

GLOBALIZED LEGAL EDUCATION, HUMAN RIGHTS LAWYERING, AND INSTITUTIONAL FORM: THE CASE OF A REFUGEE LAW CLINIC IN SOUTH KOREA

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This article is a case study narrative drawing upon the author's experience in creating a refugee law clinic at a law school in Seoul, Korea. While clinical legal education has spread transnationally over the past half century, law school clinics in South Korea are still incubating within the context of a new graduate legal education system. This article contemplates the pedagogical and institutional role and limitations of a refugee law clinic within South Korea's growing refugee advocacy movement, with specific focus on the interaction with the new system of graduate legal education. The clinic has created new institutional space for law students to work with public interest law actors for a transnational human rights cause while acquiring lawyering skills. However, the curricular and attitudinal constraints of graduate legal education in South Korea require institutional innovation and flexibility.

INTRODUCTION

With the dual purpose of advancing social justice and creating opportunities for practical training, law school clinics have spread globally since starting in North America, the United Kingdom, and Australia in the 1960s and 1970s.¹ Law school clinics expanded in South Asia, Africa, Latin America, and later Russia, Eastern Europe, and Southeast Asia, often with donor assistance under rule-of-law initiatives promoting rights assistance for vulnerable communities.² In the last two decades, law school clinics have also taken root in China, Japan, the Middle East, and Western Europe. The oft-told narrative is

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¹ Jeff Giddings, Roger Burridge, Shelley A. M. Gavigan, and Catherine F. Klein, *The First Wave of Modern Clinical Legal Education*, in THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE (Frank S. Bloch, ed., 2011) [hereinafter THE GLOBAL CLINICAL MOVEMENT], at 3-22.

² For a general overview of clinical legal education worldwide, see THE GLOBAL CLINICAL MOVEMENT. See also Scott L. Cummings and Louise G. Trubek, *Globalizing Public Interest Law*, 13 UCLA J. INT'L L. & FOREIGN AFF. 1 (2009).

that many legal clinics are created with donor assistance (frequently U.S.-sourced), are collaborations with existing clinics (transnational or regional), and modeled after other legal education systems (usually the American JD model).³

The story of clinical legal education in South Korea remains untold, particularly in the wake of the 2008 transition from the undergraduate study of law to a three-year post-graduate degree program. Before 2008, successful bar exam applicants received two years of training at the Judicial Research and Training Institute. With the advent of the new system, lawyers are concerned that law school graduates will enter the job market with little practical experience. Clinical legal education is seen as part of the solution, thus the standard law school curriculum in South Korea now incorporates courses and activities such as legal research and writing, court advocacy and litigation skills, moot court competitions, case-solving methods, externships, and legal clinics. Since the inception of the new law school system, legal clinics have been introduced at virtually all of the 25 law schools nationwide in South Korea. Yet there is no scholarship in English that analyzes the development of these legal clinics. This article provides a first-hand description of the development of the Refugee Law Clinic at Sungkyunkwan Law School in Seoul.

The Refugee Law Clinic (Clinic) is part of the global phenomenon of law school clinics as institutional entities that provide rights assistance to disadvantaged communities while at the same time providing legal training for students. This article asks whether this type of law clinic can serve as a site for human rights lawyering given its sub-institutional novelty within the relatively new graduate legal education system of South Korea. The article contemplates several questions: How can a law school clinic interact and engage with the broader refugee advocacy movement in South Korea? What pedagogical approaches are required? What awareness and skills do law students gain in the process? What dilemmas and constraints does a refugee law clinic confront, especially in the face of a new legal education system? This refugee law clinic narrative can be particularly helpful in illuminating the connections between legal education, the legal profession, and civil society in the case of South Korea. The fresh variables of legal education reform, the accompanying new class of lawyers, and maturing transnational advocacy movements have cumulatively contributed to the development of public interest law in South Korea.

The claim set forth by a prominent network of clinicians is that

³ *Id.*

the global expansion of clinical legal education amounts to a movement.⁴ Clinical scholars have countered the stereotype of “imperialist clinical education” by pointing to grassroots initiatives by local faculty, thus largely viewing the development of legal clinics as part of a global, synergistic wave of institutional activity.⁵ Clinical scholar Sameer Ashar argues that the analysis should move beyond “whether clinical models are being wholly transplanted, modified, or created anew in contexts outside of the U.S.” and abandon “an over-commitment to a counter-imperialist, bottom-up narrative of clinical legal education across borders.”⁶ Using law and development theory, Ashar questions whether transplanting U.S. clinical legal education has effectively aided the advancement of human rights causes where native legal institutions are mostly focused on training future legal professionals to serve powerful state or private sector interests. The outstanding question is whether legal clinics promote sustainable social justice efforts, particularly considering the emphasis in clinical education on skill-building as opposed to committed client representation. Ashar insists that “[i]t is vital for the preservation of the justice education ideal that clinics bring social movements into the center of the law school experience.”⁷

These are valid observations in advancing the discussion on the global phenomenon of clinical legal education. This article situates South Korea within the discursive map of clinical legal education by describing (1) how the Clinic illustrates the dynamics of engagement with an emerging advocacy movement consisting of nongovernmental and legal actors; (2) how the Clinic follows the pattern of diverse pedagogical methods of international human rights clinics but does not fit the U.S.-derived binary of human rights law versus asylum/immigration clinics; and (3) how the Clinic is in tension with the curricular infrastructure of the new legal education system, which promotes globalization of the profession more in theory than in practice.

This article will proceed as follows. In Part I, I discuss the institutional space for clinical legal education in South Korea created by the refugee advocacy movement, the recognized institutional form within legal education of human rights clinics, and the specific context for clinical legal education in South Korea. In Part II, I explain the

⁴ For the history and activities of the Global Alliance for Justice Education, see <http://www.gaje.org/> (last visited Aug. 7, 2013).

⁵ See Richard J. Wilson, *Beyond Legal Imperialism: US Clinical Education and the New Law and Development*, in THE GLOBAL CLINICAL MOVEMENT, *supra* note 1, at 136-150.

⁶ Sameer M. Ashar, *Book Review*, 62 J. LEGAL EDUC. 193, 197 (2012) (reviewing THE GLOBAL CLINICAL MOVEMENT).

⁷ *Id.* at 202.

Clinic's formation and development, specifically the conceptual beginning, the collaborators, specific projects, and students. In Part III, I discuss the constraints of running the Clinic, including the priority placed on bar exam courses, curricular restrictions, and other complications in globalized legal education. I close with observations about the further development of the Clinic and legal education in South Korea.

