

Legal Clinics and Their Role in Awareness and Promoting Women's Access to Justice

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Abstract: The present research is based on a qualitative/descriptive and field work method. It illustrates what legal clinics are and discusses the roles of clinics in promoting women's access to justice and public legal awareness. Legal clinics in Afghanistan are affiliated with Sharia/Islamic Law faculties or Law faculties, are registered by the Independent Legal Aid Board, and are institutions where law students provide different legal services for the public under the supervision of a defense lawyer holding a bar license. At legal clinics theoretical knowledge is put into practice to achieve justice. On one hand, these institutions enhance the knowledge and experience of students, and on the other hand, they provide free legal services such as advocacy/arbitration, counseling, mediation and awareness for poor and disadvantaged individuals. Legal clinics at universities have positive and substantial outcomes for students, lecturers, defense lawyers, the judiciary, universities, and destitute individuals, and even for all members of a society. More than anyone, women who suffer the most due to lack of financial support and due to lack of access to education or lack of awareness can gain access to justice through legal clinics. Legal clinics come in different types and models. Active legal clinics are considered the best, with specific credits which along with practical training for students, they also provide legal services for people.

Keywords: Free Legal Aid through Legal Education, Legal Clinics, Public Awareness, Theoretical Knowledge and Practical Experience, Women's Access to Justice.

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I. INTRODUCTION

According to the Afghan Constitution, access to justice for all groups of society is considered one of the most important goals of the State. To have a defense lawyer, or to have a legal aid assistant in order to dispose a charge which is registered against him or prove his right, as in a society everyone can't afford to hire a lawyer due to their financial constraints. Therefore, the State inevitably needs to look for alternatives for the poor and those in need in order to facilitate their access to professional defense lawyers so that they can fight allegations against them or otherwise prove the facts. These alternatives include:

- 1- Establishing a Legal Aid Department, the General Directorate of Legal Aid, at the Ministry of Justice (MoJ).
- 2- Requiring defense lawyers licensed by the Afghanistan Independent Bar Association (AIBA) to provide free legal assistance for three criminal cases per year.
- 3- Requiring NGOs that are licensed to provide legal aid and assistance.
- 4- Supporting legal clinics, a modern framework or platform for legal aid provision.

It is worthwhile to mention that the Independent Legal Aid Board (ILAB) is established to regulate legal aid services effectively and to coordinate activities of the relevant stakeholders. ILAB functions as an umbrella organization for all stakeholders that provide free legal aid and services to those in need.

The concept of a legal clinics less than a decade old in Afghanistan, and so far only a few universities have established and launched legal clinics. Until now, legal clinics in Afghanistan have nonprofit objectives through which legal services and aid are offered without any cost to the clients.

In Afghanistan, knowledge of the objectives, roles and benefits of legal clinics in promoting justice is limited, and in fact there is no book or article published about them yet. It is necessary to assess the role of legal clinics in the context of Afghanistan so that students and members of the society understand their significance. Recognizing this need, this article is an effort to demonstrate the role of legal clinics in public awareness and promoting women's access to justice.

The significant of this article is realizing by these questions which the answers are in article, these questions are the following.

- 1- What are legal clinics? What is the most efficient legal clinic model for Afghanistan?

- 2- Are legal clinics institutionalized in both higher education and the legal system of the country?
- 3- What is the role of legal clinics in promoting justice for women?
- 4- What is the role of legal clinics in raising public legal awareness?
- 5- Why Legal Clinic are the best mechanism for practical training of students?

The main Objective of this article is answer to these questions, and the second Objective of this article is that all interested and related people can use from this article, and become aware of the role and importance of legal clinics.

Hypothesis of this research is that legal clinics play a crucial and effective role in promoting justice primarily for women. In addition, they play an important role in raising people's awareness of their basic rights. Also, legal clinics are considered essential for the Law and Sharia/Islamic Law faculties due to their significant benefits for the universities and the society.

This research is based on a descriptive methodology and field work. Data was collected for this research through questionnaires, interviews, observations, tests and personal experiences. The statistical population for the questionnaire method included those who participated in legal clinics as lecturers, defense lawyers, legal aid assistants or trainees. The size of this group or population in Afghanistan is relatively small, and a sample of 133 individuals from among this population were randomly selected. This number is considered relatively reliable for this research. Once collected, the data from the questionnaires were analyzed using SPSS.

Access to resources and related references has been a major challenge for this research. Initially, those who benefited from legal clinics and their services were going to be included in the statistical population for the research. However, because legal clinics are a new phenomenon in Afghanistan, it was very difficult and almost impossible to encourage enough people from this population to take part in interviews and fill out the questionnaires. Therefore, individuals who participated in legal clinics as defense lawyers, lecturers or trainees were also included in the sample population. Additionally, scholarly resources in Arabic or Dari in this field of research are limited, and access to relevant English materials was also limited. However, because most of this research is quantitative, the primary data for it comes from questionnaires and interviews. There are eight other technical resources/references used for this research.

In addition to an introduction to legal clinics, this research discusses objectives and positive outcomes of legal clinics, different legal clinic models, and their role in promoting justice and raising awareness, especially for women. The last section of this article is dedicated to outcomes, conclusions and recommendations. Hopefully and with the support of God, this effort, even if a small step, will fill the knowledge gaps and address the current needs related to legal clinics in Afghanistan.

