

**Clinical Legal Education on the Margins of Mindanao:
Safeguarding Liberty, Nurturing Prosperity,
Advancing Social Justice**

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ABSTRACT

In many societies across the world, institutions, laws, and policies, which regulate social and economic interactions, do not provide equal opportunities and adequate protection to a huge portion of the population – the poor, indigenous peoples, women, and other marginalized groups. In most cases, while there are laws that are formulated and enacted to safeguard and uphold the rights of the poor, these laws are often ambiguous and costly, and thus difficult for them to access (United Nations, 2009).

Anchored on Amartya Sen’s concept of *Development as Freedom*, Chief Justice Panganiban’s philosophy of liberty and prosperity, and the United Nations Development Programme (UNDP) Commission on Legal Empowerment of the Poor’s argument that poverty is the result of exclusion from the rule of law, the author argues that the democratization of access to justice and of legal knowledge through clinical legal education is the key to safeguarding liberty, nurturing prosperity, and promoting social justice on the margins of society; and that legal empowerment is a fundamental development mechanism for providing enhanced social and economic opportunities for the poor and for eradicating poverty.

The experience of a law clinic in Mindanao – the Urian Legal Assistance Program of Father Saturnino Urios University – is a telling

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evidence of how clinical legal education has done wonders for the poor before and during the COVID-19 pandemic. The Legal Literacy on Wheels and the Online Legal Aid Program – the clinical legal education programs of ULAP – safeguarded liberty and promoted prosperity among the most vulnerable sectors of society at the height of the Enhanced Community Quarantine when courts and government offices were physically closed. Based on the narratives gathered and presented, clinical legal education in Butuan City liberated certain women from physical violence and economic abuse; protected certain students from sexual harassment; nurtured the economic prosperity of street vendors, small businessmen, and mass public transport drivers; protected certain individuals from unlawful arrest during the ECQ; facilitated the efficient delivery of the Social Amelioration Program to those in need; promoted the welfare of senior citizens who do not have families during the lockdown; rescued locally stranded individuals; and protected the rights of minimum wage earners.

The author submits that clinical legal education promotes liberty and prosperity not only for the marginalized, but also for seekers of justice (as Justice Leonen puts it) – law students – who, although still in the process of becoming full-fledged members of the legal profession, share and contribute in the realization of the collective vision of a truly just, free, and prosperous society under the rule of law.

Finally, the author recommends the institutionalization of legal aid programs through local legislation and collective inter-agency action as mechanisms for ensuring liberty and prosperity on the margins for future generations.

OUTLINE

Chapter I presents the background of the study, its objectives, significance, scope, and limitation, as well as the thesis statement on which the whole study revolves - that is, that the democratization of access to justice and of legal knowledge through clinical legal education is the key to safeguarding liberty, nurturing prosperity, and promoting social justice on the margins of society.

Chapter II presents the brief history of clinical legal education, its philosophy, models, and benefits, relying heavily on data coming from the Legal Education Board's CLEP Training Program in partnership with the Supreme Court, among others. It also explains the Revised Law Student Practice Rule and discusses the theoretical underpinnings of the study - that is, Chief Justice Artemio Panganiban's philosophy of liberty and prosperity in relation to Amartya Sen's concept of *Development as Freedom* in development economics.

Chapter III presents empirical data gathered from the experience of the Urian Legal Assistance Program in the implementation of its Legal Literacy on Wheels and Online Legal Aid Program. It presents the author's analysis of how legal literacy, legal aid, and legal empowerment impact liberty, prosperity, and social justice on the margins before and during the COVID-19 pandemic.

Chapter IV contains the conclusion reached by the author and his recommendations for ensuring liberty and prosperity on the margins for future generations through clinical legal education.

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A. Conclusion

B. Liberty and Prosperity for Future Generations:
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Agency Action

But what does “just society” mean? According to Chief Justice McLachlin in her address upon receiving her honorary doctorate from the Ateneo de Manila University, it means, “a society governed by the rule of law and built on the values of democracy, equality and liberty. It means a society in which all can participate, where all can pursue a dream, where all enjoy basic liberties of expression, association and movement. It means a society where everyone, regardless of race, creed or ethnic background, has a place.” Beyond Canada, there is a teeming world of people, there is a sea of humanity seeking the same blessings of a just society, aspiring for the same dream to enjoy the basic freedoms of expression, association and movement and to live in a nation of liberty and prosperity under the rule of law.

- Chief Justice Artemio V. Panganiban (ret.)²

Chapter I: Introduction

A. Background of the Study

In many societies across the world, institutions, laws, and policies, which regulate social and economic interactions, do not

² Chief Justice Artemio V. Panganiban (ret.), *Towards a Just World Society*, Asia Field Representatives Meeting (FRM) of the Canadian International Development Agency, EDSA Shangri-La Hotel Ballroom, Mandaluyong City, May 8, 2008, available at: <https://cjpanganiban.com/2008/05/08/towards-a-just-world-society/> (last visited 04 April 2021).

provide equal opportunities and adequate protection to a huge portion of the population – the poor, indigenous peoples, women, and other marginalized groups.³ In most cases, while there are laws that are formulated and enacted to safeguard and uphold the rights of the poor, these laws are often ambiguous and costly, and thus difficult for them to access.⁴ It is a fact that many people, especially those on the margins, have no choice but to suffer in silence, because they are uneducated and unaware of their fundamental human rights and of the legal means by which they could enforce such rights. Even if some of them are conscious of their rights, these people are still forced to suffer in silence due to the unavailability and the cost of legal advice and legal representation in the remote areas where they reside – where justice remains elusive.⁵

Access to justice is a fundamental principle of the rule of law.⁶ It is essential to achieving sustainable development.⁷ According to the Open Government Partnership (2019), access to justice is “*more than just access to lawyers or courts.*”⁸ “*At its core, it means that individuals and communities with legal needs know where to go for help, obtain the help they need, and move through a system that offers procedural, substantive, and expeditious justice.*”⁹

Statistics reveal that some four billion people around the world live beyond the protection of the law, primarily because they are

³ United Nations, 2009, *Legal Empowerment of the Poor and Eradication of Poverty*, available at: <https://www.un.org/esa/socdev/documents/reports/Legal%20empowerment%20of%20the%20poor.pdf>, at 2 (last visited 04 April 2021).

⁴ *Id.*

⁵ United Nations, 2021, *Access to Justice*, available at <https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice/> (last visited 04 April 2021).

⁶ Associate Justice Alexander Gesmundo, *Welcome Remarks*, 2019 Legal Education Summit, The Manila Hotel, July 31, 2019.

⁷ Open Society Foundations, 2016, *Leveraging the SDGs for Inclusive Growth: Delivering Access to Justice for All*, available at: <https://www.oecd.org/gov/delivering-access-to-justice-for-all.pdf> (last visited 04 April 2021).

⁸ Open Government Partnership, 2019, *Justice Policy Series: Access to Justice*, at 7, available at <https://www.opengovpartnership.org/wp-content/uploads/2019/09/Justice-Policy-Series-Access-to-Justice.pdf> (last visited 09 April 2021).

⁹ *Id.*

poor.¹⁰ These are the people who are easily cheated by those who employ them, deprived of their land, preyed upon by the powerful, and intimidated by violence.¹¹ They are the most vulnerable within their societies.

According to the 2020 Rule of Law Index published by the World Justice Project, the Philippines scored 0.47 in a scale of 0 to 1, with 1 indicating the strongest adherence to the rule of law, and ranked 91st out of 128 countries.¹² Denmark topped the list with a score of 0.90.¹³ The Philippines ranked 13th among lower middle income countries¹⁴ and 13th in East Asia and the Pacific.¹⁵ This only suggests that the legal profession, the judiciary, the political branches of government, and the entire nation have a lot to work on towards achieving a truly just society for every Filipino.

It is important to note that Goal 16 of the Sustainable Development Goals (SDGs) of the United Nations is to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable and inclusive institutions at all levels.”¹⁶

The same quest for sustainable development and social justice is present at the local level. *AmBisyon Natin 2040*, as articulated by the National Economic and Development Authority (NEDA), contains the long-term vision and the collective dreams and aspirations of the Filipino people, viz.:

¹⁰ Open Society Foundations, *supra* note 7.

¹¹ *Id.*

¹² World Justice Project, *Rule of Law Index 2020*, Washington, USA, available at: https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online_0.pdf, at 17 (last visited 04 April 2021).

¹³ *Id.*, at 16.

¹⁴ *Id.*, at 20.

¹⁵ *Id.*, at 18.

¹⁶ United Nations, 2015, *Sustainable Development Goals*, available at: <https://sdgs.un.org/goals> (last visited 04 April 2021).

“In 2040, we will all enjoy a stable and comfortable lifestyle, secure in the knowledge that we have enough for our daily needs and unexpected expenses, that we can plan and prepare for our own and our children’s future. Our family lives together in a place of our own, and we have the freedom to go where we desire, protected and enabled by a clean, efficient, and fair government.”¹⁷

This national vision, from which concrete policy frameworks and institutional mechanisms were drawn, gives life to the Constitutional mandate that *“the State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all”¹⁸* and that *“the State shall promote social justice in all phases of national development.”¹⁹*

The author submits that a cerebral reading of the aforementioned national vision reveals that the latter bears some resemblance to the twin beacons²⁰ of liberty and prosperity, freedom and food, and democracy and development as espoused by former Chief Justice Artemio V. Panganiban.

