

ONLINE CRIMINAL CLINIC

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Abstract: Confinement brought with it virtual classes, and that teaching channel that was once the exception, became the rule, but, what are the implications that this change produced for crime victims who seek access to justice?

The main objective of this contribution is to exemplify, by sharing the results and experiences produced by the criminal clinic taught in virtual format of the Campus Puebla, how online clinical teaching, as well as a face-to-face legal clinic execution, achieves a differentiated learning in relation to the traditional methodology of teaching, that is, the development of disciplinary and transversal educational competences for criminal litigation through experiential learning.

The penal clinic at the Tecnológico de Monterrey in Puebla City, Mexico, was established four years ago from the project "Voice of the Victims" in conjunction with the Arizona State University and sponsored by the Merida Initiative. The criminal clinic works with an external institution called "socio-trainer".

By acquiring knowledge about the role of legal advisors to victims, and by taking an active part in the entire criminal process, students develop diverse transversal competences like professional responsibility, human sense, and professional ethics; In addition to that, this contribution aims to also showcase the online criminal clinic execution limitations and opportunities of development when compared to the face-to-face or in person clinic development.

The methodology follows a format of assigning real criminal cases to students who assume the role of victim lawyers; They are guided by professors from the University and a lawyer from the Socio-trainer Institution. They are evaluated according to the procedural progress of the assigned cases, as well as activities and alternatives for access to justice such as: counseling for crime victims, preparation of briefs and guidelines for hearings.

In the August-December 2020 semester, the clinic was executed online, and the methodology underwent an important transformation in its academic and practical aspects, as well as in the care and follow-up of assigned criminal cases. The process had negative implications due to the lack of constant interaction with the victims and the authorities, but this did not substantially affect the student's learning.

Keywords: Victims, Criminal Cases, Criminal Process, Clinical teaching, Online Education

Introduction

The criminal clinic as a teaching methodology in Mexico represents a challenge in its implementation and monitoring, even more so when an unexpected event such as the spread of the SARS-COV2 virus, which was declared a pandemic by the World Health Organization (WHO), forces us to carry it out on an online format.

The Puebla Campus of the Tecnológico de Monterrey, implemented in August 2020 the online criminal clinic, derived from the inter-institutional commitment with the Arizona State University (ASU). Puebla's little experience in the implementation of clinics (five previous clinics), represented a major challenge to modify the format and re design it to be taught completely at a distance. However, the resources available to us because of the Tecnológico de Monterrey, facilitated the design and the experience in clinical teaching shared with us by the academic coordination of ASU, was fundamental in our modification of the structure.

The clinical methodology based on real cases was the axis by which the subject "Seminario de Juicios Orales" was developed, which is established as a topic in the 2011 study plan of Law and Law and Political Science and the seven registered students accredited 240 hours of social service.

The present contribution aims to show the results and context of the implementation of clinical-based teachings but applied online from the case of Puebla in the August-December 2020 semester.

To achieve the objective, it begins by pointing out the antecedents of the aforementioned clinic in order to have a complete understanding of the reasonings behind the remote implementation of the clinic on the referred semester, then, the methodology of implementation of teaching in this clinic is explained after that, the results from the comments of the enrolled students are shown and lastly to conclude, the strengths, limitations, and opportunities of the online criminal clinic are presented.

The background of the Criminal Clinic in the Tecnológico de Monterrey

Amongst the various teaching methodologies used at our institution we can find the clinic teaching one. Which consists of giving students the opportunity to learn through clinical practice, this involves them practicing for reality. Allowing us to observe the anticipated professional performance of the student in a specific role by having them participate in a this simulation-like excercise of how their professional life will be when they graduate. However, it would not be a teaching methodology if student's were not involved and guides were not teached on how to do so; thus, this methodology is a combination of legal education and actual practice. Unlike other teaching schemes, the clinic moves away from traditional and expository teaching based on hypothetical cases with the objective of conceptual theoretical learning. As it is refered by Castro, the clinic method seeks to show the student the social projection of his profession and his responsibility with the society in which he is immersed. (González, *et al.*, 2017).