DEFINITION OF LEGAL CLINICS

According to paragraph 7, article 4 of the Legal Aid Regulation, legal clinics are centers where students of Law, Political Science, and Sharia/Islamic Law faculties, or those of formal religious schools of the country provide legal assistance to the population under the oversight of a defense lawyer or a legal aid assistant. (Article 4 (7))

II. EXPLANATION OF THE ABOVE DEFINITION:

- Legal clinics are established to provide legal aid. This provision implies that legal clinics offer only free legal services and aid. Legal aid means to defend the rights of suspects and accused persons, to provide legal counsel to people at any level of prosecution, or to defend the rights of children and indigent women in civil cases. (1: Article 4 (1))
- In addition, the above definition merely covers criminal, civil and family clinical aids and does not include services for other legal cases, such as commercial and administrative cases. Based on the regulation, legal aid is for suspects in criminal cases and indigent persons who cannot afford legal representation, and it only covers civil cases for poor women and children.
- Legal aid is provided by students of Law and Sharia/Islamic Law faculties at legal clinics. This provision implies that legal clinics are centers affiliated with universities. Therefore, other than universities, other legal and or natural persons shall not establish legal clinics for the purpose of providing legal services or legal aid. Since the word "university" is used in absolute terms, it includes both public and private universities.
- Activities of students in legal clinics shall be overseen by a legal aid assistant or a defense lawyer. This provision implies trainers and mentors of legal clinics shall necessarily have a bar license. A defense lawyer or a legal aid assistant is a person who is listed on an official advocates list and holds a bar license. (1: Article 4 (2, 5))
- The Legal Aid provision implies that legal clinics shall operate under the supervision of the Independent Legal Aid Board and the Legal Aid Department (LAD). Therefore, for legal clinics to provide services, it is compulsory they have a license from the board. (1: Article 15)
- Legal clinics shall provide legal services and aid to natural persons only and not to legal persons. This is evident because the (2) Regulation refers to "livelihood" to illustrate poor persons, and livelihood means

living expenses and food costs. Therefore, the term refers to a natural person and does not include a legal person.(1: Article 4 (3))

The ILAB Procedures on establishing and operating a legal clinic defines a legal clinic as follows: “a legal clinic is a center where students and graduates of Law and Sharia/Islamic Law faculties of both public and private universities are trained by lecturers and legal aid providers in order for them to provide legal services and assistance.”(2: Article 2)

The word "graduates" in this definitionimpliesthat not only students but also graduates of law and Sharia could be part of a legal clinic.

The term "universities" is further defined as both "public and private" universities.While the term “universities” in the(2) regulation is in absolute term and it shall include both public and private universities, it is clear that the regulation seeks to include all types of universities in Afghanistan.

This definition does not mention the term "official religious schools," implying that ILABdoes not view these schools as having the authority to establish legal clinics. Even though the Board's view is to focus on specialization of legal clinics, that position and view is not legally required until item first of paragraph 3 of article 81 of the Law on the Organization and Jurisdiction of the Judiciary of the Islamic Republic of Afghanistan, and the Paragraph 3 of Article 6 of the Advocates' Law are in place and applicable.¹

According to the (MoHE) Procedures on establishing and operating of legal clinics at universities, legal clinics are defined as follows: “legal clinics are centers where students of Law and Sharia/Islamic Law faculties provide legal aid and assistance overseen by licensed defense lawyers, lecturers, legal advisors and experts, and where the students learn about legal clinics.”

This is not a careful definition because it is generic and doesn't accurately define the concept of “legal clinics”. The key part of a definition, which is inclusivity and exclusiveness has not been considered in the definition. Because this definition makes it possible for students to provide legal services at the legal clinics where advisors, experts, and lecturers who don't hold a bar license oversee their works. On the one hand, this is against the Advocates' Law and the Legal Aids Regulation, and on the other hand however, it will lead legal clinics to produce unexpected outcomes.²

Note: From my view, It is not necessary to restrict legal clinics only to the provision of free services, because this might prevent legal clinics from growing, it is important to require legal clinics to provide free legal aid so that legal clinics do not become a mechanism for making money by using the credibility and resources of public and private universities, leaving behind the main purpose of providing free legal aid to the public. Therefore, legal clinics should be supervised and controlled by ILAB and the Legal Clinics Union (when established), whereby they provide both free and non-free high-quality legal services in a professional manner under the supervision of a legal aid assistant or defense lawyer. Accordingly, legal clinics should be defined as follows:

Legal Clinics are institutionsaffiliatedwithSharia/Islamic Law or Law faculties, registered with the Independent Legal Aid Board (ILAB),supplying different legal services and assistance to the public, performed by students under oversight of a defense lawyer holding a bar license.

This definition is preferred for the following reasons:

1. The definition highlights the roles of universities and the Independent Legal Aid Board (ILAB).
2. This is a comprehensive and inclusive definition because it covers all types and models of legal clinics. Other authorities like provincial legal aid departments, license holder NGOs, and defense lawyers who are required to provide free legal assistance inthree criminal cases per year(3: Article 13, Paragraph 15) are not included in this definition.
3. Based on this definition, legal clinics can offer both free and alternative non-free services. Although legal clinics obtain their licenses from Independent Legal Aid Board, it is not conditional they provide only free legal aid or assistance, but they can also provide other alternative non-free legalservices as well.
4. Based on this definition, legal clinics can offer legal services for both natural and legal persons.
5. This definition implies both Sharia/Islamic Law and Law Faculties can have their own legal clinics, which has the following advantages:

¹ According to these laws, graduates from official religious schools of the country can perform the duties of a judge or defense lawyer in accordance with certain conditions.

² According to Paragraph 2 of Article 4 of the Advocates' Law and Paragraph 2, Article 4 and Article 16 of the Legal Aid Regulation, every legal aid provider is required to have a licensed defense attorney where legal assistance or legal services are provided at the legal clinics. Therefore, students work under the oversight of 1 lawyer who holds a bar license. This person can be a defense lawyer, a legal aid provider, or a lecturer. Therefore, based on this article, legal experts, or the person who has no bar license can not serve or supervise law students in legal clinics.

