International Conference on Clinical Legal Education, is an International Proceedings and equivalent with scientific journal, published annually by Faculty of Law, Universitas Negeri Semarang, Indonesia. International Conference on Clinical Legal Education published both online and printed version. This conference intended to be international forum for legal practitioners and stakeholders discussing and debate on contemporary issues on clinical legal education and legal clinics. The conference held in cooperation between Faculty of Law Universitas Negeri Semarang, Law Clinics, Bridges Across Borders South East Asia Community Legal Education (BABSEACLE), and Indonesian Clinical Legal Education Associations. Print ISSN 2614-1809 Online ISSN 2614-3224

Article Online Version
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BOOK Version
The proceedings also published in Book Version with special and standardized number ISBN 978-602-61382-3-1 by BPFH UNNES (Faculty of Law Publishing House). For more information, please contact:
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HOW TO CITE THIS ARTICLE (APA Style)

Winarsih, Cahya Wulandari. (2017). “The Urgency of Clinical Legal Education through Developing of Legal Aid on Campus as an Effort to Realize a Humanist Law”, International Conference on Clinical Legal Education, Vol. 1 No. 1, 2017. Semarang: Faculty of Law Universitas Negeri Semarang, pp. 285-292.

Winarsih, Cahya Wulandari. (2017). “The Urgency of Clinical Legal Education through Developing of Legal Aid on Campus as an Effort to Realize a Humanist Law”, on Ridwan Arifin, Saru Arifin, Rahayu Fery Anitasari. (eds). (2017). Theory and Practice in the Law School: International Proceedings of International Conference on Clinical Legal Education, April 2017. Semarang: BPFH UNNES.
The Urgency of Clinical Legal Education through Developing of Legal Aid on Campus as an Effort to Realize a Humanist Law

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ABSTRACT
Legal education is an important things for law enforcement in Indonesia because law enforcers were born from a legal education. Nowadays in the law enforcement there are many problems, one of which is the law enforcement that do not provide a justice because law enforcer only became the implementer of law. These conditions make a law could not fulfill the needs of society. Law tend to be rigid and interpreted as a regulations, whereas according to Satjipto Rahardjo stated that the law qualities are determined by the ability to serve the society. Law enforcement nowadays are inseparable from the legal education, where the students are taught with a variety of legal theories, judicial practices in several courses and internship. However, this is not able to result the graduates who are able to put a law to serve the society. In addition, the students tend to begin by the difference between theories and legal realities. Basically, there are legal aid on campus that can be used as a means to solve these problems, but the existence of legal aid cannot be utilized properly. Therefore clinical legal education through developing of legal aid are needed to solve these various problems. This paper discusses two main issues: the first, how are the urgency of clinical legal education through developing of legal aid on campus? The second, how are the implementation of clinical legal education through developing of legal aid on campus? The results of this paper are: the first clinical legal education through developing of legal aid on campus is important to make the students understand the society problems. Additionally after graduation, the students are expected becoming law enforcer who provide justice. Furthermore the graduates of the legal education are implemented through the student with given more time to practice in the society so that the students know the various problems in society and compare with the legal theories. Furthermore paradigm of the lecturer is also need to be changed with directed to give practical courses so that the students know the case directly in the society. Optimizing the existence of legal aid on campus also become important things because it can be used to the students to provide services toward the society on campus. These ways are expected to the students who are able to practice in the society and make humanist law.

Introduction
Legal education is an important things for law enforcement in Indonesia because law enforcers were born from a legal education. Nowadays in the law enforcement there are many problems, one of which is the law enforcement that do not provide a justice because law enforcer only became the implementer of law. These conditions make a law could not fulfill the needs of society. Law tend to be rigid and interpreted as a regulations, whereas according to Satjipto Rahardjo stated that the law qualities are determined by the ability to serve the society.