This last point that Castro points out to us is of utmost importance for the development of learning, because it takes into account that the value and objective of the profession is the service with responsibility to society, an objective which is least attended in traditional teaching. That is why clinics are not traditional syllabary subjects, but rather on themes that start from general problems of social reality.

The Tecnológico de Monterrey until three years ago, kept certain elements of an academic clinic, which dealt with many subjects that were far from academic. This project inside the institution is still

active in many campuses around the country and it is called Bufetec, which is a free service of advice and monitoring of the process and process of legal cases. These law firms work linked to the Department of Social Service to which students register and have a Legal Director and applicant lawyers who provide the company with a legal firm service. Students have the role of auxiliary lawyers for the successful prosecution of cases.

The Merida Initiative, an international treaty on security signed between Mexico and the United States, was the fund through which an agreement was generated between the ASU and the Tecnológico de Monterrey, generating the program "Voz de las Víctimas", which includes training in Litigation Techniques of the Criminal Justice System for students, professors, applicant lawyers, and public servers, as well as the implementation of criminal legal clinics.

The implementation of the legal-criminal clinic at the Tecnológico de Monterrey represented an opportunity for structural transformation of the curriculum, the social sense, the comprehensiveness of learning, the training of teachers and links with public institutions and civil society; all of them being elements that constituted a challenge compared to those previously implemented in Ibero-America (Londoño, 2016).

For an effective implementation and understanding of the clinical methodology, there was a training process for managers, administrators, teachers, and representatives of the Institutions who would act as "Training Partners" and that all together, would form an educational team and it was necessary that they all counted with the same information for a successful development of the clinic.

Out of four Campuses which hosted the criminal legal clinic, the first one happened in Campus Puebla within the curriculum of the 2011 study plan, in the optional class known inside the institution as a topic called "Seminario de Juicios Orales" with key D1016, this is a subject that is part of what The Council on Social Work Education calls "explicit curriculum" because it is where the competences are reflected in the preparation of students for specialized professional practice that also contains the use of technology (Council on Social Work Education, 2015, p. 11). This topic had a redesign based on the contents of the program and the objectives of the clinic. In that work participated Academic Director of the program "Voz de las Víctimas", teachers who implemented the first clinic, and it was reviewed by the Socio-Training Institution with which the program would begin: Justicia Ciudadana A.C. chosen for its focus on caring for crime victims.

On the other hand, this topic grants up to 240 hours of social service to the student from direct work with the Training Partner Institution. Registration of the social service project is in charge of the Department of Human Sense, and the administrative follow-up corresponds to a local Coordinator in Campus Puebla.

The main transversal objective of social and academic service to accredit the subject is that the students take responsibility as legal advisers in the comprehensive care of crime victims. To achieve this, the main function is to directly monitor the research folders assigned directly by the Institution with support for the representation before the Public Institutions of a qualified lawyer to Justicia Ciudadana. Alternative activities such as victim interviews, writing, and hearing guidelines are the secondary objective. It is necessary to understand that when one is collaborating in social service projects, its activities can't focus exclusively on one segment of development and it is mandatory for

them to include the possibility to develop people in more than one area, skill or occupation, that is why social workers are called generalist practitioners (Cox, L. 2015, p.6)

The scheduled class and round table sessions are discussed, the cases assigned and guided by the teachers of the subject are discussed, the students generate strategies for the advancement of their research portfolios, simulations of procedural moments are carried out, workshops are held with specialist guests and the documents to be submitted are reviewed. There are cross-sectional content sessions taught by the corresponding areas of the Institution on emotional management and professional responsibility, as well as reflective feedback sessions, on the monitoring of learning, its strengths, and impediments that are presented in order to achieve the development of competencies in the matter.