- Due to the large number of students in both faculties, having (Separately) Legal Clinics for each faculty will allow more students to take part in the clinics and earn credits.
 - Approval of academic and administrative aspects of legal clinics will be more straightforward While each faculty have the design and pedagogical elements of its own clinic.
 - Legal Clinics are for credit, which requires both faculties to have their own independent clinics so that there are no issues with credits or training.
 - There is no advantage in having one clinic for both faculties. Even if there are such joint clinics in some provinces it might have been due to lack of financial resources and or legal clinics have been considered as an extra curriculum activity.
6. This definition stipulates that students at legal clinics shall provide legal assistance under the supervision of a person who has a bar license from the Afghanistan Independent Bar Association, whether this person is a defense lawyer, a legal aid assistant, or a lecturer in a Sharia/Islamic Law or Law faculty.(3: Article 7, Paragraph 1)

LEGAL CLINICS: A HISTORICAL PERSPECTIVE

For many years, legal clinics have been used in developed countries and they have been considered positively. The notion of not keeping the law as a merely abstract concept goes back to early 19th century. Alexander Lyublinsk of Russia and William Rowe of the United States presented the theory and concept of centers in the early 19th century, where law students learned to reinforce their skills in a way that was similar to medical clinics, where medical students actually practiced medicine. In 1960s and 1970s, legal clinics were established at universities. This period was known for legal activism and civil rights in the United States. Initially these centers were supported by charity organizations, and later, legal clinical education or legal empirical education was expanded even further in the US. Today, the Union of Legal Clinics in the US represents the field of legal clinical education.(4: p. 4)

In 1983, there were only two legal clinics in South Africa, but in 1992, 16 out of twenty-one law schools in the country had a legal clinic. In Egypt, a legal clinic was established at the Alexandria University in February 2010 for the first time, and it was supported by the Egyptian Ministry of Justice and the US Partnership Program in Cairo. Later on, this concept slowly spread to other universities in the country.(4: p. 6)

Legal clinics also became common in other countries as well. In about 1990 year, legal clinics were established at a few law schools in Europe.(4: p. 5) In India, China, South Korea, Taiwan, Israel, Palestine, Singapore, Thailand, Japan and Turkey legal clinics are 3 to 4 decades old.(5: pp. 38, 196) In Russia, legal clinics became popular in the early 1990s.(5: pp. 38, 196)

In 2008 (1387), the first legal clinic in Afghanistan was established within the Law and the Sharia/Islamic Law faculties of Herat University, supported by Open Society Afghanistan (OSA).(6) Legal clinics were then established at Kabul University with the collaboration USAID and later on they were established within the most of the public universities that have Law and Sharia/Islamic Law faculties such as Kandahar, Nangarhar, Balkh, Takhar and Al-Biruni universities.

The majority of legal clinics at public universities in Afghanistan are sponsored and supported by non-state entities such as The Asia Foundation and ILF-A.

In 2018, USAID (CHECCH) Company showed interest in establishing legal clinics at private universities, as these clinics are proving to be successful for student learning and community needs, so they may continue to spread throughout the country. For the first time, family legal clinics were established at five private universities: Rana and Kateb Universities in Kabul, Bost University in Helmand, Asia University in Herat, and Al-Falah University in Nangarhar.

III. OBJECTIVES OF LEGAL AID CLINICS

At the government level, primarily at academic and other related stakeholder entities, some necessary work on legal clinics has been undertaken:

- Now, legal clinics have a determined status in the laws and regulations of the country. The Civil Higher Education Law of the country recognizes establishment of legal clinics as one of the main responsibilities of universities or higher education institutions, and under those institutions' authority.(7: Article 11 (7))
- The Legal Aid Regulation addresses definitions, authority, conditions and activities of a legal clinic.
- The Independent Legal Aid Board has prepared and drafted procedures for establishing and operating a legal clinic.

- With the cooperation of the Asia Foundation, the Ministry of Higher Education has prepared guidelines on establishing and operating legal clinics at universities.³
- Legal clinics are included in the curricula of Law and Sharia/Islamic Law faculties, and are available for academic credit at both faculties.
- Approval of academic and administrative positions for legal clinics is in the post (formation) of the Ministry of Higher Education. A coordination office for legal clinics has also been established at the ministry.⁽⁶⁾
- Legal clinics have published textbooks on professional ethics, legal writing and legal clinics. Three main tasks and objectives of legal clinics make them particularly important for Afghanistan:
 1. Providing practical skills training to Law and Sharia/Islamic Law students by providing them with opportunities to work directly with clients.
 2. Providing free legal services to poor and vulnerable members of society who have no other way to access their legal rights.
 3. Raising public awareness of people's basic and fundamental rights.

For Afghan people, lack of access to justice is a key challenge due to several reasons. The main reason is poverty and their inability to afford paid professional legal services. Illiteracy and poverty are also the two main reasons for family disputes. Because women are affected more than anyone else by these two problems, it is even harder for them to have access to justice. However, legal clinics address this problem and provide appropriate opportunities for women, children, and the poor so they can have better access to justice.⁴

One of the main objectives of legal clinics is the provision of professional and experiential training to law students. Initially, legal education is taught theoretically, descriptively and historically through lectures. Therefore, legal clinics can help law students gain both theoretical knowledge and practical skills.