I. INSTITUTIONAL SPACE FOR CLINICAL LEGAL EDUCATION IN SOUTH KOREA

The convergence of several developments has created space for the development of clinical legal education in South Korea. First, there is an increasing need for lawyers and legal advocacy, specifically in the area of refugee law, as the country becomes a part of global streams of migrants and refugees. Second, clinical legal education is an accepted component of the model of modern legal education adopted in South Korea. Third, law schools are allocating resources for human rights and social justice clinics, at least partly due to the legacy of justice education models widely accepted by the early adopters of clinical legal education in the global North. Cumulatively, these developments create the conditions under which the Clinic has been founded.

A. Refugee Recognition

South Korea is currently witnessing a burgeoning refugee advocacy movement. Although South Korea acceded to the *1951 Convention Relating to the Status of Refugees* in 1992 and started receiving asylum applications in 1994, the first asylum application was approved in 2001.⁸ While North Korean escapees have been accepted under a separate legal framework for resettlement, South Korea has not had a refugee recognition system in place for asylum seekers originating from other countries until relatively recently.⁹ South Korea became an OECD member in 1996 and sought to elevate its status internationally by becoming a member of the United Nations High Commissioner for Refugees (UNHCR) Executive Committee in 2000. However, the government faced growing criticism by local and international refugee

⁸ UNHCR *Republic of Korea - Fact Sheet* (Sep. 2013), available at <http://www.unhcr.org/500019d59.html>.

⁹ Though the South Korean government has long accepted North Korean escapees since the postwar period, it has not traditionally recognized North Koreans as refugees as defined under the Refugee Convention. The *Constitution of the Republic of Korea* and *Nationality Act* provide that those born on the Korean peninsula to Korean parents have South Korean citizenship, while the *Act on the Protection and Settlement of North Korean Residents* regulates the settlement process.

advocates for its low rate of acceptance of refugees.¹⁰ The total number of refugee applicants between 1994 and 2012 is 5,069, of which 320 were recognized as refugees and 171 given humanitarian stays, resulting in a 6.31% recognition rate.¹¹ As of July 2013, the number of recognized refugees is 336, compared to the total number of asylum-seekers of 1,541 in the country.¹²

Major challenges exist in the refugee recognition process, namely the length of asylum procedure; interviewing obstacles (e.g., language and cultural barriers); access to information, housing, education, and health services; limited or no employment; and lack of adjudication resources and expertise.¹³ The Ministry of Justice has oversight over the refugee recognition process. Asylum seekers and refugee advocates have complained about inconsistent and delayed review of applications by the ministry, poor interviewing techniques, judicial conservatism in appellate cases, and lack of legal assistance. The lack of legal expertise in South Korea on refugee law matters significantly constrains the refugee recognition process. NGO staff advising asylum seekers on whether to submit and sustain applications for refugee status sometimes have inadequate legal training.¹⁴ Lawyers fully specializing in refugee law in South Korea “can be counted on one hand” according to a representative of the Seoul UNHCR office, while other lawyers assisting on a *pro bono* basis are constrained by the limited time available to work on such cases. The general lack of country experts within the refugee advocacy community and the lack of a shared database of country-of-origin (COI) reports prevent advocates, administrators, and judges from having a full understanding of the political and social conditions in an applicant’s home country or region; this lack of understanding undermines the credibility of the asylum claims.¹⁵ This is also true in the case of judicial appeals. Judges trained in refugee law are also few in number and often limit their consideration to the universe of facts found within case files, though there is a

¹⁰ Hans Schattle and Jennifer McCann, *The Pursuit of State Status and the Shift toward International Norms: South Korea’s Evolution as a Host Country for Refugees*, 26 J. OF REFUGEE STUDIES Advance Access, 7 (June 12, 2013) available at <http://jrs.oxfordjournals.org/content/early/2013/06/11/jrs.fet003.full.pdf>.

¹¹ *Id.* at 8.

¹² UNHCR *supra* note 8.

¹³ Christian Baureder, Situation of Asylum Seekers and Refugees in the Republic of Korea, Presentation at Sungkyunkwan Law School (Nov. 16, 2011).

¹⁴ Yiombi Thona, Experiences of Asylum Seekers and Refugees in Korea, Paper presented at the Int’l Conference on Refugee Rights, Korea Univ., Seoul, Korea (2012) (on file with author).

¹⁵ Byoung Hyun Cho, Refugee Protection in Korean Judiciary, Paper presented at the Int’l Assoc. of Refugee Law Judges, 9th World Conference, Bled, Slovenia (Sep. 2011), http://www.iarlj.org/general/images/stories/BLED_conference/papers/08._Cho_-Bled_2011.pdf.

strengthening effort to gather and share refugee case law and to participate in international refugee law conferences.¹⁶

The refugee advocacy community has worked hard in the last five years to address some of these gaps through the Korea Refugee Rights Network (KRRN), which consists of representatives from public interest law groups (e.g., *Gonggam* Public Interest Lawyers' Group, Advocates for Public Interest Law (APIL), Hope and Law), UNHCR, the National Human Rights Commission of Korea, various NGOs (e.g., Nancen, Refuge P'nan, Human Asia, Ecofemme, Medipeace), and Dongcheon Foundation (Dongcheon), the nonprofit *pro bono* foundation of the Seoul-based law firm Bae, Kim & Lee (BKL). Through this collaboration, domestic and international advocates have compelled the Korean government to face the issue of proper refugee recognition procedures for asylum-seekers.¹⁷ KRRN meets monthly to discuss pressing issues for refugee advocacy, including individual cases, and was instrumental in pushing for a domestic refugee law, the *Act on the Status and Treatment of Refugees*, effective July 2013. Negotiations with the Ministry of Justice in drafting provisions of the law, however, resulted in unsatisfactory compromise for refugee advocates.¹⁸ While the new law provides clearer standards for the refugee recognition process and for subsequent treatment of refugees in comparison to before, it remains to be seen how effectively the Ministry of Justice will implement the provisions given continuing practical hurdles such as language barriers, and the lack of trained interpreters, knowledgeable caseworkers and lawyers, and refugee specialists within the ministry.

While civil society representatives work to assist asylum seekers directly, Dongcheon Foundation has taken the lead to build institutional capacity by organizing training of lawyers, law students, NGO staff members, and interpreters, as well as to broker cases with *pro bono* lawyers and to initiate a COI database. Dongcheon Foundation and other KRRN members have welcomed the potential role of legal clinics in this process, especially in training and refugee advocacy. Given this receptivity and the continuing gap in legal services for asylum-seekers in South Korea, it is possible for a law school clinic to be part of the network of critical transnational actors which constitute the Korean refugee advocacy movement.

¹⁶ *Id.*

¹⁷ Schattle and McCann, *supra* note 10, at 11-12.

¹⁸ Jong-Chul Kim, *Enactment of Refugee Law and Extended Suggestions on Its Unsolved Issues*, APIL RESOURCES (2012), <http://www.apil.or.kr/1122> (last visited Aug. 7, 2013).

