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## A REVIEW OF CLINICAL LEGAL EDUCATION'S (CLE) EXPERIENCE IN UNIVERSITI SAINS ISLAM MALAYSIA

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### ABSTRACT

Various research has given valuable insights into the positive role of Clinical Legal Education (CLE). However, there is a dearth of empirical data reviewing the set-up of CLE in public law schools in Malaysia and assessing its role as a teaching and learning strategy in legal education. This paper summarises the development and structure of the Faculty of Syariah and Law's Legal Clinic pilot initiative at the Universiti Sains Islam Malaysia (USIM). It assesses the impacts of the initiative on students' learning experience. The assessment involved a content analysis of written feedback given by a batch of pioneer students selected to join the FSU Legal Clinics pilot project in 2019. The findings indicated that the students believe exposure to the legal clinic increases their comprehension of the law's application and provides awareness of the professional skills and values involved in the legal profession. The sample is small, and the findings are preliminary. However, it is hoped that the results will inform legal curriculum developers of the benefits that law students derived from their clinical experience and provide a basis for further research into formally including clinical legal education in the FSU legal curriculum. This paper also advocates that although setting up, planning and organising activities for a successful legal clinic involved a great deal of preparation, it would benefit students and be integral to teaching and learning strategy in legal education in FSU USIM.

**Keywords:** *clinical legal education; legal education; legal clinic; teaching & learning strategy; law.*

### Introduction

pedagogically, the bulk of the law schools' curricula in Malaysia still relies on passive learning methods, which usually includes traditional lectures and assigned readings or case reviews, and such an approach was often criticised for being excessively theoretical (Bratt, 1977; Mohr and Rodgers, 1973; Shaffer and Redmount, 1977). Calls for innovative reforms in legal education have led to clinical legal education (CLE) programs (Nor, et. al 2011; Maidin, 2012; Qafisheh, 2012; Kemp, et. al. 2016). CLE acts as an alternative towards a more active learning strategy, which recognises the important link between legal education and how the law in action works in a particular legal system.

Condlin (1983, p. 318) describes CLE to be "instruction in interpersonal skills (e.g., interviewing, counselling, negotiation) and professional ethics (the moral principles that regulate the behaviour of lawyers in the role) in the context of student fieldwork (representation of actual clients with live cases

in law offices created by law schools for this purpose) under the supervision (systematic, critical analysis of student work) of a lawyer/ law teacher". According to Condlin, each element is important, and any missing element weakens the claim that instruction is clinical. While another commentator, Wizner (2002), summed it up as an educational law office whereby students are required to demonstrate competence in practice and reflect on the purpose of the training and its relevance to the law as taught and read in the legal texts.

Various research has given valuable insights into the positive role of (CLE) (Marson, et al. 2005; 2020; Merwe, 2017) in legal education. According to Bradway (1939), a CLE experience will provide participating students with an opportunity to deal in actual cases under the guidance of bar members, with an overview of the context of the practice of law and provide students with possibilities to increase their imperative legal skills, techniques, and intellectual habits. In the views of Sandefur & Selbin (2009), these objectives reflected the idea of strengthening the legal profession's skills, developed and studied from the course materials. They provided an avenue for more practical and realistic learning for their future career development.

The Faculty of Syariah and Law (FSU), Universiti Sains Islam Malaysia (USIM), in 2019, having considered these insights, undertook to implement the idea by initiating a legal clinic managed by students. 13 students in their third year of study were chosen as pioneers. An evaluation exercise was conducted soon after to gather qualitative feedback from the student participants on their learning experience. In higher education, student evaluations of teaching and learning are important in providing information on the standard of teaching and the quality of courses. A commonly preferred method for evaluating students' teaching and learning experience is through quantitative course evaluation surveys (Cashin, 1999; Clayson, 2009; Seldin, 1999; Seldin, Miller, & Seldin, 2010). They are popular partly because they are perceived to be objective, reliable and less labour and time-intensive than qualitative approaches. As a result, significantly less study has been conducted into the efficacy of course evaluations via the qualitative method.

However, various scholars (Alderman, et. al 2012; Cathcart, et.al 2014) have suggested that qualitative course evaluations provide a more holistic, student-centered perspective of the student experience when compared to quantitative evaluations. Therefore, in achieving these rationales, the present study opted to assess the CLE experience in USIM via a qualitative course evaluation exercise. Conventional content analysis was then used to analyze the input received from the students.

