

## **Strengthening Competencies and Skills through Legal Clinics: a Case Study of the FGV São Paulo Law School's Copyright Clinics**

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### **Abstract**

Legal Clinics offer students hands-on professional practice in various areas, developing skills in negotiation, strategy formulation, ethical decision-making, teamwork, and legal document drafting. At FGV São Paulo Law School, these clinics are part of the mandatory undergraduate curriculum, offered in the seventh and eighth semesters. This article analyzes the impact of Copyright Legal Clinics, facilitated by the authors for three years, through a student-centred survey. The survey, based on CEPI's research, evaluates competencies and skills expected of future lawyers amid technological and social changes, categorized into "legal," "management," "technological," and "socio-emotional" areas. The findings highlight the strengths and weaknesses of this methodology in preparing students for legal practice beyond theoretical knowledge, although students had little time to reflect on the dynamics of self-organization, as the focus of the clinic was on their training and client service. It is important to highlight the significance of the social aspect of the Clinics in raising students' awareness of the importance of memory institutions and the representation of the Clinics, as a significant departure from traditional doctrinal teaching prevalent in Brazil and Latin America. This discussion aims to contribute to the evolution of legal education, particularly in Latin America, emphasizing the importance of practical, innovative teaching methods.

**Keywords:** legal clinics, competencies, innovative teaching, copyright.

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## **Introduction: the Burned Picasso Case and the technological challenge in legal education**

On July 15, 2021, the artist collective known as Unique One acquired<sup>1</sup> the artwork "Fumeur V" by Pablo Picasso, created in 1964. After purchasing the original sketch, they collective digitized the drawing and subsequently recorded a video of the physical piece being thrown into a bonfire and burned. The group of artists published the video on YouTube<sup>2</sup> under the title "Burned Picasso," and following the video's release, they launched two non-fungible tokens (NFTs)<sup>3</sup>: one representing the digitized sketch by Pablo Picasso (The Burned Picasso 1) and one representing the remains of the artist's burned work (The Burned Picasso 2). According to the collective, the initiative aimed to eternalize the artwork through its digital format and to provoke a discussion about our society's relationship with the physical medium.

Following the release of the video on YouTube, Unique One registered the NFTs representing the digitized original artwork and its burned version on their art sales platform, the Unique One Art Marketplace. It is noteworthy that only the NFT of the artwork "The Burned Picasso 2" was put up for sale after the

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<sup>1</sup> The acquisition of the artwork by the group was described by journalist Bruno Ignácio from the Brazilian technology news portal Tecnoblog on July 17, 2021. The journalist references the publications made by the artist collective on their website, detailing the digitization actions of the artwork and its transformation through the creation of the two aforementioned non-fungible tokens. For more details about the news on the Brazilian website, see: <https://tecnoblog.net/noticias/grupo-queima-obra-original-de-picasso-para-eterniza-la-como-nft/>. For access to the publication on the collective's website, see: <https://uniqueone.medium.com/picasso-enters-the-metaverse-flcc48c77ed8>. Last accessed on June 12, 2023.

<sup>2</sup> The video created by Unique One was published on The Burned Picasso channel and is available at the following link: <https://www.youtube.com/watch?v=h2FmBHG7Gkk&t=38s>. Last accessed: June 12, 2024.

<sup>3</sup> According to Shermin Voshmgir (2019, Kindle Edition), cryptographic tokens represent a set of rules encoded in a type of blockchain application called smart contracts or token contracts. In this sense, a cryptographic token should not be understood as a digital file but rather as an entry in a specific database called a blockchain. With the release of the ERC-721 protocol on the Ethereum platform's blockchain, it became possible to create non-fungible tokens (NFTs) for recording information on the blockchain. NFTs can be defined as cryptographic tokens that possess a unique property; they are capable of linking a person's identity to the record associated with an asset or access rights. It is no coincidence that NFTs have come to be used as tools for representing ownership of artworks, property, and personalized access to certain services.

video was published on YouTube<sup>4</sup>. Similarly, the physical version of the remains from the burning of "Fumeur V" was made available for exhibition in a gallery in Denver, Colorado, United States of America.

According to the collective<sup>5</sup>, one lesson the pandemic has taught them is that the construction of reality does not solely depend on physicality; the meeting of minds can also occur in digital spaces. The dependence on physicality can often distance us from what is real. In this context, the group sought to burn the physical support of Pablo Picasso's artwork to discuss how we can create art by freeing ourselves from physicality.