B. Recognized Institutional Form within Legal Education

Currently, the preconception among Korean law school administrative bodies is that the purpose of a law school clinic should be primarily litigation-oriented. The Ministry of Justice, law school accreditation team, law school administration, and most faculty members largely view the purpose of law school clinics as providing opportunities for students to work with clients on cases that go to court. Thus, I have had to explain and defend in written reports why and how the Refugee Law Clinic has so far concentrated largely on training, COI research, case law research, and working with local public interest law groups, rather than direct case work with clients. Though this type of non-litigation centered work is common for international human rights clinics, it appears counterintuitive in Korean legal education.

This attitude evinces Korean legal educators' general unfamiliarity with international human rights clinics worldwide. As of 2011, approximately fifty law schools in the United States have a clinical course on international human rights.¹⁹ An online survey of international human rights clinics shows that a varied and integrated approach toward legal causes appears to be the *modus operandi* of many leading international human rights clinics.²⁰ International human rights clinics pursue a broad range of strategies beyond litigation and are noted for their broad spectrum of pedagogical approaches. Teaching methodologies may include traditional client representation, collaboration with NGOs, policy research and advocacy, field investigation, or any combination of the above. As clinician Deena

¹⁹ Kathleen Kelly Janus and Dee Smythe, *Navigating Culture in the Field: Cultural Competency Training Lessons from the International Human Rights Clinic*, 56 N.Y.U. L. REV. 445, 450 (2011/12). The emergence of international human rights clinics is representative of the wider human rights movement. Following the social justice movement of the 1960s in the United States, the human rights movement became stronger in the 1970s as U.S. President Jimmy Carter promoted human rights in American foreign policy. International law practitioners and law schools began to call for more international human rights law courses, including a clinical component, to reflect the growing relevance of the field. The first international human rights clinic which was offered for credit was established in 1979 at SUNY Buffalo School of Law, and the next followed at Yale in 1989. The next two that followed were American University/Washington College of Law in 1990, and CUNY Queens School of Law in 1992. The slow impetus was attributed to law students who did not find international human rights law to be relevant to either passing the bar or finding employment. However, this changed as the human rights movement expanded in the 1980s and 1990s, coinciding with the emergence of a *pro bono* movement among the legal profession in the 1990s. Deena Hurwitz, *Lawyering for Justice and the Inevitability of International Human Rights Clinics*, 28 YALE J. INT'L L. 505, 524, 526 (2003).

²⁰ For example, see the websites of international human rights clinics at the law schools of Harvard, Columbia, University of California-Berkeley, Stanford, Yale, University of Texas-Austin, American University, New York University, Northwestern University, George Washington University, and University of Virginia.

Hurwitz explains, the nature of human rights lawyering moves beyond the basic paradigm of litigation:

Human rights lawyers embrace a broad range of advocacy strategies. Actions taken may be legal (e.g., impact litigation, legal assistance and counseling, or legislative advocacy), but much human rights work is also non-legal, such as community education, media outreach, fact-finding, and reporting. Human rights advocacy is accomplished by a wide variety of organizations, including traditional legal aid groups providing legal assistance, public defender offices, human rights NGOs, issue-focused NGOs, constituency-based NGOs, and law school clinics. In fact, relatively little of what human rights lawyers actually do looks like traditional legal practice.²¹

Clinics cultivate global-minded civic leaders, expose and train law students in the field of human rights law, and engage as an institutional actor within the broader, transnational advocacy community.²² Clinical scholar Arturo Carrillo argues that human rights clinics have assumed the role of innovative and critical transnational actors (or “transnational norm entrepreneurs”).²³ Clinics can also sustain a global, cross-cultural dimension in several respects: by assisting multiethnic or immigrant clientele locally; by undertaking rights advocacy cases abroad; or by collaborating on cases or policy issues with NGOs which are part of a global advocacy network. Transnational activities are especially evident with human rights clinics that opt to work with NGOs abroad or that send students abroad for field investigation.²⁴ These approaches are consistent with legal mobilization theory which posits that rights advocacy encompasses more than what happens in the courtroom.²⁵ Law can be mobilized much earlier before cases are taken to court, in advocacy, education, media, outreach, collaboration with NGOs, research, drafting legislation, lobbying, and other grassroots activities. With international human rights clinics, it is especially common that “the clinic will more likely partner with an NGO that is involved or has been contacted by the individual victims, rather than being in direct contact with the clients itself.”²⁶ Therefore, the nature and purpose of human rights clinics invite pedagogical methodologies

²¹ Hurwitz, *supra* note 19, at 513.

²² *Id.* at 508-509; Arturo Carrillo, *Bringing International Law Home: The Innovative Role of Human Rights Clinics in the Transnational Legal Process*, 35 COLUMB. HUM. RTS. L.REV. 527, 529, 533 (2004).

²³ Carrillo, *supra* note 22, at 540, 571.

²⁴ An example is Stanford Law’s International Human Rights Clinic which sent students to work in clinical settings in Ghana and Namibia, eventually cooperating with the Law, Race, and Gender Research Unit at the University of Cape Town in South Africa. Janus and Smythe, *supra* note 19, at 454-461.

²⁵ MICHAEL McCANN, *RIGHTS AT WORK* (1994).

²⁶ Hurwitz, *supra* note 21, at 533.

beyond litigation.

The pedagogical objectives and methods of international human rights clinics in the United States resonate strongly with those of the Refugee Law Clinic. The purpose of the Clinic is to acquaint law students with hands-on opportunities to participate in a rights advocacy cause. Rather than focus on textbook learning or to work on clinical legal education within a purely domestic litigation context, the aim of the clinic is to show students how international legal treaties and norms can be leveraged within an advocacy network to influence domestic laws and administrative practices, and to raise awareness within the community. Students also learn how to research and analyze comparative and international case law as they work with asylum seekers in South Korea. These opportunities cultivate “global, civic-minded students” with an understanding of international human rights law and domestic implementation, help them to engage with the local advocacy community of NGOs and lawyers, and also expose students to an increasingly multicultural community, especially to non-citizens who are usually disempowered culturally, socially, politically, economically, and legally. These variances in teaching methodology present challenges in terms of balancing the goals of pedagogy and the project at hand, negotiating the multi-disciplinary aspects of a project, managing student expectations, matching project objectives to a semester schedule, and supervising work long-distance in some cases.²⁷ As problems present themselves, we find ourselves continuously reflecting and adjusting the design of the Clinic, a critical and necessary step in the process of building and sustaining a legal clinic.²⁸

While some scholars question the categorization of asylum or immigration law clinics as a subset of international human rights clinics due to the domestic legal focus and the inherent conflict of immigration policies with human rights law,²⁹ the pedagogical contexts contain more commonalities than differences in overarching objectives and methodologies. For example, the underlying goal of both types of clinics is rights advocacy, especially in trying to align domestic legal prac-

²⁷ Jocelyn Getgen Kestenbaum, Esteban Hoyos-Ceballos and Melissa C. del Aguila Talvadkar, *Catalysts for Change: A Proposed Framework for Human Rights Clinical Teaching and Advocacy*, 18 CLIN. L. REV. 459, 459-504 (2012). Also, for example, the Stanford clinic project with the University of Cape Town is illustrative of many of these challenges: negotiating the right amount of time for students to spend their semester abroad, issues with long-distance supervision, the financial cost of sending students to another country, finding the right fit with another clinic or NGO, and addressing students’ concerns about the type of clinical work they do. Janus and Smythe, *supra* note 19.