As will be further presented in this article, the findings indicate that the students believed exposure to the legal clinic increases their sense of awareness of the law in action and provides the experience of a competent lawyer's required values and skills. Although the sample is small, and the findings are preliminary, but they provide valuable information on the role of CLE as a teaching and learning strategy in legal education in Malaysia. It is hoped that the results can be used to inform legal curriculum developers of the benefits that law students derive from their CLE experience and provide a basis for further research to include CLE into the FSU legal curriculum formally.

Based on this finding, this paper also advocates that although setting up, planning and organising activities for a successful legal clinic involved a great deal of preparation, it would benefit students and be integral to teaching and learning strategy in legal education in FSU USIM.

This Article is divided into two parts. The first part documents an overview of the Faculty of Syariah and Law's Legal Clinic's development and structure in Universiti Sains Islam Malaysia. The activities undertaken at the legal clinic involving the students will be described. The second part details the study's findings from the student participants' written feedback on their learning experience from their time at the legal clinic.<sup>1</sup>

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<sup>1</sup> In this article, the term legal clinic refers to the pilot initiative by FSU aiming at providing a version of a clinical legal education (CLE) described by Condlin (1983). From time to time in the article, the two terms is not distinguished;but will be used interchangeably throughout the article.

## **Introducing Clinical Legal Education to the Faculty of Syariah and Law, Universiti Sains Islam Malaysia**

The Faculty of Syariah and Law (FSU), Universiti Sains Islam Malaysia (USIM), was founded in 2000, with the aim of integrating two areas of law, namely Syariah and Civil law, in its legal programs. In the 2004-2005 academic session, FSU started offering the Bachelor of Syariah and Law with Honours degree. Since then, two other programs have been offered for undergraduate students: The Bachelor of Fiqh and Fatwa with Honours and the Bachelor of Syariah (Halal Industry) with Honours.

The idea of a legal clinic has been in place in FSU since 2013, namely as *Klinik Bantuan Guaman Syariah & Undang-Undang (KBGU)*. The mission and vision of the *KBGU's* establishment are to serve all its staff, students and the community. Most importantly, the paramount objective is for our main stakeholder, i.e. to provide early exposure to students, especially students of the existing Bachelor of Laws & Syariah (SMUS) at the Faculty of Syariah & Law (FSU), USIM, on the latest laws in Malaysia as well as exposing to the students involved from a practical point of view on resolving an issue related to the legal process. At the same time, *KBGU* can also be the opportunities for existing academic staff in the university to give legal information required by those who need it as well as provide up-to-date exposure to them on all aspects of civil and Syariah law in Malaysia.

Starting Semester 2, 2014/2015, the *KBGU* started organizing its first Syariah & Legal public lecture session. The public lecture is held as one of the regular activities every semester by the legal aid clinic to provide education, awareness, and exposure to students, university staff, and the general public on current Syariah and civil law issues. The public lecture has succeeded in attracting various parties from within and outside the university to attend and obtain information on current legal issues from Syariah or civil perspective. The public lecture also successfully established industry relations between the university level and external parties to strengthen the role of the faculty and the university itself to be an education hub for all groups and at the same time serve the community, especially on current legal issues in Malaysia.

In 2018, upon initiation by the alumni of the FSU, who are mostly practising Syarie lawyers, former students of Bachelor of Fiqh and Fatwa and the faculty's staff, the *Klinik Bantuan Guaman Syarie (KBGS)* was launched to provide legal advice to the community (kampusuols.com, 2018). The significant improvement was the involvement of former students who were Syarie lawyer, and they were willing to be volunteers by giving free legal advice to the community. At the early stage of its establishment, *KBGS* focusing on syariah matters only.

Although university-based legal clinics may offer a range of representation models, from providing legal education, suggestions, and referral to managing client cases, the *KBGS'* model initially only focuses its representation and activities on legal education. Recommendations and referral will be suggested only when required.

The main objective of *KBGS* is to provide legal consultancy to the public regardless of their background and income as a form of community service to the public. Legal consultation with individual clients is conducted with the *KBGS* panel lawyers' assistance, and it is offered at no cost. *KBGS'* services and activities were disseminated through mass and social media and received encouraging public responses. Within a year of its inauguration, *KBGS* is claimed to have provided the local community with an avenue to seek the right information and guidance, particularly for single mothers in divorce or their life partners' death (Harian Metro:2019).