Anchored on the United Nations Development Programme (UNDP) – Commission on Legal Empowerment of the Poor’s argument that poverty is the result of exclusion from the rule of law,²¹ the author argues that legal empowerment is a fundamental

¹⁷ National Economic and Development Authority, 2016, *AMBISYON NATIN 2040*, available at: <http://2040.neda.gov.ph/about-ambisyon-natin-2040/> (last visited 04 April 2021).

¹⁸ CONST. (1987), Art. II, Sec. 9.

¹⁹ CONST. (1987), Art. II, Sec. 10.

²⁰ Chief Justice Artemio V. Panganiban (ret.), *Spreading the Gospel of Liberty and Prosperity*, National Forum on “Liberty and Prosperity”, The Manila Hotel, August 24, 2006, available at: <https://cjanganiban.com/2006/08/25/spreading-the-gospel-of-liberty-and-prosperity/> (last visited 04 April 2021).

²¹ United Nations Development Programme (UNDP) – Commission on Legal Empowerment of the Poor, 2008, *Making the Law Work for Everyone Vol. 1*, Toppan Printing Company America Inc., New York, at 1.

development mechanism for providing enhanced social and economic opportunities for the poor and for eradicating poverty, and must therefore be a priority of both the national government and the local governments. Moreover, the author undertakes to examine and uncover the power of clinical legal education, as reinforced by the Revised Law Student Practice Rule, to cultivate legal empowerment on the margins; and to recalibrate the role of law schools and local stakeholders in this conscious effort towards safeguarding liberty, nurturing prosperity, and promoting social justice on the margins of Mindanao. This will largely contribute to the realization of AmBisyon Natin 2040 and of the Sustainable Development Goals as the nation and the rest of the world continue to grapple with the far-reaching repercussions of a destabilizing and debilitating pandemic.

The Philippine Center for Investigative Journalism reports that the pandemic and the lockdowns that came with it have placed access to justice in the Philippines farther from the reach of ordinary citizens and have put more stress on the justice system.²² This means that now, more than ever, clinical legal education through the legal aid clinics of law schools is most timely and relevant. The Revised Law Student Practice Rule will therefore be a game changer in the pursuit of social justice in the COVID and post-COVID period.

B. Objectives of the Study

This paper aims to achieve the following research objectives:

1. To discuss the role of clinical legal education in broadening access to justice in the peripheries and in the administration of justice as a whole;
2. To highlight the role of local stakeholders in implementing clinical legal education programs;

²² Philippine Center for Investigative Journalism, *Access to PH Justice System Suffers Amid the Lockdown*, May 22, 2020, available at: <https://pcij.org/article/4090/covid-19-worsens-already-limited-access-to-justice> (last visited 04 April 2021).

3. To analyze the impact of clinical legal education programs, which translate into legal empowerment, and of collective action among stakeholders on the protection of liberty and the advancement of prosperity and social justice among the poor, the oppressed, and the marginalized; and
4. To provide policy recommendations anchored on the principle of collective action and synergism, whereby the protection of liberty and the promotion of prosperity can be institutionalized and sustained at the grassroots level.

C. Thesis Statement

In this paper, the author argues that the democratization of access to justice and of legal knowledge through clinical legal education is the key to safeguarding liberty, nurturing prosperity, and promoting social justice on the margins of society – that is, among the poor, the oppressed, the underserved, and the marginalized; and that legal empowerment is a fundamental development mechanism for providing enhanced social and economic opportunities for the poor and for eradicating poverty.

D. Significance of the Study

This study will deepen every law student's appreciation of the importance of the Revised Law Student Practice Rule and clinical legal education in general, not only in producing practice-ready Filipino lawyers in the future, but also in ushering in a truly just society where everyone has a place. This will also foster collective action and synergism among various sectors of society and draw more people to embrace the twin beacons of liberty and prosperity.

E. Scope and Limitation

In an attempt to build on the importance of legal empowerment in bringing about liberty and prosperity on the margins, this paper

covers voices and narratives from different barangays in Butuan City - a highly urbanized city in the Caraga Region, in the island of Mindanao - in the implementation of clinical legal education programs by one of the premier legal aid clinics in the country, the Urian Legal Assistance Program (ULAP) of Father Saturnino Urios University, in partnership with various stakeholders. Two clinical legal education programs aimed at promoting legal empowerment are included in this paper, namely Legal Literacy and Online Legal Aid.

While this paper mentions some of the benefits of CLEP in improving the delivery of legal education in the country, thereby producing practice-ready lawyers, it focuses mainly on the impact of CLEP towards providing access to justice, protecting liberty, nurturing prosperity, and advancing social justice on the margins of society.

While the safeguarding of liberty is a traditional and fairly common task for the judiciary, the nurturing of prosperity may not be too familiar to the courts. Some jurisdictions may even take the view that the judiciary need not exert conscious thought and effort to nurture progress. Nonetheless, I maintain that whatever the status of a country's economic progress, courts must contribute to the achievement or nurturance of prosperity; or, at the very least, to the alleviation of poverty, disease and disability. Important world events impel me to advocate a necessary – nay, indispensable – nexus between political liberty and economic prosperity.

- Chief Justice Artemio V. Panganiban (ret.)

Chapter II: Review of Related Literature

A. Clinical Legal Education

1. Brief History of Clinical Legal Education

Clinical legal education was born in the early twentieth century.²³ In the United States, Canada, Australia, Great Britain, India, and some southern and eastern regions of Africa, it only became widespread in the early 1960s and 1970s.²⁴ Prior to this, a law club at the University of

²³ M. Romano, *The history of legal clinics in the US, Europe and around the world*, 2016, available at <https://heinonline.org/HOL/LandingPage?handle=hein.journals/dirquesp2016&div=11&id=&page=> (last visited 10 April 2021).

²⁴ *Id.*

Pennsylvania established a legal aid dispensary as early as 1893; the University of Denver established a legal aid dispensary in 1904; Harvard University established the Harvard Legal Aid Bureau in 1913; and the University of Minnesota required all students to render mandatory service in the Legal Aid Society in 1913.²⁵ In other countries of Asia, Europe, and Africa, legal aid clinics were developed only after the 1990s.²⁶

Ogilvy (2009) traces the birth of modern clinical legal education in the US in 1958 when William Pincus, a program officer at Ford Foundation in New York, and Emory Brownell, Executive Director of the National Legal Aid and Defender Association (NLADA), came up with the idea of a grant from Ford to NLADA to encourage law schools to get law students to participate in legal aid clinics.²⁷ Pincus saw this as an opportunity to enrich legal education and bring it outside the four corners of the classroom.²⁸ He believed that law schools should expose law students to clients while in school just as medical schools exposed medical students to patients as an essential part of medical school education.²⁹ This became Pincus' mission, which ultimately bore fruit when clinical legal education was integrated into American legal education with nearly every law school having at least one clinical course.³⁰

To date, many countries have confirmed the success of clinical legal education as a methodology that enables law students to develop professional skills while rendering useful service to the community.³¹

²⁵ J.P. "Sandy" Ogilvy, *Celebrating CLEPR's 40th Anniversary: The Early Development of the Clinical Legal Education and Legal Ethics Instruction in U.S. Law Schools*, 16 CLINICAL L. REV. 1 (2009).

²⁶ See note 23, *supra*.

²⁷ Ogilvy, *supra* note 25 at 9.

²⁸ *Id.* at 10.

²⁹ *Id.*

³⁰ *Id.* at 15.

³¹ See note 23, *supra*.

2. The Philosophy of Clinical Legal Education

According to Dean Domnina Rances (2021) of the Ateneo de Naga University, the philosophy behind clinical legal education is experiential education.³² In defining experiential education during her lecture, which forms part of the Legal Education Board's CLEP Training Program in partnership with the Supreme Court, among others, Dean Rances cited the Association for Experiential Education, viz.:

“Experiential education is a teaching philosophy that informs many methodologies in which educators purposefully engage with learners in direct experience and focused reflection to increase knowledge, develop skills, clarify values, and develop people’s capacity to contribute to communities.”³³

Experiential education has many forms, and one of these is service learning. In a paper entitled, “The Power of Experiential Education,” Janet Eyler (2009) explained the concept of service learning in this wise:

“Service learning – a form of experiential education that combines academic study with service in the community – emerged in the 1970s and has since grown exponentially. The pioneers of service learning believed that the combination of service and learning would improve the quality of both and that it could lead to educational reform and democratic revitalization. Service learning is distinguished from other approaches to experiential education by its commitment to certain values as well as its inclusion of continuous, structured reflection.”³⁴

³² Dean Domnina Rances, 2021, *Experiential Education and the Revised Law Student Practice Rule*, CLEP Training Program, available at: <https://ph-cleptraining.thinkific.com> (last visited 10 April 2021).

³³ *Id.* at 3.

³⁴ Janet Eyler, 2009, *The Power of Experiential Education*, available at <https://www.aacu.org/publications-research/periodicals/power-experiential-education> (last visited 12 April 2021).