Beyond the intriguing debate on constructing reality through the digitization of the physical world, it raises relevant discussions in the realm of copyright law. The teaching of copyright has faced challenges in how to align its protection regime (e.g., concepts, procedures, etc.) with new technologies. An example of this is the study on the definition of a work for copyright protection purposes. In Brazil, for instance, Law No. 9,610 of 1998<sup>6</sup> defines in its Article 7, *caput*, that the works protected by copyright are creations of the mind expressed by any means or fixed in any support, tangible or intangible, known or to be invented in the future.

In this sense, the Burned Picasso case serves as an excellent illustration for distinguishing between the traditional concepts of intellectual work and its

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<sup>4</sup> According to journalist Bruno Ignácio, the artwork was listed for 0.25 ether (ETH), the cryptocurrency of the Ethereum platform, valued at USD 450 on July 17, 2021. The sale offer of the NFT "The Burned Picasso 2" did not include the delivery of the burned physical support of the artwork, only the NFT. For more details about the purchase, see: <https://tecnoblog.net/noticias/grupo-queima-obra-original-de-picasso-para-eterniza-la-como-nft/>. Last accessed: June 12, 2024.

<sup>5</sup> According to a text published by the collective on their official page, the idea of burning the physical support of Pablo Picasso's "Fumeur V" arose from a debate on the redefinition of the concept of censorship. Historically, the act of burning artistic and literary works has been associated with the practice of censorship, representing actions of cultural destruction. The group's intention was to use the act of burning as a creative process, creating through the destruction of the support. The artists of the collective were surprised to find that after the burning, Picasso's drawing and signature remained visible in the charred remains. In this sense, the debate for the artists was expanded, starting with the redefinition of the act of burning and moving towards a discussion on the construction of a digital reality. For more details on the artists' perspective, see: <https://uniqueone.medium.com/picasso-enters-the-metaverse-flcc48c77ed8>. Last accessed: June 12, 2024.

<sup>6</sup> See more in: [https://www.planalto.gov.br/ccivil\\_03/leis/l9610.htm](https://www.planalto.gov.br/ccivil_03/leis/l9610.htm). Last accessed: June 12, 2024.

support. In this case, Pablo Picasso's drawing "Fumeur V" would be considered intellectual work for Brazilian copyright protection, and the paper would be its physical support in its original version. The digitization of Picasso's work would have expanded the number of supports where the work is expressed, with no prohibition under Brazilian law for this expansion. However, a question that arises in this case is whether the holder of the author's economic rights, Unique One, has the authority to destroy the original support of the work, given that the author did not envision his work being represented in any other medium. The Brazilian Copyright Law does not contain any provision that authorizes the destruction of the original support of the work, which generates an interesting debate on the subject.

As the legal profession transforms under the influence of technology, a crucial question arises: how can legal education adapt and keep pace with these advancements? In the face of this digital revolution, the traditional methods of teaching law are being challenged. The rapid development of technologies such as artificial intelligence, blockchain, and data analytics are changing how legal services are delivered and the skills required by future legal professionals.

This raises the pressing need for legal education to evolve as well. Law schools must incorporate technology-focused courses into their curriculum, providing students with a comprehensive understanding of how technology impacts the legal field.<sup>7</sup> This includes understanding the ethical, legal, and societal implications of these technologies. Furthermore, legal educators must foster an environment that encourages innovation and critical thinking, equipping students with the ability to adapt to the ever-changing technological landscape. This could involve partnerships with tech companies, offering internships, or practical training in legal tech tools.

From an ethical standpoint, for instance, the Burned Picasso case can help students reflect on and debate the social impacts of changing the support of a work of art without the author's authorization. Following the act of burning Pablo Picasso's work by Unique One, no one else will be able to access Picasso's work as expressed through the medium chosen by the artist, paper. Even if the collective's action serves as a provocation regarding the idea of reality based on physicality, there was a destruction of the artist's expression

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<sup>7</sup> Crotoft, Rebecca; Ard, BJ. *Structuring Techlaw*. Harvard Journal of Law & Technology, v. 34, n. 2, spring 2021, pp. 348 - 417.

and his legacy through the medium he chose, prompting a debate about the legitimacy of the artists' actions.

Similarly, understanding the case by law students will also involve mastering relevant characteristics of the technology at the heart of the legal and ethical controversy surrounding a case like the Burned Picasso. Students must comprehend the characteristics of a blockchain as a decentralized database structured through asymmetric cryptography. Additionally, they need to understand the differences between fungible and non-fungible tokens to grasp the economic value attributed to non-fungible tokens. Finally, students will have to comprehend the technical and legal differences between the smart contract used for non-fungible token transactions and the terms of use of the platform for trading non-fungible tokens representing intellectual works.