Competency-based learning is a strengthened scheme at Tecnológico de Monterrey based on the design of the 2019 Study Plan. However, from the previous plans, it was working incipiently with that objective. Thus, the competencies to be developed in the clinic are Disciplinary and Cross-cutting, the first being: the designing of strategies to propose solutions by making use of the various types of alternative conflict resolution methods, the formulation of innovative strategies to facilitate crime victims access to justice, considering the national legal framework, arguing the case from the legal and ethical context for the benefit of the victim, designs strategies with a social vision applied to the legal system that contemplate similar options for the application and social prevention of crime, and the transversal ones: ethics, citizenship and payment of social mortgage, problem solving and critical thinking.

Online Criminal Clinic. Implementation

Derived from the call by the World Health Organization (WHO), a global pandemic of the COVID-19 disease caused by the SARS-COV2 virus, each Country implemented measures to reduce the number of infections, one of them being confinement in the home. The closure of educational institutions from preschool to university level was a general measure in Mexico among others that have been executed since March 2020. Because of it, the Tecnológico de Monterrey implemented information and assistance tools for its community in relation to COVID-19, and it reinforced, with the help of its Observatory and the Center for Teacher Development and Educational Innovation, the training of its academic staff in the use of technological tools to start virtual classes.

The online criminal clinic had an important impact on our teaching methodology and the in-person clinic experience served as a baseline for it. But, the implementation of online work for the August-December 2020 semester had a precedent in the abrupt adaptation result of the previous semester (January-May 2020), where the pandemic forced the interruption of face-to-face work to continue it online. This allowed a detailed planning of distance work with students so that the main objective - responsibility direct advance of research folders-, was fulfilled, It is known that effective online learning requires careful design and planning, using a systematic design and development model, which in emergency situations is absent (Hodges, C., et. al. 2020, p.4).

Thus, the implementation semester was from August 2 to December 2, 2020 and in its development, there were no changes regarding the selection of students and the scheduled class time. As for the participating students, the requirement was to have accredited the course on criminal procedural law;

as for the scheduled class time, three hours per week was enough for the group discussion of the assigned cases. However, distance contact requires promoting electronic means of communication that replace the traditional classroom sessions and having benefit in learning. Therefore, the telephone and the computer were indispensable tools for the development of the clinic. E-mail, phone calls, instant messaging and links via zoom were constant and useful in the interaction between teachers, students, training partner and victim users.

It should be mentioned that in Mexico, it was only on February 24, 2021, that the digital justice system was approved, which contemplates the reform of article 17 of the Constitution that implements the use of the technologies of the information and communication to substantiate and resolve online trials in all their stages, as well as consultation and integration of electronic files, with reservation of the proceedings and processes that by their nature must be face-to-face (Senado de la República, 2021). However, in the semester of the implementation of the online clinic, the files were completely physical files and the procedural actions were conducted in person. Thus, the files assigned to the students were scanned and deposited on the course canvas -institutional academic platform-, which helped group access to the files to be discussed in class, but on the other hand limited their timely updating which at times affected the student's monitoring and knowledge of procedural events in which his case was progressing and that the distance prevented direct participation in the proceedings such as visits to courts, direct communication with experts, policemen and other authorities, as well as the visit to the place of the facts and areas of residence of the victims and probable person responsible for the crime. The way to remedy it was that the assigned lawyer was communicating and explaining to the student the development of the proceedings and procedures carried out, as well as what happened in the hearings - carried out remotely and with access only to the lawyer and not to the student -, although at this point, the lawyer then shared the video of the hearing with the student so that they could later comment on what happened.

In contrast to the above, one of the elements that strengthened learning was the ease of access to experts who interacted with students remotely, either from their home or office. This was one of the advantages of the online clinic, that unlike the face-to-face clinic, the transfer times to the classroom made it impossible for students to have access to these experts.

