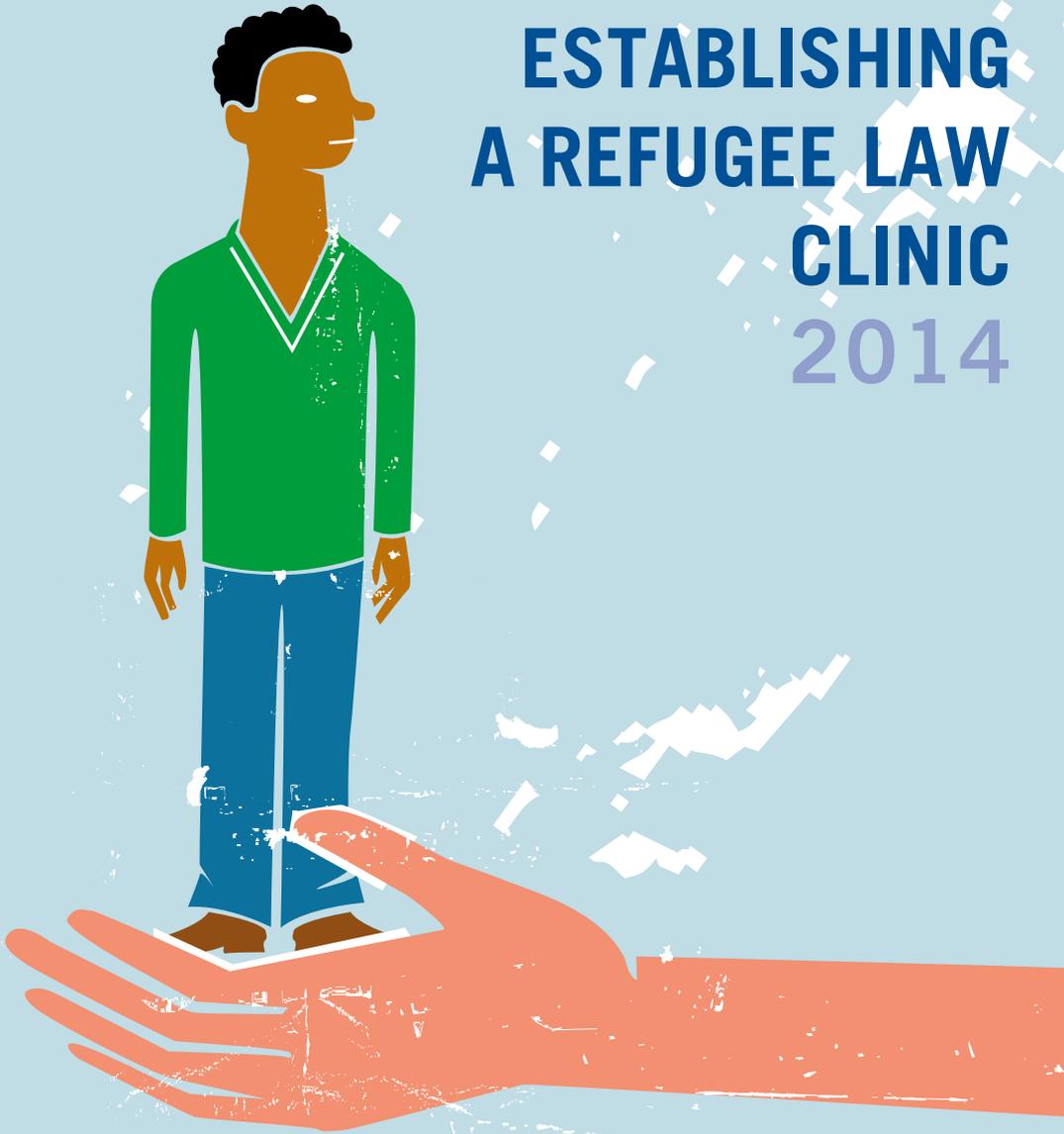


GUIDE ON ESTABLISHING A REFUGEE LAW CLINIC 2014



Hungarian Helsinki Committee



UNHCR
The UN
Refugee Agency

This document aims to provide support and practical ideas to universities, teachers, lawyers, NGOs, students and anyone else interested in establishing a “Refugee Law Clinic”, anywhere in the world. It has been published by the Hungarian Helsinki Committee, a leading human rights and refugee-assisting organization in Central Europe, with several years of experience in managing an international support network for Refugee Law Clinics in Central and Eastern Europe (www.helsinki.hu). The publication of this document has been supported by the Global Learning Centre of the United Nations High Commissioner for Refugees (UNHCR).