Clinical legal education basically means learning through experience.³⁵ To support this characterization, Dean Rances quoted Aristotle, to wit:

*“For the things we have to learn, before we can do them, we learn by doing them.”*³⁶

To concretize the underlying philosophy of clinical legal education, the two components of CLEP must be present, namely the clinical or practical component and the classroom component.³⁷ Under the clinical component, the students engage in the limited practice of law, which will be further discussed in the second part of this chapter. Under the classroom component, the experiences of the students in the practical component “are supplemented, shared, processed, documented, and reflected upon in order to increase knowledge, develop skills, and attain the objectives of the CLEP course.”³⁸

3. Clinical Legal Education Program Models

According to Prof. Edgardo Carlo Vistan, II (2021), Director of the University of the Philippines – Office of Legal Aid (now the Dean of the UP College of Law), in his lecture in connection with the previously mentioned CLEP Training Program, the different models of Clinical Legal Education Program can be categorized and summarized as follows:

- 1) *“Based on the type of lawyering experience offered:*
 - a. *Government Service Model*
 - b. *Private Practice Model*
 - i. *Public Interest Lawyering*
 1. *Indigent Litigation Model*

³⁵ See note 32, *supra*.

³⁶ *Id.* at 2.

³⁷ *Id.* at 7.

³⁸ *Id.* at 8.

2. *Public Advocacy Model*

ii. *Practice for Compensation*

- 2) *Based on whether the supervising lawyer works for the law school or not:*
 - a. *Internship Model*
 - b. *Externship Model*
- 3) *Based on where the student works:*
 - a. *Office-based Model*
 - b. *Community-based Model*
 - c. *Classroom-based Model*
 - d. *Remote Clinic Model*
- 4) *Based on the range of lawyering services:*
 - a. *General Practice Model*
 - b. *Specialized Practice Model*³⁹

Under the government service model, law students work in a government office to assist in its legal services, and it is the mandate of the said office which defines their experience.⁴⁰ The private practice model, on the other hand, offers a wide range of experience, which Vistan characterizes as “evolving along with legal practice.”⁴¹ The internship model is one wherein the law school establishes a law clinic which directly provides mentoring among the students, while the externship model is one in which law students work for a partner, organization, or institution outside the law school.⁴² The Supreme Court defines externship under the Revised Law Student Practice Rule in this wise:

“Externship is part of the clinical legal educational program if: (a) it allows students to engage in legal work for the marginalized sectors or for the promotion of social justice and public interest, and (b) it is undertaken with any of the following:

³⁹ Dean Edgardo Carlo Vistan, II, 2021, *Different Models of Clinical Legal Education Program*, CLEP Training Program, available at: <https://ph-cleptraining.thinkific.com> (last visited 10 April 2021).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

*(i) the courts, the Integrated Bar of the Philippines (IBP), government offices; and (ii) law school-recognized non-governmental organizations (NGOs)."*⁴³

In light of the COVID-19 pandemic, CLEP is implemented under the remote clinic model. According to Vistan, law students work at home or in any place outside the law school with the use of technology under this model.⁴⁴ For instance, at the height of the Enhanced Community Quarantine (ECQ) in Butuan City, the Urian Legal Assistance Program, in partnership with the City Government of Butuan and the Integrated Bar of the Philippines Agusan del Norte Chapter, launched the Butuan Online Legal Aid Program to provide legal services and to protect human rights in the middle of the pandemic, which program will be further discussed in the next chapter.

Since the Revised Law Student Practice Rule was promulgated primarily "to ensure access to justice of the marginalized sectors,"⁴⁵ the author believes that the said Rule suggests public interest lawyering as a CLEP model. Dean Vistan defines public interest lawyering as "the rendition of legal services to the marginalized sectors."⁴⁶ Chen and Cummings (2012) described the work of public interest lawyers in this manner:

"Despite the disagreement over terminology, there have long been lawyers who have devoted their careers to promoting some version of the public good, through their representation of individual clients, the pursuit of specific causes – or both. These lawyers have played critical roles in defending and extending American democratic institutions, providing access to justice for those unable to afford it, and advancing the causes of marginalized groups unable to influence politics by other means.

⁴³ A.M. No. 19-03-24-SC

⁴⁴ See note 39, *supra*.

⁴⁵ See note 43, *supra*.

⁴⁶ See note 39, *supra*.

*They have made significant contributions to foundational civil rights and antipoverty struggles, thus embodying the highest ideals of a profession that aspires to serve the public good. Although they are a relatively small fraction of the total lawyer population, public interest lawyers have thus had an outsized role in making good on the profession's promise of equal justice under law."*⁴⁷

4. Benefits of Clinical Legal Education

According to Dean Joan Largo (2021) of the University of San Carlos, clinical legal education is beneficial because it promotes active learning in the classroom and access to justice in the community.⁴⁸ Simply put, it enables one to learn the law and at the same time serve the community.⁴⁹ To strengthen her view, Dean Largo cited perspectives from the book, *Teaching Law by Design* (2017), viz.:

*"Students learn when their opportunities to construct undertakings are authentic, such as when their learning is anchored in a realistic context. Thus, law professors who situate parts of their doctrinal courses in law practice problems, whether simulations or actual client issues, provide students the authenticity they need to construct meaningful understandings."*⁵⁰

In addition, Largo cited perspectives from the book, *Reforming Legal Education* (2012), viz.:

⁴⁷ Chen & Cummings, 2012, *Defining Public Interest Lawyering*, available at: <https://www.brown.edu/campus-life/support/careerlab/sites/brown.edu/campus-life.support.careerlab/files/uploads/Who%20Public%20Interest%20Lawyers%20Are.pdf> (last visited 12 April 2021).

⁴⁸ Dean Joan Largo, 2021, *The 2-in-1 Benefits of Clinical Legal Education*, CLEP Training Program, available at: <https://ph-cleptraining.thinkific.com> (last visited 10 April 2021).

⁴⁹ *Id.*

⁵⁰ *Id.* at 7.

“Students believe that participating in apprenticeships gave them significant advantage over their peers in terms of their ability to conceptualize and retain better what they were learning in the classroom.”⁵¹

Largo also pointed out that based on empirical data, “students who participated in law clinics scored an average of 18 points higher in the bar examinations.”⁵²

Clinical legal education promotes access to justice in the community and contributes to the administration of justice as a whole. In providing a persuasive backdrop of how CLEP can improve access to justice in the country, Largo presented the following statistics:

1. *“As of June 2018, the pending cases in the first and second level courts nationwide number to 783,423 while the inflow of new cases per year for the past 10 years average to about 800,000 cases. Around 75% of these pending cases are criminal actions, mostly involving litigants belonging to the marginalized sectors (www.bjmp.gov.ph).”⁵³*
2. *“As of May 31, 2018, around 141,798 pre-trial detention prisoners were in need of legal assistance. Those involving index crimes (crimes against persons and property) total 30,922 while non-index crimes (violation of R.A. No. 9165 and R.A. No. 6495) total 151,156. The highest number of pre-trial detainees charged with drug offenses are lodged in jails in the NCR (36,741), Region 4A (26,294), and Region 8 (19,911) (www.bjmp.gov.ph).”⁵⁴*
3. *“In 2018, the Public Attorney’s Office (PAO), which is the main legal aid service provider in the country, only has 2,096*

⁵¹ *Id.* at 9.

⁵² See note 48, *supra*.

⁵³ *Id.* at 5.

⁵⁴ *Id.*

*PAO lawyers catering the legal needs of 110,000,000 Filipinos (1:52,500 Filipino to public attorney ratio). A PAO lawyer handles an average of 6,366 clients or a total of 465 cases (www.pao.gov.ph)."*⁵⁵

In wrapping up her lecture for the 2021 CLEP Training Program, taking into account the aforementioned facts, Largo powerfully concluded:

*"On the one hand, the community cries for access to justice. And in the classroom, we have students clamoring for active learning so that they would become practice-ready lawyers. What better way to respond to that call than integrating CLEP into our law curriculum."*⁵⁶

B. The Revised Law Student Practice Rule

In the Philippines, the term "clinical legal education" can already be found in the Rules of Court even before the amendment to Rule 138-A. The old provision under Section 1 of Rule 138-A reads:

*"A law student who has successfully completed his 3rd year of the regular four-year prescribed law curriculum and is enrolled in a recognized law school's clinical legal education program approved by the Supreme Court, may appear without compensation in any civil, criminal or administrative case before any trial court, tribunal, board or officer, to represent indigent clients accepted by the legal clinic of the law school."*⁵⁷

Under the old Law Student Practice Rule, the kind of clinical legal education contemplated was that which was limited to appearing without compensation in any trial court to represent indigent clients.⁵⁸

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Rules of Court, Rule 138-A, Section 1, prior to A.M. No. 19-03-24-SC

⁵⁸ *Id.*

It was only on June 25, 2019 under the leadership of then Chief Justice Lucas Bersamin that the Supreme Court defined and expanded the meaning of clinical legal education, with the adoption and promulgation of the Revised Law Student Practice Rule.⁵⁹ The rationale behind the amendment to Rule 138-A was underscored in A.M. No. 19-03-24-SC, viz.:

“Whereas, there is a need to amend the provisions of Rule 138-A to ensure access to justice of the marginalized sectors, to enhance learning opportunities of law students, to instill among them the value of legal professional social responsibility, and to prepare them for the practice of law;

Whereas, there is a need to institutionalize clinical legal education program in all law schools in order to enhance, improve, and streamline law student practice, and regulate their limited practice of law; and

Whereas, to produce practice-ready lawyers, the completion of clinical legal education courses must be a prerequisite to take the bar examinations as provided in Section 5 of Rule 138.”⁶⁰

In other words, the Revised Law Student Practice Rule is aimed at achieving three things: 1) promoting social justice, especially on the margins; 2) producing practice-ready lawyers; and 3) producing ethical lawyers who are cognizant of their legal professional social responsibility.