²⁸ Deborah Maranville, Mary A. Lynch, Susan L. Kay, Phyllis Goldfarb, and Russell Engler, *Re-vision Quest: A Law School Guide to Designing Experiential Courses Involving Real Lawyering*, 56 N.Y.L. Sch. Rev. 517, 517-558 (2011/12).

²⁹ *Id.* at 534; Hurwitz, *supra* note 21, at 534-535.

tices with international treaties and norms. The fact that over half of international human rights clinics in the United States have an asylum/immigration component, called a hybrid or “mixed model”³⁰ illustrates some overlap in normative compatibility. As Hurwitz explains:

Understanding the international treaty standards and the applicable domestic law; researching country conditions to establish the basis for a human rights violation; applying legal definitions of persecution as an individual and systemic problem; helping a victim to describe unspeakable horrors that she has suffered—all of these are human rights dimension of asylum practice.³¹

Despite this observation, however, Hurwitz views American asylum clinics as being distinct from human rights clinics because most American asylum clinics’ pedagogical focus is on domestic immigration law, live clients, administrative procedures, and litigation (as opposed to the more varied, transnational activities of the human rights clinic). This distinction is not always clear, however, when taking into account that human rights advocacy often still relies on litigation and client-centered advocacy.³² Both substantively and procedurally, international human rights clinics have turned their attention to litigate cases involving clients with essentially refugee status, cases that involve addressing domestic administrative procedures in relation to international human rights standards.³³

We view the Clinic as part of the institutional wave of international human rights work at law schools around the world, because the work we do takes into consideration and relies upon international treaties and human rights norms. We observe the principles of the *1951 Convention Relating to the Status of Refugees* and promote the rights of asylum seekers to have due process during the refugee status determination process, the basic right to work, a basic standard of living, the right to medical services, and the right to education for their

³⁰ Hurwitz, *supra* note 21, at 534.

³¹ *Id.* at 535.

³² Beth Van Schaak, *With All Deliberate Speed: Civil Human Rights Litigation as a Tool for Social Change*, 57 VANDERBILT L. REV. 2305, 2305-2348 (2004); Dina Francesca Haynes, *Client-Centered Human Rights Advocacy*, 13 CLIN. L. REV. 379, 379-416 (2001).

³³ For example, two clear cases demonstrate the ambiguity of trying to make a typological distinction between the asylum clinic and the human rights clinic. The Allard K. Lowenstein International Human Rights Clinic at Yale litigated the *non-refoulement* case of Haitian refugees all the way to the U.S. Supreme Court. Similarly, Columbia Law School Human Rights Clinic and the International Human Rights Law Clinic at Berkeley Law School facilitated litigation before the Inter-American Court and the Inter-American Commission of Human Rights on behalf of ethnic Haitians summarily expelled or deported from the Dominican Republic due to reasons of discrimination. Harold Hongju Koh and Michael J. Wishnie, *The Story of Sale v. Haitian Center Council: Guantánamo and Refoulement*, in HUMAN RIGHTS ADVOCACY STORIES (Deena R. Hurwitz and Margaret Satterthwaite, eds., 2009); Carrillo, *supra* note 22, at 545-568.

children.³⁴ Asylum seekers in South Korea must often deal with racial discrimination, and sometimes face prolonged detention or deportation despite valid refugee claims.³⁵ Though the rights of asylum seekers and refugees are not guaranteed and may even conflict with the human rights framework when considering the priorities of the immigration policies of states, the aim of such advocacy in South Korea is to advance those rights during the recognition process and then afterwards upon receiving such status.

C. Clinical Legal Education in South Korea

While law school clinics in South Korea vary in size, scope, and subject matter, their newness calls to attention their purpose and role in educating the future generation of global-minded lawyers. These range from general legal clinics handling different types of civil cases to specialized clinics targeting areas or clients such as intellectual property, tax, social enterprises, small businesses, migrant workers, multicultural families, young artists, and refugees.³⁶ The South Korean government also formally supports the development of legal clinics. The Korean Ministry of Education, Science and Technology began in 2012 to provide grants to law schools with strong proposals regarding their legal clinic projects. Grants averaged around 40,000,000-50,000,000 won (\$37,000-45,000) for the initial year of grant provisions.³⁷ Depending on the strength of each law school's yearly application for government funding, the budget may stay at or fall below this average.³⁸

Almost all of the law schools purport to have a general legal clinic, and nearly half explicitly state on their websites that their legal clinics handle cases related to human rights and public interest law, usually issues related to migrant workers, multicultural families, minorities, refugees, and social enterprises.³⁹ Five law schools have a formal clinic center with either "human rights" and/or "public interest law" in its title.⁴⁰ However, this is merely what is referenced online and may hardly be considered conclusive. It is difficult to know to

³⁴ See Sarah H. Paoletti, *Transnational Responses to Transnational Exploitation: A Proposal for Bi-National Migrant Rights Clinics*, 30 U. PENN. SCH. L. 1171, 1171-1186 (2009) for an example of how one clinician explains bridging the international and national in terms of legal application for migrant workers via transnational law clinics.

³⁵ Conversations with asylum seekers and refugee advocates in South Korea over the course of years 2011-2013.

³⁶ Compiled from law school websites, as of Apr. 17, 2012.

³⁷ Discussions with law school administrative staff (Oct. 2012).

³⁸ Discussions with law school administrative staff (Jan. 2014).

³⁹ Online review of Korean law school clinic websites, as of July 30, 2013.

⁴⁰ These are Korea University, Sungkyunkwan University, Jeonnam University, Jeongbuk University, and Hanyang University.

what extent the legal clinics currently operate given their newness, and it may be that general legal clinics could be handling more rights cases than the formally named clinics. Nonetheless, the trend is that most law school clinics handle not just private civil cases but ones related to rights advocacy. This is the case with Sungkyunkwan Law School which has a fairly representative mix of legal clinics. The general legal clinic actually consists of a subset of clinics: the Civil and Criminal Affairs Clinic, the Social Enterprises Clinic, and the Public Interest Law Clinic, which are supervised by a faculty member with cases supervised by outside attorneys, many of them alumni. The understanding that human rights and social justice are a defining aspect of legal clinics is made explicit in regulations governing clinics at Sungkyunkwan Law School: all members of the legal clinic have a duty "to defend fundamental human rights and seek social justice."⁴¹ Whether this mission translates into reality is one that this article explores by evaluating the activities of the Refugee Law Clinic, which operates under my primary supervision separately from the general legal clinic structure.