Through the Legal Clinics, the Law School of FGV in São Paulo has implemented a different approach that provides a vision of the future of legal education. In this future, lawyers are not only scholars of law but also proficient in technology and management. In addition, these future legal professionals are expected to possess robust socio-emotional skills. This holistic approach to legal education ensures that the lawyers of tomorrow are being prepared today to navigate the complex intersections of law, technology, and society.<sup>8</sup>

It is no coincidence that the Burned Picasso case is used in the context of the Copyright Law Clinic at the São Paulo Law School of FGV. This case enables the instructor to engage students in multiple dimensions of how technology has impacted the legal debate on a particular issue and how different agents in specific markets might understand a legal controversy. Beyond providing a useful repertoire of knowledge regarding the application of Brazilian copyright law, the pedagogical function of the case is to demonstrate that the law is just one dimension of analysis for a case like this and that ethical, economic, and technological architecture issues are crucial for the debate and for those impacted by the actions of the artist collective, such as the heirs of Pablo Picasso, museums, galleries, potential NFT buyers, among others.

The Legal Clinics of the Law School of FGV in São Paulo, therefore, are not just a teaching method, but a strategy to prepare students for a multifaceted legal career in the digital age, and an interesting case study of legal education

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<sup>8</sup> Lessig, Lawrence. *The Law of the Horse: What Cyberlaw Might Teach*. Harvard Law Review, v. 113, n. 2, Dec. 1999, pp. 501-549.

in Brazil. This approach to teaching could serve as a model for other institutions in Latin America seeking to modernize their legal education programs in response to technological advancements in the legal profession.

Thus, this article is dedicated to describing the experience of the Copyright Law Clinic at the São Paulo Law School of FGV in its three iterations (2021-2023), explaining the structure of the Clinic and its activities, as well as the students' perceptions of the Clinic's impact on their development as lawyers. To achieve this, we have divided the article into three parts: (i) the first to explain the model of legal clinics used in the Brazilian context and its similarities and differences with the Latin American model; (ii) the second to present the structure and characteristics of the Copyright Law Clinic at the São Paulo Law School of FGV; and (iii) the third to provide the students' perspectives on the Clinic's contribution to their education.

### **Legal clinics in Brazil**

Legal clinics, though lacking a unanimous definition,<sup>9</sup> generally involve students working on real legal issues with clients or causes under faculty supervision, bridging theory and practice in legal education. Originating in the United States as an attempt to bridge the gap between theory and practice in legal education, aiming to provide students with practical experience alongside their theoretical studies,<sup>10</sup> they provide students with practical experience, emphasizing learning through trial and error and teaching skills essential for legal practice. While some debate whether law schools should focus on practical skills, proponents argue that disconnecting theory from practice hinders professional development and isolates law from societal realities.<sup>11</sup>

Clinics offer students a hands-on role in providing legal services and changing their relationship with legal content. Students take responsibility for real

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<sup>9</sup> Barnhizer, David R. *The clinical method of legal instruction: its theory and implementation*. Journal of Legal Education, v. 30, 1980, p. 67-147.

<sup>10</sup> Scabin, Flávia; Acca, Thiago. *Clínica de Direito*. In: GHIRARDI, José Garcez (org.). *Métodos de Ensino em Direito: conceitos para um debate*. São Paulo: Almedina, 2ª ed., 2020, p. 34.

<sup>11</sup> Faria, José Eduardo. *A reforma do ensino jurídico*. Porto Alegre: Sergio Antonio Fabris, 1987; McCrate, Robert. Yesterday, today and tomorrow: building the continuum of legal education and professional development. *Clinical Law Review*, n. 2, v. 10, 2003.

outcomes, fostering ethical awareness and professionalism.<sup>12</sup> Legal clinics aim to teach advocacy skills, develop analytical methods for unstructured situations, and expose students to real-world legal procedures.<sup>13</sup> They prepare students for the legal profession by emphasizing adaptability, critical thinking, and the practical application of legal doctrine.

In clinical settings, students develop specialized skills such as legal writing, client service, negotiation, and meeting management, which are often more effectively taught than in traditional coursework or internships. Unlike internships that demand perfection, clinics provide a tolerant pedagogical environment, encouraging learning through mistakes and real-world interactions.<sup>14</sup> The success of clinics depends on significant investment in resources and dedicated time, as traditional methods often fail to cultivate the full range of competencies required in legal practice.