The Supreme Court defines Clinical Legal Education Program or CLEP in this wise:

⁵⁹ A.M. No. 19-03-24-SC

⁶⁰ *Id.*

“Clinical Legal Education Program is an experiential, interactive and reflective credit-earning teaching course with the objectives of providing law students with practical skills, knowledge and values necessary for the application of the law, delivery of legal services and promotion of social justice and public interest, especially to the marginalized, while inculcating in the students the values of ethical lawyering and public service. It consists of learning activities covered by this Rule undertaken in either a 1) law clinic or an 2) externship, which shall incorporate the teaching of legal theory and doctrines, practical skills, as well as legal ethics.”⁶¹

Under the Revised Law Student Practice Rule, law schools, through their deans or authorized representatives, must develop and adopt a Clinical Legal Education Program.⁶² They shall have such number of faculty members to teach clinical legal education courses as may be necessary to comply with the Rule.⁶³ They must also develop and establish at least one law clinic within the school.⁶⁴ A law clinic pertains to an office or center which is a component of the law school’s Clinical Legal Education Program that renders legal assistance and services to eligible persons, groups, or communities.⁶⁵ More importantly, law schools must ensure compliance by law student practitioners and supervising lawyers with the Code of Professional Responsibility.⁶⁶

To ensure that law students who engage in any of the activities under the Clinical Legal Education Program of their school possess the minimum qualifications for the limited practice of law, Rule 138-A now provides for two levels of certification, to wit:

⁶¹ Rules of Court, Rule 138-A, Section 2 (a).

⁶² Rules of Court, Rule 138-A, Section 9 (a).

⁶³ Rules of Court, Rule 138-A, Section 12.

⁶⁴ Rules of Court, Rule 138-A, Section 9 (b).

⁶⁵ Rules of Court, Rule 138-A, Section 2 (c).

⁶⁶ Rules of Court, Rule 138-A, Section 9 (d).

1. *Level 1 certification, for law students who have successfully completed their first-year law courses;*⁶⁷
2. *Level 2 certification, for law students currently enrolled for the second semester of their third-year law courses; provided however, where a student fails to complete all his/her third-year law courses, the Level 2 certification shall be deemed automatically revoked.*⁶⁸

The Rule also provides for practice areas of law student practitioners.⁶⁹ Those with Level 1 Certification may perform the following:

1. *Interview prospective clients;*⁷⁰
2. *Give legal advice to the client;*⁷¹
3. *Negotiate for and on behalf of the client;*⁷²
4. *Draft legal documents such as affidavits, compromise agreements, contracts, demand letters, position papers, and the like;*⁷³
5. *Represent eligible parties before quasi-judicial or administrative bodies;*⁷⁴
6. *Provide public legal orientation;*⁷⁵ and
7. *Assist in public interest advocacies for policy formulation and implementation.*⁷⁶

On the other hand, those with Level 2 Certification may perform the following:

1. *Perform all activities under Level 1 Certification;*⁷⁷

⁶⁷ Rules of Court, Rule 138-A, Section 3.

⁶⁸ *Id.*

⁶⁹ Rules of Court, Rule 138-A, Section 4.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

2. *Assist in the taking of depositions and/or preparing judicial affidavits of witnesses;*⁷⁸
3. *Appear on behalf of the client at any stage of the proceedings or trial, before any court, quasi-judicial or administrative body;*⁷⁹
4. *In criminal cases, subject to the provisions of Section 5, Rule 110 of the Rules of Court, to appear on behalf of a government agency in the prosecution of criminal actions;*⁸⁰ and
5. *In appealed cases, to prepare the pleadings required in the case.*⁸¹

One of the major revisions to the Rules is that a law student practitioner may now sign briefs, pleadings, letters, and other similar documents which the student has produced under the direction of the supervising lawyer, indicating the law student practitioner's certificate number.⁸²

The requirements for the application for certification are provided for under Section 5 of Rule 138-A, to wit:

"The law student must submit a duly-accomplished application form under oath in three (3) copies, accompanied by proof of payment of the necessary legal and filing fees.

The law school, through the dean or the authorized representative, shall submit to the Office of the Executive Judge of the Regional Trial Court (RTC) having jurisdiction over the territory where the law school is located, the duly-accomplished application form together with an endorsement under oath.

Level 1 Certification

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² Rules of Court, Rule 138-A, Section 7.

The Executive Judge of the RTC shall evaluate, approve, and issue the certification within ten (10) days from receipt of the application.

The Level 1 certification issued under this provision shall be valid before all courts, quasi-judicial and administrative bodies within the judicial region where the law school is located.

Level 2 Certification

Within ten (10) days from receipt of the application, the Executive Judge of the RTC shall (a) evaluate the application together with its attachments, and (b) recommend to the Office of the Court Administrator (OCA) the approval and issuance of the certification. If the Executive Judge finds the application to be incomplete, the law school shall be notified and required to comply with the requirements within five (5) days from receipt of notice.

The Level 2 certification issued under this provision shall be valid before all courts, quasi-judicial and administrative bodies.”⁸³

In order to ensure that the certification process is properly, effectively, and efficiently implemented by the concerned court personnel, the Court Administrator issued OCA Circular No. 160-2020 dated September 24, 2020 entitled, “Proposed Procedure for Issuance of Level 1 and 2 Certifications under Rule 138-A pursuant to En Banc Resolution Dated 25 June 2019 in A.M. No. 19-03-24-SC.”

Supervising lawyers play a crucial role in the limited practice of law by students contemplated by the Supreme Court in Rule 138-A. These lawyers are duty bound to:

⁸³ Rules of Court, Rule 138-A, Section 5.

1. *Supervise such number of certified law student practitioners as far as practicable;*⁸⁴
2. *Personally appear with the law student practitioner in all cases pending before the second-level courts and in all other cases the supervising lawyer determines that his or her presence is required;*⁸⁵
3. *Assume personal professional responsibility for any work performed by the certified law student practitioner while under his or her supervision;*⁸⁶
4. *Assist and advise the certified law student practitioner in the activities authorized by the rules and review such activities with the certified law student practitioner, all to the extent required for the proper practical training of the certified law student practitioner and the protection of the client;*⁸⁷
5. *Read, approve, and personally sign any pleadings, briefs or other similar documents prepared by the certified law student practitioner prior to the filing thereof, and read and approve any documents which shall be prepared by the certified law student practitioner for execution by the eligible party;*⁸⁸ and
6. *Provide the level of supervision to the certified law student practitioner required by the rules.*⁸⁹

The Rule became effective at the start of the Academic Year 2020-2021.⁹⁰ Interestingly, the requirements under the second paragraph of Section 5 of Rule 138, as amended by A.M. No. 19-03-24-SC, shall apply to bar examination applicants beginning 2023.⁹¹ Paragraph 2, Section 5, Rule 138 now reads as follows:

“No applicant who obtained the Bachelor of Laws degree in this jurisdiction shall be admitted to the bar

⁸⁴ Rules of Court, Rule 138-A, Section 11 (a).

⁸⁵ Rules of Court, Rule 138-A, Section 11 (b).

⁸⁶ Rules of Court, Rule 138-A, Section 11 (c).

⁸⁷ Rules of Court, Rule 138-A, Section 11 (d).

⁸⁸ Rules of Court, Rule 138-A, Section 11 (e).

⁸⁹ Rules of Court, Rule 138-A, Section 11 (f).

⁹⁰ Rules of Court, Rule 138-A, Section 14.