Many law graduates in Afghanistan complain about having difficulties in practicing law. Even after graduation, graduates are unable to professionally manage legal work and cases. This includes difficulties in very simple activities such as writing, filing lawsuits, knowing the appropriate judicial office where a lawsuit can be filed, and how to begin a lawsuit.^(8: p. 12)

Though there are other methods for students to learn practical skills such as mock trials, field trips, attending hearings in actual trials, and taking research and writing courses, through these mechanisms, students are taught practical skills in an allegorical and hypothetical way, but not in a realistic way because they are not exposed to real legal cases. However, legal clinics are considered to be one of the best mechanisms for teaching practical skills. Through legal clinics, students work on real legal cases, and assist real clients to settle their disputes, and their hardwork, up-to-date legal knowledge, and energy and dedication will ultimately yield actual results for a client in the real world. This helps law students gain confidence and valuable skills to truly benefit from in the future.^(8: p. 13)

The second objective of legal clinics is to provide legal aid and assistance to the poor, and to provide justice for all citizens in an egalitarian way. This objective is a challenge not only in poor countries, but also in countries with more resources, wealth and stability, but high inequality. A series of mechanisms to offer justice to citizens exist, and due to resource and equality challenges, legal clinics are one of the most successful and appropriate mechanisms to achieve access to justice goals.^(8: p. 14) Furthermore, legal clinics provide additional benefits for women, because often women in countries like Afghanistan lack access to financial and economic resources, which hinders their access to justice, and which can be addressed through legal clinics.⁵

The third objective of legal clinics is to inform different groups of a society about their basic and fundamental rights. Legal clinic participants can conduct workshops and seminars in prisons, detention centers, orphanages, schools and other public spaces, providing members of the public with essential legal awareness and providing them with information on how to access their legal rights.⁽⁶⁾

IV. THE POSITIVE OUTCOMES OF LEGAL CLINICS

Launching and establishing legal clinics at universities can have significant and unique outcomes for students, lawyers, the judiciary, universities, and members of the society, which are discussed below.

4.1 Outcomes of Legal Clinics for Students:

Legal clinics offer students a transition from theoretical knowledge to practical experience and skills. Students' exposure to and interaction with indigent clients also makes them aware of the immense needs their

³ Although the above guideline was hastily drafted, the existence of such a document by the Ministry of Higher Education indicates that the establishment of legal clinics is a priority of Ministry of Higher Education.

⁴ Questionnaire responses.

⁵ Questionnaire responses.

clients have in their daily lives. These interactions can have a positive impact on both the law students' professional and personal lives and approaches. Trainees at legal clinics are expected to enhance their understanding of the suffering and problem of people who are living with poverty and injustice. At the same time, these law student trainees will develop a sense of compassion and sympathy for their clients and for others suffering poverty and injustice. Through this work at legal clinics, law students will also increase their dedication to assisting others in need, promote altruism, and engage in philanthropic and humanitarian activities. This first-hand practical work experience with the poor and vulnerable may also encourage those students trained at legal clinics not to engage in corruption.(9: p. 131)

Law students who work as trainees in legal clinics also learn key skills that will help them to succeed in their future professional careers, including how to start a legal claim, prepare a lawsuit, write a legal petition, write indictments, prepare defense statements and replies, draft other legal documents, and learn about professional ethics, and will gain important skills in interviewing, counseling clients, settlement discussions, choosing low-cost methods to resolve a case, and work collaboratively.

Organizing and giving student activities a purpose is also one of the benefits of legal clinics. If legal clinics can gain the approval and endorsement of the Bar Association, the period of a student's work in a legal clinic could be considered a replacement for the additional required post-graduate legal training courses (stage), because both focus on similar skills-training objectives. In fact, replacement of post-graduate legal training would be a compelling incentive for legal clinics to ensure their success and standards, and for students to join clinics and engage with the work.⁶

4.2 Outcomes of Legal Clinics for Lecturers

Lawyers have a high social status in Afghan society, and graduates of Law and Sharia/Islamic Law faculties enjoy many job opportunities in the job market. These reasons of prestige and opportunity motivate great proportion of young Afghans to pursue a degree in Law or Sharia Law. Naturally, this leads to a great deal of healthy competition for entry into these two faculties. Lecturers who not only provide theoretical knowledge, but who also put efforts into teaching practical legal skills that improve students' prospects in the job market make themselves even more valuable to their faculties. Therefore, legal clinics provide an opportunity for lecturers to improve their practical legal skills as well by engaging them with the contemporary changes and trends in laws and the judicial system. Through supporting legal clinics and practical skills training, lecturers can even have the opportunity to play a role in those changes.(9: p. 132)

4.3 Outcomes of Legal Clinics for Defense Lawyers

According to Paragraph 15 of Article 13 of the Afghan Advocates' Law, defense lawyers are required to defend at least three criminal cases per year on a voluntary basis, in coordination with the Ministry of Justice. This required voluntary legal assistance was needed when the number of defense lawyers in Afghanistan was limited, and also when legal aid and assistance were not readily available. However, with the establishment and strengthening of legal clinics, the need to impose compulsory and unpaid work on defense lawyers, who have financial obligations (tax) to the government and bar association (expenses of license and membership) as well, would be significantly reduced or eliminated. It is now the right time for the Bar Association to consider recommending the amendment of this article because, as legal clinics become more robust, they can fill critical gaps in legal aid and assistance, alongside the Independent Legal Aid Directorate (LAD) and NGOs providing legal aid.⁷

4.4 Outcomes of Legal Clinics for the Judiciary

In our country, one of the most pressing problems of the judiciary is the congestion of cases, and the services of law clinics reduce the quantity of cases brought to the judiciary, because legal clinics offer legal aid and before filing a lawsuit with a court, clients could benefit from legal clinics offering free legal counseling under the supervision of a licensed attorney. This could result in a number of lawsuits or cases being resolved at the legal clinics, and other lawsuits may be dropped or discarded after they are advised of the risks and of litigation at the legal clinic. As a result, the most complex lawsuits would be taken to the courts, which would reduce the backlog at the courts, and could greatly help the country's judicial system.

