

Setting Up a Legal Clinic in Hong Kong: Progress and Challenges

Eric TM Cheung, Faculty of Law, University of Hong Kong

Clinical legal education has in recent decades become a well established part of legal education provided by universities globally. However, Hong Kong is lagging behind. The Faculty of Law, University of Hong Kong, has long foreseen the desirability of introducing clinical elements into our various education programmes so as to expose students to the practical side of the law. In 2005-06, the Faculty considered that it was time to take the development of clinical legal education a step further. We engaged Professor Stacey Caplow, the Director of Legal Education in the Brooklyn Law School, as a consultant to report on the feasibility of introducing clinical legal education in Hong Kong. After extensive consultation with all the stakeholders in Hong Kong on the subject, she submitted her report to the Faculty in June 2006.

In July 2007, a Consultation Paper on the Development of Clinical Legal Education Programme was issued by the Faculty to consult the professional bodies and other stakeholders. The proposal was to set up a Law Centre within the Faculty to operate a legal clinic under which students would be handling real cases under the supervision of qualified lawyers. The Law Centre would operate as both a service provider and a referral agency. With the exception of the Law Society of Hong Kong, all other consultees expressed their general support or raised no objection to our proposal. The Law Society took the view that such a Law Centre should be established as a solicitors' firm, while the Faculty believes that, for reasons explained in the Consultation Paper, it would not be appropriate or feasible for the University to set up a solicitors' firm for this purpose. Some members of the Legal Education Committee of the Law Society also expressed reservation as to the education value and need for setting up a legal clinic.

As it may take time to resolve satisfactorily the issue relating to the formal structure of the legal clinic, the Faculty has decided to defer the setting up of a formal legal clinic pending further discussions with the Law Society and other stakeholders. However, in order to chart the way forward, instead of setting up a legal clinic, the Faculty has decided to launch a clinical legal education course ("CLE Course") as one of the LLB electives. A pilot run started in January 2009 whereby 18 law students were recruited to participate in the CLE Course on a voluntary and non-credit bearing basis. Their work was confined to providing assistance, under the supervision of qualified staff, to lay parties in the Small Claims Tribunal (where legal representation is not allowed) under a pilot scheme approved by the judiciary. However, as there was only one law school in Hong Kong providing such service, the judiciary was concerned about equality and fairness if the other party could not obtain similar service. It was therefore decided that the Faculty could only take up cases where the other party was a Government Department represented by the Department of Justice or was represented by in-house legal counsel, and consented to the provision of service by the Faculty. At the end, only one case was taken up throughout the whole semester and so it transpired that such a caseload could not sustain a viable CLE Course.

With the experience gained in the pilot run and with further discussions with the stakeholders, the Faculty formally launched the CLE Course in the LLB as a 6-credit elective course in January 2010. Apart from continuing with the pilot service at the Small Claims Tribunal, the work that participating students may do is expanded to cover the following: assisting in the running of the Free Legal Advice Scheme on HKU Campus under the Duty Lawyer Service; assisting appellants

in hearings before the Municipal Services Appeal Board and the Administrative Appeal Board; assisting in cases handled by a law firm on a pro bono basis; and assisting in cases handled by the Bar Free Legal Service Scheme.

The purpose of this paper is to explain in more detail the latest experience gained in the CLE Course, and the progress and challenges in the development of the Legal Clinic in Hong Kong.