II. THE CLINIC'S FORMATION AND DEVELOPMENT

In this section, I trace the development of the Clinic, especially in terms of meeting with local actors who were encouraging of the legal clinic's formation. Next, I detail our projects on a chronological basis to show how the Clinic has had to adapt its priorities depending on the needs of collaborators and gaps in refugee law research. Student expectation and concerns during the process are also highlighted.

A. *Inception of the Refugee Law Clinic*

The idea for a refugee law clinic was not instant. Within a couple of years of teaching at Sungkyunkwan Law School, I became interested in forming a legal clinic to assist North Koreans who had resettled in South Korea, subsequently meeting with local attorneys to gain a better sense of what was needed from a legal and institutional perspective. In 2010, Pillkyu Hwang, an attorney of the public interest lawyers' group *Gonggam*, suggested instead creating an international human rights clinic much like the ones offered by Harvard Law School or Yale Law School. Attorney Wook Yoo, who works with North Korean residents in South Korea, introduced me to the *pro bono* activities of his firm Bae, Kim & Lee and its nonprofit affiliate, Dongcheon Foundation. Dongcheon focuses on assisting migrants,

⁴¹ Administrative Regulations of Sungkyunkwan Law School Legal Clinic (2011), Art. 10(1).

North Korean refugees, the disabled, and social enterprises by connecting clients with BKL *pro bono* attorneys. Soon thereafter, a volunteer event at a human rights clinic for refugees organized by the UNHCR office in Seoul and the National Human Rights Commission of Korea yielded a number of asylum seekers needing various types of advice.⁴² During this event it became clear to me that law students with proper supervision were capable of assisting asylum seekers either during the refugee application process or on other legal matters. When meeting with UNHCR representatives later to confirm this idea, one of them encouraged the idea of cooperating with Dongcheon. While my original intention was to have the Clinic serve the more recognized population of North Koreans resettled in South Korea, the demand for legal services from another underserved segment of South Korea's multicultural population became increasingly evident.

B. Collaborators and Projects

The Clinic started in 2011. Upon learning of Sungkyunkwan Law School's decision to open a refugee law clinic, Dongcheon had offered several ideas for the direction of the clinic. It was suggested that the Clinic could follow the conventional clinic model of pairing students with lawyers to work on refugee cases, as Ewha Law School and Korea University Law School were doing. Dongcheon suggested other alternatives it characterized as emerging needs. One was for an institutional center which could research, write, and archive COI reports. Another suggestion was to pursue strategic litigation contesting government procedures and policies governing the refugee recognition process. The final option was to consider community outreach by going to asylum seekers and conducting meetings to inform them of the refugee recognition procedure.

Five students enrolled in the Clinic in 2011, four second-year students and one third-year student, all of whom had excellent English ability and an eagerness to commit to the course. As stakeholders in the Clinic, the group consensus was to focus on (1) training, (2) drafting a clinic manual, and (3) COI research and writing. We did not opt for casework for several reasons. The first is that training is a prerequisite to client representation under the *Nairobi Code: Model Rules of Ethics for Legal Advisors in Refugee Cases* which was drafted at the Southern Refugee Legal Aid Conference in Kenya in 2007.⁴³ In con-

⁴² For example, one married couple wanted help communicating with the court administration office over a double fee charge. Another sought legal help despite his refugee application appeal already being considered at the Supreme Court.

⁴³ THE NAIROBI CODE: MODEL RULES OF ETHICS FOR LEGAL ADVISORS IN REFUGEE

curing with these model standards, I expect students to fulfill the training requirements before working on a refugee case with an attorney and client. In my view, it would have been premature to assign students to cases without prerequisite knowledge of refugee law and the plight of asylum seekers in South Korea, especially at the clinic's inception. We also needed time to carefully establish institutional knowledge and an institutional base, so the decision was made to create a clinic manual that would provide basic information and serve as a training resource with respect to refugee law and advocacy in South Korea. Also, because casework often does not coincide neatly with the semester calendar, students were hesitant about committing to work which would in all likelihood continue beyond the semester.

Training consisted of in-class discussions regarding the international legal framework and professional ethics; a two-day workshop series held by Dongcheon; and talks by speakers including an asylum-seeker, a research judge at the Supreme Court, and a UNHCR officer. Dongcheon organized the Refugee Legal Aid Training and Empowerment (RELATE) workshops for NGO staff, lawyers, law students, and others interested in refugee assistance. The workshops included talks by KRRN members on various topics such as the concept of a refugee, how to interview, the refugee status determination process, COI research, the overall legal framework, and comparative case studies. As part of a speaker series for the Refugee Law Clinic, an asylum seeker from Sri Lanka visited to explain the general difficulties asylum seekers face in South Korea, such as cultural, language, social, and legal barriers. This was especially edifying as students afterwards had to frame his personal narrative into a legal narrative, underlining the challenge of fitting an asylum seeker's self-perception as refugee with the definition of refugee as provided under the Refugee Convention. A UNHCR representative also came to present on the situation of asylum seekers and refugees in South Korea, including annual statistics of refugee recognition, number of court cases, challenges in the refugee recognition process, and suggestions for pursuing strategic litigation to address procedural error during the refugee status determination procedure. Toward the end of the semester, students also had a chance to visit the Supreme Court where they were able to meet with a judge who had decided on refugee appeal cases, to

CASES (2007), available at http://www.refugeelegalaidinformation.org/sites/srlan/files/fileuploads/The_Nairobi_Code.pdf. These are model rules of ethics for non-governmental organizations and legal advisors when assisting and representing asylum seekers. Model minimum standards of qualifications are also specified. A person may be qualified if she is (a) a licensed lawyer, or (b) has a bachelor's degree, has two years' experience working in refugee matters, or is in a supervised legal clinic, and has 32 hours of combined training in refugee law, interviewing skills, and ethics.

hear his perspective on the particular challenges of these cases, and to tour the Supreme Court library in order to research cases in the future.

Drafting a clinic manual was also seen as essential to the Refugee Law Clinic. The objective of the clinic manual is to serve as a guideline for future students of the clinic and eventually for others interested in refugee advocacy work. The initial draft of the manual is divided into three main parts: (1) Refugee Law Framework (including selected provisions from the *1951 Refugee Convention Relating to the Status of Refugees*, the *ROK Act on the Status and Treatment of Refugees*, and the *ROK Immigration Control Act*); (2) Refugee Status Determination (RSD), describing the procedure for refugee recognition (complete with forms), along with interviewing tips for the caseworker; and (3) COI Information and Case Analysis, explaining how to research online and to compile a report. The manual also includes instruction on how to research cases at the Supreme Court library. It is written in both Korean and English so that students may understand and compare the relevant primary documents in English, and so that it may serve as a resource eventually for non-Korean speakers interested in the refugee recognition process in South Korea. Since this was a lengthy process, I hired three of the five students as paid clinic research fellows to finalize the clinic manual after the semester ended.