Among other experts, we were visited in a virtual classroom by Dr. María del Carmen Cruz González, who is Coordinator of Alternative Means in Criminal Matters of the central area of the Attorney General's Office of the State of Puebla, Professor Belén Pérez Gómez, Legal Advisor of the Directorate Victims of Crime, Master Héctor Barlandas Loaiza, Public Defender of the Government of the State of Puebla, Attorney Jorge Armando Winder Gutiérrez, Prosecutor for Kidnapping Instruction of the State Attorney General's Office, Doctor Rafael Adame Gómez, Private Defender, Master David Rodríguez González, Control Judge of the San Andrés Cholula Region, Puebla. Each one related their role in the criminal process in addition to explaining a specific stage of the process, sharing intervention tips according to the specific role and the interaction with the parties involved for the constant improvement of justice.

The methodology for implementation was similar to that of the face-to-face or in-person clinic, however it had some adaptations that are reflected in the following points:

1. An informative talk was held with students interested in registering the course in order to explain the methodology and format of the subject. The interviewers were the professors and

the legal director of Justicia Ciudadana AC It should be mentioned that this step was already applied in previous semesters but the specific online dynamics had a detailed explanation to evaluate the availability of time and sufficient electronic tools to provide timely follow-up to requests from the partner-training institution;

2. Research folders were selected according to individual interviews and scanned for their assignment to students. In previous face-to-face clinics, the folders were reviewed and fed by the students in the Institution due to the secrecy of the information, which with the digitized folders was not put at risk since the link was not shared outside the clinic group with the contents of the folders; Table 1. Cases for student

Student	Crime	Number of cases assigned
First	Family Violence and Fraud	2
Second	Family Violence and Information theft	2
Third	Attempted illegal deprivation of liberty and Information theft	2
Fourth	Qualified homicide	1
Fifth	Qualified homicide and y equated rape	2
Sixth	equated rape aggravated	2
Seventh	Injuries and damage to malicious property of others and Fraud	2

- 3. The students were trained in the comprehensive care of victims and they were assigned a lawyer from the Institution to accompany them in the follow-up of their cases and virtual counseling for crime victims. The assigned lawyer met four hours twice a week with the students to monitor the progress of their folders;
- 4. During the scheduled time of the subject, there were talks and simulations by experts in the practice of procedural issues;
- 5. Round table. After assigning folders and starting activities with Citizen Justice, in the learning reflections within class time, a perceptual analysis was carried out among the students and teachers. The students expressed their feelings regarding the limitations due to contingency measures to help crime victims to a greater extent, for example the lack of in person human interaction and the slow progress of cases due to work suspensions in the courts;
- 6. Analysis of hypothetical cases. Hypothetical folders were assigned so that the students could provide alternative solutions, based on the theoretical knowledge acquired in the sessions with the experts;
- 7. Audience simulation. The students had the opportunity to carry out four simulations of hearings in class, two teams for an abbreviated procedure and two teams for a hearing for the conditional suspension of the process; for this, expert guests were had, who assisted in the simulation with the role of judges:
 - Mtra. Ebelin Verónica Velarde Vázquez. In his capacity as Agent of the Public Ministry in Sexual Crimes, he supported the students to carry out the hearings for the Conditional Suspension of the Process, having the role of Judge;

- b. Dr. Gerardo Gutiérrez Gayosso. Control Judge in the Tehuacán Puebla Region, who served as a judge in the simulation of shortened procedure hearings;
- 8. At the end of the semester, the students made an activity report which they presented to the Legal Director of Citizen Justice, the Department Director, the professors of the subject, the guests who gave talks and acted as judges and the local coordinator of the project.

Results

At the end of the clinic, evaluations are carried out to gather the student's perceptions of the academic subject credited and the social service activities provided and assigned to them. In this monitoring exercise, the student evaluates the accompaniment of the teachers and regarding the social service, their own performance regarding the work dynamics with the socio-educational Institution.

The result of the teaching performance was good in relation to the comment: "excellent teacher in criminal matters, the best". The performance of the students was also positive, they had report deliverables, attendance at sessions with experts, simulations in time, that is, compliance was effective and at all times they expressed interest and disposition, in general they had a positive attitude.