Since the Legal clinics are a new initiative in Afghanistan, so the number of cases that might be settled or dropped due to the advice received in legal clinics cannot necessarily be determined in advance. Nevertheless, countries with decades of experience working with legal clinics have demonstrated positive experiences and impacts on the judiciary through the clinics. In these countries, many plaintiffs drop their lawsuits once they receive counsel from the legal clinics from referring to the court.

⁶ Questionnaire responses.

⁷ Questionnaire responses.

working with legal clinics can make the case more efficient, well-organized, and well-presented in court. This also saves court resources when lawsuits do go before courts.

In addition, trainees at the clinics assist disputing parties to present right documents to the court. This helps judges not to spend their valuable time with disputing parties and instead focus their attention on their professional work.

4.5 Outcomes of Legal Clinics for the society

Legal services are often very costly. Due to lack of access to financial resources, many Afghans cannot benefit from needed legal services. Accordingly, legal clinics can be critical mechanisms for the poor and for impoverished groups to have access to a lawyer and legal expertise. Legal clinics, seeking to provide "justice for all", facilitate access to justice for all individuals and groups. This is the most important social function of legal clinics.

Legal clinics can also assist in identifying deficiencies in laws and legal provisions, and advocate for amendments to laws in a way that private lawyers may not be able to do because of limitations of time and financial resources. Furthermore, legal clinics can also fight against outdated customs in the laws and judiciary. As a result of their unbiased efforts, dramatic and positive changes can emerge in the society. (8: p. 16)

The another change is that more lawyers, Legal assistance, and legal advisors will be trained and ready to represent clients independently more quickly and without a lot of additional training.

4.6 Outcomes of Legal Clinics for Universities

Universities endeavor to offer top quality higher education that can meet both national and international standards, and that contributes to the public welfare, which can contribute to improving the university's status and reputation both at national and international levels. Clinics can be a critical part of helping universities achieve those goals. Through provision of credible and useful legal services, legal clinics can help universities enhance their positive social status and reputation, and this will enable universities to compete social and scientific reputation and make their services better to the community on timely basis.

V. DIFFERENT MODELS OF LEGAL CLINICS

Legal clinics can have different models, which are described below.

5.1 Client-based Legal Clinics: Depending on the type of client, this type of legal clinic will be divided into two categories:

a) **Real Clinics:** Real Clinics provide legal services such as counseling and advocacy directly to people. Students provide legal services to their community members, and people who have legal issues can seek services from these clinics.

b) **Simulation Clinics:** In Simulation Clinics, hypothetical cases are analyzed and investigated in order to teach and educate students. After students learn how to conduct analysis and do legal reasoning, they apply their skills to hypothetical cases, in which some students play the role of lawyers and others play the role of clients. Such cases can be purely hypothetical, or could be real cases which were previously adjudicated by the courts and are used by legal clinics for educational purposes. (4: p. 7)

Simulated clinics are prevalent in Afghanistan, where universities or institutions that are unable to establish real clinics can offer simulation clinics, where experiential legal practice is offered through simulated or moot courts. Recently, the Institute for USAID Society Empowerment Organization (SEO) has published an analysis of judicial cases related to criminal law, family law, and natural and commercial rights. In these publications, court cases are analyzed in order to be used in simulations by students.

Simulation clinics usually do not require a license from the Independent Legal Aid Board because they are not directly representing clients. Accordingly, these types of activities could be referred to as "simulated legal activities" rather than as "legal clinics".

5.2 Objective-oriented Legal Clinics: these types of legal clinics are divided into three categories based on their goals:

a) **Educational Legal Clinics:** In this type of clinic, the focus is mainly on educating students. In addition to theoretical courses, students practice law as well. These types of clinics often rely on simulated clients and cases.

b) **Community Service Legal Clinics:** These types of clinics focus on providing services to the community and provide legal assistance to the poor and impoverished. Educating and training students is not the main priority for such clinics. Although legal services include practical skills value for trainees, only graduate trainees could benefit from such practical lessons, not current students. Some NGOs have established such clinics, with the purpose to generate jobs for new graduates, in addition to providing legal services.

c) **Full Legal Clinics:** These types of clinics have both objectives of providing legal assistance to the poor and impoverished as well as providing skills trainings for students. This means legal services and assistance are offered by students to the poor and impoverished under the supervision of a lawyer.(4: pp. 7,8)

5.3 Location-based Legal Clinics: These clinics are divided into four categories based on their location.

a) **On-Campus Legal Clinics (In-House):** These clinics are located on the campus of the university, and individuals getting legal assistance from these clinics come to the university's legal clinic office for services.

b) **Off-Campus Legal Clinics:** These clinics are located outside of the university campus, usually close to judicial offices such as courts or the prosecution office, and the students come after their theoretical courses and providing legal services to clients under supervision and guidance of legal advisors.

c) **Mobile Legal Clinics:** These clinics do not have a specific or permanent location. The trainees of these mobile legal clinics often go to the clients to provide legal advice. Mobile legal clinics are needed in communities where residents do not have access to the offices of official authorities, such as the judiciary, due to distance or community traditions. (4: p. 8)

d) **Mixed Legal Clinics:** Mixed legal clinics mix the types of legal clinics. The main office of mixed clinics is usually located on the university campus, but may also have offices near the relevant judicial institutions to better facilitate their services to their clients. As a result, they can assist an increased number of clients.(10)

