

RIGHTS OF PRISONERS' CLINIC

Manual

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1. PART ONE

Introduction

Dear student, welcome to the Rights of Prisoners' Clinic (Course Code: Laws-6161). This Clinical Education is a three credit hours course. Accordingly, this manual set forth basic information about the Clinic's objectives and operations.

This manual comprises of two parts. The first part contains: the clinical program identification; the clinical course description; the clinical program General and Specific Objectives; learning methodology; Mode of assessment; Attendance and Performance Follow-up; and Contents of the program.

The second part, on the other hand, contains the policy aspect of the program. In this part we can find; Level of the court; Who should be represented?; The ratio of class activity to practice; Level of Students; Supervisors' Experience; Class Size; students admission criteria to the Clinical Programme; Case handling obligations; Office procedures; Files; Engagement agreements and Code of conduct.

NB: Students shall read it prior to the first class.

1.1. Clinical Program Identification

- **Title of the Program:** Manual on Rights of Prisoners' Clinic
- **Program Code:** Laws-6161
- **Credit Hours:** 3
- **Academic Year:**
- **Semester:** I
- **Pre-requisite Courses:** Constitution, Criminal Law, Criminal Procedure Law, Evidence, Human Rights Law, lawyering skills, Pre trial skill and trial Advocacy, legal Profession and Ethics etc.

1.2. Clinical Program Description

Prisoners' Right Clinic is one of those elective courses and its nature is basically skill-oriented, which basically requires students involve themselves in practical legal practices. For that purpose, this program will be offered in two basic parts.

The first part is basically interested in refreshing students their previous knowledge on legal instruments related with Rights of Prisoners'. Those are courses such as: Constitutional Law, Human Rights law, Criminal Law, Criminal Procedure Law, legal Profession and Ethics. Those are given in class lectures. However, the way that they refresh should be delivered by applying different methods of learning that encourages active participation of students.

Whereas, in the second part, the lion share of activities, will be done by the students, rather than the supervisor. The students will be given instructions on how they will make interviews, counseling, identify material facts, draft pleadings, and represent clients in court of law. The roll of the supervisor then will be to guide, follow up, assist, evaluate students' performance and grade them accordingly.

1.3. Clinical Program Objectives

1.3.1. General Objectives

Upon successful completion of the program, the students will, among other things, be able to:

- Understand on how they are going to implement their theoretical knowledge into practice,
- Equip themselves with practical legal skills and develop confidence on their profession,
- Assume professional responsibility,
- Create a sense of voluntarism or willingness,
- Serve the community,
- Appreciate the gap, if any, between law and practice.

1.3.2. Specific Objectives

On top of what has been stated hereinabove, the students will specifically be able to:

- Sense the real problems of prisoners' in securing their Constitutionally guaranteed Rights;
- Identify the relevant applicable laws of the country related to Rights of Prisoners';
- Develop their skills on interviewing, counselling of clients and drafting pleadings;
- Represent Prisoners' in court of law;
- Develop team spirit;
- Identify the gap between the law and practice and recommend valuable solutions;
- Be encouraged to further made researches to fill the gaps.

- See the ways in which he/she can use his/her legal skills to promote justice and further the public interest;
- Develop good professional working habits;
- Learn to accept constructive criticism;
- Improve time management skills to gain control over work and to enhance ability to work under time pressure; and
- Rely less on supervisors to work effectively.

1.4. Learning Methodology

Prior to listing down the various learning methodologies that will be employed in this Clinic, it is significant to delineate the respective responsibilities of students and the supervisor.

1.4.1. Student Responsibility

Students will be responsible for performing the interviewing, counseling, drafting and other tasks necessary to assist their clients and will in general make all the lawyers' decisions on their cases. They will also be responsible for scheduling their work so as to meet any client deadlines and to complete their matters no later than the end of the Clinical program. In doing all their activities students must keep legal professional ethics and stated code of conduct.

1.4.2. Role of the Supervisor

The role of the supervisor is a balancing act. On the one hand, students are practicing law under this Clinic and the supervisor is ultimately responsible for making sure that the clients are well served. On the other hand, it is believed that students will learn most effectively if they function as the lawyer for their clients rather than serving as 'associate' with the supervisor as senior partner. In order for this model to work, students work needs to be transparent. This means, for example, that while students

prepare a plan for a client meeting, they need to write the plan in a way that lets the supervisor see what they intended to do, even if their preferred style would be more of a shorthand.