Law enforcement nowadays are inseparable from the legal education, where the students are taught with a variety of legal theories, judicial practices in several courses and internship. However, this is not
able to result the graduates who are able to put a law to serve the society. In addition, the students tend to be startled by the difference between theories and legal reality. Therefore, clinical legal education as a means of student learning about the real problems that exist in society is necessary.

Clinical legal education can be defined as a learning process with the aims are providing law students with practical knowledge, skills, values, in order to realize the humanist law and social justice which is implemented on the basis of teaching methods interactively and reflective. However, the implementation of clinical legal education is not easily practicable.

These problems are seen in several universities in Indonesia that already have clinical legal education but it does not work well so that the students tend to unresponsive with the problems that occur in the society. In addition, there are many graduate students who has a law degree feels startled if participate directly into the community. This is because there are differences between the theories taught in legal education with the reality that occur in the communities.

Moreover, the students become less sensitive to the condition of the society that causes law education graduates, only become the law enforcers who be the implementer of law. The consequence of these problems are sometimes there are some regulations which are deemed inconsistent with the justice of the community but still enforced with an on behalf of legal certainty.

These problems certainly requires a solution that is by optimizing the legal aid on campus that currently exist in various faculties of law in Indonesia. In addition to overcome these problems, the aims of legal aid also to set the students as providers of legal aid as one of the rights granted by the law, especially for the poor people. It is expected that legal education can create law enforcer who have humanist character and the society, especially the poor people can obtain legal aid so that justice for all can be fulfilled and humanistic law can be realized. This paper will be focused on two main points, are: (1) how are the urgency of clinical legal education through developing of legal aid on campus, and (2) how are the implementation of clinical legal education through developing of legal aid on campus.

The Urgency of Clinical Legal Education Through Developing of Legal Aid on Campus

Clinical legal education that can be realized through the representation of legal aid on campus is very important in creating a humanist law. This is because of the legal aid on campus using as a means to create students who have concern for the community and responsive to community problems.
Moreover, there are some weaknesses one of which is the lack of society knowledge about law and the right of a justice seeker to use the services of the legal aid. It is a very serious factor for justice seekers to get legal aid. Especially when faced with criminal problems and dealing with law enforcers such as police. Ordinary people who allegedly involved in a crime tend to be confused and resigned, whereas in criminal law there are a principle of presumption of innocence which is known everyone is equal before the law.

The principle presumption of innocence has the meaning that the person who is suspected of committing a crime has not or can not be convicted before a judgment with a permanent legal entity. Therefore, a set of human rights of the suspect must be considered, one of which is getting legal aid. In addition everyone is equal before the law and should be treated equally, not a particular specialization or ethereality on certain groups related to its enforcement.

The most important thing is a suspect, especially a society who is not capable to charged or criminal offense above 5 (five) years due to an alleged act he or she may seek legal assistance to an existing lawyer or legal aid. It is a provision and a theories contained in the law. In fact the theories have not been able to be fully realized because of various problems. Whereas legal aid is the right of every citizen who has been recognized both in the constitution and in international law as one form of human rights manifestation.

Furthermore, the assistance is provided in order to fulfill the human rights of the suspect as mandated by the Act about Advocate and Criminal Code Procedure. Article 22 of Law No. 18 of 2003 about Advocates in conjunction with Article 2 and Article 12 of Government Regulation No. 83 of 2008 about Requirements and Procedures for Provision of Legal Aid Assistance, advocates are required to provide legal aid assistance to unfair justice seekers and advocates are prohibited from refusing requests for legal assistance that free of charge.

Human rights is a God-given gift possessed by humans since the human being was born into the world. According to Law Number 39 of 1999 about Human Rights in Article 1 paragraph 1 states as follows:

Human Rights is a set of rights attached to the nature and the existence of human beings as God's creatures and is a gift that must be respected, upheld and protected by the state, law, government, and everyone for the honor and protection of human dignity (Article 1 point 1 of the Human Rights Act).