WHAT IS A REFUGEE LAW CLINIC?

A Refugee Law Clinic is a voluntary organization run by law students, providing free legal advice to asylum-seekers and refugees. The clinic is run under the supervision of university professors and practicing lawyers in this field.

Refugee Law Clinics have two main objectives:

- 1) To equip students with **practical knowledge and experience** in refugee law and related areas in human rights and thus widening their academic knowledge and educating new generations of asylum experts;
- 2) To provide **free-of-charge legal assistance** to asylum-seekers who otherwise could not afford paying for legal services.

Refugee Law Clinics are **effective and cost-efficient** whilst ensuring that high-quality service and advice is given to their clients in a timely manner. Refugee Law Clinics exist world-wide, particularly in the English-speaking world and in Central-Eastern Europe.

HOW DO STUDENTS OF A REFUGEE LAW CLINIC ASSIST ASYLUM-SEEKERS?

The students within the Refugee Law Clinics provide **free legal aid/counselling** to clients through:

- Ensuring that the client is aware of her/his rights as an applicant for international protection;
- Ensuring the client is aware of the procedure for applying for refugee status and is kept informed about his/her case throughout the proceedings;
- Preparation of cases and assistance in court hearings, along with the representing lawyer;
- Interviewing of clients;
- Carrying out legal and country of origin information research;
- Assisting in drafting appeals for clients;
- Maintaining files.





WHAT IS THE BENEFIT OF CLINICAL LEGAL EDUCATION FOR STUDENTS?

Involvement in a Refugee Law Clinic provides law students with the possibility to:

- Acquire **practical legal skills and experience** already during their university years (thus enhancing their opportunities on the labour market once they graduate);
- Understand the **ethical principles** of legal work and responsibility in performing these duties;
- Develop **communication**, language and intercultural skills;
- Develop **writing** skills and style;
- Learn how to **explain difficult legal terms and concepts** to clients without legal education;
- Develop **argumentation and pleading** skills, logic and capacities “to build up a case”;
- Improve **task and stress management**;
- Acquire **multidisciplinary** knowledge and experience beyond immediate legal issues (e.g. psychology, anthropology, gender issues, etc.);
- Learn how to see law not only as a tool to earning a living, but also as an **instrument for social justice**.



WHAT IS THE BENEFIT OF CLINICAL LEGAL EDUCATION FOR UNIVERSITIES?

Introducing clinical legal education and a Refugee Law Clinic will:

- Demonstrate the **practical usefulness** of the material taught in the academic curriculum.
- Make the university **more attractive** for students and potential donors.
- Enhance the university’s **cooperation** with other actors, such as NGOs, law firms, UNHCR, external academic experts and other universities.
- Enhance the university’s **international reputation**, for example by providing access to international moot court competitions and other such initiatives, and by demonstrating its commitment to humanitarian causes.

WHAT IS THE BENEFIT OF CLINICAL LEGAL EDUCATION FOR PRACTICING LAWYERS AND NGOS?

Around the world, refugee-assisting non-governmental organizations and private lawyers often face serious difficulties, such as capacity limitations and scarce and/or unstable funding. Refugee Law Clinics can effectively help tackle these challenges by providing **free-of-charge professional support** in a wide range of activities related to legal counselling and representation.

NGOs, lawyers and other actors may also benefit from legal clinics as a **source for fully trained and already experienced young lawyers** (upon graduation), who can start working in the field without any (or with very limited) on-the-job training.



SHOULD REFUGEE LAW CLINICS ONLY WORK WITH ASYLUM-SEEKERS?



Not necessarily. Depending on the needs and the national/local context, Refugee Law Clinics may also:

- Provide assistance to **other foreigners in need of international protection**, such as stateless persons, victims of trafficking, migrant detainees, etc.;
- Be involved in **related procedures** such as family reunification, naturalisation, birth registration, etc.;
- Be integrated into legal clinics with a **wider scope of activities**, for example human rights, non-discrimination, minority rights, etc.