The other main project was COI research and writing. Without a deeper understanding of the country of origin, reviewers may not fully comprehend the contextual exigencies of the refugee applicant. The first assignment in the clinic came pursuant to correspondence with Jong Chul Kim, an attorney who had recently founded Advocates for Public Interest Law (APIL), a small nonprofit law group which assists asylum seekers and trafficked women and children. APIL needed an urgent COI about the Kachin ethnic minority in Myanmar as well as a translation of a report regarding an Ethiopian minority group for its clients. This required rapid online research of news materials and comparative COI reports in English, with students translating and summarizing different sections of the report into Korean. This was an important learning opportunity because students had to contemplate professional and ethical issues in writing a balanced and neutral report, one that could be beneficial to the asylum seeker but also one that could be seen as deriving from objective and reliable sources.⁴⁴

Four students enrolled in the second offering of the legal clinic in 2012. To supplement our in-house training, Dongcheon legal staff

⁴⁴ See Diane F. Orentlicher, *Bearing Witness: The Art and Science of Human Rights Fact-Finding*, 3 HARV. HUM. RTS. J. 83 (1990).

came to speak to the clinic about their refugee advocacy and offered students the chance to interview a Pakistani refugee. This was particularly eye-opening for two students who were faced with the applicant's questions about why Korean law did little to help refugees.⁴⁵ The main project of the legal clinic was for the students to collect and analyze Supreme Court decisions concerning refugee appeals in South Korea. This took longer than anticipated because the entirety of the refugee case files could only be accessed at the Supreme Court library,⁴⁶ via a library database at three computer terminals. The use of these terminals required an appointment made two weeks in advance. Cases could not be printed on site, and it took between two to four weeks for the library to process requests for electronic copies of case decisions eventually received via email. Students divided cases into binders per country-of-origin and compiled Excel documents noting whether appeal was granted or denied and on what grounds. The students continued their work after the semester ended, this time not as paid research fellows but voluntarily towards satisfying their 24-hour graduation requirement for *pro bono* legal service. The case law dataset was subsequently provided to APIL for their online compilation of refugee law cases.⁴⁷

Later in 2012, the Clinic grew to 14 students and focused on refugee advocacy training and comparative case law research in collaboration with Dongcheon. Before the semester started, Dongcheon staff had approached me about collaborating with them on research for a report to the Ministry of Justice explaining trends in refugee case law outside of South Korea. We agreed that clinic students could research and brief cases. Thus, besides training in refugee law, the main project of the semester was to research refugee case law in five jurisdictions—Australia, New Zealand, Canada, United Kingdom, and the United States—regarding asylum seekers from countries such as Pakistan, Iran, Uganda, Myanmar, and Bangladesh. Legal clinics from Sungkyunkwan Law School, Ewha Law School, and Yonsei Law School participated in the project. Students in the Clinic were divided into country teams to collect, research and brief relevant case law for their respective jurisdictions. This allowed groups of three or four to work

⁴⁵ Students also had the option to continue working with Dongcheon on refugee cases after the semester ended though none chose to do so.

⁴⁶ Supreme Court cases are not all made public in order to protect the identity and privacy of parties to suits according to its internal regulations as one judge explained to me. Cases are selectively published according to the importance the Supreme Court attaches to the case. Cases involving refugee applications are not often published, but are available on-site in the computer database with names and identifiers redacted.

⁴⁷ This searchable database is now available online at APIL (in Korean), <http://www.apil.or.kr>.

together to understand the political and social conditions of a country, the narratives of asylum-seekers, and how different administrative and court jurisdictions approached their applications. However, the case law research project ended up being very difficult and tedious for the students. Although the class voted to work on the project, researching in a second language, deciphering refugee policies across jurisdictions, and understanding legal language in common law jurisdictions were challenging endeavors for most of the students. They briefed these cases in Korean and needed feedback on their work. Bilingual law school graduates from Handong International Law School in South Korea, trained in U.S. law and recently barred in the United States were recruited to provide this feedback. This feedback was a crucial part of the learning process for the clinic students and several commented on how this was helpful and educational for them in learning how to brief and analyze case law. Principal researchers from Dongcheon, APIL, and Sungkyunkwan Law School then sifted through the cases to select and further analyze the most pertinent issues for the final report. The final report serves as a policy tool, not only for the government but also for the judiciary and the refugee advocacy network in approaching cases from a more global rights perspective.

C. Students

Students had different experiences with the Clinic depending on their semester of enrollment. In the first offering, the students looked forward to assisting refugees and said they were highly satisfied with the clinic because it was “the most law-school-like course” they took and that they enjoyed “learning by doing.”⁴⁸ The experience was different, however, during work on the comparative case law research project in the second year. The majority of students were drawn to the clinic not so much due to their zeal for refugee advocacy, but more for reasons of convenience such as course scheduling or the perception that a two-credit Pass/Fail course may be less burdensome than their other courses. Students in both years indicated that the workload of the clinic matches that of a three-credit course. Especially during the first semester while getting the clinic running and during the semester of the case law project, students said the clinic was more demanding than they had expected.

Students also had differing expectations regarding the type of work they would be doing. Each first day of class, I explain their options in terms of clinic activities. Every semester thus far, students

⁴⁸ Refugee Law Clinic student feedback forms (2011) (on file with author).

opted for training and case law research rather than client casework once they understood the time commitment required for the latter. While students interacted with asylum seekers through guest speakers and opportunities to do client interviews at Dongcheon, students have so far declined the opportunity to handle cases during and beyond their clinic semester because they appear to view this as time detracting from their studies from the bar exam.

Another factor limiting student participation in the Clinic is language capacity. The course is held in English given my own training, the international nature of refugee law, and the identity of those seeking asylum. While most of the students who enroll in my courses are highly proficient in English, this factor is often a disincentive for other students who have less English proficiency. Instead, some students opt for the Public Interest Law Clinic, which offers opportunities to work with a local NGO, Nancen, also assisting asylum seekers. This second option offers an initial level of comfort in terms of language, but the concern here is that students end up assisting asylum seekers without the prerequisite knowledge of refugee law and accompanying professional ethics. In any case, they must inevitably resort to use of English when communicating with asylum seekers from other countries and representatives of the international community who work on refugee advocacy. This conflict between the Public Interest Law Clinic and the Refugee Law Clinic is one that still needs to be resolved.

III. CONSTRAINTS: BAR PASSAGE VERSUS GLOBALIZATION

The Clinic faces several institutional obstacles in achieving ideal operation. The competing priorities of bar passage and globalization present a tension which directly impacts student participation in legal clinics. We see this below with the administrative priority placed on bar exam courses, curricular restrictions on elective courses, and other complications of globalized legal education.