By November 2019, consultation for civil matters, specifically on real estate law, employment law, and entrepreneurship law, was offered on a trial phase for the nearby community in the state of Negeri

Sembilan and the Klang Valley. The KBGS was rebranding to KGU, *Klinik Guaman USIM* to cater for both Syariah dan civil legal consultations. To date, the trial run had received a considerable number of responses from the public. However, students' involvement during the trial was limited because the KBGS's activities were not designed to be a form of teaching and learning strategy catering to more participation of the law students at FSU.

Nevertheless, in early December 2019, the FSU embarked on a pilot initiative to include students as part of the management and consultation team of KBGS<sup>2</sup>. The initiative intends to provide exposure to the students of the professional and legal skills needed in managing the legal clinic. Students' interest to be involved in the clinic are voluntary. However, once chosen as part of the team, they are expected to give their full commitment.

After several screening sessions, 13 third-year students from the Bachelor of Fiqh and Fatwa program were appointed as part of the initiative's KBGS student trainees. The following table (Table 2) illustrates the background of the students.

Table 1: Background of the Student Respondents

Program	Year of Study	Number of Students	Related Courses Enrolled
Bachelor of Fiqh Fatwa	3	13	<ul style="list-style-type: none"> <li>• Amalan Kehakiman Guaman Syarie (LAD4132)</li> <li>• Moot Court (LAD4142)</li> <li>• Acara Jenayah Mahkamah Syariah (LAD4122)</li> <li>• Rundingcara Sulh (LAD4012)</li> </ul>

The legal clinic's coordinator divided the students into three different working groups: marketing and publicity (social media), database and client management, research and multimedia. They served as legal trainees and assistant managers in the Legal Clinic initiative. All three stakeholders in the pilot of the initiative, the student trainees, the panel lawyers, and the faculty's staff, collaborated in the legal clinic's various activities and showed strong commitment and efforts towards extending the benefits of the clinic. The legal clinic pilot initiative runs for a total of two academic semesters. In addition to several set hours of managing the clinic per week, students are required to participate in a weekly consultation session.

In reality, the Legal Clinic initiative was structured in such a way to enable the students to manage the clinic through three major activities which are interdependent of each other:

- 1) Multimedia-based content and knowledge creation
- 2) Community engagement and service marketing
- 3) Client service and management

Content creation would usually involve designing multimedia information that covers the clinic's scope of activities. Creating relevant multimedia information allows them to be easily shared via social media platforms to increase community engagement and marketing of the clinic's services. At times, certain talks or seminars were also organized for the public's benefit, further increasing community engagement. Engagement receives from the community via these platforms then often lead to clients requesting consultation services.

<sup>2</sup>. For the purpose of the discussion and analysis, the paper will use the term Klinik Bantuan Guaman Syarie (KBGS) instead of using Klinik Guaman USIM (KGU)

## A REVIEW OF CLINICAL LEGAL EDUCATION'S (CLE) EXPERIENCE IN UNIVERSITI SAINS ISLAM MALAYSIA

The student trainees' involvement in disseminating social media information has improved community recognition of the clinic's services, leading to a considerable number of recorded community contact to the clinic's management. In general, in 2019, 20 number of consultation cases and 40 pre-consultation cases was recorded in the clinic's database.

When it comes to legal consultation services, the legal clinic provides opportunities for students to engage in legal counselling sessions and further action at the legal counsel's suggestion. Although the opportunity to participate in these sessions is restrictive and limited, the KBGS coordinator will ensure that each student will have a chance to become an assistant for the lawyers in the initiative.

The clinic's coordinator will vet each request for consultation from a prospective client forwarded by the student trainees before deciding together with the panel lawyers whether the case can be undertaken. The case will be assigned to a student trainee and a panel lawyer under the clinic staff's supervision and the client will be invited to the university for a pre-appointment interview session (see Flowchart Table 1).

During each pre-appointment interview session and consultation, trainees must practice note-taking and record the client's important details and essential information in the Client Case Report. The following table (Table 2) illustrates a sample report from a Client Case Report. This particular sample reported the client's consultation on Syariah matters.

The student trainees experience in the legal consultation processes allows them to evaluate the necessary information required for good legal advice and perceive that not all cases, depending too on the case's complexity, will need legal representation by a Syarie lawyer. Hence, the importance of preparing clients during pre-appointment interviews, including gathering and sorting the right information during and after the consultation, became more evidently important through these clinical legal clinic sessions. These sessions allow student trainees to improve their client interviewing skills. The sessions also allow the students to be informally engaged with the industry players and receive training and support from experienced legal professionals through the legal clinic activities.