⁹¹ *Id.*

examination unless he or she has satisfactorily completed the following courses in a law school or university duly recognized by the government: civil law, commercial law, remedial law, criminal law, public and private international law, political law, labor and social legislation, medical jurisprudence, taxation, legal ethics, and clinical legal education program.”⁹²

The learning visit of the Philippine delegation led by former Chief Justice Bersamin in the United States in 2018 was the precursor of the Revised Law Student Practice Rule. In his speech during the 2019 Legal Education Summit organized by the Supreme Court on July 31, 2019, Chief Justice Bersamin said:

“I was personally fortunate to have come upon that opportunity in September, 2018, when I was invited by the INL of the US Embassy in Manila, in collaboration with the Asia Foundation, to lead a delegation composed of one colleague on the Supreme Court, three young lawyers from the Supreme Court, and the deans of five law schools in the Philippines to embark on a learning visit in the United States in the period of October 1-12. Being given the privilege to choose the law schools to spend our learning visit, our delegation instinctively focused on Harvard University, Suffolk University and Georgetown University. We hoped to see closely for ourselves how such famed institutions of legal learning had been forming and training their students to become competent and effective lawyers. The choice we made soon proved justified. In that learning visit, we found that those law schools had in place long-existing legal clinics in which their students freely and voluntarily selected their practice tracks starting in the second year of law school. The individual programs of legal clinics, although generally associated with providing legal aid to underserved sectors of the populations (like housing, employment, education, and criminal delinquency), gave more emphasis to skills-based instead of knowledge-based training. Said differently, the students underwent experiential

⁹² A.M. No. 19-03-24-SC (revised), dated July 23, 2019.

legal education and training while still in law school on and off-campus and in the process also served the needy communities. That the legal clinics have already been undertaken for many decades signified the success, effectiveness and usefulness of the experiential approach in legal education adopted in the US. Along the way, we noted that the students and their law schools were hardly fixated on the results of the bar examinations, unlike here.”⁹³

He added:

“The learning visit convinced our delegation that the current approaches to Philippine legal education were now possibly inadequate, or were even outdated, and by all means needed to be enhanced. We understood that it was high time that the Philippines’ directions in the education and training of future lawyers should now shift from the knowledge-based or purely Socratic approach long in vogue with us to the experiential process of learning the law. Thereby, the law students would bridge the chasm between theory and practice. And we honestly feared that there was no time to lose, if the delegation could help it.”⁹⁴

The incorporation of CLEP as one of the requirements for the bar examinations will certainly change the future of legal education and challenge law schools to rethink their perspectives, approaches, and strategies insofar as the bar examination is concerned. But more than that, it reveals how the judiciary as an institution is rethinking and recalibrating its role in a democracy. For the Supreme Court to amend the Rules to the end that legal education and the legal profession contribute meaningfully to the realization of social justice for those who have less in life is to recognize its role not only in the protection

⁹³ Chief Justice Lucas Bersamin (ret.), *Paradigm Shift to Skills-Based and Experiential Legal Education*, 2019 Legal Education Summit, The Manila Hotel, July 31, 2019, available at: <https://sc.judiciary.gov.ph/files/speeches/2019/07-31-2019-1.pdf> (last visited 11 April 2021).

⁹⁴ *Id.*

of fundamental freedoms but also in the advancement of prosperity among the people.

In his speech during the Asia Field Representatives Meeting (FRM) of the Canadian International Development Agency on May 8, 2008, retired Chief Justice Artemio Panganiban said:

“While the safeguarding of liberty is a traditional and fairly common task for the judiciary, the nurturing of prosperity may not be too familiar to the courts. Some jurisdictions may even take the view that the judiciary need not exert conscious thought and effort to nurture progress. Nonetheless, I maintain that whatever the status of a country’s economic progress, courts must contribute to the achievement or nurturance of prosperity; or, at the very least, to the alleviation of poverty, disease and disability. Important world events impel me to advocate a necessary – nay, indispensable – nexus between political liberty and economic prosperity.”⁹⁵

As will be discussed and analyzed in the succeeding parts of the paper based on the experience of the Urian Legal Assistance Program and the City Government of Butuan on the margins, the author argues that the Revised Law Student Practice Rule is a telling evidence of, borrowing the words of retired Chief Justice Panganiban, the judiciary’s conscious thought and effort to nurture progress⁹⁶ – to contribute to the alleviation of poverty and to the achievement of prosperity.

⁹⁵ See note 2, *supra*.

⁹⁶ *Id.*

C. Theoretical and Conceptual Framework: The Philosophy of Liberty and Prosperity in relation to Amartya Sen's Concept of Development as Freedom

As mentioned in Chapter 1, this paper revolves around the following thesis statement:

The democratization of access to justice and of legal knowledge through clinical legal education is the key to safeguarding liberty, nurturing prosperity, and promoting social justice on the margins of society – that is, among the poor, the oppressed, the underserved, and the marginalized; and that legal empowerment is a fundamental development mechanism for providing enhanced social and economic opportunities for the poor and for eradicating poverty.

To bolster and deepen his analysis of the thesis statement propounded, the author looks into former Chief Justice Artemio Panganiban's philosophy of liberty and prosperity in relation to Amartya Sen's concept of development as freedom.

In one of his speeches, Chief Justice Panganiban articulates his philosophy of liberty and prosperity in this wise:

"My vision as a jurist goes beyond the normal, traditional area of judicial advocacy because I believe that present day realities require not only the promotion of political and civil liberties but also of economic and social rights. Of what relevance is free speech to people who are hobbled by grinding poverty, debilitating disease or permanent physical disability. Our people need both justice and jobs, freedom and food, integrity and investments, ethics and economics, democracy and development; in short, liberty and prosperity under the rule of law."⁹⁷

⁹⁷ *Id.*

In expounding the philosophy of liberty and prosperity, Prof. Elizabeth H. Aguiling-Pangalangan (2019) writes:

“Chief Justice Artemio Panganiban refers to these two sets of rights as the rights to liberty and prosperity which he champions as the twin beacons of justice. “Liberty” embraces civil and political rights, while “prosperity” embodies economic, social, and cultural rights. His core judicial philosophy is that these two are mutually inclusive, such that nurturing prosperity should not encroach upon safeguarding the liberty of our people, nor is fostering liberty a precondition for the emergence of prosperity. Instead, they must be viewed with equal significance and must be protected, to the same extent, as essentials of life and well-being. In Chief Justice Panganiban’s words, “liberty must include the freedoms that prosperity allows, and in the same manner, prosperity must include liberty, especially the liberty to strive for the ‘good life’ according to a person’s conception.”⁹⁸

According to Chief Justice Panganiban, “the Universal Declaration of Human Rights recognizes the entitlement of the common people to liberty and prosperity.”⁹⁹ By liberty, he refers to Articles 3 to 21 of the UDHR; and by prosperity, he refers to Articles 22 to 27 of the UDHR.¹⁰⁰ He believes that aside from protecting people’s basic right to life, liberty, and security, as enshrined in Article 3 of the UDHR, it is equally important to uphold their economic, cultural and social rights.¹⁰¹ The 1987 Philippine Constitution provides that “no person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of

⁹⁸ Elizabeth H. Aguiling-Pangalangan, 2019, *Parents and Children: When Law and Technology Unbundle Traditional Identities*, available at: <https://libpros.com/wp-content/uploads/2019/06/final-paper-lp-lecture-adoptionsurrogacy.-6.2019.pdf> (last visited 13 April 2021).

⁹⁹ Chief Justice Artemio V. Panganiban (ret.), *Safeguarding the Liberty and Nurturing the Prosperity of the Peoples of the World*, Global Forum on Liberty and Prosperity, Shangri-La Makati Hotel, Metro Manila, October 18, 2006, available at: <https://cjpanganiban.com/2006/10/18/safeguarding-the-liberty-and-nurturing-the-prosperity-of-the-peoples-of-the-world/> (last visited 04 April 2021).

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

the laws.”¹⁰² According to Chief Justice Panganiban, the following provisions of the Constitution “mandate the State to promote economic prosperity”:¹⁰³

Article II (Declaration of Principles and State Policies)

*“Sec. 9. The State shall promote a just and dynamic social order that will ensure the **prosperity** and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an **improved quality of life for all.**” (emphasis supplied)*

*“Sec. 17. The State shall give priority to education, science and technology, arts, culture, and sports to foster patriotism and nationalism, accelerate **social progress**, and promote **total human liberation and development.**” (emphasis supplied)*

Article XII (National Economy and Patrimony)

“Sec. 1. The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged.

The State shall promote industrialization and full employment based on sound agricultural development and agrarian reform, through industries that make full and efficient use of human and natural resources, and which are competitive in both domestic and foreign markets. However, the State shall protect Filipino

¹⁰² CONST. (1987), Art. III, Sec. 1.

¹⁰³ See note 99, *supra*.

enterprises against unfair foreign competition and trade practices.

In the pursuit of these goals, all sectors of the economy and all regions of the country shall be given optimum opportunity to develop. Private enterprises, including corporations, cooperatives, and similar collective organizations, shall be encouraged to broaden the base of their ownership."

"Sec. 12. The State shall promote the preferential use of Filipino labor, domestic materials and locally produced goods, and adopt measures that help make them competitive."

"Sec. 13. The State shall pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity."

Chief Justice Panganiban's philosophy of liberty and prosperity is reminiscent of Amartya Sen – the 1998 Nobel laureate in economics – and the latter's concept of development as freedom and "capability approach." According to Sen, "development can be seen as a process of expanding the real freedoms that people enjoy."¹⁰⁴ In his book entitled, *Development as Freedom*, Sen (1999) argues that freedom is both the primary end and the principal means of development.¹⁰⁵ Sen (1999) writes:

"Development consists of the removal of various types of unfreedoms that leave people with little choice and little opportunity of exercising their reasoned agency. The removal of substantial unfreedoms, it is argued here, is constitutive of development. However, for a fuller understanding of the connection between development and freedom we have to go

¹⁰⁴ Todaro, M. P., & Smith, S. C., 2009. *Economic development*. Boston, Pearson Addison Wesley.