A. Priority of Bar Exam Courses

Before the conversion to the new three-year graduate JD structure, entrance to the legal profession required passage of the national judicial exam, usually after obtaining an undergraduate degree in law.⁴⁹ The Ministry of Justice controlled the passage rate as a means to regulate the size of the legal profession, keeping it at around two to three percent of the total number of bar applicants annually. Successful exam-takers then joined the Judicial Research and Training Insti-

⁴⁹ For more on the history of educating legal professionals in Korea, see JAMES WEST, EDUCATION OF THE LEGAL PROFESSION IN KOREA (1991).

tute for two years of training prior to entering the legal profession. Due to intense competition, prospective lawyers studied for the bar exam outside of the undergraduate law curriculum. Many such students studied for many years after graduating from their undergraduate institutions because of their lack of success with different parts of the exam. Legal education reformers argued that the system caused an internal societal brain drain and produced legal professionals with little practical experience prior to entering the legal profession.⁵⁰ By the mid-2000s, calls to reform legal education increased and the new graduate law school system started in 2008.

The first graduating class of the new law school system took the national bar exam in 2012 with 87 percent of test takers passing.⁵¹ Law schools tried to ensure a high passage rate as this would be the first determinative evidence of their performance for ranking purposes. Toward this aim, virtually all law schools eventually required that students pass a comprehensive exam before graduation. Essentially a mock bar exam, this step filters those students unlikely to pass. In 2013, the Ministry of Justice reduced the pass rate to 75 percent. Law students are alarmed at the decline and concerned that the passage rate will continue to drop in each successive year. This anxiety is likely to impact future student enrollment in the legal clinic as well as in other elective courses. As it is, law students generally overload their schedules with substantive law courses on bar exam subjects, which dissuade many qualified students from enrolling in a legal clinic. Usually, first-year students are locked into required courses and not sufficiently trained in legal analysis; whereas, third-year students generally attempt to lighten their coursework in order to study for the bar exam. This means that the window to enroll in a legal clinic usually is in the

⁵⁰ Dae-Kyu Yoon, *The Paralysis of Legal Education in Korea*, LEGAL REFORM IN KOREA (Tom Ginsburg, ed., 2004).

⁵¹ For bar passage rates in 2012 and 2013, see the website of the Ministry of Justice (in Korean), http://www.moj.go.kr/HP/COM/bbs_03/BoardList.do?strOrgGbnCd=113000&strRtnURL=lawyer_0402&strNbodCd=noti0483&strFilePath=bar/ (last visited Aug. 2, 2013). Eleven out of 25 law schools had a passage rate of over 90 percent for the first graduating class, including two law schools (Kyunghee and Ajou) which had a 100 percent passage rate. BEOBNYUL JEONEOL [Legal Journal], Issue 746, Aug. 9, 2013, at 1. Meanwhile, the employment rate for the first graduating class nationwide was 62.4 percent as of August 2012. Korea University had the highest recruitment rate at 85.9 percent, while Seoul National University, the most coveted law school for applicants nationwide, had a rate of 76.5 percent (with bar passage rates of 99 percent and 96.6 percent, respectively). Sungkyunkwan Law School had a 94.2 percent bar passage rate and 70.9 percent recruitment rate. These statistics are hard to accept at face value, however, given that non-law and temporary law jobs may be included as employment, that graduates may not be reporting their job status accurately for face-saving reasons, and that more current data is not available for those who found jobs after the initial data-gathering (conducted just five months after the bar exam results were published).

second-year of law school. The incentive to participate in a legal clinic diminishes as students' priorities increasingly turn toward passing the bar exam.

B. Curricular Restrictions

Under the current law school regulations at Sungkyunkwan Law School, students may enroll in a legal clinic for only one semester. Faculty members have indicated that they are wary of too many students opting for legal clinics, reducing enrollment in other courses. Therefore, we have discussed limiting the number of students in clinics to a maximum of twelve per semester. Independently, it is my belief that a clinic with under ten students would offer a higher quality experience. The one-semester clinic restriction is problematic because of the short time period in which students must engage with complex issues and because students can enroll in only one legal clinic in the course of their law school career. Ideally, students should be able to participate in legal clinics for at least two semesters so that adequate education and training may take place before the student commits to a case, which itself may last longer than one semester. As the students are often reminded, cases do not conveniently follow the academic schedule. Because the other law schools that participate with Dongcheon on refugee issues have two-semester enrollment, Dongcheon can match their law students with attorneys at the BKL firm to work on cases. Because Sungkyunkwan does not offer this possibility, Dongcheon has created the interview observation/participation option for our students; but this does not convey the full complexity of actual client representation. A redeeming element in our curricular structure is the *pro bono* requirement (24 hours of legal service and 16 hours of general public service prior to graduation), through which students may work with a lawyer between academic semesters. The *pro bono* requirement may be a competing venue for experiential education, albeit extra-curricular.

C. Complications of Globalized Legal Education

The reform of the legal education system in South Korea intended not only to increase the availability of lawyers for the general population, but to help bring a new generation of interdisciplinary lawyers with a more sophisticated skill-set into the global market for legal services, especially in the commercial arena. A global approach to legal education is thought to expand the capacity of Korean law firms and business conglomerates working with international clients and in creating networks with global law firms and multinational companies. The Law School Act reflects these priorities in delineating the

tasks of legal education:

[to] provide high quality legal services in response to the diverse demands and requests of the citizens, equipped with (a) professional ethics based on rich cultures, a deep understanding of human beings and societies, and a value system based on freedom, liberty and justice, and (b) knowledge and capability to resolve complicated legal disputes professionally and effectively.⁵²

Because the three-year program replaces the two years of practical training provided by the Judicial Research and Training Institute after bar passage in the old system, the reform mandates the incorporation of practical skills-oriented courses in the curriculum. The Law School Act mandates that twenty percent of the new law school faculties be comprised of practitioners with at least five years of experience.⁵³ This practical dimension was largely absent from the previous curricular program because the Judicial Research and Training Institute had filled this role, leaving undergraduate law colleges to focus on substantive topics for bar passage.

Globalization efforts are extolled in law schools and universities more generally. Universities hire more foreign faculty, offer courses in English, create exchange programs, and emphasize the foreign language capabilities of incoming applicants. Law school brochures market these features to lure applicants into the “global glamour” of the legal profession. At the same time, law schools struggle to integrate the markers of globalization into their curricula. The new global paradigm in Korean legal education is in tension with the traditional model and purpose of the prior system and the legacy members of law school faculties who continue to abide by the pedagogical habits of teaching to the bar exam rather than the practice of law. Students at Sungkyunkwan indicate that though they were originally interested in its international aspects, that they end up having to focus and concentrate on the bar exam, often at the behest of faculty members who actively discourage students from studying abroad or taking too many foreign-language or non-bar exam courses. In the process, students have noticed that their English language proficiency has deteriorated during their three years in law school. Students sample what they can by continuing to enroll in foreign-language courses, applying to study in dual degree programs abroad, or actively competing in international competitions such as the Philip C. Jessup International Law Moot Court Competition, the National Model United Nations, and the Willem C.