1.4.3. Specific learning methodologies

1.4.3.1. Class Lecture

At the beginning of the Clinical program, the supervisor is expected to refresh the memories of the students on the relevant courses they have previously taken in relation to the Prisoners' Right. In addition to that, the supervisor is also expected to give preliminary introduction on certain theoretical and practical aspects of the Clinic. Unlike the traditional lecture method, classes need to be highly participatory.

1.4.3.2. Simulations and Role Playing

One of the very important learning methodologies of clinical education is clients representation in court of law. However, before such activity is undertaken by the students, the supervisor should first equip his/her students with practical skill of court room activities. For that purpose, the supervisor should present models for performing those skills. The models are not intended to be the only correct way to promote the skills. One of jobs of the students will be to understand the goals of the models and to use them in developing a comfortable and effective personal style. Then, both in class and out side of class, students will be asked to simulate the performance of those skills. The simulations are designed to let students practice skills in a controlled environment before using those skills in representing actual clients. Although most of the simulations will require students to take the role of the lawyer, students may sometimes be asked to take the role of a client so that they can see how various ways of performing lawyering tasks affect them and imagine how they might affect an actual client.

1.4.3.3. Critical Reflection(learning from your own experiences)

Since students will not always have supervisors to help them improve, it is important to train them to evaluate and learn from their own experience. To help them do this, the Clinic administrators will be videotaping both simulations and (with the client's permission) actual client meetings so that students can go back over their work and learn from it.

Through out the Clinic experience, students must try to take responsibility for analyzing how they might more effectively deal with the issues that arise, whether they involve relationships (e.g., with their partner, clients, supervisor, government officials or Clinic staff), skills, ethical issues or some other aspect of their Clinic work.

1.4.3.4. Collaborative work

Students in the Clinic generally work in pairs. The pairs will be arranged early in the semester in which the Clinical program will be offered. One of the advantages of Clinical Legal Education is it gives chance for the students to learn each other from their own experience through the process of collaboration. Hence, students should be open to work in group.

1.4.3.5. Extensive and immediate feedbacks at each stage

The Clinic, *inter alia*, involves drafting of documents and case analysis. Experience dictates us that, good drafters are made, not born. Students can therefore expect a lot of feedbacks on their written work, and they will find themselves revising some documents many times. One reason for multiple revisions is that the better a draft gets the more possibilities for improvement students are likely to see. Students must keep looking for ways to make the document clearer, more consistent, more user friendly,

and students shouldn't be surprised if they get feedback on language in draft 3 that went unremarked upon in draft 1. In draft 1, there may have been major conceptual or structural problems that made the language in question seem unworthy of comment; in the new, improved draft, the language may leap out at careful editor. Therefore, supervisors should be conscious and active in giving feedbacks for students at the right time. If this is not possible for different reasons, s/he should design a mechanism by which at least students themselves give feedbacks to each other.

1.4.3.6. Observation

As it has been stated here above, Students should have to participate in applying their knowledge in court of law. However, this may not be feasible for all the students all the time. In such cases, the supervisor should find a way out on how those students could develop their practical skills. One of those possibilities is observation.

Hence, students of this clinic should be given an opportunity to observe court proceedings. Through observation and forwarding comments on what they have perceived in court of law, Students can appreciate the relationship between law in book and law in practice. Besides, they can develop their practical skills.

1.4.3.7. Real Cases

One of the overall objectives of clinical programs is to equip students with the required practical skills while they are in law schools. In doing this, handling real cases in courts of law is the best mechanism by which students develop their practical skills. However, handling real cases is not a simple task that any clinical course student applied at any time. First the supervisor should check whether the students are ready for that or not. Following, though students should be encouraged independent representation of clients, this should not be without the close supervision of their supervisors.

1.4.3.8. Live Clients

In addition to what we seen here above, students to this program should be allowed to apply actual-client clinical experience. Through this, students will have chance to see the practical challenges of the law in book and the law in practice. However, the act should not compromise the very interest of the client. Hence, an independent work of the student should be supported by close supervision of the supervisor.

1.4.3.9. Seminars and Workshops

Rights of prisoners' could not be fully secured only through court proceedings. There are things that should be done to further protect the rights of prisoners'. Among other things; awareness creation activities should be done for prisoners to be aware of their fundamental rights, prison administration officers and other stakeholders that may have positive contribution.

For that purpose, students shall prepare seminars and workshops and make presentations on topical issues relevant to the protection of the Rights of Prisoners'.