¹⁰⁵ D. O'Hearn, 2009, *Amartya Sen's Development as Freedom: Ten Years Later*, available at <https://www.developmenteducationreview.com/issue/issue-8/amartya-sens-development-freedom-ten-years-later> (last visited 13 April 2021).

beyond that basic recognition (crucial as it is). The intrinsic importance of human freedom, in general, as the preeminent objective of development has to be distinguished from the instrumental effectiveness of freedoms of particular kinds to promote freedoms of other kinds. The linkages between different types of freedoms are empirical and causal, rather than constitutive and compositional. For example, **there is strong evidence that economic and political freedoms help to reinforce one another, rather than being hostile to one another (as they are sometimes taken to be)**. Similarly, social opportunities of education and health care, which may require public action, complement individual opportunities of economic and political participation and also help to foster our own initiatives in overcoming our respective deprivations. If the point of departure of the approach lies in the identification of freedom as the main object of development, the reach of the policy analysis lies in establishing the empirical linkages that make the viewpoint of freedom coherent and cogent as the guiding perspective of the process of development.”¹⁰⁶ (emphasis supplied)

Todaro and Smith (2009) write that for Sen, “human well-being means being well, in the basic sense of being healthy, well nourished, well clothed, literate, and long-lived and more broadly, being able to take part in the life of the community, being mobile, and having freedom of choice in what one can become and can do.”¹⁰⁷ Development or prosperity, therefore, is “more concerned with enhancing the lives people lead and the freedoms they enjoy.”¹⁰⁸ It is, in the words of Sabina Alkire, “authentic self-direction – the ability to

¹⁰⁶ Sen A., 1999, *Development as Freedom*, New York: Alfred Knopf, available at https://archive.nytimes.com/www.nytimes.com/books/first/s/sen-development.html?_r=2 (last visited 13 April 2021).

¹⁰⁷ See note 104, *supra*.

¹⁰⁸ *Id.*

shape one's own destiny as a person and as a part of various communities."¹⁰⁹

Reflecting on Amartya Sen's philosophy that freedom is both the primary end and the principal means of development and Chief Justice Panganiban's philosophy that liberty and prosperity as the twin beacons of justice are mutually inclusive, the author submits that liberty is the principal means and the primary end of prosperity. Simply put, the protection of liberty results in the nurturing of prosperity; and conversely, the nurturing of prosperity results in the expansion of spaces for liberty. In the next chapter, the protection of liberty and the advancement of prosperity will be viewed and analyzed in the context of clinical legal education and legal empowerment based on empirical data.

¹⁰⁹ Sabina Alkire, *The Capability Approach and Human Development*, available at: <https://www.ophi.org.uk/wp-content/uploads/OPHI-HDCA-SS11-Intro-to-the-Capability-Approach-SA.pdf> (last visited 13 April 2021).

Chapter III: Discussion and Analysis

A. Advancing Liberty, Prosperity, and Social Justice through Clinical Legal Education: The Experience of a Law Clinic in Mindanao

1. The Urian Legal Assistance Program: Establishment, Objectives, and Initiatives

The Urian Legal Assistance Program (ULAP) is the law clinic and the clinical legal education program of the College of Law of Father Saturnino Urios University, Butuan City – the first homegrown¹¹⁰ university in the Caraga Region situated in the northern part of the island of Mindanao. It is a conflict-sensitive and conflict-transformative legal assistance program – the product of the university’s commitment to serve the poor and the underprivileged.¹¹¹ Established in July 2014, ULAP’s general objective is to increase the marginalized sectors’ access to legal assistance and paralegal services toward equitable use and effective management of natural resources, and access to alternative dispute resolution mechanisms.¹¹²

The projects and activities of ULAP include providing technical assistance to the Taguibo Watershed Management Council and Agusan Marsh Protected Area Management Board; interfacing of customary and mainstream legal system or alternative dispute resolution; providing capability development trainings for indigenous peoples’ mandatory representative and barangay officials; providing public legal orientations on-site, on-air, and online; providing free legal consultation; drafting legal documents; and representing the cause of indigent clients in litigation.¹¹³

¹¹⁰ Diocese of Butuan, 2017, *Golden Jubilee Celebration*, available at: <https://www.butuandiocese.ph/leading-institution-fsuu> (last visited 11 April 2021).

¹¹¹ Atty. Marjorie Leigh Montero-Llano, 2021, *The Urian Legal Assistance Program*, CLEP Training Program, available at: <https://ph-cleptraining.thinkific.com> (last visited 10 April 2021).

¹¹² *Id.*

¹¹³ *Id.*

For purposes of this paper, two clinical legal education programs of ULAP aimed at promoting legal empowerment, liberty, prosperity, and social justice are examined and analyzed, namely Legal Literacy and Online Legal Aid.

i. Legal Literacy

In 2019, the City Government of Butuan, in cooperation with the Department of Education, thought of expanding its functional literacy programs to include legal literacy, on top of financial literacy, digital literacy, and health literacy. To achieve that, the LGU partnered with the Urian Legal Assistance Program and the Integrated Bar of the Philippines Agusan del Norte Chapter to deliver basic legal education on the margins of Butuan City. To ensure that the recipients of the program, dubbed as Legal Literacy on Wheels, really come from the marginalized sectors, the program implementers tapped the Alternative Learning System of the Department of Education.

The Alternative Learning System (ALS), as defined under Republic Act No. 11510, refers to “a parallel learning system that provides a practical option to the existing formal instruction. It encompasses both non-formal and informal sources of knowledge and skills.”¹¹⁴ The ALS provides opportunities to the out-of-school youth and adults, who have not enrolled in formal basic education or have dropped out of school and intend to pursue higher education, to continue their education.¹¹⁵ It also provides clear opportunities for those who intend to become employed and earn their own livelihood.¹¹⁶ The ALS in Butuan City adopts the sectoral approach in the delivery of learning as a means of ensuring inclusivity. This means

¹¹⁴ Republic Act No. 11510, Section 4 (g).

¹¹⁵ Arzadon, 2015, *The Philippine Alternative Learning System: Expanding the Educational Future of the Deprived, Depressed, and Underserved*, available at: https://www.researchgate.net/publication/313724502_The_Philippine_Alternative_Learning_System_Expanding_the_Educational_Future_of_the_Deprived_Depressed_and_Underserved (last visited 13 April 2021).

¹¹⁶ *Id.*

that learners are grouped according to the sector where they come from.

Since the legal literacy program was implemented through the ALS, the laws discussed were based on the assessment of the needs of every sector of underserved learners. These are the indigenous peoples, senior citizens, out-of-school youth, pregnant teenagers, mass public transport drivers, women, street vendors, sari-sari store owners, abused children, farmers, fisher folk, persons with disabilities, drug surrenderees, kasambahays, and persons deprived of liberty, among others. These individuals, who are labelled “the marginalized and the poor,” do not have, borrowing the words of Justice Leonen, “the resources to be able to speak as clearly, as legibly, and as loudly as many of us.”¹¹⁷ “They are rendered invisible by the speech that dominates the airwaves.”¹¹⁸ Legal Literacy on Wheels created spaces for these voices which were barely audible from afar. The said clinical legal education program was anchored on the following guiding principles:

“We need to encourage as many people to learn the law if we truly want to give life to the provision in the Civil Code that ignorance of the law excuses no one from compliance therewith.”¹¹⁹

-Dean Joan Largo (USC), May 21, 2019, Northern Mindanao Leg of the 2019 Legal Education Summit, Xavier University

¹¹⁷ Associate Justice Marvic Mario Victor F. Leonen, *Duties of Law Schools as Academic Institutions*, 2019 Legal Education Summit, The Manila Hotel, July 31, 2019.

¹¹⁸ *Id.*

¹¹⁹ Dean Joan Largo, May 21, 2019, Northern Mindanao Leg of the 2019 Legal Education Summit, Xavier University.

“The law school should not only teach students the law; it should also teach future lawyers to serve the people.”¹²⁰

-LEB Commissioner Josefe C. Sorrera-Ty, 2017, Basic Legal Ethics class, Father Saturnino Urios University

“Always look at the law as a means to make our society better.”¹²¹

-Retired Chief Justice Lucas Bersamin, July 29, 2019, ALSP Oathtaking, Supreme Court

“Access to justice is a fundamental principle of the rule of law.”¹²²

-Justice Alexander Gesmundo, July 31, 2019, 2019 Legal Education Summit, Manila Hotel

Guided by these principles, the Legal Literacy on Wheels program was implemented in the eighty-six (86) barangays of Butuan City clustered into eight (8) districts. The program has benefited 1,300 learners in 2019. The program highlights the collective action among the education and rule of law stakeholders in Butuan, namely the LGU, DepEd, ULAP, the Integrated Bar of the Philippines, and the Sangguniang Kabataan. It is the law students of Father Saturnino Urios University and the volunteer lawyers of the IBP who took the lead in the implementation of the program all for social justice.

According to the United Nations (2016) in its Global Study on Legal Aid, “civil society and other non-State actors can play a role in

¹²⁰ LEB Commissioner Josefe C. Sorrera-Ty, 2017, Basic Legal Ethics class, Father Saturnino Urios University.

¹²¹ Chief Justice Lucas Bersamin, July 29, 2019, ALSP Oathtaking, Supreme Court.

¹²² See note 6, *supra*.

complementing the State delivery of legal aid services.”¹²³ In addition, the UN states that “to ensure sustainability of legal aid services, it is essential that States allocate adequate budget to meet the demand for legal aid. The extent of demand and priorities can be identified through legal needs assessments, which can inform evidence-based policy making.”

