**Portfolio Review: Clinical Legal Education**

1. **Our Ambitions**

This brief review reflects on FOSIP’s work on Clinical Legal Education (CLE) in Pakistan as a concept from the year 2011. FOSIP’s work on CLE has received active support from Open Society Justice Initiative (OSJI) from day one and as will be mentioned in greater detail below, Marguerite Angelari, Senior Attorney, Legal Capacity Development, OSJI has been extremely helpful in guiding FOSIP’s work on CLE.

When FOSIP began work on CLE in 2011, our ambitions were two fold 1) to introduce the concept of CLE in the country based on models that would not only impart practical legal skills to students of law but also serve a useful social function and; 2) to initiate a discussion amongst key players for making CLE programs part of the LLB syllabus in the country, which would make CLE programs sustainable i.e. funded by the universities themselves.

Role of the Lawyers

In August 2010, I was entrusted with running FOSIP’s Justice and Human Rights program. I came to FOSIP after nearly 19 years of practice at the Bar and and a background of human rights activism and wanted to work closely with the legal community, in particular on the areas of legal aid and human rights litigation. As in my opinion despite enormous potential the legal community in Pakistan had not played its due role in protecting human rights in the country.

Even though the legal community in Pakistan was at the time undergoing an ‘internal’ change, the 2007 lawyer’s movement for the restoration of the judiciary had electrified the entire country and eventually turned into a greater movement for the ‘Rule of Law’. Yet, lawyers did not see themselves as ‘agents of change’ and had collectively displayed little interest in providing any legal aid services or championing the cause of the under-privileged and the marginalized. To the contrary some District Bar associations had actively opposed ‘Legal Aid Programs’.

Engaging with the legal community Pakistan can be difficult, the Bar Associations, that represent the lawyers’ interests, from the Supreme Court of Pakistan Bar Association right down to the District Bar Associations are highly politicized and hold yearly elections, which basically meant a change of their executive bodies change every year. The Pakistan Bar Council and the four Provincial Bar Councils, which are statutory bodies, with mandate to regulate the legal profession are just as difficult to engage.

The Bar Councils comprise of elective representatives of the legal profession, though elected for a five-year term. For the purpose of the present discussion the role of Pakistan Bar Council is very important as, in to addition regulating the profession, it approves the syllabus for the LL.B. degree, which is the basic professional qualification in the country.

Members of the Bar Council like that of the Bar Associations are skeptical of working with foreign foundations and civil society organizations.

Pakistan has no central or comprehensive legal aid system. Although the civil and criminal procedural laws provide for legal representation, at state expense, in limited no of case, for instance, person can not be tried for a capital offence unless he or she is represented. However, even in such cases the ‘state expense’ is meagre and rarely ever paid. A few other laws also mention the provision of legal aid or creating a fund for provision of legal services to the indigent litigants in certain limited circumstances but provides little guidance on settling up mechanisms to provide such free legal services and hence they remain inoperative.

Pakistan has lagged behind in setting up legal aid institution even by South Asian standards. Unlike some of our South Asian neighbours Pakistan has seen prolonged military rule, particularly during periods in which law reforms in the region were going in the direction of providing free legal assistance to the indigent litigants.

India and Sri Lanka both have comprehensive legal aid mechanism and provides for CLE programs at the institutions of legal education. The Indian Legal Services Authorities Act 1987 on the other hand did not provide for any CLE programs, however the National Legal Aid Services Authority set up under aforementioned Act within a few years of its operation, realized the necessity of both CLE and Paralegal programs and framed elaborate rule for both.

Legal Education in Pakistan

At this juncture I must also make a brief mention of the legal education system in the country which although is regulated the PBC, has not kept pace with changes in legal education system in other parts of the world.

Pakistan’s legal education system remains a relic of the British Raj. As has been mentioned in number of scholarly works, was designed in the 19 century to produce a large number of lawyers in a brief period in the ‘Muffasil’ of India’ i.e. outside the ‘Presidency towns’ (where British laws were applicable). The stated intent was to bring ‘Rule of Law’ to the furthest corners of British India. Which in a relatively short period could only be done if lawyers could to be trained rather quickly. As such there was no emphasis legal research skills were not a priority

Therefore, LLB, a basic two-year course was so designed that it could be obtained by attending evening classes. The law students were taught only the more important statutes and procedural laws in a class room setting and there was no emphasis on either developing any legal research or any other practical skills, as mostly the lawyers would practice in areas where they would not have access to proper law libraries.