In Latin America, clinics have emerged in response to criticisms of content-heavy legal education, aiming to balance theory and practice.<sup>15</sup> These initiatives develop advocacy skills, foster ethical awareness, and expose students to real-life legal challenges. Brazilian legal clinics, in particular, are diverse and interdisciplinary, addressing themes often neglected in traditional law courses. Structured as extensions, curricular disciplines, or practice nuclei, they have gained prominence in law schools, enhancing the connection between academia and society.

Especially in Brazil,<sup>16</sup> Legal Clinics are a multiplicity of experiences that seek to bridge the gap between theory and practice in Law courses, giving space and

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<sup>12</sup> MacCrate, Robert. *Legal Education and Professional Development: An Educational Continuum*. Chicago, IL: American Bar Association, Section of Legal Education and Admissions to the Bar, 1992.

<sup>13</sup> Stuckey, Roy. *Preparing students to practice law: a global problem in need of global solutions*. South Texas Law Review, v. 43, 2002, p. 649-672.

<sup>14</sup> Scabin, n. 10, p. 34.

<sup>15</sup> *Ibid.*

<sup>16</sup> The Organising Committee of the IV National Forum of Legal Clinics, reflecting on the trajectory of the event so far, as well as on the long-standing desire that had arisen at previous Forums to build a platform that would bring together the country's clinics, proposed and coordinated the creation of the collaborative platform "Legal Clinics Network". This electronic space is aimed at gathering information about legal clinics across the country, such as contact details, people in charge, location and areas of expertise. By making a catalogue of Brazilian clinics publicly available, it facilitates the exchange and sharing of information and builds bridges between experiences. See in: <https://redeclinicasjuridicas.com.br/sobre-clinicas>. Last accessed: June, 10 2024.

centrality to themes that are generally not studied in Law courses, and acting, in an interdisciplinary way, in the training of students in connection with reality.<sup>17</sup> Organized in the form of an extension, curricular discipline, practice nucleus, within model offices, among other formats, the Clinics have been gaining ground in Law schools, adding to the already successful experiences of bringing university and society closer together.

In 2007, Professor Frederico Almeida was hired by the São Paulo Law School of Fundação Getulio Vargas (FGV) to design the institution's Legal Clinics model. In collaboration with the then Coordinator of Legal Practice, Professor Alessandro Octaviani, they considered two potential approaches: the establishment of a single in-house law office for the entire school, equipped with its own resources to address societal demands, and the creation of a legal clinics model inspired by the experiences of law schools in the United States.<sup>18</sup>

For Professor Frederico Almeida,<sup>19</sup> the in-house law office model did not align with the pedagogical framework of FGV São Paulo Law School. Based on his previous experience at other law schools, such offices tend to focus on cases such as evictions, child support claims, minor criminal offenses, and labour law disputes. The pedagogical project of FGV São Paulo Law School emphasized the importance of offering a diverse range of topics through which students could gain practical experience. For this reason, the model adopted was that of Legal Clinics.

The decision was met with scepticism by other professors,<sup>20</sup> such as Professor Flávia Scabin and Professor Thiago dos Santos Acca, who warned about Brazil's lack of tradition with the Legal Clinics model, as well as the challenges in establishing conceptual parameters to define what a Clinic model should entail in legal education in Brazil. These criticisms were addressed by Professor Frederico Almeida, who argued that in Legal Clinics in the United

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<sup>17</sup> Scabin, n. 10, p. 31.

<sup>18</sup> ANGARITA, Antonio (Coord.); AMBROSINI, Diego Rafael; SALINAS, Natasha Schmitt Caccia. *Construção de um sonho: Direito GV: inovação, métodos, pesquisa, docência*. São Paulo: Escola de Direito de São Paulo da Fundação Getulio Vargas, 2011, p. 231. Available in: <https://repositorio.fgv.br/server/api/core/bitstreams/d3247b1e-df0f-488c-8d83-376e15836a92/content>. Last accessed: December, 23 2024.

<sup>19</sup> *Idem*, p. 232.

<sup>20</sup> *Ibidem*.



States, there is a clear pedagogical focus, which is not always observed in the operation of in-house law offices within Brazilian law schools.

