



Hungarian Helsinki Committee

# guide on how to establish a refugee law clinic

updated edition  
2019

**THE REFUGEE  
LAW READER**

**CASES, DOCUMENTS, AND MATERIALS**



Hungarian Helsinki Committee

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## SUMMARY

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](http://www.helsinki.hu)).

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# REFUGEE LAW CLINIC

A refugee law clinic is a voluntary organization where the students provide free legal advice to asylum-seekers and refugees, under the supervision of a faculty member or a supervisor. The clinic is run under the supervision of university professors and practicing lawyers in this field.

## Refugee law clinics serve the following main objectives:

- 1) To give students the opportunity to apply their academic knowledge in refugee law and other related areas (human rights, administrative law, etc.), in order to solve real cases and thus, widen and deepen their professional competence(s) and educate new generations of asylum experts.
- 2) To provide free-of-charge legal assistance to asylum-seekers and refugees who otherwise could not afford paying for legal services.
- 3) Undertake research from a multidisciplinary perspective in the field of refugee law, which in turn, could positively impact public policy decision-making.

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 worldwide, particularly in the UK and the United States, and in Central Eastern Europe.

Furthermore, refugee law clinics have increased in number in Latin America, due to the unprecedented surge of asylum-seekers in the region. This is why, refugee law clinics are now key actors in the assistance of asylum-seekers and refugees, through their free-of-charge legal support programmes.



# STUDENT VOLUNTARY ASSISTANCE

**The students within the refugee law clinics provide free legal aid and/or counselling to clients through:**

- Interviewing clients and carrying out legal and country of origin information research.
- Assisting in drafting appeals for clients.
- Ensuring that the client is aware of her/his rights as an applicant for national and international protection.
- Ensuring the client is aware of the application procedure for refugee status, and is kept informed about her/his case throughout the proceedings.
- Working in cooperation with organizations that provide similar assistance services related to local integration, such as, psycho-social services, psychological and psychiatric assistance, health services, education, job seeking, among others.
- Preparation of cases and assistance in court hearings (including the interview), along with the representing lawyer, only where the national law allows the students themselves to advocate before a court.
- Facilitating the interaction between government entities, private institutions, and refugees and asylum-seekers.



# BENEFITS FOR THE STUDENTS & THE UNIVERSITY

**Involvement in a refugee law clinic provides law students with the possibility to:**

- a) Acquire practical legal skills while being a university student, thus enhancing their opportunities on the labour market.
- b) Understand the ethical principles of legal work and responsibility in performing such duties.
- c) Develop communication, language and intercultural skills.
- d) Develop writing skills.
- e) Develop argumentation and pleading skills, logic and capacities “to build up a case”.
- f) Improve task and stress management.
- g) Perform pre-professional activities, being recognized as either internship hours and/or academic credits.
- h) Acquire multidisciplinary knowledge and experience beyond immediate legal issues (e.g. psychology, anthropology, gender issues, etc.).
- i) Support refugees and asylum-seekers in a comprehensive manner (at both the legal and psychosocial levels), with the aim to expand their understanding of such assistance.
- k) Understand that law is not only a tool to earn a living, but is also an instrument for social justice.

## ADVANTAGES FOR THE UNIVERSITY

- Make the university more attractive for students and potential donors.
- Demonstrate to students the practical value of the material taught in the academic curriculum.
- Enhance the university’s cooperation with other organisations, such as NGOs, private 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.

# ADVANTAGES FOR PRACTICING LAWYERS & NGOs

Frequently, refugee-assisting non-governmental organizations and private lawyers 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.

Refugee law clinics can also help NGOs, international organizations, as well as private law firms, by training students and young professionals in the field of asylum and international protection.

Moreover, refugee law clinics offer the possibility to NGOs and lawyers to engage in research projects in the field of refugee law and international protection, which could serve as a complementary information resource in cases needing legal representation. It could also be helpful for the State in the formulation of public policies concerning migration and asylum.

## 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:**

- a)** Provide assistance to other persons in need of international protection, such as stateless persons, victims of trafficking and migrant detainees.
- b)** Be involved in migration-related procedures such as family reunification, naturalization, and birth registration.
- c)** Interact with other organizations that work in the field of asylum and migration.
- d)** Be integrated into legal clinics with a wider scope of activities, for example, human rights, non-discrimination, minority rights, civil and labour law.

# CAPACITY-BUILDING ACTIVITIES

**Taking into consideration the particularities and needs of a refugee law clinic, the following capacity-building activities can be useful besides the core activities and learning materials of the clinical course:**

## **a) Judicial practice**

Participation in strategic litigation cases at the national level (for example, individual and collective impact, contribution as *amicus curiae*); at the international level (for example, before the EU Court of Justice, the European Court of Human Rights, the Inter-American Court of Human Rights and United Nations treaty bodies); as well as, pro bono strategies for conflict resolution purposes (mediation).