Unfortunately, this system with some minor changes has remained in force to date (with the exception of maybe one or two of the newer private universities). I too, received such an education and knew well the difficulties faced by the law students and new entrants to the profession.

My initial discussions with some senior lawyers, law students and members of the law faculties revealed that there was great interest in the CLE programs and most if not all universities would be willing to pilot a CLE program. Three important issues that did surface during these were: 1) any model CLE program would need to be ‘voluntary’ for the students (as CLE was not part of their approved LLB Syllabus) and also for the members of the faculty as they would not be paid for the extra teaching time; 2) As full time law faculty in Pakistan cannot appear before the courts of law, the live client clinics would require assistance of practicing lawyers and 3) A buy in from the Bar Associations was necessary if our live-client model were to set up legal aid clinics within or near the District Court premises.

We began work under the assumptions that:

1. Live-client CLE programs are best model, as law students would find them more useful, in that it touches upon all aspects of a lawyers’ professional duties, from client interview and legal research to representation in trial court and preparation of appeals etc.
2. There would be opposition from the Bar Associations to the live-client CLE programs and we needed to take steps to mitigate any potential issues with Bar Associations.
3. Setting up pilot CLE programs at elite/popular Universities, in this case one in each province will make other institutions follow suit.
4. Universities offering CLE programs would be willing to join a National Association of Clinical Legal Education.
5. **Our Place**

FOSIP is quite uniquely placed in Pakistan, we provide not just the funds but with the help of our network partners in this case OSJI provide technical support as well. At the time that FOSIP started work on CLE there was little interest amongst the international donor community to work on CLE programs.

One of the reasons FOSIP began working on CLE was that no other donor was at the time supporting any CLE. Our partners work, in particular the Hamdard Street Law Clinic attracted interest from other donor to replicate their work.

Other Donors

Our collaboration with UNDP on our Legal Empowerment of the Poor (LEP) project, led us to invite some senior staff members of the UNDP’s Strengthening the Rule of Law in Malakand Project (SRLM Project) to one of legal clinic design workshop. Later UNDP staff visited our best Hamdard University Street Law Clinic at Karachi.

Soon afterwards UNDP SRLM project decided to fund to the CLE program at the University of Malakand, to which we were already providing technical support. Support to CLE programs is now part of UNDP’s Rule of Law program strategy and in the last budget cycle UNDP Rule of Law Program in Pakistan earmarked USD 42,000 for CLE programs, which is likely to see an increase in the next budget cycle. Similarly, EU Legal Empowerment Project in South Punjab also plan to work on CLE in its program area.

Partnership with PBC

Our engagement with the Pakistan Bar Council (PBC), which as stated above, has the statutory role to devise the LL.B. curriculum, have been also very fruitful. The Legal Education Committee of the PBC in particular its Chair, Mr. Azam Naseer Tarar, who also happens to be amongst the country’s foremost criminal law practitioner, has remained very supportive. Mr. Tarar was instrumental in PBC accepting a grant from FOSIP to hold a National Conference on Clinical Legal Education.

The PBC National Conference on CLE to which representatives of all the Provincial Bar Councils as well as all the major Bar Associations in country were invited,was held in Lahore in Lahore in 2012. Justice Tassaduq Hussain Jillani, Senior Judge, Supreme Court of Pakistan, who later became the Chief Justice of Pakistan was the Chief Guest at the and the keynote speaker conference. Apart from general discussion on the need for CLE programs, various aspects of FOSIP/OSJI model of CLE were discussed at the conference which ended with a solid endorsement for CLE in Pakistan and after the conference our conversation with PBC shifted from discussing the need for CLE began being centred more around the need for PBC framing rules for CLE programs in the country.

1. Our Work

FOSIP’s Justice and Human Rights Program’s first strategy chose CLE as one of the three major areas for FOSIP engagement. It was decided to establish CLE Programs in four leading Universities of the country, one in each province.

To begin with I had several detailed discussions with Marguerite Angelari on setting up CLE programs. Marguerite was also kind enough to provide us with several scholarly articles on CLE including OSJI booklets and brochures on setting up and running CLE programs.