In U.S. Clinics, professors are always present, many of them working under full-time contracts, guiding their students to reflect on the practical activities they are undertaking. According to Professor Frederico Almeida,<sup>21</sup> the ideal model would involve creating a Network of Legal Clinics addressing various topics (e.g., corporate law, digital law, criminal law, copyright law, etc.), unified under a pedagogical coordination that could consolidate the experiences of each Clinic and discuss the learning outcomes achieved by the students.

In the first year<sup>22</sup> of offering Legal Clinics at FGV São Paulo Law School, Clinics were provided on topics such as human rights (a project with waste management and recycling co-ops), support and assistance for small businesses (serving small retailers), regulation of the financial system (developing a regulatory framework for the credit card market in Brazil), metropolis and public services (reforming the regulation of basic sanitation services), among others.

FGV São Paulo Law School's Legal Practice Clinics Program<sup>23</sup> has been in existence for almost 15 years with significant achievements: at least 7 permanent clinics; more than 10 professors linked to the program; more than 500 students with the experience of clinical learning; and around 90 entities or organizations benefiting from the work resulting from these projects.

Legal Practice Clinics are part of the mandatory curriculum of the Undergraduate Program at FGV São Paulo Law School, and are offered in the seventh and eighth semesters of the ten semesters course. This methodology aims to provide students with practical training through concrete cases in which both the legal problem and the proposed solutions are real. These subjects are privileged spaces for students to develop professional skills and behavioural competencies that are fundamental for legal professionals. In the clinics, students deepen professional practice in different areas of expertise, while

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<sup>21</sup> Ibidem.

<sup>22</sup> Idem, p. 233.

<sup>23</sup> See more about Legal Clinics at FGV Law School São Paulo in: <https://direitosp.fgv.br/en/legal-practice-clinics>. Last accessed: June, 10 2024.

developing practical skills such as negotiating and formulating strategies, dealing with ethical issues, working in teams, and drafting legal documents.

In this sense, clinics share similar objectives with another type of course present in the mandatory curriculum of the FGV São Paulo Law School's undergraduate program, the so-called multidisciplinary projects.<sup>24</sup> Like clinics, multidisciplinary projects focus on legal debates based on real problems, where students take on the responsibility of constructing a legal contribution to a social issue. However, unlike clinics, the multidisciplinary project does not have a client but rather a societal problem to be addressed.

The multidisciplinary projects are offered to undergraduate students in the fifth semester of a total of ten semesters. The objective is to provide students with the experience of debating a relevant social issue and constructing a contribution that can impact society. An example of a multidisciplinary project is the one conducted in the first semester of 2024 on personal data protection and access to information. At the beginning of the semester, students are introduced to the problem of opacity in the use of personal data by public and private entities and are challenged to think of ways to address the issue. After extensive reading, discussions mediated by professors, and conversations with external guests from both legal and non-legal fields, they present their contribution to external guests.

One of the standout contributions presented by the students in the multidisciplinary project was the drafting of a complaint to the National Data Protection Authority regarding violations by data brokers of the Brazilian data protection regime. A group of five students selected seven companies operating in Brazil as data brokers and analysed their contracts to verify if the selected companies complied with Brazilian data protection legislation (Law No. 13.709/2018). Additionally, one of the students made personal data access requests to the seven companies, creating a report on how the companies responded and identifying the issues in each of the responses. The group compiled all the collected materials and submitted a complaint to the National Data Protection Authority, requesting the punishment of the companies for non-compliance with Brazilian regulations on the subject.

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<sup>24</sup> For more information about FGV's multidisciplinary projects, please visit: <https://direitosp.fgv.br/en/multidisciplinary-projects>. Last accessed: June, 14 2024.

It is important to highlight that this same outcome could be part of a Clinic focused on personal data protection. Brazilian digital rights advocacy entities such as InternetLab, Data Privacy Brasil, and the Recife Law and Technology Research Institute (IPrec), among others, could form a partnership with a clinic at the São Paulo Law School to develop this same product. However, in the multidisciplinary project, it is the students who define what their contribution to the problem will be and how they will structure it.

Here we can observe an important difference concerning clinics. While in multidisciplinary projects, students aim to understand a societal problem from multiple dimensions and by listening to professionals from different fields of knowledge to develop a legal contribution to the problem, in legal practice clinics, students work to achieve a result that meets the interests of the clinic's client. In the multidisciplinary project, there is ample space for structuring the problems and constructing the contribution to be delivered. In clinics, the structuring of the problems and the expected outcome is driven by the client, although students can suggest changes and adaptations.