## **b) Non-legal training**

Training on oral expression, empirical research development, online communication, the use of technology and social media, multilingual and intercultural communication, academic writing and other non-legal topics related to asylum.

## **c) Training on related areas of law**

Workshops addressing civil and social law that can be related to refugee protection or integration (for example family reunification, naturalisation or anti-discrimination).

## **d) Learning from the practice of other refugee supporters**

Learning about humanitarian and psycho-social assistance services and local integration for refugees in the host country and exchange with organisations involved in these activities.

## **e) Legislative advocacy**

Analysing bills, draft legislation and policy documents, to encourage positive legal and policy reform.

## **f) Monitoring**

Monitoring of state and court practices at the local and/or national level.

## **g) Databases**

Creation and promotion of databases or observatories, for example for jurisprudence or country information.

## **h) Competitions and simulations**

Case simulations, participation in human rights contests, local and international moot court competitions.

## **i) Awareness-raising**

Make use of cinema, photography, music, dance, and other forms of artistic expression, in order to promote the rights of refugees. Production of material to inform the general public and the media.



# CLINICAL METHOD

The core characteristic of clinical legal education is that it empowers students to experience the process of providing legal aid, hence, legal clinics enhance the creative and professional skills of students.

It is important to highlight that, even if teaching students remains important, it is fundamental that the priority is always to offer effective legal assistance to the beneficiaries.

In this sense, the students' education is the tool to accomplish this aim. The volunteers' work is not limited to the mere execution or shadowing of tasks. Law clinics allow students to develop their own legal argument style.

Refugee law clinics may function based on one of the two structures below.

## IN-HOUSE METHOD

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The refugee law clinic is housed at a university, where students may have the possibility to receive academic credits or participate as an extracurricular activity. 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 the responsible authorities, etc.).

Furthermore, the university has to provide the technical capacities (access to visitors to the building, rooms, visiting hours, computers and other equipment, etc.), as well as the personal capacities (supervision of students) to ensure the clinic's appropriate functioning.

Given the wide range of educational programmes at universities, the in-house method is ideal to provide comprehensive assistance to the beneficiaries, which, in turn, can be complemented with psycho-social support, local integration tools and the implementation of awareness-raising campaigns.



# EXTERNAL METHOD

The refugee law clinic is housed at a local NGO, and thus has a more limited 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.

<b>In-house method</b>	<b>External method</b>
Housed at a local university	NGO or independent law firm
Stronger affiliation with the university	Weaker affiliation with the university
Students receive academic credits for their participation, or an extracurricular activity	Possibility to grant academic credits to students or extracurricular activity

## ADEQUATE INFRASTRUCTURE FOR THE PROPER FUNCTIONING OF THE CLINIC

The clinic's infrastructure must be appropriate for the adequate development of its activities, and must meet the needs of the beneficiaries. In this sense, it's important to count with the necessary furnishing and supplies.

In addition, the clinic must have adequate spaces to interview the beneficiaries, which should guarantee confidentiality and privacy at all times.



# ESTABLISHMENT & MANAGEMENT OF A REFUGEE LAW CLINIC

## Step 1: Method

When deciding on the best refugee law clinic method (either in-house or external), as well as the approach to follow (education of social justice oriented clinic), the following questions need to be answered, in order to decide which option is more suitable in the given context, and highlight the crucial steps of the preparatory phase.

University	Non-governmental organization
<p>Do we have the personal capacities to supervise and operate a refugee law clinic?</p> <p>Are there teachers at our university who are experienced in the field of asylum law, immigration law and legal aid?</p> <p>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?</p> <p>Do we have suitable premises and the necessary technical equipment (computers, scanner, etc.) for providing legal counselling?</p> <p>Do we have sufficient funding? Are there additional funding schemes that we could make use of?</p> <p>Can we award academic credits to students participating in the refugee law clinic?</p>	<p>What are the benefits of establishing a refugee law clinic for our NGO?</p> <p>Do we have the personal capacities to supervise and operate a refugee law clinic?</p> <p>How many students could we possibly involve in this activity?</p> <p>Do we have suitable premises and the necessary technical equipment (computers, scanner, etc.) for providing legal counselling?</p> <p>Would we prefer and would it be possible to supervise students at the premises of the university?</p> <p>How much time can we spend with this activity?</p> <p>How will we organize the working time of practitioners who supervise the students?</p> <p>Do we have good cooperation with a particular university?</p>

## **Step 2: Link with the 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, or can the clinical education be counted as a graded course itself? 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?

