-Version.pdf> [Accessed 22 February 2018].
- Frank, J.N. (1933). Why Not a Clinical Lawyer-School? *Faculty Scholarship Series*, Paper 4109. Available at: http://digitalcommons.law.yale.edu/fss_papers/4109 [Accessed 20 January 2018].
- Galowitz, P. (1999). Collaboration Between Lawyers and Social Workers: Re-examining the Nature and Potential of the Relationship. *Fordham L. Rev.*, 2123 (67). Available at: <http://ir.lawnet.fordham.edu/flr/vol67/iss5/16> [Accessed 15 January 2018].
- Galowitz, P. (2012). The opportunities and challenges of an interdisciplinary clinic. *International Journal of Clinical Legal Education*, 18, pp. 165-180. Available at: <http://dx.doi.org/10.19164/ijcle.v18i0.5> [Accessed 15 January 2018].
- Garfinkel, H. (1956). Conditions of successful degradation ceremonies. *American Journal of Sociology*. 6 (2), pp. 420-424. Available at: <http://www.jstor.org/stable/2773484> [Accessed 12 February 2018].
- Goffman, E. (2007). *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*. London. Routledge, 1st ed.1961.
- Golick, T. and Lessem, J. (2004). A Law and Social Work Clinical Program for the Elderly and Disabled: Past and Future Challenges. *Wash. U. J. L. & Pol'y*, 183 (14). Available at: http://openscholarship.wustl.edu/law_journal_law_policy/vol14/iss1 [Accessed 20 January 2018].
- Grimes, R. (2015). Problem-based learning and legal education – a case study in integrated experiential study. *REDU*, 13 (1), pp. 361-375.
- Grimes R., McQuoid- Mason D., O'Brien E. and J. Zimmer (2011). Street Law and Social Justice Education, in F. Bloch, ed. *The global clinical movement. Educating lawyers to social justice*. Oxford. Oxford University Press, pp. 231-235.

- Hester, S. and Eglin, P. (1992). *A Sociology of Crime*. London. Routledge.
- Kuhn, T. (1970). *The Structure of Scientific Revolutions*, 2nd edition. Chicago. University of Chicago Press.
- Kruse, K. (2011). Getting Real About Legal Realism, New Legal Realism and Clinical Legal Education. In *New York Law School Law Review*, Vol. 56. Available at: <https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1383&context=facsch> [Accessed 20 February 2018].
- Janus E.S. and Hackett M. (2004). Establishing a Law and Psychiatry Clinic, *Wash. U. J. L. & Pol'y* 209 (14). Available at: https://openscholarship.wustl.edu/law_journal_law_policy/vol14/iss1/8/ [Accessed 20 January 2018].
- Marella, M.R. and Rigo, E. (2015). Cliniche legali, Commons e giustizia sociale. *Parolechiave*, 1, pp.181-194.
- Oppenheimer A. and Hursey, T. (2002). *Rural studios: Samuel Mockbee and an architecture of decency*. New York. Princeton Architecture Press.
- Perelman, J. (2014). Penser la pratique, théoriser le droit en action: des cliniques juridiques et des nouvelles frontières épistémologiques du droit. *Revue interdisciplinaire d'études juridiques* 72 (2), pp. 133-153. Available at: <https://www.cairn.info/revue-interdisciplinaire-d-etudes-juridiques-2014-2-page-133.htm>. [Accessed 20 January 2018].
- Tokarz, K., Nancy Cook L., Brooks S. and Blom B. Br. (2008). Conversations on “Community Lawyering”: The Newest (Oldest) Wave in Clinical Legal Education. *Washington University Journal of Law and Policy*, 359 (28). Available at: https://openscholarship.wustl.edu/law_journal_law_policy/vol28/iss1/11/ [Accessed 20 January 2018].
- Wilson, R. (2009). *Western Europe: Last Holdout in the Worldwide Acceptance of Clinical Legal Education*. *German Law Journal*, 10 (7). pp. 823-846. Available at: <http://www.germanlawjournal.com/volume-10-no-07> [Accessed 20 January 2018].