Figure 1: Flowchart – Legal Clinic Consultation Process

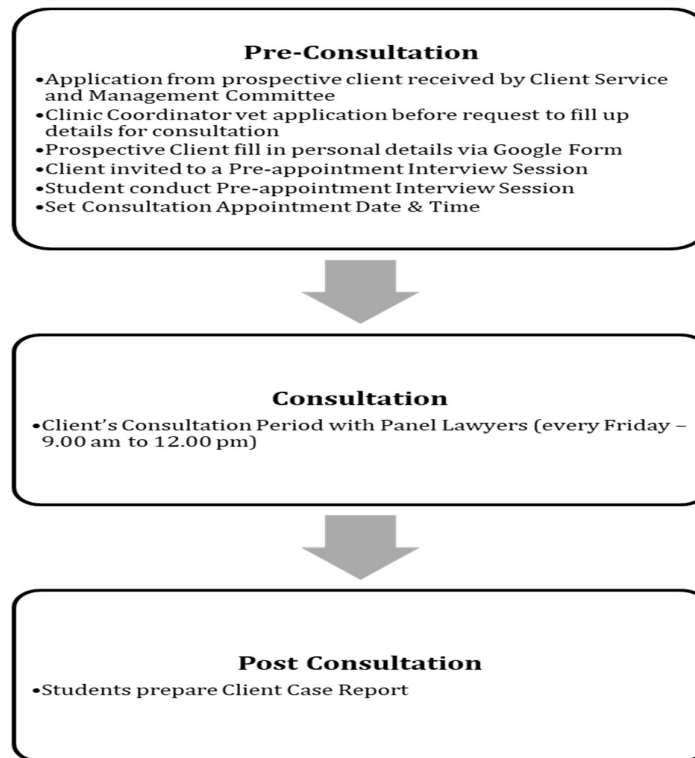


Table 2: Client Case Report

Reference No	
<b>Date</b>	6 December 2019 (Friday)
<b>Venue</b>	Consultation Room, Klinik Bantuan Guaman Syariah dan Undang-Undang (USIM)/ Legal Clinic USIM
<b>Legal Consultant</b>	Syarie Lawyer (Name)
<b>Name of Client</b>	<i>(Intentionally left blank)</i>
<b>Contact No</b>	<i>(Intentionally left blank)</i>
<b>Address</b>	<i>(Intentionally left blank)</i>
<b>Facts of the Case</b>	<ul style="list-style-type: none"> <li>• She has a household problem whereby her husband has not been home for three weeks without knowing his whereabouts.</li> <li>• Husband is a government employee but is involved in corruption and drugs and has a relationship with another woman.</li> <li>• He has been married for nine years and blessed with three children.</li> <li>• The client says that she does not want to continue with the marriage because she has given him many opportunities to change, but he has remained as he is now.</li> </ul>
<b>Consultant's Remarks/Advice</b>	<ul style="list-style-type: none"> <li>• Lawyers advised clients to file a divorce application under Section 47, <i>Akta Undang-Undang Keluarga Islam Kaedah-Kaedah Hakam (Negeri Selangor) 2014</i>, which is a mutual agreement to divorce</li> <li>• However, suppose the husband refuses to grant the divorce. In that case, the case will proceed to the Hakam level, on condition the summons to attend the session is successfully delivered to the husband.</li> <li>• Hakam divorce does not take long, usually less than one year.</li> <li>• Lawyers also advise that divorce cases can also be filed by way of fasakh. However, strong evidence is essential in a fasakh case and will take a longer time because it involves trial and witness.</li> </ul>
<b>Clients Recorded/ Reported Action</b>	<ul style="list-style-type: none"> <li>• The client informs that she will be going to the Syariah Court to file for divorce under section 47</li> <li>• The client also informed that she does not intend to appoint a lawyer unless she has difficulty handling the case independently.</li> </ul>

## Research Design & Methodology

For this research, a qualitative approach was adopted focusing on two objectives; (1) to obtain an in-depth understanding of students' teaching and learning experience through CLE and (2) to assess whether such experience has provided students with any learning benefits.