THE “CLINICAL METHOD”

The core characteristic of clinical legal education is that it empowers students to **experience personally the process of legal aid provision**. Legal clinics enhance the creative skills of students. Instead of simply executing instructions or shadowing a lawyer as in a traditional internship, legal clinics allow students to develop their own individual style of argumentation.

Refugee law clinics can operate in **two different structures**:

- 1) **In-house method**: The Refugee Law Clinic is housed **at a university**, where students will receive **credits** for their participation. The in-house method requires deeper engagement and involvement of universities and professors in terms of ensuring that refugees and asylum-seekers are informed about the possibility to receive legal counselling through a Refugee Law Clinic (advertising in reception centres, agreement with responsible authorities, etc.). The university also has to provide the technical capacities (rooms, visiting hours, computers and other equipment, etc.), as well as the personal capacities (supervision of students).

2) **External method:** The Refugee Law Clinic is housed **at a local NGO**, and thus has a looser affiliation with the university. Meanwhile, lawyers play a stronger role within this method. This model can combine the theoretical lessons provided by the university and the practical part by the NGO and/or practicing lawyers. The external model shifts the responsibility for the practical organization of legal counselling to NGOs, taking advantage of their already established mechanisms.

	<i>In-house method</i>	<i>External method</i>
<i>Housed at</i>	the university	an NGO/law firm (or independent)
<i>Affiliation with the university is</i>	stronger	looser
<i>Students receive university credits for their participation</i>	yes	not necessarily, but preferably yes

HOW TO SET UP AND OPERATE A REFUGEE LAW CLINIC?

1st step: Decision on the method

When deciding on the best Refugee Law Clinic method (in-house or external), the following questions need to be answered:

<i>University</i>	<i>NGO</i>
<ul style="list-style-type: none"> • Do we have the personal capacities to supervise and operate a Refugee Law Clinic? • Are there teachers at our university who are experienced in the field of asylum law, immigration law and legal aid? • Do we have good cooperation with legal practitioners and/or NGOs who could supervise the provision of legal aid and are skilled in immigration and asylum law? • Do we have suitable premises and the necessary technical equipment (computers, fax machine, etc.) for providing legal counselling? • Do we have sufficient funding? Are there additional funding schemes that we could make use of? • Can we award students participating in the Refugee Law Clinic with credits? 	<ul style="list-style-type: none"> • What are the benefits of establishing a Refugee Law Clinic for our NGO? • Do we have the personal capacities to supervise and operate a Refugee Law Clinic? • How many students could we possibly involve in this activity? • Do we have suitable premises and the necessary technical equipment (computers, fax machine, etc.) for providing legal counselling? • Would we prefer and would it be possible to supervise students at the premises of the university? • How much time can we spend with this activity? • How will we organize the working time of practitioners who supervise the students? • Do we have good cooperation with a particular university?

These questions will help you decide which option is more suitable in the given context, as well as they will highlight the crucial steps of the preparatory phase.

2nd step: Relationship with academic curriculum

In light of the adopted method, the place of the Refugee Law Clinic will have to be determined in the framework of the university curriculum. Questions such as these will need to be answered: Which course should be accompanied by clinical education? What should be the academic requirements for students to be involved (e.g. minimum grade, completion of a certain course, etc.)? How many credits should participating students receive?

3rd step: Mission statement

The Refugee Law Clinic must have a clear vision regarding its mission and priorities. A consensus should be reached on its main goals and objectives. This is the main roadmap to which all decisions and activities of the Refugee Law Clinic shall correspond. The mission statement should preferably be written down and consulted with experts before adoption.

4th step: Agreement between the relevant institutions

Once the relevant institutions (university, NGO, and eventually others like UNHCR, law firms, etc.) decide to set up a Refugee Law Clinic and cooperate to this end, a written agreement with a clear description of roles and responsibilities must be drafted and signed by all parties.

In case of adopting the in-house model, the university may decide to establish the Refugee Law Clinic as a separate legal entity (“NGO within the university”). In that case, it is important to carefully check and fulfil all the necessary legal requirements.

If students will provide legal assistance at reception and/or detention facilities, this will require a cooperation agreement with the institution in question in most cases. Refugee Law Clinics can also largely benefit from informal cooperation links with different NGOs and experts (such as organizations providing psycho-social and medical care, intercultural training, etc.).