1.5. Mode of Assessment

The students' performance shall principally be assessed continuously throughout the semester. The supervisor and, if possible, the stakeholders should assess the students based on their performance in each and every breakdown of the outline of the program. The performance of the students, individually and as part of a team, will be assessed as well.

Their achievements will specifically be evaluated in accordance with the following formats and the percentage weight stated here under.

- i. Attendance and Participation, (10%);

- ii. Project Works and Presentation, (20%);
- iii. Interview skill, (15%)
- iv. Counseling skill, (15%);
- v. Drafting skill, (15%); and
- vi. Representation skill, (25%)

Nonetheless, other alternative duties may flexibly be considered with a view to substituting either of the schemes or contributing to the total evaluation process as it is found commendable. Moreover, the evaluation formats and the marking breakdown may justifiably be rearranged in consultation with the students particularly, in such a way as to encourage and give due emphasis on practice-oriented activities.

Finally, the overall academic achievements shall be graded as per the relevant scaling regulations of the University/ College.

1.6. Attendance and Performance Follow-up

Attending each and every breakdown of the program content is a mandatory requirement for the students. In particular, class attendance is critical for several reasons. If a student fails to attend, s/he may not be able to develop practical skill. Hence, the supervisor is duty bound to follow-up the attendance and performance of each student in each breakdown of the program. The so-called “portfolio method” has to be applied, whereby the students will record the activities that they have undertaken in relation to the Clinical program in a certain document that is to be kept with the supervisor.

1.7. components of the Program

This clinical program has three components. These are: class work, team meetings and casework.

1.7.1. Class work

Class will be held on _____ and _____ from ____ to ____ and Class work will be heavy at the beginning of the programme in order to prepare students to see clients and represent them effectively as early in the semester as possible. Later, when the client work is heavier, students will have fewer classes and class preparation.

The class work aims at refreshing the memories of the students on the relevant courses they have previously taken in relation to the Rights of Prisoners' Clinical program. It also aims at giving preliminary introduction on certain practical aspects of the program and revising the theoretical and legal issues applicable to Rights of Prisoners'.

1.7.2. Team Meetings

The case meeting consists of a student, supervisor, prison administration and prisoners' representatives. The team will meet each week to plan and review client work and to address other issues of concern to students. The composition of each case team and a schedule of case team meeting times will be arranged early in the semester. The case team meeting gives students an opportunity to move out of the sometimes passive student role and to take charge of their learning. It is also an opportunity to practice running a meeting, an important lawyering skill requiring planning, discipline and assertiveness.

1.7.3. Casework

Each pair of students will have two or more matters initially, such as representing a client, seeking help in drafting a pleading or a defense or prepare another document. Matters will be added throughout the programme as appropriate. Although students may know the identity of one or more clients early at the beginning of the semester, they probably will not meet with a client for several weeks- this will give them time

both to master the substantive law and to work on their interviewing and counseling skills.

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2 National Legal Instruments to The Rights of Prisoners'

2.1 Constitution of the Federal Democratic Republic of Ethiopia, 1995

2.2 Criminal Procedure Code of Ethiopia, 1965

2.3 FDRE Criminal Code, 2004

2.4 Federal Prisons Commission Establishment, Proc No. 365-2003

2.5 Other laws

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3 Regional Legal Instruments to The Rights of Prisoners'

3.1 African Charter on Human and Peoples' Rights

- 3.2 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women
- 3.3 African Charter on the Rights and Welfare of the Child
- 3.4 Other Laws

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4 International Legal Instruments to The Rights of Prisoners'

- 4.1 Universal Declaration of Human Rights (1948).
- 4.2 International Convention on the Elimination of All Forms of Racial Discrimination (7 Mar 1966)
- 4.3 International Covenant on Economic, Social and Cultural Rights (16 Dec 1966).
- 4.4 International Covenant on Civil and Political Rights (16 Dec 1966)
- 4.5 Convention Concerning Forced Labor (28 Jun 1930)
- 4.6 Convention Concerning Minimum Age for Admission to Employment (26 Jun 1973)
- 4.7 Convention on the Elimination of All Forms of Discrimination against Women (18 Dec 1981).
- 4.8 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (10 Dec 1984).
- 4.9 Convention on the Rights of the Child (20 Nov 1989)
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Reference