Therefore, clinics do not provide the same freedom to their students as multidisciplinary projects do. However, clinics offer an environment conducive to building a sense of commitment to others (clients) that no other training space provides. It is very common for students, after their first meeting with a client, to comment on the weight of the responsibility they will carry throughout the semester in delivering a legal service to a company or a public entity.

The relationship with legal content changes for the students, especially in how they perceive the feedback they receive from professors and clients. In other courses, feedback would typically be seen as justification for a grade assigned to a paper or exam. Here, it becomes a means to improve the service they will deliver to their client.

### **FGV São Paulo Law School's Copyright Law Clinics**

During 2021, 2022 and 2023, this paper's authors had been facilitating Copyright Legal Clinics. Brazil has an interesting and complicated history with Copyright issues and regulations, so the Clinics we've been conducting aim to help the clients, museums, and other memory institutions, to navigate some Copyright projects they don't have the funds to conduct. At the same time,

these Clinics are seen as a way to teach our students how to navigate this complex theme, besides teaching them fundamental content on Copyright Law in Brazil. Before we dive into the analyses of the Clinics' pedagogical results, it is necessary to understand why they have a Copyright Law Clinic in the first place.

With the consolidation of the commercial internet after the 1990s, the dynamics and fast pace of technological development of content production, editing, and sharing tools made the legal regulations of Copyright Law in Brazil outdated since its creation, in 1998.<sup>25</sup> It is in this context that the recent proposals to update the laws that regulate Copyright in Brazil and around the world are inserted, in an attempt to keep up with technological developments or at least reduce this gap.

The attempts, mainly international, appeared in the 1990s, and translated into waves of regulation proposals.<sup>26</sup> However, the Brazilian law seems to have passed relatively unscathed by the international waves of change: Law No. 9.610/98 (LDA), drafted under the influence of Brazil's adherence to the TRIPS Agreement in 1994, and still in force, has had very few changes since its enactment, such as the Collective Rights Management reform in 2015.

The need to update it, however, has been repeatedly declared in the past by the Executive and Legislative branches, in the midst of bills and draft bills, consultations, and public hearings, without any effective reform proposals advancing. At the same time, given the civil character of Copyright Law, the competence to legislate on the matter falls exclusively to the Federal Government, so that states and cities are not able to carry on their own reforms. In short, there are several proposals to change the Copyright Act today, most of them pending analysis.<sup>27</sup>

Another significant challenge in the context of the copyright debate in Brazil has been a shift in perception regarding the relevance of public funding for

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<sup>25</sup> Liguori Filho, Carlos Augusto. *Tente outra vez: o anteprojeto de reforma da lei de direitos autorais, sua compatibilidade na sociedade da informação e a espera pela reforma que nunca chega*. Mesters, FGV Law School, São Paulo, 2016.

<sup>26</sup> CEPI FGV Direito SP et al. *Reformas do Direito do Autor na Era Digital – Resultados Preliminares de Pesquisa*. 2021. Available at: <https://bibliotecadigital.fgv.br/dspace/handle/10438/31296>. Last accessed: June, 8 2024.

<sup>27</sup> Vieira, Rodrigo. *Em busca da reforma (perdida) da Lei de Direitos Autorais*. Conjur, may 1 2024. Available at: <https://www.conjur.com.br/2024-mai-01/em-busca-da-reforma-perdida-da-lei-de-direitos-autorais/>. Last accessed: June, 14 2024.

culture. According to data from Siga Brasil,<sup>28</sup> a digital platform that aggregates data on the public sector, public resources allocated to culture peaked in 2013 at R\$ 5.57 billion (US\$ 2.37 billion at the official exchange rate of the time) and underwent a progressive decline, reaching their lowest point in 2022 at R\$ 1.77 billion (US\$ 0.33 billion at the official exchange rate of the time). This downward trend was fuelled by a discourse suggesting that culture should not be a priority in a developing country, with investments needing to be prioritized in education, health, and job creation.

According to Célio Turino,<sup>29</sup> former Secretary of Cultural Citizenship at the Brazilian Ministry of Culture from 2004 to 2010, there has been a gradual devaluation of the importance that culture once held in the federal government's agenda. During his tenure in the federal government, there was a shift in focus, with culture being relegated to a secondary role in the government's investment strategy. For the former secretary, the progressive reduction of investments found fertile ground during the administration of former President Jair Messias Bolsonaro (2018-2022).