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## **Step 3: 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, as well as on its limitations. 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.

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## **Step 4: Agreements with relevant institutions**

Once the relevant institutions (university, NGO, and eventually others such as, the 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 can 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 provide legal assistance at reception and/or detention facilities, this would 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.).

## Step 5: Code of conduct & 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.

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## Step 6: 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 may be 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 with the supervising lawyer. It is important to inform the clients that, they receive legal aid from students, who are in turn, acting under the supervision of a faculty member.



## Step 7: Budget

Refugee law clinics offer a cost-effective option to provide free legal assistance 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 (if necessary);
- Costs of technical equipment (computers, telephones, scanner, copy machine, etc.);
- Furniture;
- Information leaflets.

### Regular costs (monthly, weekly) may include:

- Office rental and maintenance, basic services;
- Communication and internet costs, stationary,
- Interpretation and translation costs,
- Travel costs.

Where funding is not yet available, charities, foundations, international organizations, international law firms and private donors should be identified and approached for support, depending on the local context, or the faculty law of the host university (in the case of the in-house method).

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## ADDITIONAL RESOURCES

### Website, blog and social network

The creation of a website, managing a blog and social network sites can be done at no cost. Nowadays, the use of such tools can be crucial to spread the word of an organization's efforts and initiatives, while informing the local, regional or even the international community. It can also be key when applying for grants and funds, in order to show the performance of a given project to the potential donors.



# TYPES OF LAW CLINICS (IN-HOUSE METHOD)

In addition to the in-house and external methods to establish a refugee law clinic, it is important to consider the vocational orientation of the clinic, for the well-being of both the beneficiaries and the staff and volunteers. In this sense, the clinic may be oriented towards education, social justice, or a combination of both approaches.

## **Education-oriented law clinic**

A law clinic oriented towards education prioritizes the training and education of its students and volunteers. In this regard, the cases (whether they are litigious or not), may be selected according to their (potential) educational component, possibly leaving aside those cases that, despite not representing an opportunity for litigation or pedagogical benefits, still need legal assistance.

Additionally, it is necessary to consider that the students' period of voluntary work is limited (generally ranging from one to two academic semesters), which risks the continuous follow-up of their cases. In this context, instead of granting academic credits for the students' participation, voluntary work at the clinic may be an extracurricular activity. In this way, the clinic may avoid that the students complete a certain number of working hours with the sole purpose of receiving credits, while ensuring the volunteers' availability even after the end of the academic period.

It is also important to highlight that the law clinic's priority must be to offer effective assistance to the beneficiaries. Even though the students' education is fundamental for their future professional careers, and their work is vital for the functioning of the clinic, their instruction must not be the primary objective.

Within this context, while the law clinic remains a learning space, such process must not be harmful to the refugees' cases. The student must receive immediate assistance from her/his supervisor whenever a mistake or doubt arises, which may harm the result of the case at any stage.

## **Social justice-oriented law clinic**

The law clinic oriented towards social justice prioritizes the assistance offered to the beneficiaries. In this respect, the cases are not used as a mere learning tool, and are not selected based on their potential pedagogical benefits. One of the advantages of this approach is the possibility to offer a wider range of services to the beneficiaries, even those simple activities that in reality help alleviate the burden during the asylum process, such as filling out forms, phone calls or emails to the asylum office or other government agencies.

# MOTIVATING STAFF & VOLUNTEERS

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 traumatization. Here are some tips to prevent these negative phenomena:

- a) Continuous evaluation and feed-back by the clinic manager (lawyer and/or university teacher);
- b) Introductory training on burnout prevention, trauma and post-traumatic stress disorder, as well as how to effectively help vulnerable people;
- c) Developing a protocol aiming at the prevention of burnout and "vicarious traumatisatation";
- d) Regular case discussion sessions, promoting an atmosphere of community work and mutual support;
- e) Continuous psychological supervision for the students (group sessions with psychologists);
- f) Active involvement of senior or former clinic students in the activities of the refugee law clinic;
- g) Exchange experiences and good practices with other law clinics;
- h) Participation in international initiatives and moot court competitions.

## **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 an arrangement of an internship at the UNHCR or a relevant law firm may be relevant. It is necessary to take into account that, in certain countries, the law stipulates that all internships should always be remunerated. Therefore, the law clinic should refer and follow the local legislation.



# USE OF THE REFUGEE LAW READER MANUAL

The Refugee law Reader ([www.refugeelawreader.org](http://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 online manual can provide valuable support for anyone willing to establish a refugee law course, or further improve an existing one. In particular, 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.