The qualitative feedback evaluation on which this article is based was designed to take place during the final week of each of the two semesters in 2019. The Legal Clinic's Coordinator briefed all pioneer students of the initiative on giving written qualitative feedback on their perceptions of their learning experience in the legal clinic. The students were asked to share their thoughts and provide written feedback, focusing on (i) their overall experience at the legal clinic and (ii) examples of ways their participation at the clinic has facilitated their learning. Ten of the students submitted their feedback.

## Data Analysis

A qualitative content analysis of the submissions involving extracting themes from the information and connecting them with the research objectives was carried out. This conventional content analysis was considered most appropriate for the study as it is based on 'participants' unique perspectives and grounded in the actual data (Hsieh and Shannon 2005, 1279). The whole content analysis process generally includes an analysis of the similarities and differences in the feedback. An initial coding scheme was developed by allowing codes to emerge inductively from the data. They were later categorised into themes and coherent categories and discussed next.

## Findings

Two common themes emerged from the analysis of the written feedback in response to the primary research concerns of understanding how students' participation in the CLE affect their overall learning experience and evaluating whether such experience has provided students with any learning benefits. The themes reflected the thoughts and views of the respondents on:

- i) the impacts of the CLE participation on their teaching and learning experiences; and
- ii) the structure of the CLE that impacted teaching and learning.

These broad themes were further broken down into smaller sub-themes. Table 3 provides a tabular description of the number of student feedbacks that correspond to a specific code assigned when analyzing the data, which led to the theme identification.

Through their reflections, students shared their perceptions of their experience by referring to how their CLE participation has impacted their teaching and learning process. This reflection represents the largest proportion of the feedback (70.5%). The feedback further revealed four sub-themes relating to this perceived impact of their CLE participation. The sub-themes are; *the students' opportunity to relate theory to practice, exposure to professional experience, providing a real-life context of legal issues and enhancing related skills*. More than a quarter of the students' feedback emphasized how their participation in the initiative has granted them the *opportunity to relate theoretical aspects of their study to its practical application*.

The second theme that emerged most frequently in the feedback pertained to students' reactions towards the structure of the CLE initiative that supports the above impacts in teaching and learning to be experienced (29.5%). Of the feedback, five of them also touched upon how the CLE structure provides a teaching and learning environment that supports interaction.



Table 3: Main Theme and Sub-Theme Emerging from the Analysis

Main & Sub Themes	Frequency	% of Total
<b><i>Main Theme 1: Impact of CLE Participation on Teaching and Learning Experience</i></b>	<b>31</b>	<b>70.5</b>
<i>Opportunity to Relate Theory to Practice</i>	17	
<i>Exposure to Professional Practice</i>	9	
<i>Providing Real Life Context of Legal Issues</i>	3	
<i>Enhancement of Related Skills</i>	2	
<b><i>Main Theme 2: The Structure of CLE that Impacted Teaching and Learning Experience</i></b>	<b>13</b>	<b>29.5</b>
<i>Provision of CLE Structure that Supported Teaching and Learning</i>	8	
<i>Teaching and Learning Environment that Supported Interaction</i>	5	
<b>Total</b>	<b>44</b>	<b>100</b>

## Discussion

Based on the findings, the qualitative feedback evaluation provided a student-centred account of the teaching and learning experience associated with the student's participation in the legal clinic (KBGS) in FSU. The findings indicated that despite the minimal amount of time spent at the legal clinic (KBGS), all the students' responses were very positive about their experience at the clinic.

### ***Main Theme 1: Impact of CLE Participation on Teaching and Learning Experience***

A major theme revealed in the findings showed that the students' activities at the legal clinic (KBGS) had impacted their teaching and learning experience in four major ways, which will be discussed next.

#### *Opportunity to Relate Theory to Practice*

One of the major impacts of the CLE was granting the student participant the opportunity to relate the theories learn in class with practical application of the law; in other words, observing and improving the students' comprehension of the law in action. They observed how a case's journey begins, and the processes and procedures, including documentation that must be followed until the matter is resolved. All the students also found that the courses' practical application, which is previously perceived as theoretical in nature, became clearer once they joined the legal clinic's (KBGS) activities. As one of the respondents succinctly put it, '*..(and it) became a refresher course of the subject learned.*'