It is important to note that while ULAP and the IBP took the lead, the aforementioned clinical legal education program was funded by the City Government of Butuan under the Special Education Fund.¹²⁴ Thus, the case of Butuan City exemplifies the ideals of collective action between State and non-State actors in providing legal aid for the poor as espoused by the United Nations.

Because of the COVID-19 pandemic in 2020, Legal Literacy on Wheels was transformed into BALAOD Education (Broadening Access to Law for All through Online Distance Education), shifting from on-site classes to online classes. BALAOD Education was implemented as follows:

Date	Topic
June 5, 2020	The Law on Child Abuse Simplified
June 17, 2020	Cybercrime, Libel, and Oral Defamation: Basic Law and Remedies
June 30, 2020	The Anti-Sexual Harassment Law and the Safe Spaces Law
July 16, 2020	Makapriso ba ang UTANG? Basic Laws Every Debtor Should Know
July 21, 2020	Labor Law in a Pandemic: What the Masses Need to Know

¹²³ United Nations, 2016, *Global Study on Legal Aid*, available at https://www.unodc.org/documents/justice-and-prison-reform/LegalAid/Global-Study-on-Legal-Aid_Report01.pdf (last visited 13 April 2021).

¹²⁴ Local School Board, City Government of Butuan, 2019 Special Education Fund Budget.

The topics were based on the result of the sectoral needs assessment conducted by the program implementers. To facilitate virtual learning on the margins in support of the program, education stakeholders launched various initiatives such as donating laptops, tablets, computers, and pocket Wi-Fi modems to learners in rural areas.

ii. Legal Aid

At the height of the Enhanced Community Quarantine (ECQ) in Butuan City last April 2020, the Urian Legal Assistance Program launched the Butuan Online Legal Aid Program in partnership with the IBP Agusan del Norte. The program provided remote legal advice and assistance to individuals, whether residents of Butuan or not, at a time when access to justice was made more challenging by quarantine restrictions. Following Dean Vistan's classification of CLEP models, the Butuan Online Legal Aid Program was that of a remote clinic model.¹²⁵

The areas handled by the law student volunteers under the supervision of IBP volunteer lawyers were varied. These include IATF rules, local community quarantine ordinances, the Social Amelioration Program (SAP), the provisions of the Bayanihan to Heal as One Act, inter-regional movement in the case of locally stranded individuals (LSIs), intra-city and inter-city movement to access essential goods and services, COVID-19 testing and contact tracing, the issuance of home quarantine passes and travel passes, labor rights, trade and livelihood in ECQ areas, curfew, and warrantless arrests, among others.

¹²⁵ See note 39, *supra*.

2. Legal Literacy, Legal Aid, and Legal Empowerment: How Clinical Legal Education Impacts Liberty, Prosperity, and Social Justice on the Margins

The two clinical legal education programs, which were incorporated in certain subjects in the second year, third year, and fourth year of the law curriculum of the College of Law of Father Saturnino Urios University, have proved invaluable in safeguarding liberty and nurturing prosperity, and ultimately, in advancing social justice on the margins of Butuan City before and during the pandemic.

Liberty from physical violence

ULAP's Legal Literacy on Wheels brought to the fore cases of violence against women in indigenous cultural communities (ICC) in Butuan and empowered abused women to muster the courage to come forward and seek help. On December 20, 2019, a female participant from a certain ICC shared to ULAP her experiences at home in the hands of her husband. She said she has been suffering from physical violence for years but was ambivalent about reporting the matter in fear of retaliation and in view of the absence of lawyers and/or police officers in their area. She said she was curious when the ULAP volunteer, who delivered a lecture on RA 9262,¹²⁶ stated that the Punong Barangay may issue a Barangay Protection Order¹²⁷ in cases of actual physical harm to a woman or threatening to cause physical harm. For years she was unaware about the relief which may be afforded by the Punong Barangay whose office was only a stone's throw from her house. She lamented:

“Wala gyud intawn ko kabalo sir nga pwede diay ko magpatabang sa among kapitan kada kulatahon ko sa akong bana. Wala man gyuy police station diria. Wala say mga abogado

¹²⁶ Republic Act No. 9262, available at: https://www.lawphil.net/statutes/repacts/ra2004/ra_9262_2004.html (last visited 14 April 2021).

¹²⁷ Republic Act No. 9262, Section 14.

diria." (I really did not know, sir, that I can ask help from our Punong Barangay every time my husband batters me. There is no police station here. There are no lawyers either.)

Had it not been for the legal literacy class made possible under ULAP's clinical legal education program, the said woman would still be suffering from violence until now. This example demonstrates how CLEP promotes legal empowerment, which, according to the United Nations, "is the process of systemic change through which the poor are protected and enabled to use the law to advance their rights and their interests as citizens and economic actors."¹²⁸ Legal empowerment through CLEP protected, promoted, and expanded the woman's liberty, prosperity, and human agency, which, in the words of Amartya Sen,¹²⁹ is the ability to take action on what one values and has reason to value.

Liberty from economic abuse

In another barangay, clinical legal education empowered another woman who, for years, believed that her marriage with her husband was already dissolved on the basis of a piece of paper which articulates an agreement that both of them shall live separate lives, which her husband forced her to sign. This made her believe that she can no longer demand financial support from her husband for the education and basic needs of their children. She was shocked when ULAP volunteers told her that the agreement she and her husband signed was void under the Civil Code¹³⁰ and that even if they were not married at all, an action under RA 9262 on the ground of economic abuse¹³¹ is available. The literacy class, which the concerned woman

¹²⁸ See note 3, *supra*.

¹²⁹ See note 109, *supra*.

¹³⁰ Civil Code of the Philippines, Article 2035: "No compromise upon the following questions shall be valid: (1) The civil status of persons; (2) The validity of a marriage or a legal separation; (3) Any ground for legal separation; (4) Future support; (5) The jurisdiction of courts; (6) Future legitime.

¹³¹ Republic Act No. 9262, Section 5.

attended, discussed basic family law and VAWC. This is again another case where CLEP translates into the advancement of liberty, prosperity, and social justice. Legal literacy gave the concerned woman a sense of agency or liberty to rise above the circumstances she was trapped in. The financial support which she can obtain under the law – which she learned from ULAP’s Legal Literacy class – will definitely give her a sense of prosperity.

Liberty from abuse of power, influence, or ascendancy

On December 14, 2019, a young learner shared that she was a victim of sexual harassment in school. She said she never thought about complaining because she believed that the offender can get away with it anyway, considering that she did not succumb to the sexual favor requested. When ULAP volunteers discussed about the Anti-Sexual Harassment Act (RA 7877)¹³² and the Safe Spaces Act (RA 11313)¹³³ in the Legal Literacy class she attended, she felt a sense of security knowing that the act committed against her has a corresponding penalty under the law,¹³⁴ even if the sexual favor requested was not granted, that the teacher can be held criminally, civilly, and administratively liable, and that the school is mandated under the law to create a committee on decorum and investigation of cases on sexual harassment.¹³⁵ The student said:

“Abi nako ug dili siya mapriso kay wala man ko nisugot sa iyang request. Karun nga kahibalo nako sa balaod, dili nako mahadlok.” (I thought he cannot be imprisoned because I did not give in to his request. Now that I know the law, I will not be afraid anymore.)

¹³² Republic Act No. 7877, available at: <https://www.officialgazette.gov.ph/1995/02/14/republic-act-no-7877/> (last visited 14 April 2021).

¹³³ Republic Act No. 11313, available at: https://lawphil.net/statutes/repacts/ra2019/ra_11313_2019.html (last visited 14 April 2021).

¹³⁴ Republic Act No. 7877, Section 7.

¹³⁵ Republic Act No. 7877, Section 4.

Legal literacy empowered her to speak up against abuse and to stand for her rights. Sexual harassment strikes at the core of personal liberty when victims are left with no choice but to give in to the request for sexual favor made by a person who has authority, influence, or ascendancy over them. Clinical legal education in this case has truly safeguarded someone's liberty from abuse of power, influence, or ascendancy.

Economic prosperity for street vendors, sari-sari store owners, and public transport drivers

Among the participants in the Legal Literacy on Wheels were street vendors, sari-sari store owners, tricycle drivers, pedicab drivers, and multicab drivers. A legal literacy class exclusively for street vendors and sari-sari store owners was conducted in Brgy. San Vicente, Butuan City on December 13, 2019. ULAP volunteers, most of whom worked at the City Government, discussed the laws and local ordinances affecting these street vendors and store owners, including the requirements for obtaining a business permit from the local government, sanitary requirements for food handlers, solid waste management, and the programs of the Department of Trade and Industry for these sectors. Having gained new knowledge and opportunities, these small businessmen will certainly have higher chances of achieving economic prosperity. As for the public transport drivers, a lecture on transportation and traffic laws was given to them on November 16, 2019 in Barangay Libertad. ULAP taught them how to handle future road accidents to ensure that their rights will be upheld and that their means of earning a living will be protected. This will increase their human agency as drivers, which will translate into liberty and prosperity.