Human rights shall be recognized, respected and protected by the state by law. One part of human rights is the right to get a legal aid. Furthermore, in the General Declaration of Human Rights, Article 10 states that "everyone is entitled to equality which is fully heard in public
and in a fair manner by an independent and impartial tribunal, in the
determination of his rights and obligations and in every claim
punishment directed against him ".

A form of support for the fulfillment of human rights with access to
justice for the poor society and those living in remote areas has been
explicitly regulated in law. That is the Act No. 48 of 2009 about Judicial
Authorization article 56 (2) jo. Article 60B (2) of Law No. 50 of 2009
about Religious Courts states: "The state bears the cost of a case for an
inadequate justice seeker". Under this provision, the right to get legal aid
is a right for persons who unable to obtain justice and it is be a part of
human rights. Therefore the right is also contained in international and
national laws as a form of fulfillment of human rights.

a. The Recognition of Legal Aid in International law

The principle of equality before the law is one of the general
principles of human rights which is contained in Article 7 of the
Universal Declaration of Human Rights and Article 16, 26 of the
ICCPR (International Covenant of Civil and Political Rights).
Articles 16 and 26 of the ICCPR guarantees equality before the law.
Everyone is entitled to legal protection and should be protected
from discrimination based on race, skin color, sex, language,
religion, political, national or national view, wealth, birth or status,
and so on.

Right to get legal aid is non-derogable, which means both
absolute and should not be reduced by the state, in a pinch though.
This is because the right to legal aid assistance is one form of
fulfillment of the interests of justice for the community who need
assistance. The Human Rights Council stated that the interests of
such justice through jurisprudence. With regard to legal assistance,
the Human Rights Council jurisprudence states:

1. States should ensure the right to get a legal aid effectively and
suspect rights to choose an advocate.
2. States should ensure access to legal assistance at each
examination.
3. The rights of suspects or defendants to communicate with
lawyers or family, and the right to prepare a defense without
any intervention from the state;
4. States should ensure that the suspect or the accused has the
right to choose an advocate and not be forced to accept the
lawyer appointed by the court to her or him.

b. Legal Assistance as a Constitutional Right

The Constitution of Republic Indonesia Article 27 paragraph
(1) also provides that "all citizens are equal before the law and
government shall abide by the law and the government without any
exception (equality before the law). Furthermore Article 28D of the Constitution mandates that "everyone is entitled to the recognition, guarantee, protection, and legal certainty of justice and equal treatment before the law".

From both of article implicitly instructs that every citizen has the right to obtain fair trial (fair trial rights) and the right to obtain justice (access to justice rights). This right shows that legal aid is an obligation that must be given to every citizen, especially the suspect in every process of examination, which aims to create a criminal justice system that is run by respecting the constitutional rights and fundamental of every citizen by upholding the principle of prejudice guilty. With the granting of legal aid the proceedings will run balanced (audi et alteram partem), because the parties may provide their views freely and proportionate, so that a fair trial can be realized.

The right to obtain justice (access to justice) is a fundamental right of every citizen. The State as a guardian and the government is obliged to provide protection and provision to every citizen for the fair treatment of citizens. Based on the constitution, every citizen has equal status within the law and is entitled to fair legal protection, equality of legal treatment, so that the rights of citizens under the constitution shall be guaranteed and protected by the state in a legislation.

In Article 28 I Paragraph (4) of the constitution states that: The protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state especially the government. Article 27 Paragraph (1), Article 28 D (1), Article 28 I (1) guarantees the right to be recognized as an individual before the law, and the right not to be prosecuted on the basis of retroactive law as an irreducible human right in any circumstances. If such provisions can be implemented properly then any society can access justice and humanist laws can be easily realized.

However in its implementation not all people who are poor able to get legal aid. This is due to the lack of knowledge about the availability of legal aid. This is being an attention, especially for academics who essentially have a legal aid on campus that are nurturing to the community. This indicates that the legal aid on campus are not functioning properly. Whereas the legal aid on campus has a strategic role to overcome these problems.