In addition to the reduction in investments, the Bolsonaro administration was responsible for dismantling the institutions<sup>30</sup> responsible for making investments and allocating resources. One example of this was the transformation of the Ministry of Culture into a Special Secretariat, thereby reducing the prominence of culture in the government agenda. Another example was the delays in the transfer of federal funds to state and municipal secretariats. In this sense, the institutional spaces for debating a reform of the Copyright Law in Brazil were reduced, to the point where the topic lost relevance on the national agenda.

With this brief explanation, it is possible to understand the importance of opening a safe space of learning and discovery, by the students, of the complexity of the Copyright studies in Brazil. A special importance takes the

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<sup>28</sup> For more information about public investments in culture, please visit: <https://www1.folha.uol.com.br/ilustrada/2021/09/cultura-perde-metade-de-seu-orcamento-federal-na-ultima-decada-e-segue-em-queda.shtml>. Last accessed: June, 14 2024.

<sup>29</sup> For more information on Célio Turino's opinion, please visit: <https://www1.folha.uol.com.br/ilustrada/2021/09/cultura-perde-metade-de-seu-orcamento-federal-na-ultima-decada-e-segue-em-queda.shtml>. Last accessed: 14.06.2024.

<sup>30</sup> For more information on the budgetary resources allocated to culture, delays, and the institutional dismantling that occurred during the Bolsonaro administration, please visit: <https://piaui.folha.uol.com.br/o-rombo-no-orcamento-da-cultura/>. Last accessed: June 14, 2024.

floor when we are talking about museums and other memory institutions that are trying to navigate the challenges of making art accessible and enforcing the Brazilian artists' rights.

An important challenge for the Copyright Law Clinic was that its students would not have a background in copyright law. In the FGV Law undergraduate curriculum, the copyright course is not mandatory and is offered sporadically, with a consistent presence only in postgraduate courses. Therefore, the Copyright Law Clinic would be their first experience with the subject, raising concerns among some students about how they would provide legal services in a field in which they had no prior knowledge or experience.

To address this challenge, we divided the Copyright Law Clinic into three distinct phases: (i) basic training in copyright law; (ii) research and structuring the service based on the client's demands; and (iii) review and adaptations requested by the client or professors. In the first part of the course, students would have a set of six classes to understand the structure of copyright law in Brazil, with a focus on topics chosen by the client. Our intention was not to present the entire body of copyright regulation in the country but to introduce the students to the functioning logic of the area. In the second phase of the course, students began to respond to the client's demands, searching for reading materials (e.g., court decisions, reports, data, etc.) to develop their work. During this phase, we conducted client visits, where students had guided tours of the museum exhibitions and administration. Finally, students received feedback on their work from clinic professors and the client, with time to make adaptations before presenting their final results.

For the structuring of a copyright law clinic, we chose to have museums located in the city of São Paulo as our clients. The decision was made for three reasons: (i) proximity and a network of relationships to contact museums and present the clinic's proposal; (ii) the size and relevance of the museums present in São Paulo; and (iii) the opportunity to carry out activities in the museums as a way to engage students in the project. In 2021, the Copyright Law Clinic established a partnership with the São Paulo Museum of Art Assis Chateaubriand (MASP).<sup>31</sup> The following year, the clinic's client was the Museum of Modern

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<sup>31</sup> The Museu de Arte de São Paulo (MASP) is a private not-for-profit museum founded in 1947 by business mogul and patron of the arts Assis Chateaubriand (1892–1968), becoming the first modern museum in the country. See in: <https://masp.org.br/en/about>. Last accessed: June, 12 2024.

Art (MAM).<sup>32</sup> In 2023, the clinic partnered with the Instituto Tomie Ohtake<sup>33</sup> to carry out its activities.

Despite their distinct clients, the three clinics shared foundational characteristics that underscored their structure and execution. While the first clinic involved a study based on specific client demands, the subsequent clinics focused on developing training courses for museum staff. Each clinic began with client-generated questions that guided the structure of the final product. A small distinction was in the delivery: instructional materials served as supplementary tools of the training courses in the later two clinics, while an expert report was the main delivery in the first clinic. However, all clinics exhibited commonalities in content, reasoning processes, and the dynamics of client relationships, which proved integral to the overarching framework.

Since the beginning, we intended to collect data on students' perceptions of the learning process in the clinic and identify which skills and competencies were developed during the course. Measuring the development of a skill in students is a complex task. As Professors, we apply an evaluation matrix based on the documents submitted and our perception of each student. However, from the beginning, we wanted to understand the students' perception of the skill development process within the Clinic.