5.4 Curriculum-based Legal Clinics: These legal clinics are divided into two categories based on curriculum:

a) **For-Credit Legal Clinics:** These legal clinics are included in the curriculum of the relevant law faculties or departments, and they are offered to students for academic credit, like any other law course. Some for-credit clinics offer optional credits.

b) **Extra Curriculum Legal Clinics:** These legal clinics are not included in the curriculum of relevant faculties or departments, and they are considered as an extra activity without academic credits.(11)

The best model of legal clinic in Afghanistan are the Clinics to have these specifications, Client based real and objective based full clinics and location based should be mixed(with a main office on the university's campus and other offices near the relevant judicial institutions). These clinics should be offered for academic credit, as part of the regular curriculum. These types of clinics have had substantial results in Afghanistan, as these types of legal clinics on the one hand make it easier for clients to have access to clinics and on the other hand it makes it easier for students to work within the university under supervision of the lawyers and professors. The Asia Foundation has supported the development of these types of clinics in Kabul, Balkh, Kandahar, Nangarhar and Herat provinces, and based on my experience these types of legal clinics are successful.

VI. ACTIVITY AREA OF LEGAL CLINICS:

Legal clinics can offer practical experience in different legal areas. Many clinics offer services in family law, criminal law, civil cases, juvenile cases, property disputes, and commercial and administrative cases.(12: paragraph 11, clause 1) Clinics can focus on a particular substantive legal area related to the students' curriculum and the legal needs of the community. Though specialization of a legal clinic can limit the scope of its legal services, it can improve the quality of those services through limiting the number of clients and allowing students and supervising attorneys to become proficient in specific legal issues and areas of law. Legal clinics can also be authorized to change their focus from time to time in accordance with the curriculum of the relevant faculty and the changing needs of the community. (12: Paragraph 11, Clause 1)

VII. LEGAL CLINICS: TYPES OF SERVICES

There are numerous examples of legal services offered by legal clinics to their clients. Some of the most common ones are listed below.

1. Counseling on how to file a complaint, prepare required legal documents for litigation, and provide required information and laws related to the litigation.

2. Advocacy and full representation of a client, with trainee-students supervised by lawyers and legal aid assistants, who have the right to represent clients directly in court. While the definition of legal aid assistants is not applicable to students, they cannot represent their clients to court due to lack of legal bar license in one hand and on the other hand legal aid through clinics is a new phenomenon in Afghanistan, all the required laws and regulations are still being developed. This is not a problem only in Afghanistan, but also in majority of the Asian countries. However, to expand and improve free legal aid services it is necessary to address and remove this barrier and allow trainee-students some rights of representation of clients before the courts.(13: pp. 37-38)

3. Mediation and arbitration of civil, commercial, family and interpersonal disputes. Sometimes, disputing parties may not wish for their disputes to be settled through courts or the formal judicial system, but would prefer a neutral legal expert to assist with the dispute resolution. Therefore, trainees at legal clinics could

be a good alternative for such disputing parties, and can provide advice for settling the dispute in accordance with the law and other applicable human rights standards.⁸

4. Legal Awareness (Street Law) can be promoted by student trainees through conducting workshops under the supervision of their mentors, to explain relevant laws and rights to citizens. These workshops can be conducted for village councils and elders, community elders, children at juvenile rehabilitation centers, school teachers and students, detainees in detention centers, in women's shelters, and in other public spheres. (6) Public legal awareness can also be accomplished through communication materials like posters or billboards in public places, publication of magazines, weekly newsletters, newspapers, brochures, and organizing round tables and TV and radio interviews.

5. Research and legal analysis can also be engaged by clinics in addition to activities above. Legal clinics should engage in academic research activities, such as preparing course curricula, workshops and seminars, reviewing judicial cases, analyzing laws, and arranging mock trials. Due to the existing academic environment, and the priorities of teaching and learning rather than financial gain, clinic activities can be related to academic research and legal analysis, allowing the legal profession as a whole to benefit from the work of legal clinics. Therefore, research can also be one main activities of legal clinics. (6)

VIII. THE ROLE OF LEGAL CLINICS IN EXPANDING WOMEN'S ACCESS TO JUSTICE

For women, legal clinics are a good way to gain access to justice because these clinics offer free services. Poverty and lack of independent financial resources are major reasons why women in Afghanistan seek free legal aid and assistance. At the same time, poverty also causes many family disputes in Afghanistan such as claiming dowry, alimony, or payment for guardianship. In addition, poverty can also cause domestic violence, which can result in divorce. Domestic and family violence can also escalate with increased in poverty. (8: p. 28)

Survey data show poverty and lack of financial resources as among the main causes of women's lack of access to justice.

Table 1: Poverty and lack of financial resources are reasons for women's lack of access to justice.

		Number of responses	Percentage
Options	A great deal	52	39.1
	Much	49	36.8
	Somewhat	22	16.5
	Little	9	6.8
	Not really	1	.8
	Total	133	100.0

The survey data also showed that legal clinics can be a viable alternative to provide legal assistance to the poor and impoverished (because legal clinics assistance is without cost and it is suitable for poor people to have access to justice).

Table 2: Legal clinics are considered the best alternative for free legal assistance to the poor and impoverished.

		Number of responses	Percentage
Options	A great deal	74	55.6
	Much	47	35.3
	Somewhat	10	7.5
	Little	2	1.5
	Total	133	100.0

Illiteracy and low levels of public awareness are other reasons preventing women's access to justice. Because of higher illiteracy rates among women, they can be unaware of legal procedures, litigation risks, enforcement of laws or judgments, and legal consequences of various actions. For this reason, women might not file lawsuits, even where their cases may have merit. As a result, women's access to justice is limited. Because

⁸ Questionnaire responses.

legal clinics are a good option for addressing lack of legal awareness, clinics can be well-suited to address this challenge of illiteracy and also lack of legal literacy in all specially in women to some extent. According to the collected data, respondents consider illiteracy and lack of awareness as main reasons women do not have access to justice.