In addition there are several roles of legal aid on campus such as to create students who are able to solve the problems that exist in the community that will automatically guide students to understand the condition of society, forming law graduates who are ready to go into work because has understood the theories and practices. It is
expected that law scholars will no longer be startled by the difference between theories and practices.

Based on the exposure, besides as a form of human rights manifestation, legal aid, especially legal aid on campus is also needed to prepare law enforcers who are able to understand the condition of society and in the long term is the realization of a humanist law and to solve various problems that exist in the law. So that legal aid on campus that currently exist should be optimized with these aims.

**The Implementation of Clinical Legal Education Through Developing of Legal Aid on Campus**

Optimizing legal aid on campus is a very necessary thing based on the above exposure. In addition, legal aid on campus can be used as a means to be able to complement the legal theory that has been obtained in the classroom with the form of direct practice in the form of assistance in the settlement of legal cases. The legal aid was established to advocate a justice and democratic law enforcement, human rights and legal development in terms of providing legal assistance to the people of Indonesia who need assist and as a tools to create humanist law.

In terms of the form itself, the clinical legal education embodied in the legal aid on campus consists of three components, namely planning (preparing and planning for the required experience), practice (testing capability, such as interviewing, giving advice, representing clients in the court), and reflection (reflection and ability evaluation). Therefore, the key elements of implementation is the establishment of legal education or legal aid on campus.

Based on the location of practice, legal clinic conducted at the faculty of law (in-house clinic) and outside the law faculties (out-house clinic). Programme in-house clinic can be done by: externship, the student works in a law office or government office under the supervision of practicing lawyers or government officials. Community clinic, where the students work directly in the community. Mobile clinic, the students visited the community to give a legal opinion or inform the community of their rights, or to give advice specific types of legal issues and the way to resolve it.

Besides that the other things that are required is the lecturers give the students more time to practice if they have accepted the theories so that students thinking can develop automatically. With the addition of practice hours in the society, the students also can understand the condition of society so that if one day become law enforcers they are expected to become a humanist law enforcement apparatus.

While legal clinic programme through legal aid on campus devoted to: The first, to provide educational opportunities which are
structured to students, to improve the experience of students in practice or through a simulation representing clients, and also to acquire knowledge, skills, and values of experience. The second, legal clinic intended to raise a support for legal aid to marginalized communities. The third, legal clinic aimed to instill the spirit of public service and social justice, and to establish a basis for the development of professional responsibility. The fourth, lecturer in legal clinic contributed to the development of scholarship on the expertise and practical legal theories linking the academic world with practical more closely.

The fifth, the using of interactive and reflective teaching methods that motivate students to perform activities mentioned above that are not obtained in college. The sixth, the legal clinic aimed to strengthening civil society, with lawyers taking care of professional responsibility by emphasizing the need of legal assistance to protect marginalized communities. In this regard, one of the embodiments of clinical legal education, namely the legal aid on campus is indispensable to solve the various problems contained in law enforcement.

**Conclusions**

The first clinical legal education through developing of legal aid on campus is important to make the students understand the society problem. Additionally after graduation, the students are expected becoming law enforcer who provide justice. Furthermore the graduates of the legal education are expected to enforce the law progressively based on the value of justice.

The second, clinical legal education are implemented through the students with given more time to practice in the society so that the students know the various problems in society and compare with the legal theories. Furthermore paradigm of the lecturer is also need to be changed with directed to give practical courses so that the students know the case directly in the society. Optimizing the existence of legal aid on campus also become important things because it can be used to the students to provide services toward the society on campus. These ways are expected to the students who are able to practice in the society and make humanist law.
ET DE ANNO IN ANNUM QUAMDIU AMBOBUS PARTIBUS PLACUERIT

*Et de anno in annum quamdiu ambobus partibus placuerit,* is a Latin phrase that means “and so, from year to year, so long as both parties please, or are agreed.” This phrase appeared in reference to tacit relocation, which is an implied or constructive renewal of a lease when the landlord and tenant have failed to indicate their intention to have the lease terminated at the end of the original term.