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The Refugee Law Clinic Giessen – Conception, History, Experiences

The History

The legal clinic concept is well known in the USA and also well established in several east-European countries.¹ In Germany the concept did not have any chance in the time before 2008 because according to a law from the Nazi-times it was not allowed to offer legal advice for someone who was not admitted to the bar. Only in the midst of 2008 this law was replaced by a new one concerning legal advising services. According to this new law it was possible that students could offer legal advice for free under the control and guidance by a fully qualified lawyer. The draft of the new statute was issued in November 2006. A few weeks later started the first talks with the professors of the Giessen law faculty about the proposal about the setup of a Refugee Law Clinic. In the winter-semester 2007/08 the project has started.² At the time this was the first legal clinic in Germany.

It is today attached to the Professorship of Public Law and European Law (Prof. Dr. Jürgen Bast). Financially supported not only by the law faculty but also from the central budget of the University it is managed by two half-time research assistants. The teaching staff consists of an active administrative judge (vice-president Dr. Ralph Göbel-Zimmermann) and a specialised lawyer in asylum law (Dr. Stefan Hocks). Both of them are responsible for the theoretical

¹ Andreas Bückler / William A. Woodruff: Clinical Legal Education – eine Option für die deutsche Juristenausbildung?, JZ 62 (2008), 1068;

² Janina Giesecking: Die Refugee Law Clinic an der Justus-Liebig-Universität Gießen. In: Paul Tiedemann / Janina Giesecking (Hr.): Flüchtlingsrecht in Theorie und Praxis. 5 Jahre Refugee Law Clinic an der Justus-Liebig-Universität Gießen, Baden-Baden: Nomos 2014;

education (lectures, seminars, exercises). A former administrative judge (Paul Tiedemann) takes care for the supervision of those students who are active in counselling.

The Conception

The reform of legal education in 2003 had already led to the requirement for a greater practical element.³ The relevant offer of universities was, however, in the past rather poor. The Legal Clinic concept offers an excellent way of greater practical orientation. Students who pass the RLC program are well prepared for the challenges of any practical judicial profession:

1. Students acquire the competence to self-sufficient fact-finding in direct contact with the law-seeking people. The finding of the facts demands more than just an extraction and analysis of contents of a file. The asylum seekers usually do not have a precise idea of what is legally relevant to reach their goal. Students must therefore learn to find out the relevant facts by empathetic talking with the asylum seeker and against the background of profound knowledge about the situation in the country of origin. They thus acquire a broad competence to translate the everyday life and the world of experience of normal people into the language of the law and thereby to process it legally.

2. They have to do this under the conditions of cultural and linguistic strangeness. In order to cope with these challenges they have to develop broad intercultural competences.

3. Since what they say, must be mostly translated into a foreign language, they also learn to express themselves simply and clearly. Thus they acquire skills not only in talking clearly but also in thinking clearly. This will be in any subsequent legal profession of great benefit for them.

4. Last but not least the Refugee Law Clinic can contribute to a consciousness of responsibility in social and political matters, which jurists in all professional fields have to bear. Students can not only theoretically learn but practically experience that the meaning of jurisprudence and of legal professions may not be reduced to the aim of money making.

The Program

The program of the RLC consists of a theoretical and a practical part.⁴ The theoretical part starts always in the winter semester with lectures. Students who want to join the full program

³ Vgl. Stephan Barton / Susanne Hähnlein / Fritz Jost (Hg.): Praktische Jurisprudenz. Clinical Legal Education und Anwaltsorientierung im Studium. Hamburg: Dr. Kovač 2011

⁴ <http://www.uni-giessen.de/fbz/fb01/studienprofil/rlc>

have to visit the lectures as well as the project team. Many students visit only the lectures because they are interested to learn more about refugee law but are not willing or able to join the full program.

The lectures last 16 double hours. They consist of 3 parts: History of general aliens law and refugee law, introduction in general aliens law, the elements of material and procedural refugee law.

The lectures are visited not only by law students but also by students from other faculties. Many of them are studying sociology, politics, psychology, education and others. Some of them are also interested in participating the entire project including legal counselling. These are mostly students who think on a subsequent job at an international organization or a NGO.

Students who want to take part in the complete program have to be member of the project team. In this team students can initiate or partly organize special workshops or other events in the frame of the project. Such workshops are often dedicated to new decisions of the ECourthR or of the CEU or to the specific situation in certain countries of origin. They are also dedicated to some important aspects of refugee law from other disciplines, e.g. psychiatric aspects of traumatization. The RLC program is therefore very interdisciplinary orientated. The RLC cooperates very close with the Medical School of the University and in particular with the Clinic for Psychosomatic Medicine and Psychotherapy as well as with the Clinic of Psychiatry.