Table 3: *Illiteracy and lack of awareness are reasons women do not have access to justice.*

		Number of responses	Percentage
Options	A great deal	79	59.4
	Much	30	22.6
	Somewhat	21	15.8
	Little	2	1.5
	Not really	1	.8
	Total	133	100.0

As in table shown a large number of respondents consider illiteracy as a reason for women not to have access to justice.

In addition, a majority of respondents considered legal clinics an effective mechanism for raising public awareness because of their expertise and professional staff. The respondents also made it clear that through legal clinics illiterate people, and especially women, can be informed of legal processes and the consequences and risks involved in lawsuits.

Table 4: *The Role of Legal Clinics in Raising Public Awareness.*

Options	A great deal	43	32.3
	Much	67	50.4
	Somewhat	17	12.8
	Little	4	3.0
	Not really	2	1.5
	Total	133	100.0

In this table the most of respondent considered which the legal clinics in awareness of public specially women are effective, because of a large number of interns and Lawyers, and expertise is too much effective. too most of the respondents have chosen the “very much” and “much” options.

The lack of Security in the Justice System is another reason of lack of access to Justice for Women.

Table 5: *Lack of security in the justice system is another reason for women not to have access to justice.*

		Number of responses	Percentage
Options	A great deal	48	36.1
	Much	39	29.3
	Somewhat	39	29.3
	Little	6	4.5
	Not really	1	.8
	Total	133	100.0

From above table it is clearly seems that lack of security and not feeling safe in judicial institutions, corruption, and abuse of power are other reasons that women do not have access to justice. Due to these reasons, even victims of violence are less likely to go to judicial institutions to report their issues.

In next table responses to the questionnaires have also stated that because legal clinics are affiliated with academic institutions, women might feel safer going to them. They can discuss their disputes in a relaxed environment and seek advice from the trainees.

Table 6: *Because legal clinics are affiliated with academic institutions, women feel safer going to them than to judicial institutions*

		Number of responses	Percentage
Value	A great deal	65	48.9
	Much	45	33.8
	Somewhat	18	13.5
	Little	5	3.8
	Total	133	100.0

The Legal Aid Regulation has several protections in favor of women and children, and is another reason why women seek out legal aid organizations when they seek access to justice. The Regulation states that legal aid for women and children is a legal right in criminal cases and civil cases.(1: Article 4 (1))So it is obvious women go to legal clinics due to this fact.

The responses to the survey also suggest that access to legal clinics might be easier for women than accessing other legal aid entities. Because legal clinics are located at universities and have offices near Justice and judicial intuitions, access to these clinics is easier and more frequent.

Table 7: *Legal clinics are easier to access than other legal aid entities.*

		Number of responses	Percentage
Options	A great deal	37	27.8
	Much	51	38.3
	Somewhat	31	23.3
	Little	9	6.8
	Not really	5	3.8
	Total	133	100.0

The above data suggests that legal clinics can play a role in increasing women's access to justice, and women can receive free legal aid and assistance at legal clinics.

The Role of Legal Clinics in Raising Public Awareness, Especially Women, of Their Basic Rights

It is possible to raise public awareness through legal clinics by direct contact with the population. Legal clinics can provide legal counseling and drop-in services in centers in public and in populated areas. Another way to raise public awareness is through workshops conducted by legal clinics for different groups of the society. Workshop scan be held to inform local elders, members of district councils, school teachers and students, local government officials, children in confinement and juvenile rehabilitation centers, suspects, accused persons, and detainees in the detention facilities and in prisons about their basic legal rights and relevant laws.

Clinics can also raise public awareness through communications and media. Legal clinics can develop publications such as magazines, academic articles, posters and banners to inform people of their legal rights. Legal clinics can also provide basic information about legal rights on radio and TV interviews and through roundtable discussions on key legal issues such as citizens' basic rights. Online counselling is another way to raise public awareness, using a form of direct counseling done online. While clinics can engage in all these methods of public legal awareness, these activities are less common in Afghan legal clinics—only the Herat legal clinic has organized some workshops in the past.

Research Findings

The findings of the research are as follows:

1. Legal clinics are affiliated with Law and Sharia/Islamic Law faculties at universities, and are listed under the Independent Legal Aid Board, where different legal services are offered to the public by students, supervised by a bar license holder.
2. Legal clinics are officially recognized by their universities and by law. The status of the clinics has been confirmed in laws, regulations, procedures, and guidelines. Legal clinics as courses for academic credit have also been incorporated in the curricula of Sharia/Islamic Law and Law faculties.