On the other hand, regarding the provision of social service, which is the main thing in the legal clinic, the administrative accreditation of hours was complete, that is, 240 hours for each student, however, derived from the questionnaire delivered to the Department of Sense Human of the Campus, it was observed that the students identified the difference in the realization of the clinic online and in person and the preference for the face-to-face experience was preferable. This can be noticed in some of their comments:

"Being at a distance, I felt that I could not take advantage of social service as if I had done it in person";

"Do it again in face-to-face format to have the full experience";

"Honestly, due to the pandemic, I cannot give very constructive criticism, since I lived it in a very different way than I would have been face to face, I know it is a great social service because many people recommended it to me. I was very satisfied, I was satisfied, although it was virtually. I would have loved to do it in person, but that's how it was this time around";

"I think the only thing that affected the project this time was the lack of in-person interaction situation."

Regarding the challenge and challenge in the follow-up of the online clinic, it also represented a change in the daily routine of life of the students' activities, as well as the implication in the adequate attention of the social service. The main challenges they expressed were:

"Follow the rhythm remotely";

"Finding a way to coordinate time with the digital situation and achieve efficient communication with those who needed help";

"Give legal advice";

"Keep research folders online, as they cannot always be updated on time, which makes it difficult to maintain a constant rhythm of work";

"Being digital activities."

The importance that criminal law has in society implies the commitment of whoever is in charge of direct responsibility for a person. For this reason, despite the distance, the students made an effort to follow up their cases on time and provide counseling to the victims, if not, the conclusion of the clinic would be negative, but as stated Amirthalingam (2017) "the proof of a law school's success lies in its students" (p. 328), and just as in criminal teaching in The Faculty of Law, National University of Singapore, Tec de Monterrey law students have a teaching based on research, advice and contribution to social good, for that reason the development of transversal competences such as ethics and professional commitment, are of compliance evidenced in the criminal clinic regardless of whether it is online or in person.

It is worth mentioning that during the development of the clinic, we were detecting slow progress in the cases as well as few activities assigned by the partner training institution since its work dynamics is mainly face-to-face, in such a way that we decided to implement simulations of hypothetical cases that took place to the procedural practice in a virtual classroom with invited experts who were judges in the hearings. This was an alternative in the remote teaching solutions for instruction or education as temporary access to education and therefore one of the characteristics to emergency remote teaching (Hodges, C., et. al. 2020, p. 7). Based on this, the comments on this structure and modification in the course of the clinic were the following:

"I think that if it is not possible to have more IDUs due to the distance and everything that implies taking them out of the institution, they could request to do more writing or listening exercises, as was done at the end;

"More communication";

"In the case of it being online, I consider that the planning regarding the management of the Research Portfolios could improve";

"If this program continues in digital mode, a closer communication with the binding organization or society."

Despite the elements to be improved, the final comments of the students reflect that they identified a differentiated learning with respect to their traditional subjects:

"Thank you very much for all the effort, for the guests brought and for always wanting to innovate to improve our experience";

"The objective of the project is very good";

"Although I would have loved to participate in the clinic in its face-to-face mode, I learned many things that neither theory nor a classroom can teach";

"I know that it is a good social service, the teachers and lawyers in charge of us were concerned despite the situation we are experiencing, I am grateful that they always had activities for us, and that concern about wanting to learn despite being through a camera"; "It seems like a great opportunity for those of us who want to know a little more about how criminal proceedings work in real life. The knowledge obtained in a classroom is perfectly complemented by applying that knowledge in practical cases. An excellent activity that makes us see everything as it really works ";

"I loved the acquired learning, I can presume that if it had been face-to-face, the knowledge would be much more than the acquired."

This general perception of the clinic does not detract at all from the learning obtained in their traditional subjects that learning in traditional format is also important for the previous context of the topics to be developed in the clinic but without the clinic, they would not have a complete understanding of the professional reality "Case analysis or the memorization of a set of rules and exceptions are teaching methods widely used in law schools. Both are useful, but cannot give enough of the picture in some subject areas to leave the student with even a general understanding" (Uyumaza, A., Erdoğanb K., 2015, p. 2117). Thus, despite the pandemic that forced emergency learning in the criminal legal clinic, the main objective was achieved.