I. NATIONAL LAWS

1. Proclamation of the Constitution of the Federal Democratic Republic of Ethiopia, Proc., No., 1/1995; Federal Negarit Gazeta 1st Year, No.1/1995
2. Federal Courts Proclamation Re-amendment Proclamation, Proc. No., 454/2005
3. Federal Court Proclamation, Proc., No., 25/96; Federal Negarit Gazeta 2nd Year, No.13/1996
4. FDRE Criminal Code, 2004
5. Criminal Procedure Code of Ethiopia, 1965
6. Proc No. 365-2003 Federal prisons commission Establishment

II. INTERNATIONAL LEGAL INSTRUMENTS

1. Convention Concerning Forced Labor (28 Jun 1930)
2. Universal Declaration of Human Rights (1948).
3. International Convention on the Elimination of All Forms of Racial Discrimination (7 Mar 1966)
4. International Covenant on Economic, Social and Cultural Rights (16 Dec 1966)..
5. International Covenant on Civil and Political Rights (16 Dec 1966) and Optional Protocol
6. Convention Concerning Minimum Age for Admission to Employment (26 Jun 1973)
7. Convention on the Elimination of All Forms of Discrimination Against Women (18 Dec 1981).
8. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (10 Dec 1984).
9. Convention on the Rights of the Child (20 Nov 1989)
10. Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, entered into force Nov. 19, 2000.

III. PRISONER RIGHTS WEB SITES

1. Office of International Criminal Justice - OICJ's mission is to improve the administration of criminal and juvenile justice both at home and abroad by providing enhanced opportunities for communication and collaboration by both academics and practitioners.
2. The Other Side of the Wall - California Prison Law Page
3. Prison Activist Resource Center (PARC) - Source for progressive and radical information on prisons and the criminal prosecution system.

4. Prisoner Rights Resources - by Margaret Moreland at Pace Law School.

BRIEF DESCRIPTION OF THE CONTENT

Introductory Orientation

Participation in this clinical program requires that students attend and participate in an orientation program prior to the start of the semester or during the first week of classes. The orientation program for this Clinic should be scheduled and strictly announced by the respective Supervisor.

At this time the students should be clearly informed about the general objectives and expectations of the program as well as the students of such program.

General Revision

Here, the supervisor is expected to refresh the memories of the students on the relevant courses they have previously taken in relation to the specific program. In addition to that, the supervisor is also expected to give preliminary introduction on certain practical aspects of the pre-requisites that the students have previously undertaken.

Practical sets

This breakdown deals with the core of the Clinical program. Here the students are expected to practice the law in various forms, be it in the form of interviewing, counseling, fact development, legal drafting, case and planning, discovery, advocacy, and legal research brief writing and representation, etc.

PART TWO

2. POLICY ASPECT OF THE CLINIC

2.1. Level of Court

The students should start practice at the lowest level of the courts. However, if the case that they are handling proceeds to a higher level of court, they should not be restricted to handle that case. In addition to this if a case proves to be too simple, in a way that would not enhance the critical thinking of the students, those in charge of the Clinic may decide that the students handle cases that are at a higher level of court.

2.2. Who should be represented?

Each University/ College may come up with specific criteria as to who should be represented by the Clinic, by taking into account the specific need of the region in which the Clinic is situated.

However, as general criterion prisoners who are categorized as vulnerable groups of the society such as: disabled persons, women, children and persons with HIV ADIS are beneficiaries of the program. Besides, those who can not afford the cost of lawyers could be beneficiaries of the program.

2.3. The Amount of Cases to be Handled by the Clinic

In principle, there is no restriction on the number of cases that should be entertained in the prisoners' right clinic. However, this could be limited depending on the number of students and the capacity of the clinic. In such a case, the amount of cases that the Clinic takes on could be decided by the people in charge of running the Clinic.

2.4. The ratio of class activity to practice

The ratio of class activity to practice should be 30% to 70%.

2.5. Level of Students

Students who are left with only three more semesters to graduate should undertake the Clinical programs, provided that they have already taken all the above listed pre-requisite courses for this specific Clinical program. In other words, the Clinical programs will be offered for fourth year, second semester students and fifth year students.

2.6. Supervisors' Experience

As much as possible persons in charge of supervising the Clinical programs have to be:

- Full time instructors who are or used to be in the practice or equip practical skills;
- In default of such instructors, Committed and responsible Practitioners.

2.7. Class Size

The class size for this Clinical program should be 20-30 students per class.