Students who have passed the lectures successfully (they have to write a test at the end) and who have worked actively in the project team, have the opportunity for an internship. This is the 2nd step of the program and necessary for those who want to complete the full RLC program. The internship can be made at lawyers, the Federal Office of Migration and Refugees, Administrative Courts, UNHCR or several NGOs. The best internship places are at lawyers. Because here is the best opportunity to get in personal contact with asylum seekers. So the RLC staff prefers to arrange internships at lawyers.

During the internship students should have the opportunity to make an interview with an asylum seeker, to write a protocol about the interview and to explore the relevant circumstances in the country of origin of the asylum seeker concerned by searching in appropriate public databases.

In the following summer semester the students have to participate in a seminar, in exercises and in shadowing at the practical counselling of advanced students.

For the seminar they have to write an expertise based on the self-researched case from their internship. In this context they have to examine the plausibility of the persecution story compared with the available information about the situation in the country of origin, and the credibility of the asylum seeker. On the basis of both aspects they have to reconstruct the persecution story as a story that can be taken for true. On the basis of this story they have to discuss the question whether the asylum seeker is entitled to refugee status or subsidiary status or a minor protection status against deportation.

Furthermore they have to perform an oral presentation in front of the seminar group in which they can display their case or deepen certain aspects which were relevant in their case.

In the so called exercises a very experienced lawyer in the field of refugee law presents everyday cases from his practise, shows the particular difficulties, and discusses the cases with the students.

The shadowing serves the purpose to prepare the students for the practical counselling. For this reason they visit the consultation hours of the Advisory Center of the Protestant Church in the reception center for asylum seekers in Giessen. The Advisory Center of the Protestant Church in Giessen is our program partner. The existence of this center as well as the fact that in Giessen is the central reception center for refugees in Hesse are the two most important grounds for the success of the RLC.

If the theoretical part of the program is finished and the students have passed the seminar successfully they are ready and entitled to join the advisory group. For the rest of their study time they can work there. In practice most students finish their activities for RLC if they start to prepare themselves for the first law exam. So, the most students do not work in the advisory group longer than a year.

The new members of the group start first with a group counselling. They invite all asylum seekers of a certain language group in the reception center, e.g. all Arabic speaking people or all Dari speaking people and present them a simple introduction in the asylum procedure system. What they say is translated by a native speaker of the language concerned. These are in general also students of the university but not necessarily members of the RLC.

As a result of these presentations particular people come afterwards to the lecturers and ask for an individual advisory. So, the students find contact to single asylum seekers and can give legal advice to them. If they are confronted with a very urgent problem during the

consultation, which they cannot solve themselves, they have the opportunity to call a hot line to one of the full qualified jurists in the program or the research assistants in order to get support.

Every four or six weeks they have to take part in a supervision meeting where they have to present their current cases and can get supervisory support. If they are confronted with asylum seekers who cause mental stress with the students because their fate is so dramatic or gruel the students have the opportunity to get psychologic supervision. This is offered by the teachers of the medical faculty.

Experiences

The Refugee Law Clinic Giessen has meanwhile achieved great reputation in the area and far beyond. As a result the clinic receives many inquiries about certain cases from outside the reception camp, which are often cared for by volunteer citizens, but also by public institutions such as Youth services. These inquiries are checked by the two research associates working for the RLC. If the inquiries are suitable, they are passed on to students, who then deal with them and provide the necessary advice.

The great reputation is also mirrored in the huge numbers of people from outside the university who join the RLC conferences which are organized at least once a year. 100 and more participants are not unusual. The topics of these conferences in the last years were: "Asylum and Trauma", "Torture", "Preconception and method choice in asylum practice", "Strategic litigation in refugee cases".

In 2015, Federal President Gauck visited the RLC and paid tribute to her.⁵ In 2016 the representative of the Federal Government for Migration and Refugees Aydan Özügüz has taken over the patronage of the RLC Giessen.⁶ However, the greatest recognition comes from the students, who become more numerous every year. The RLC Giessen was a pattern and model for many other Refugee Law Clinics, which have now been established at many German universities.⁷ They have recently set up an umbrella organization to share their experiences and help each other to improve their work.⁸

⁵ <http://www.uni-giessen.de/fbz/fb01/studienprofil/rlc/mediathek/dateien/uniform-2015-03-gauck.pdf>

⁶ <http://www.uni-giessen.de/fbz/fb01/studienprofil/rlc/Aktuelles/Presse/Schirmherrschaft>

⁷ Laura Hilb/ Lisa vom Felde: Refugee Law Clinics in Deutschland – ein studentisches Modell für die Veränderung der juristischen Ausbildung?, KJ 49 (2016), 220

⁸ Refugee Law Clinics Deutschland e.V. – <http://rlc-deutschland.de/>