I contacted and later visited the leading institutions of professional legal education in the country, at least one on in each province and discussed the prospects of initiating CLE programs. With one or two exceptions all Colleges/Universities displayed great interest in seeking both technical and financial support from FOSIP/OSJI. The OSJI brochures and handbooks came in handy during these visits as they explained in detail the ideas behind CLE programs.

Some universities let me speak to the final year LLB students to explain the concept. Talking to the students was a very pleasant surprise, not only did almost all the final year students attend the sessions, an overwhelming majority wanted to join the program and some even kept on calling me months afterwards why the program at their institution had not yet commenced.

Our Grants

FOSIP has given grants for supporting CLE Programs, holding trainings and conferences, setting up of Clinical Legal Education Association and one grant for an exposure visit to the CLE program of the University of York.

FOSIP’s first grant to Lahore University of Management Sciences (LUMS), which has a highly regarded Law School, to arrange a “Legal Clinic Design Training’.

Without the benefit of the any training, and based on the material on CLE provided, Law College at the University of Peshawar made a grant proposal for a CLE program at the University. The Project proposal envisaged a rather elaborate ‘Live-Client’ legal aid clinic. which had a class room component and separate legal aid clinic, CLE students would under the supervision of a licensed pro bono lawyers interview clients, research legal issues and help with drafting of notices and pleadings, and even accompany the pro bono lawyers to court for hearings when ever possible. The proposal also had provision for an Advisory Board for the Clinic, comprising of amongst others of the President of the District Bar Associations and the District Judge, with the purported intent to ward off any opposition from the Bar.

Clinic Design and Clinic Teacher Trainings

The ‘Clinic Design Training’ was attended by senior staff members of Law Colleges from the University of Peshawar; University of Baluchistan; Hamdard University, Karachi and LUMS. Maguerite Angelari and an OSJI consultant took the staff through the various models of CLE and helped them prepare an initial proposal as well. LUMS and Quetta opted for the Live-Client model where as Humdard University decided to opt for the Street law model, where students are trained in particular aspects of law and required to give presentation in to a target community, which would benefit from the information provided. After the conclusion of the training, FOSIP gave grants to three universities.

Legal Aid Clinic, University of Peshawar

The University of Peshawar’s CLE program was not very successful. There was an overwhelming interest from students to participate in the clinic, a special test had to be conducted to select the students.

The University was even able to conduct the the classroom component of the program but the teaching staff found it difficult to accompany the students to the Legal Aid Clinic which was situated near the courts. This was partially because of friction amongst senior members of the faculty who refused to make adjustments to the time tables to facilitate the clinic staff. And partially because the clinic staff, who themselves had not practical experience did not want to attend the clinics, as the stars of the clinic, so to speak, were not the faculty members but the pro bono lawyers.

The Advisory Board could also be convened only once, as the members had busy and conflicting schedules and it was difficult for all to agree on a time. The Bar unexpectedly remain supportive and even offered help with pro bono services if ever they were required.

FOSIP did give several extensions and the college staff were invited to several further trainings but the situation at the College did not change and we gave no further grants to the University of Peshawar.

University of Baluchistan, Legal Aid Clinic

The Legal Clinic at the University of Baluchistan, remained functional. The went through the class room component and according to the reports submitted to FOSIP the clinical side went well. Quetta is a fair distance from Islamabad and FOSIP Justice and Human Rights Program has no other project in the province I could not justify the expense to visit the clinic. I did meet some students of the university at a Conference in Karachi near the end of the grant period and they ‘legal aid clinic’ part of the program had not gone well and the students had not actually dealt with clients. FOSIP did not provide any further funds to University of Baluchistan.

LUMS CLE Program

LUMS also submitted a proposal for a live-client clinic model, but due to difference between the teaching staff did signed the grant letter with considerable delay. Also they refused to attend the attend the second training CLE, stating that they did not need any training. We considered cancelling the grant but than they received the grant amount and called FOSIP that they are starting the CLE program on the lines mentioned in the grant proposal. We have not given any further grants to LUMS.

Hamdard Street Law Clinic

Hamdard University has by far been the most successful of our CLE programs. Hamdard adopted the Street-Law, and send their clinic students to the Juvenile Detention Centre in the Central Prison, Karachi to make presentations on different aspects the rights of criminal defendants to the juvenile detainees. I have seen the clinic in operation the students are engaged and take the preparations of the presentations very serious. The sessions with the detainees were always very lively and students after the presentations face some unusually and uncomfortable questions like, ‘should the detainees pay a bribe to get an early hearing?’.