⁵² Law School Act (2007), Art. 2 (translation available in Young-Cheol K. Jeong, *Korean Legal Education for the Age of Professionalism: Suggestions for More Concerted Curricula*, 5 EAST ASIA REV. 155, 174-175 (2010)).

⁵³ *Id.*, Art. 16, Para. 4.

Vis International Commercial Arbitration Moot. Nonetheless, global aspirations chafe against the historical legacy and enduring institutional and pedagogical habits of a pre-existing administrative mindset focused on bar passage. The conflict between the two priorities of bar passage and globalization is a difficult one to balance in Korean legal education.⁵⁴

CONCLUSION

Both the achievements and challenges of the Refugee Law Clinic compel critical self-reflection. On the one hand, the Clinic is an opportunity for students to become exposed to and join a network of advocates working on a transnational human rights cause. By participating in this clinic, law students learn how refugee law is implemented; what challenges asylum seekers face; ethical dilemmas in representing asylum seekers; how refugee advocates mobilize the law to improve the refugee recognition process; as well as how to research, brief and compare case law. It is also an opportunity to learn about the limitations of law, in particular how the human rights of asylum seekers are not always realized; how personal narratives of asylum seekers do not always translate neatly into legal narratives; how proper legal framing of the law may still clash against the realities of cultural miscommunication and lack of institutional and social support; and even how law school clinics themselves are institutionally constrained. This type of legal clinic exposes law students to whether the Korean government effectively implements international human rights treaties it has ratified, the multicultural society that South Korea has become, and the challenges ahead in closing the gap between citizens and non-citizens in terms of basic human rights and access to justice. From a purely educational objective, it would seem that the Clinic achieves many of its goals.

On the other hand, implementing a legal clinic within a legal education system that has yet to shed a historical focus on the bar exam passage provokes a number of questions.⁵⁵ Is it unrealistic to have students preoccupied with their studies representing clients on either a short term or long term basis? Or even on non-litigation work that entails devoted research and analysis? Is it then pretense that Korean

⁵⁴ Additionally, in the first five years of existence, graduate law school administrations have had to address a plethora of exigent issues each year (i.e., admissions criteria and pre-law school orientation before the first year, curriculum design in the first year, internships/externships in the second year, bar preparation in the third year, recruitment in the fourth year, accreditation and ranking concerns in the fifth).

⁵⁵ Some of these questions are raised by Stephen Wizner and Jane Aiken, *Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice*, 73 FORDHAM L. REV. 997, 1005-1007 (1998).

law school clinics can act as legal service providers? Is it premature or simply at odds to have a legal clinic that focuses on non-traditional human rights lawyering activities within a clinical institutional structure that explicitly promotes direct client and litigation work? These are uneasy questions to answer, but perhaps the next step is to innovate a curricular format that can still achieve the pedagogical purposes of connecting law students to a rights cause while improving their legal knowledge and skills in the process.

In light of the above, trying to run a rights-based legal clinic within the Korean law school system is like moving against the tide. A more creative solution may be needed to sustain the objectives of the Clinic. Given the institutional constraints, an experiential seminar may more effectively offer students public interest practice opportunities, rather than a legal clinic with the standard curricular and practice assumptions developed by clinical educators in the United States, Australia, and the United Kingdom.⁵⁶ Clinical pedagogical objectives could be sustained in new curricular forms and students could still pursue client casework as a *pro bono* option after the completion of the course. Another possibility is to move toward a human rights advocacy seminar, so that projects can expand beyond the scope of refugee advocacy. Local public interest groups work on many different projects, such as in human trafficking, detention, children's rights, and victims' rights. The drawback to shedding the "clinic" nomenclature is that we may also lose institutional currency with the local advocacy community, which has facilitated joint projects while giving a higher profile to Sungkyunkwan Law School for international human rights work. The seminar structure may lend itself to more flexible and short-term research projects, but it remains to be seen how local public interest law groups would respond to this conventional type of classroom approach versus the structural legitimacy and relative flexibility of a clinical entity. The seminar would replicate similar dilemmas with respect to limiting projects to a single semester, though it would also liberate the Clinic from the constant need to justify our activities vis-à-vis the law school administration. Students may also welcome a graded, three-credit course to reflect the work expected of them in such a course.

The growing pains of the law school system in South Korea indicate that it will take time for newer priorities, such as legal clinic development, to compete on par with more urgent or conventional priorities. Meanwhile, the Refugee Law Clinic remains a subversive

⁵⁶ For an example of this type of model, see Peter Rosenblum, *Teaching Human Rights: Ambivalent Activism, Multiple Discourses, and Lingering Dilemmas*, 15 HARV. HUM. RTS. J. 301, 310-315 (2002).

vessel within the law school corpus. Admittedly, the Clinic is an institutional manifestation of my own experience and background, as a product of the American law school system, in South Korea to teach subjects in U.S. law and human rights in English, none of which are tested on the national bar exam. Regardless, the experience to date has been rewarding as the Clinic has created opportunities to connect with the local and international refugee advocacy community. While the incentive structure within the law school is challenging, the external drivers—the network of public interest lawyers and refugee advocates and activists willing to work with us—are strong. Dongcheon Foundation deserves particular mention for its brawny role in coordinating programs across law school clinics, aided in part by the financial support of BKL, one of the top ten law firms in Seoul. This illustrates the *pro bono* function of the private bar also at work as a driver in legal education reform. The separate foundation entity provides arms-length distance from the firm for some of the public interest initiatives undertaken. This brief case study shows how transnational legal mobilization and advocacy operate at the periphery of conventional legal institutions to enact globalization, with particular focus on public interest law, human rights lawyering, law school clinics, *pro bono*, and access to justice.

The Refugee Law Clinic is representative of the global phenomenon of law school clinics becoming institutional space for human rights lawyering. However, in South Korea, the current law school infrastructure with its priorities and fears constrain ideal operation of the clinic. The question, then, is how to give students the same experience of human rights advocacy work without the curricular, institutional, and attitudinal confines of the legal clinical form. The tonic may be to forego the formal “legal clinic” title and switch to a project-based seminar format. However, this move would come at a cost: mainly the visible withdrawal as an institutional actor in the transnational network of refugee advocacy in South Korea, perhaps demonstrating that the Refugee Law Clinic was unsustainable as a rights advocacy vehicle. At this point, the Clinic is still an experiment in reinvention every semester it is offered. To sustain its pedagogical objectives and survive institutional scrutiny, we may have to deconstruct its literal identity and reconstruct as a semi-traditional course in the order of institutional compromise.