2.8. Student admission criteria to the Clinical Programme

As this is a clinical course, the overall capacity of the clinic is among the determinant factors for fixing the number of students. Hence, depending on the facility capacity of the clinic and the resource of the faculty/department/school of law, the number of students that could be admitted should be clearly identified ahead of time. Following, those who fulfill the required level students stated here above should be invited to voluntarily apply for registration.

Therefore, if the number of students registered for the course are found to be more than the capacity of the clinic, those students who have relatively better grades in specific courses or commutative should be given priority.

2.9. Case handling obligations

1. Students must take responsibility for handling their matters expeditiously and for making and executing all decisions relating to their matters. By their last team meetings, they must take all actions necessary either to close a matter or to get it to a stage that is appropriate for transfer, whichever occurs first, unless some unforeseen circumstance necessitates early withdrawal, or unless they are interested in continuing the representation beyond the end of the semester.
2. Students must keep files orderly and up-to-date in accordance with the guidelines set forth later in this Clinic Manual.
3. Students must prepare a detailed work plan for each case (including target dates for each step) and submit it to the supervisor within ten days after the initial interview.
4. Students must submit to their supervisors, before mailing or filing, all documents by a client, another party or government agency. They must leave the supervisors a few days to review any document.
5. Prior to submission of a document to his/her supervisor, a student and his/her partner should carefully review it for substance, style and others; make sure each document represents his/her effort.
6. With respect to all initial client meetings and with respect to later meetings if the case team decides it would be useful, students must tape the meeting (unless the client objects to taping).
7. Students must put all documents which they prepare for a client in the appropriate filing system.
8. Students must keep the client fully informed of developments in the case.

2.10. Office procedures

2.10.1. Clinic office

Students have access to the clinic's office as long as they are registered for the Clinic. Registered students may use the office at any time to tape simulations, meet with clients and other clinic-related work.

2.10.2. Rooms and Video Equipment

The clinic administrators will schedule rooms for meetings with clients and for simulations. They will also schedule and set up video equipment if the simulation or meeting is to be taped or students wish to review a tape. Student must let the administrators know their needs in advance as far as possible. Students should not confirm the times of client meetings until they are sure a room and all necessary equipment is available.

2.10.3. Word processing

The computers in the clinic's office are available for students use. Students must speak to the Clinic administrators if they have any problems with them. Students do their own word-processing. However, the administrators are available to help them with technical problems.

2.10.4. Copying

There has to be a copier in the Clinic office which students may use for their clinic related jobs. They must ask one of the administrators if they need help with copying.

2.10.5. Supplies

The office of the Clinic should be equipped with sufficient stationery and all forms of supplies. The students on the other hand should be responsible to effectively utilize these resources.

2.10.6. Security

When students use the clinic, it is extremely important that they remember to lock the doors and the windows upon leaving and that they do not admit anyone other than a student or teacher of one of the clinics.

2.10.7. Transportation

One of the unique features of this clinical program is that it requires establishment of the clinic inside or in the nearest part of prison administration. This may help prisoners to access the clinic in exercising their right. Therefore, if the clinic is placed faraway from the law school, transportation facility should be arranged for those who are admitted to the program.

2.10.8. Dress code

When students meet with clients at the Clinic, they must, as much as possible, dress like a lawyer. Students must give some thought as to what will make their particular client feel respected, comfortable, and confidence in them.

2.10.9. Confidentiality

Unless students are told otherwise, they should feel free to discuss the cases they observe and handle with the supervisor and their clinic classmates. Outside of the clinic, students should maintain strict confidentiality by giving no information that

would identify the parties. Students should not use the actual names of parties in any written work.

2.11. Files

Case files must stay in the Clinic office. If students want to work on their cases outside of the Law School, they should consult their supervisor and photocopy the necessary documents.

Files should be kept in a systematic order in the file drawers/shelf for the Clinic.

2.12. Engagement agreements

The legal Clinic, representing students, must enter into engagement agreement with each client who seeks legal service. Although clients generally will not be paying for the Clinic's legal services, an engagement agreement is a useful device for:

- Formalizing the scope of the work they agreed to undertake;
- Setting forth any other obligations the Clinic expect the client to meet; and
- Establishing who the client is.

2.13. Code of Conduct

Here, the students should be properly informed of the code of conduct that they have to abide by while undertaking the program. The relevant provisions of the Civil Code and Criminal Code of Ethiopia will be applicable. For administrative breaches the code of conduct to govern the students as well as the supervisors will be defined by the Clinic after further study.