I heard two of the clinic’s star students speak about their experiences at conference on criminal justice in Karachi. It was clear from their presentations that the profound impact the program had made on them made them aware of realities of our criminal justice system.

Hazara University Clinic

We also invited Hazara University to the second clinic design trainings and they submitted a hybrid proposal that was part street law and part an innovative approach to ‘live client’ model of CLE. The Street Law component consisted of clinic students giving presentation on family laws and women’s rights at Girls Colleges near the University. The live–client component clinic provides employment law advise to junior level university employees who are facing disciplinary actions in the University administration. At the clinic, students help out with drafting replies to the ‘show-cause’ notices issued by the university administration and occasional representation before a university official. The clinic does not take cases against the university to the courts.

Both components of the Hazara University clinic have been successful, however the Street Law model has generated a lot more interest in the target community. When the clinic conducts sessions at the girls colleges not only do all the senior students of the college but also the entire college teaching staff come to attend the sessions. Each session is followed by live question and answer session and in some cases the students and the college staff even discuss their own legal problems.

Our initial assumptions

Considering our work so far, our initial assumptions that live-client clinics would be successful was incorrect and so was the decision to pilot the CLE programs in more prestigious universities. These universities proved difficult to work with, there members of their faculty did not get along with each other and in some instances the senior staff were only interested in doing consultancy work.

Live-client clinics are more complicated, require more teacher and student time and as the court cases in Pakistan take a long time, for a student to help with a case and see it through completion is nearly impossibility. Also, as full time law faculty cannot appear before the courts of law, they have little interest in supervising the clinic.

There was no opposition from the Bar Councils or the Bar associations, to the contrary they legal community as whole is very supportive both of CLE as well as Legal Aid programs. Perhaps time had changed.

Exposure Visit to the University of York

FOSIP also arranged an exposure visit to the CLE program of the University of York, UK for members of the Legal Education Committee of the PBC and directors of our partner clinics. The visit proved very inspiring both for the members of the PBC and as well as the clinic staff. After the visit the members of PBC committee decided to initiate the process of

framing formal PBC rules for CLE in Pakistan (it is as yet a work in progress) . The visit also contributed to opening a line of communication between the clinics and the members of the PBC. When the PBC organised a National Conference on Legal Aid in 2013, which I assisted in organising, not only were the clinic staff invited but PBC had also set up Working Group on CLE, which made recommendations that 1) changes be made to the rules to allow members of the law faculties to represent clients in court, at least in legal aid cases and 2) that CLE programs should be made an elective subject in the final year LL.B. syllabus. PBC is currently considering both the proposals.

Association of Clinical Legal Education

We also give a grant to a partner organisation CPDI that would help our partner Universities/Clinics organise the Association of Clinical Legal Education in the country. However, we repeated the mistake we had made earlier with legal clinics, instead of making an association of clinical legal education teachers we made an association for of our partner Colleges/universities and so due to the disagreement between the various colleges/universities the association could not take off.

Such an organisation is needed so that the Universities can directly engage with PBC and other institutions to take the work on CLE in Pakistan forward, take responsibility for setting standards for CLE in the country and provide trainings to new clinic staff as there is enough expertise in the country. In other words, the concept of CLE in Pakistan is ready to become a field.

There is now an agreement amongst the members of the Association of Clinical Legal Education that it should be registered as Clinical Teachers Association and its membership should be open to members of law faculties and not limited to the institutions where the clinics are located.

What would I have done differently

FOSIP’s work on CLE has seen its ups and down. My initial assumptions have been severely tested. Despite some big disappointments, if the time could be rolled back, I would still support CLE programs in Pakistan.

I would however not put faith in the universities/colleges but the law professors who are interested. I would not go for popular or prestigious universities but pick up universities where the staff are willing to work on CLE and there are fewer problems inter se between the staff members and between the teaching staff members and the University administration.

I would concentrate mostly on Street-Law clinics and finally, I would form the Clinical Teachers Association right from the word go.

In the end as a human rights lawyer, I must mention that it gives me great satisfaction when a former clinic student calls me and asks either about joining the Human Rights Commission of Pakistan or becoming a part of a legal aid or legal clinic initiative.