

LAWYER'S RELATIONSHIP WITH BRESCIA LEGAL CLINICS

The Brescia Legal Clinical programme was first established in Italy in 2009 at the Brescia Faculty of Law. Introduced experimentally, over the years it has grown stronger and now it can be regarded as one of the most innovative initiatives promoted by the University.

The first step was taken by a group of academics, lawyers and students, all persuaded that it was time to make a change in the traditional way of teaching and learning the law by introducing and experimenting new methodologies. At present Legal Clinics is an elective course (40 hours) which gives students 6 credits. The Clinic is open to students enrolled in the 5-year degree course in Law who are in their 3rd, 4th or 5th year, and to students enrolled in the 3-year degree course for Labour Consultants who are in their 3rd year. The Legal Clinic covers two semesters ("Legal Clinic 1" and "Legal Clinic 2"). Students may take either "Legal Clinic 1" or "Legal Clinic 2" or both. Starting from 2015 a specific Clinic in Labour Law for Labour Consultants was created.

The Brescia Legal Clinic is characterized by a multidisciplinary approach involving different legal fields: Civil Law and Civil Procedure, Criminal Law, Labour Law, International Law, Immigration Law, Comparative Law, Consumer Law, Anti-discrimination Law, Administrative Law and Criminology.

Given the multi-disciplinary character of the Clinic, different kinds of cases are handled. Cases are chosen taking into account various factors: educational value, exemplarity, social relevance. Cases may also be suggested by lawyers and NGOs which the Clinic collaborates with.

Once the case has been selected and taken on, students working on that case take an obligation to comply to legal ethics. Students work in different small groups (2-4 people), each group being supervised by a professor and a lawyer.

During the start-up of the Brescia Clinical Program, the LBA was sceptical towards this innovation for several reasons: 1. LBA raised some doubts in relation to the purpose of the Legal Clinic to choose only public-interest cases, claiming that such a choice could be easily labelled as ideological or political; 2. LBA claimed that the clinics might infringe the rules aimed at prohibiting any unfair way of acquiring new clients; 3. LBA feared that the clinics may be an unnecessary duplication of the existing legal apprenticeship.

Nevertheless, an intense dialogue has taken place between the Academia and the LBA and, in the end, the efforts put towards the implementation of a clinical program have given the desired successful results. In fact, today the Clinic benefits from a remarkable support and an active collaboration of the Local Bar Association, which is permanently involved in the organization of the course and present in the Scientific Committee of the course itself through some of its members.

In particular, 10 local lawyers -who have a significant professional experience- are regularly involved in the program, at two different levels:

1. LAWYERS AS SUPERVISORS OF THE CASES TOGETHER WITH LAW PROFESSORS

Under the Italian civil (and criminal) procedure code only the lawyer is responsible for the defence. That means that (i) the students cannot stand before the court; and (ii) all the claims, briefs, appeals and other acts must be approved and signed by the lawyer in charge of the defence. Also in Mediation on civil and commercial disputes the presence of a lawyer is required. Although the lawyer only is in charge of representing the client – therefore only the lawyer can stand before the judge – our students

(with the judge's permission) are allowed to attend the hearings. Although students do not play a formal role in the trial, under the lawyer's supervision they perform a number of activities: in particular, they interview the client, provide researches, write memos and give a significant contribution to the drafting the of acts relevant to the proceedings.

Notable cases handled in recent years:

A. **Civil Law and Family Law** (Lawyers: Avv. Alessandro Benussi, Avv. Luisa Francucci; Academic Supervisors: prof. Fabio Addis; prof. Alberto Venturelli; prof.ssa Cristina Amato)

- Legal advice to a former military in a case of health damages (cancer) potentially caused by a compulsory vaccination;
- Legal assistance offered to a client in a case of usury rates applied by a Bank;
- A lawsuit filed on behalf of a mother to regulate the custody of the children in a legal separation's case.

B. **Consumer Law (Lawyer: Avv. Arianna Moreschi; Academic Supervisors: Prof. Cristina Amato, Dr. Laura Bugatti, Dr. Elena Togni; in cooperation with Local Consumer Associations: Adconsum and Federconsumatori)**

- A settlement reached on behalf of an Italian woman challenging false advertising and fraudulent marketing tactics by a private training center;
- A lawsuit filed on behalf of a Consumer Association in a case of illegal meat slaughter which may cause public health damages (on-going);
- Legal assistance offered to an old man in a Product liability case -Lack of conformity of purchased goods (on-going).

C. **Criminal Law** (Lawyers: Giovanni Salvi, Avv. Vittorio Arena, Avv. Marco Capra; Academic Supervisor: Prof. Luca Masera)

- Legal assistance offered to an animal-rights association in a criminal proceeding against people responsible for a dog breeding where Beagle were used for animal testing;
- Legal assistance in favour of a senegalese citizen, who was victim of insult and injury aggravated by the purpose of racial hatred.