Freedom from unreasonable searches and seizures

Warrantless arrests were common at the height of the Enhanced Community Quarantine in Butuan City. Sometime in May 2020,

someone called the hotline of ULAP's Online Legal Aid Program, reporting that certain police officers attempted to arrest him and his five relatives one evening. He said that they were outside the house but within their fenced lot playing card games, and that one of their neighbors saw them from outside and reported the alleged violation of mass gathering restrictions to the police. When the police came, they were already about to enter the house to sleep. The man wanted to know whether there was a violation of community quarantine rules and whether a warrantless arrest would have been lawful in that case.

The ULAP volunteer, to whom the concern was routed, told the client that there was no violation because under the existing local issuances (executive orders/city ordinances) at that time, mass gathering was defined as that which involves at least 10 people. Also, the man's relatives were temporarily residing in said dwelling at that time so there was no violation. In addition, the said local issuances only prohibited mass gatherings in public places and nothing about private places was mentioned in the text of the law. More importantly, a warrantless arrest would not be valid in that case because the concerned men were not caught in flagrante delicto by the police officers.

Having been properly advised by ULAP, the man said he felt legally empowered to speak up against unlawful arrest not only in the instant case but also in similar future incidents. Clinical legal education in this example protected the physical liberty of individuals from unlawful arrest, upholding their basic constitutional rights.

Freedom of movement, right to access basic needs, and social justice

During the ECQ, local issuances mandated the use of quarantine passes so that one could access his or her basic needs and work passes so that one could go to work. Under these issuances, senior citizens cannot be issued quarantine passes and were not allowed to leave their

houses as they have high chances of getting infected. It has come to ULAP's attention, through concerned citizens, that some senior citizens, who lived in solitude, in certain barangays were unable to eat for two consecutive days because they were not allowed to go out and buy food. Worse, the barangay did not offer any assistance. ULAP volunteers called the concerned barangays and told the Punong Barangay that if they intended to interpret the law literally such that senior citizens who do not have families or relatives living with them will starve to death during the community quarantine, then the barangay should at least provide assistance to these people by offering to buy food for them. This benevolent alternative reached the Office of the Liga ng mga Barangay and was thereafter cascaded to all the barangays. Because of clinical legal education through online legal aid, the practice was institutionalized and many senior citizens survived amid the lockdown. In this case, CLEP did not only uphold human rights, but also promote social justice. In *Calalang vs Williams*, the Supreme Court said:

“Social justice is “neither communism, nor despotism, nor atomism, nor anarchy,” but the humanization of laws and the equalization of social and economic forces by the State so that justice in its rational and objectively secular conception may at least be approximated. Social justice means the promotion of the welfare of all the people, the adoption by the Government of measures calculated to insure economic stability of all the competent elements of society, through the maintenance of a proper economic and social equilibrium in the interrelations of the members of the community, constitutionally, through the adoption of measures legally justifiable, or extra-constitutionally, through the exercise of powers underlying the existence of all governments on the time-honored principle of salus populi est suprema lex.

Social justice, therefore, must be founded on the recognition of the necessity of interdependence among divers and diverse units of a society and of the protection that should be

*equally and evenly extended to all groups as a combined force in our social and economic life, consistent with the fundamental and paramount objective of the state of promoting the health, comfort, and quiet of all persons, and of bringing about "the greatest good to the greatest number."*¹³⁶

Prosperity and the right to work

Under the same ECQ rules of the city, work passes shall be issued by the barangay where the office or company is situated in the case of persons who are not permanent residents of Butuan but are temporarily residing in the city for purposes of employment. Three government employees, who temporarily resided in Barangay X (only for purposes of illustration), worked in an agency located in Barangay Y. They sought legal assistance from ULAP's Online Legal Aid Program, because Barangay Y refused to issue them work passes. The Punong Barangay of Barangay Y told them that they should obtain work passes from Barangay X, which also refused on the ground that they were not permanent residents therein.

When ULAP volunteers tried to reach out to the barangays involved, the Punong Barangays insisted on their own interpretation of the locally issued guidelines. To resolve the matter, ULAP coordinated with the City Legal Officer and the President of the Liga ng mga Barangay, who thereafter called the attention of the Punong Barangays involved. The said government employees were finally issued work passes by Barangay Y where their office was located. In this case, clinical legal education safeguarded fundamental rights, specifically the right to work, stopped discrimination against non-permanent residents, promoted prosperity of workers whose ability to put food on the table depended on their jobs, and advanced social justice and the rule of law.

¹³⁶ G.R. No. 47800, December 2, 1940.

Social justice

The Online Legal Aid Program was also instrumental in the delivery of social services to the poor amid the lockdown. The Urban Legal Assistance Program received a number of complaints in relation to the implementation of the Social Amelioration Program (SAP). The people who sought ULAP's assistance believed they were entitled to the cash assistance under SAP but were purportedly excluded by the program implementers in the selection process. There were also confusions in the interpretation of the SAP guidelines even among the program implementers themselves, that is, the City Social Welfare and Development, the Department of Social Welfare and Development Regional Office, the City Government, and the barangay local government units. It turned out that some of the individuals who contacted ULAP were really entitled to the cash assistance. ULAP volunteers communicated with the concerned government agencies to ensure that these individuals were included on the list of beneficiaries. In this case, it is clear that CLEP was instrumental in the promotion of social justice at a time when the poor and the marginalized were most vulnerable.

The program also catered to the needs of locally stranded individuals (LSIs). A number of Caraganons, who were stranded in other regions, called the hotline of ULAP, and the latter promptly forwarded their concerns to the concerned offices of the LGU and agencies of the national government, such as the DILG and the DOT, among others, who were spearheading rescue operations at the height of the ECQ. Most of the LSIs were college students from Cebu, Manila, and Iligan. Through clinical legal education, they were successfully transported back to their respective hometowns free of charge. This is another instance where CLEP promotes liberty and prosperity.

During the same period, i.e. between April and June 2020, ULAP provided free remote legal advice to workers, who were purportedly dismissed without due process by their employers. ULAP volunteers

also provided remote legal assistance by reviewing legal documents which certain employees were made to sign by their employers at that time. Here, CLEP safeguarded the rights of minimum wage earners and nurtured their prosperity in the face of an unfavorable economic climate.

Chapter IV: Conclusion and Recommendations

A. Conclusion

The experience of a law clinic in Mindanao – the Urian Legal Assistance Program – is a telling evidence of how clinical legal education has done wonders for the poor, the oppressed, and the marginalized at a very trying time when those on the margins were most vulnerable, because access to justice was nowhere to be found. The democratization of access to justice and of legal knowledge through clinical legal education provided the poor with a sense of assurance that any wanton disregard of the law will not be perpetrated in broad daylight even at a time when courts and government offices were physically closed. In the many cases cited, clinical legal education safeguarded liberty, nurtured prosperity, and delivered the promise of social justice under the rule of law.

With the advent of the Revised Law Student Practice Rule, by virtue of which law students can engage in the limited practice of law with the imprimatur of the court through the Level 1 and 2 Certifications, the author is of the view that access to justice, liberty, prosperity, and social justice will be better promoted and advanced. If law students, with the assistance of supervising lawyers, were able to empower those on the margins at a time when the said Level 1 and 2 Certifications for the limited practice of law were still being conceptualized, then there is more reason to believe that these law students can empower the poor better now. The Revised Law Student Practice Rule will empower law student practitioners to empower others – those who have less in life and who should have more in law. It will bestow upon them a sense of legitimacy as law student practitioners engaged in the limited practice of law.

Thus, in the final analysis, the author submits that clinical legal education promotes liberty and prosperity not only for the marginalized, but also for seekers of justice (as Justice Leonen puts it)

who, although still in the process of becoming full-fledged members of the legal profession, share and contribute in the collective vision of a truly just, free, and prosperous society.

For this reason, it is true that legal empowerment is a fundamental development mechanism for providing enhanced social and economic opportunities for the poor and for eradicating poverty, and must therefore be a priority of both the national government and the local governments.

B. Liberty and Prosperity for Future Generations: Institutionalization through Legislation and Collective Inter-Agency Action

Based on the data presented and analyzed, the author recommends two mechanisms to ensure the protection of liberty and the advancement of prosperity for future generations through clinical legal education.

First, law clinics must lobby for the enactment of a local ordinance institutionalizing legal aid programs within the local government unit and appropriating funds for their implementation. In Butuan City, the delivery of basic legal literacy among the marginalized learners of the Alternative Learning System of the Department of Education was included as one of the priority programs for functional literacy under the Special Education Fund of the Local School Board. In addition, there is also a proposed city ordinance pending before the Sangguniang Panlungsod on the institutionalization of legal aid programs and services and the appropriation of funds therefor to ensure that the programs will be sustained despite the change in administration after every election.

Second, law clinics must take the lead in forging and strengthening partnerships with various stakeholders from the public and private sector. In Butuan City, the Urian Legal Assistance Program

has forged a strong partnership with the City Government of Butuan, the Department of Education, the Department of Trade and Industry, the Department of Information and Communications Technology, the barangays, the Integrated Bar of the Philippines, the Sangguniang Kabataan Federation, the Association of Law Students of the Philippines, and other civil society organizations.

The clinical legal education programs of ULAP were a product of the collective action of various stakeholders, both public and private. Aside from delivering better results and empowering more people using the law, collective inter-agency action forwards public consciousness and awareness that legal empowerment of the poor and the realization of liberty, prosperity, and social justice on the margins are a shared responsibility and thus require a whole-of-society approach.