3. The objective of legal clinics is to provide practical and experiential training for students, as well as to facilitate access to justice for the poor specially for women. Clinics have positive outcomes for universities, students, lecturers, defense lawyers, the judicial system, and the poor and impoverished in the society.
4. The Real and Live Clinics with dual purpose are considered to be the best model for Afghanistan. These clinics have their main office located at the universities, and also have offices near judicial institutions. The model should be granted for credit and be part of the curriculum.
5. Legal clinics have an important role in improving women's access to justice. It is because of poverty and lack of financial resources that women seek free legal assistance from the legal clinic, also lack of trust on judicial organs, lack of knowledge that their rights have been violated and also Custom limitation for Women are accounts for some instances of domestic violence and criminal cases.
6. Legal clinics can be effective in making people, particularly women, aware of their basic rights, and provide information about legal processes, litigation risks, and other legal consequences.
7. Because legal clinics are affiliated with academic institution, women may feel safer going there than to judicial institutions. Where trainees are properly supervised and trained, women should be able to raise their legal concerns and issues in a comfortable environment and receive advice and even settle their disputes out of court.
8. In comparison with other entities providing legal aid and assistance, legal clinics are more accessible, because legal clinics are located at universities and have offices near to Justice and judicial institutions, access to these clinics is easier and more frequent.
9. Public awareness program can also be provided through legal clinics. One way to do so is through counseling centers established and run by legal clinics in populated areas and public spaces. Also Workshops for different social groups, publication of journals and academic articles, posters, posting of banners or billboards, public interviews, and online counselling from legal clinics are effective ways to promote and raise public awareness.

IX. DISCUSSION

Afghan legal professionals differ in their opinions about whether legal clinics should be fully independent, and affiliated with universities, or whether their work should be overseen by the Independent Legal Aid Board (ILAB), or the Afghanistan Independent Bar Association (AIBA). However, if any legal aid or assistance is offered without being supervised by ILAB, it actually limits the clinic's scope of work. In fact, these types of activities create gaps and delays.

Some lawyers believe legal clinics should be affiliated with universities, while being supervised by AIBA. However, due to the nature of their work, legal clinics are more in contact with the ILAB than the AIBA. Because the one of the most aims of legal clinics are providing free service beside the train of students, so it is better that legal clinics should operate within the university structure, in collaboration with the independent ILAB.

Because legal clinics are affiliated with universities, academic services should be run by university lecturers. It does not seem right that university lecturers get hired in administrative positions, and doing so will weaken legal clinics. In addition, legal clinics are for credit and are part of the curriculum of law and Sharia faculties, so their training and educational programming should be conducted by lecturers who hold a bar license. Assuming that a legal clinic's supervisor is appointed in an administrative position, then his or her teaching obligations will not comport with laws and regulations related to academic appointments. For these reasons, legal clinic trainers should be hired or appointed as lecturers. Legal clinics will also require a non-academic competent manager or legal secretary.

X. CONCLUSION

Legal clinics should be permitted to offer free legal services as an alternative to the private legal sector. Because legal clinics will be supported by NGOs for a short period of time, they will need sustainable financial resources to continue to function into the future. Therefore, clinics may be unable to sustain if they only provide free services. In Afghanistan, this may be an even more acute challenge in private universities. Legal clinics can, however, provide legal services to both natural and legal persons, and legal clinics can provide better alternative services for legal person so income could potentially be gained through corporate representation.

Legal clinics play a pivotal role in expanding women's access to justice and they are also considered one of effective mechanisms to raise public legal awareness.

Strong legal clinics will be affiliated with universities, and their academic activities should be run by academic staff of the universities. At the same time, the ILAB should have an oversight role of services provided by legal clinics. For better coordination and discipline, all legal assistance activities are regulated by the ILAB.

XI. RECOMMENDATIONS

1. The Legal Aid Regulation should be amended to ensure that services provided by legal clinics are not limited to free services only. Legal clinics should be permitted to offer alternative for-cost legal services as well. The Regulation should also be amended to allow legal clinic trainees, with certain restrictions (registration of the legal clinic to ILAB), to defend their clients before a court or file a lawsuit.
2. The university guidelines for "establishment and operation of legal clinics" should be amended, because the guideline was prepared by the Ministry of Higher Education and The Asia Foundation quickly, and it does not resemble a legal document. Furthermore, the guideline does not have specific chapters, articles or paragraphs. Some provisions are quite ambiguous, while others seem too detailed. Therefore, this legal document should be re-drafted by legal clinic experts at the Ministry of Higher Education, in collaboration with the ILAB.
3. It is recommended that both Law Faculty and Shariya/Islamic law have separate legal clinics, because on the one hand both universities have a large number of students and on the other hand the specific credits and specific academic posts of legal clinics are appropriate.
4. In order to better regulate and coordinate affairs of legal clinics, a Legal Clinics Union should be established. Other legal aid providers have supervising bodies: legal assistants are supervised by the Legal Aid Department (LAD), and lawyers are supervised by the Afghanistan Independent Bar Association, especially in taking on their three obligatory legal aid cases each year, and NGOs have the legal aid network. All of these entities are led by the Afghanistan Independent Legal Aid Board.
5. The obligation for defense lawyers to provide legal services for three cases each year for free should be revoked. The general assembly of the Defense Lawyers Association could recommend revocation of Paragraph 15 of Article 13 of the Advocates' Law, because with legal clinics functional, there is no need for defense lawyers to provide free legal representation. In addition, it is unclear whether the Ministry of Justice or AIBA allocates these cases to the attorneys. According to Paragraph 15, Article 13 of the Advocates' Law, the unpaid defense for three criminal cases must be approved by the Ministry of Justice. However, the newly amended by-laws of AIBA state that the unpaid defense of three cases must be approved by the Association. This yet to be settled issue has made defense lawyers unable to undertake their legal obligations.
6. Universities should choose the most efficient model of legal clinics for Afghanistan.⁹
7. While some outside entities such as NGOs support or sponsor legal clinics in Afghanistan, they should let the universities lead and supervise the clinics, and NGOs should not have more interference in Academic affairs.
8. In order to facilitate and expand legal aid assistance and services offered by the legal clinics, judicial institutions and courts should cooperate with the clinics in accordance with the provisions of the law.

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⁹ The most effective model of a legal clinic for Afghanistan is discussed in this paper (in end part of types of legal clinics).