D. **International Law and Immigration Law (Lawyer: Avv. Mara Biaggio; Academic Supervisors: prof. Patrizia De Cesari; Dr. Chiara Di Stasio)**

- Legal assistance to Refugees in preparing briefs and documents for the Local Commission of Refugees (in collaboration with a local NGO: associazione Zavidovici);
- Legal assistance to a victim of torture: brief submitted to the Committee Against Torture (CAD);
- Strategic Litigation applied to the Legal Clinic context: the "Guardian case" (*amicus curiae* brief to the ECHR);
- Cases focused on immigration and statelessness, which specific regard to the condition of Roma people.

C. **Labour Law and Antidiscrimination Law** (Lawyers: Avv. Alberto Guariso; Academic Supervisors: Prof.ssa Marzia Barbera, Dott. Fabio Ravelli, Dott.ssa Francesca Malzani, Dr. Francesco Rizzi)

- Street Law Activities on behalf of “Carcere e Territorio” Association focused on Italian hiring incentives for ex-prisoners;
- Study activities regarding the access of foreigners - in particular the citizens of third countries - to social welfare measures;
- A lawsuit filed on behalf of several fired workers in a case of lawless collective redundancy.

D. Administrative Law (Lawyers: Avv. Alessandro Asaro, Avv. Alessandro Bertuzzi; Academic Supervisor: Prof.ssa Paola Lombardi)

- Collaboration with a Local Environmental Association that has expressed concern with regards to the environment’s impacts caused by a wrong waste management;
- Legal assistance to the father of Roma child who claimed the recognition of the son’s residence in a reception center where the whole family was temporarily accepted.

2. LAWYERS AS AN EXPERT IN SOME SPECIFIC FIELDS

Lawyers are asked to conduct regular seminars and/or simulations in relation to significant aspects of their professional work, such as:

- Legal Ethics: Avv. Giovanni Salvi (member of the LBA);
- ADR (and in particular Mediation in Civil and Commercial Matters): Avv. Alessandra Dalla Bona (Member of the LBA, Mediator, and responsible of the LBA’s Mediation Organism)

3. LAWYERS AS TRAINEES

Every year the Clinic provide to Clinical teachers a series of training courses, mainly taught by Anglo-American law professors and foreign scholars, covering a variety of legal topics of special interest of the Clinic, including teaching skills. These events are open to both Academic Supervisors and Lawyers involved in the Brescia clinical program. Examples of these trainings include:

- Prof. Jon Bauer (*University of Connecticut*) - 9-11 May 2010, “*Directive versus non-directive teaching*”; “*Listening and responding to clients*”; “*Addressing asylum and human rights issues*”; “*Addressing employment discrimination*”.
- Prof. Steven Zeidman (*C.U.N.Y. Law School*) - 16-18 May 2010, “*Organising a criminal defense clinic: how to develop fundamental legal skills*”; “*Building a criminal defense*”; “*Ethical issues in defense decision-making*”; “*Racial impact of quality of life policing*”.
- Prof.ssa Paula Galowitz (*N.Y.U. Law School*) - 11-13 May 2010, “*How to teach the strategic use of procedural tools*”; “*From facts development to the formulation of a theory of the case*”; “*Narrative modes of thinking and writing in legal practice*”; “*How to use effective methods of communication*”.
- Prof. Ramzi Kassem (*C.U.N.Y. Law School*) - 3-5 May 2011, “*The Law of Guantanamo – An Overview*”; “*Ethical Dilemmas in Uncharted Legal Terrain*”; “*Legal Policy in the 'War on Terror' from Bush to Obama*”.
- Prof. James Silk (*Yale Law School*), Dr. Paul Linden-Retek (*Yale Law School*) and Tendayi Achiume (*UCLA*) - 8-10 May 2012, “*Human Rights Clinic. A General Overview*”; “*Supervising Students in a Human Rights Clinic*”; “*Ethics and Methods of Interviewing Victims of Torture and Refugees*”.
- Prof. James Stark (*University of California, Berkeley*) - 11-13 May 2014, “*Mediation in the U.S.: A Discussion*”; “*Introduction to Mediation – Part I: Why to Mediate? Major Forms of*

Mediation"; "Introduction to Mediation – Part II: Facilitative Mediation Illustrated and Discussed".

- Prof. Jeffrey Selbin (University of Connecticut), - 20-23 May 2013, "Law School Clinics in the USA: A History, Case Study and Some Data"; "Brown, the Civil Rights Act and Backlash: The Ongoing Quest for racial Equality in the U.S."; "Poverty Law after the U.S. Welfare State: Down, Out and Beyond".
- Prof.ssa Paula Galowitz (NYU School of Law), prof. Wallace J. Mlyniec (Georgetown Law School), Prof. Richard Grimes (York Law School) e, Prof. Josè Garcia Anon (Università di Valencia) - October 2014 and April 2015 "Training for Legal Clinicians".