### Exposure to Professional Practice

The feedback also shows that the respondents perceived that the legal clinic (KBGS) had provided them with early exposure in the legal career through the legal practitioners' mentoring system. Several of them noted that some of the lawyer consultants had briefed them on how the legal subject matter relate to the realities of the client's case, allowing them to make the connection between substantive and procedural law. One respondent noted, *'the legal clinic (KBGS) consultation session allows me to listen to how the lawyer advises the client. This (sic) can be used as a reference in the future (for me).'*'

### Providing Real Life Context of Legal Issues

Several students also acknowledged how the legal clinic's (KBGS) initiative provides them with an exposure of positioning how legal issues relate in a real-life context, especially in Syariah law application in Malaysia. They observed first-hand how certain family conflicts might need a legal solution and even become a life lesson for them, as reflected by one student, *'...revelations from the client also gave me an overview of life out there. This (sic) makes us better prepared to face family life or even in dealing with the case of property management.'*

### Enhancement of Related Skills

From the professional aspects of legal consultation, the respondents asserted that the legal clinic (KBGS) exposed them to the professional skills involved in the legal profession and acknowledged the skills involved in managing a legal clinic (KBGS). Not only that, they learned the right manner of handling clients based on *"...the code of ethics of the Syarie lawyers"*, but also, in the words of one of the respondents, *"...effective communication, by observing lawyers handling a case."*

Respondents also reported becoming more aware of the technique involved in managing and negotiating issues raised by clients. For example, one student explained, *'I was in the marketing team of this legal clinic, I gained new experience in handling clients, especially when they WhatsApp you (sic), or something came up, and they share their problem. We learn the way to convince him to seek legal advice from the legal clinic...'*

Some respondents also note time management in the management of the legal clinic, especially when the public and social media are involved. One feedback highlighted that *'For me, what I can learn after months of joining the team...is that this legal clinic (shows the importance) of time discipline (sic). For example, from the marketing unit, being disciplined in time is very important because I need to (put up) post according to the time allotted to us.'*

## ***Main Theme 2: The Structure of CLE that Impacted Learning Experience***

The study's findings also indicated that a perceived successful CLE is influenced by several factors, including the structure of the legal clinic (KBGS) that supported teaching and learning and the provision of an environment that supported interaction.

### Provision of CLE Structure that Supported Teaching and Learning

The structure of the Legal Clinic's initiative and client services management also supported teaching and learning for the students. Allocated consultation sessions ensured a systematic opportunity for all students to learn and observe. A compulsory written case report exercise confirmed all students' involvement in allocated cases. In view of one of the respondent's feedback, *'the written report grants us the chance to read and revise how the case procedure is carried out. So, it was very helpful and made our learning sessions easier.'*

### Teaching and Learning Environment that Supported Interaction

Another aspect of their experience frequently mentioned is the legal clinic's (KBGS) level of interaction between the students and the panel lawyers. Students are allowed to listen and observe in the running of the consultation sessions. In post sessions, reviews of the consultations are conducted with them, which they find helpful in their teaching and learning process.

## Conclusion

The positive role of CLE in legal education has been widely discussed. In general, a CLE experience provides avenues for students to receive more practical and realistic learning for their future career development. Having had this aim in mind, the Faculty of Syariah and Law (FSU), Universiti Sains Islam Malaysia (USIM), in 2019, undertook to implement the idea of a CLE by initiating a legal clinic (KBGS) managed by students. 13 students in their third year of study were chosen as pioneers. A qualitative evaluation exercise was then conducted and analysed in assessing the impacts of the initiative on students' learning experience.

The findings show that the students believed that the legal aid clinic initiative offers them an overview of the law in practice and facilitated opportunities for them to gain exposure and direct observation of the manner and process involved in managing clients. This manner and process include acquiring the necessary skills that have received inadequate attention in their teaching and learning processes in conventional classes. It is hoped that the results can be used to inform legal curriculum developers of the benefits that law students derive from their CLE experience and provide a basis for further research to include CLE into the FSU legal curriculum formally.

Notably, the study has its limitations. It is a relatively small-scale pilot, qualitative research, and has not been retested. However, its findings provide initial insights into how CLE can support law students in achieving a much more meaningful and engaging teaching and learning experience. Therefore, this paper advocates that, although planning and organizing a successful legal clinic (KBGS) involved a great deal of preparation, it would still benefit participants. It should be made an integral part of the teaching and learning strategy for legal education in USIM. However, effective use of CLE as a form of teaching and learning strategy in legal education requires careful planning and consideration, especially when it involves many students.

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