5th step: Code of conduct and operational manual

Having a code of conduct and an operational manual is crucial for any type of Refugee Law Clinic. These documents provide guidance on all the important issues, including the aims of the Refugee Law Clinic, the scope of its activities, its mandate, the eligibility criteria for free legal assistance, ethical code for students providing legal aid and their supervisors, data protection and privacy issues, labour division, complaint mechanisms, reporting methods, etc.

It is indispensable to create a mechanism which ensures that clients receiving legal advice understand the framework and explicitly give their consent to have their case used for study purposes.

6th step: Responsibility

Before legal counselling activities start, it is important to understand and explain to participating students that the Refugee Law Clinic may be held responsible for any advice

it provides to its clients. Therefore, it is necessary that the university (in-house method) found the particular insurance designed for institutions providing legal aid. Another way is to cover the responsibility through the supervising attorney, whose license can cover the possible damage.

In some legal systems only graduate licensed lawyers are allowed to provide legal advice and legal services. In such cases it is important to note that the final responsibility for the quality of the legal assistance provided at the Refugee Law Clinic is born by the supervising lawyer.

7th step: Budget

Refugee Law Clinics offer a cost-effective option to provide free legal aid to asylum-seekers and practical experience to law students. Therefore, setting up a Refugee Law Clinic will not require significant funding; still, there will be costs to cover. Initial costs may include:

- Fees related to the establishment of a legal identity;
- Costs of technical equipment (computers, telephones, fax machine, copy machine, etc.);
- Furniture;
- Information leaflets; etc.
- Regular (monthly, weekly) costs (which may include: office rental and maintenance, communication and internet costs, stationary, paper, translation costs, travel costs; etc.)

Where funding is not yet available, charities, foundations, international organisations, international law firms and private donors should be identified and approached for support, depending on the local context.

HOW TO PRESERVE MOTIVATION AND ENTHUSIASM?

Refugee Law Clinics cannot function without long-term motivation and enthusiasm. Being involved in clinical legal education is an interesting and valuable experience both for lawyers and students, but in the everyday rush or under serious pressure the initial motivation may decrease or even disappear. Students (especially due to their young age) may particularly be exposed to the risk of **burnout** and **vicarious traumatisation** (i.e. being negatively affected – “infected” – by the trauma of people they work with). Here are some tips to prevent these negative phenomena:

- Continuous **evaluation** and feed-back by the clinic manager (lawyer and/or university teacher);
- Introductory training on **burnout prevention**, trauma and post-traumatic stress disorder, as well as how to effectively help people in need;



- Regular **case discussion sessions**, promoting an atmosphere of community work and mutual support;
- Regular **psychological supervision** for participating students (groups sessions with professional supervisor/psychologist);
- Active involvement of **senior or former clinic students** in the activities of the Refugee Law Clinic;
- Participation in **international initiatives** and moot court competitions; etc.

SHOULD STUDENTS BE REMUNERATED FOR THEIR LEGAL COUNSELLING ACTIVITIES?

In principle this is **not part** of the Refugee Law Clinic method, where motivation usually comes from the possibility to obtain practical professional experience and to help people in need. However, largely depending on the national context, occasional “motivation fees” or prizes for the best performing, most active students may be considered occasionally useful, should funding allow it.

HOW CAN THE REFUGEE LAW READER BE USEFUL FOR A REFUGEE LAW CLINIC?

The **Refugee Law Reader** (www.refugeelawreader.org) is a unique tool as it provides an on-line one-stop shop for students, professors and professionals wishing to find legal instruments, documents and leading jurisprudence along with specialist commentary in refugee law. The materials are developed into a course curriculum that can be easily and flexibly adapted to various needs, audiences and course durations. The existence of **regional sections** enlarges the possibility of focusing depending on the geographical location of the course or its users. The Refugee Law Reader is available in **four languages: English, French, Spanish and Russian**. The different language editions do not only mirror the English version, but also bring a specialised body of literature to the attention of the user. Users of the Refugee Law Reader site come from all around the world. Since 2010 the English site has had more than 65000 visitors.

The Reader can provide valuable support for anyone willing to establish a refugee law course, or further improve an existing one. For Refugee Law Clinics it may serve as a key resource material in individual cases, ensuring **easy and free-of-charge access** to all types of documents (soft law, jurisprudence, academic literature, etc.) that can be referred to in support of a client.