Conclusions

The methodology of clinical teaching in criminal matters represents a challenge for the students and the work team, since the practice of litigation is changing due to the multiplicity of crimes, victims and monitoring of the process. When this clinical teaching is also developed online, the challenge is greater for both the guiding team and the students, but the essence of experiential learning is still present.

The online criminal clinic implemented in the August-December 2020 semester at the Puebla Campus of the Tecnológico de Monterrey, contributed to the learning of the students due to the opportunities they had to connect with experts via zoom, since in person, in the clinics Past, the difficulties of the transfer and the occupations of the office, prevented the continuous visit to the classroom of public servants and people of the private and social sector, experts in the procedural topics. The hearing simulations were also beneficial to the students, as they strengthened litigation techniques, procedural knowledge, and the structure of the hearing. Likewise, the interaction with the lawyers of the partner training institution assigned to the students via whatsapp, zoom and mail, were fundamental for the follow-up of their assigned cases, as well as for the assignment of alternative activities to be carried out such as: counseling to the new victims, conducting guidelines for hearings and writings for proceedings or proceedings, among others. Thus, the objective of the clinic was fulfilled, that is, the development of disciplinary and transversal competences for litigation in criminal matters, from the role of victim counseling, the students developed the transversal competences of human sense, as well as professional ethics.

The final comments that were obtained with this experience by the students reflect satisfaction with the differentiated learning they had with the online clinic in relation to the rest of traditional subjects, since the knowledge put into practice not only allows a mechanical application of the law but also an integrality of the legal profession, more in criminal matters and in the personal and professional responsibility of a person who suffered the damage of a crime. This learning reflects without a doubt despite the pandemic imposition of COVID-19, that we can assume responsibility for the other beyond their face (Levinas, 1991).

The limitations of the online criminal clinic had, did not prevent the main objective of it from being fulfilled. However, it is necessary to point out that there are areas of opportunity that in subsequent experiences can be addressed both by the educational institution and the training partner to improve the learning experience in particular: communication between teachers, students and the training partner as well as the constant updating of digital assigned cases. On the contrary, some activities that reduced the possibility of an integral experience were detected, such as virtual audiences, which in the semester in question did not allow access to other people other than the parties involved. Contrary to the in-person process in which entry is allowed to the public. This was a disadvantage for the students of the semester in question, that would be corrected in subsequent online implementations by allowing them to visit on specific dates of virtual audiences which are allowed to the public. However, visits to the courts and prosecutors' offices are a limitation that could not be corrected in any way in the online clinic since the panorama of the environments and interactions that take place within these spaces are not replaced by virtual visits or through of the experience told by a third party. Sensory perception shapes experiential learning and helps to fully understand the meaning of the profession.

Based on this experience in Campus Puebla, it is recommended for Universities and especially for law programs, the implementation of clinics in all subjects, but especially in criminal matters, since it strengthens the total understanding of the function of the legal profession, that is to say, the service to society in an integral way. In criminal matters, this service not only implies legal representation but also a direct responsibility towards the pain situation of a person who has suffered a crime, this makes the student commitment represent a challenge to transform the life of the person you help. It is thus necessary for more Universities to implement penal clinics as currently they are few compared to other subjects (Translaw, 2016, p. 25). Likewise, it is suggested not to avoid implementing the clinic with the justification that fortuitous conditions will impede experiential learning. In the case of Puebla, the online implementation of the clinic represented a challenge for the work of the guiding team but also for the student, so the main recommendation in case of implementing it in this format is fluid communication between those involved.

On the other hand, it is necessary to point out that implementing the clinic in a virtual format, potentiates the use of digital tools for learning, as in the case of Puebla it was mainly the interaction with experts, but the experience with international guests could even be strengthened, as well. as interaction between students from other national and international clinics. Thus, the academic experience would be strengthened by printing an international stamp.

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