Analysing student perceptions provides valuable insights into whether the clinic's educational objectives were met, helping us identify potential blind spots. By understanding what students expected from the clinic and where these expectations fell short, we can address both their frustrations and unmet needs. Additionally, student feedback reveals what they value most in terms of skill development, highlighting the aspects of the program that are most appreciated and effective. This comprehensive analysis of student experiences enables us to better align the clinic's offerings with their needs and expectations.

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<sup>32</sup> The Museum of Modern Art of São Paulo is a non-profit civil society institution in the public interest founded in 1948. Its collection contains more than 5,000 works by the most representative modern and contemporary artists, mainly Brazilian ones. See in: <https://mam.org.br/en/institutional>. Last accessed: June, 12 2024.

<sup>33</sup> Instituto Tomie Ohtake, founded in 2001 by the artist Tomie Ohtake, is a cultural institute dedicated to the visual arts and their intersections with education, architecture and design, open to dialogue with other languages and contemporary themes. See in: <https://www.institutotomicohtake.org.br/>. Last accessed: June, 12 2024.

Therefore, we created a questionnaire<sup>34</sup> to be submitted to the students of each edition of the clinic. An analysis of student perception of their learning process was conducted to understand how they view their own progress and what they perceive as the key takeaways. An essential aspect of the FGV methodology is fostering a reflective learning process. Students are encouraged to continuously assess their own progress, aligning with a broader goal of self-calibration throughout their undergraduate journey. This approach includes guiding students to critically evaluate not just what they are learning, but also how they perceive and apply that learning in real-world contexts. It is also an objective of this kind of evaluation to collect the student feedback of the undergraduate disciplines. FGV values this feedback so much that it constantly uses it to improve their Law Degree course.

The analysis of the data collected from the survey on the Copyright Law Clinics held in 2021, 2022, and 2023, each involving a different cultural institution as a client, reveals important insights about the impact of these clinics on students' training in various areas.

The participants in the survey were students in different clinics and years: 23% from the Clinic with MaM (Museum of Modern Art of São Paulo) as a client, conducted in 2022, 27% from the Clinic with MASP (Museum of Art of São Paulo) as a client, conducted in 2021, and 50% from the Clinic with Instituto Tomie Ohtake as a client, conducted in 2023. The majority of the survey participants, 60%, already had an interest in copyright before joining the clinic, while 40% did not have a specific interest in the area. After participating, 35% reported that their interest increased significantly, 50% maintained the same level of interest, and 15% discovered new areas of interest within the legal field.

Before diving into the interesting data collected through the survey, it is important to acknowledge that not all the 3 Clinics had the same goals for helping their clients. The first Clinics, conducted at the peak of the COVID-19 pandemic, had a specific goal of investigating and helping the client to map the possibilities of digitizing their archive. The other 2 Clinics (2022 and 2023)

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<sup>34</sup> In the questionnaire, a series of questions were asked using terms that had been previously discussed with the students in the clinic or, at the very least, explained within the questionnaire to ensure the students' understanding.



had another goal: to empower the clients' staff to use Copyright Law notions in their daily work-life.

Regarding post-clinic activities, 70% of participants continued to work or intern in areas related to the topics covered in the clinic, while 30% did not work directly with the topics but applied the skills acquired in other legal areas. Specifically, 40% work with copyright, 30% in related areas such as technology and innovation, and 30% in different areas, using the skills developed in the clinic. The majority of participants, 80%, agree that the clinic greatly contributed to their training as jurists, while 20% believe that the clinic helped to a moderate extent. Additionally, 85% highlighted the importance of working with real clients for practical understanding of copyright and personality rights.

Participants reported the development of various skills and competencies. In the legal field, 90% improved their specialized legal knowledge, 80% enhanced their logical-legal reasoning, 70% developed better legal interpretation and analysis, 85% highlighted their skills in legal writing and research, and 75% increased their ability to customize legal solutions. In terms of management, 65% improved their knowledge management and workflow management, 60% improved in project planning and management, and 55% developed team management and motivation skills. In the technological aspect, 50% increased their digital literacy and 45% improved their ability to work remotely and attend online. Regarding socio-emotional skills, 70% developed proactivity, curiosity, discipline, and commitment, 65% improved their concentration, empathy, collaboration, and networking, and 60% highlighted their ability to listen and give feedback, systemic vision, and flexibility.

The clinic provided solid training for 85% of participants, developing practical skills beyond theoretical knowledge, while 15% believed the training was only moderately solid. The experience of translating legal knowledge into practical and accessible solutions for clients was valued by 80% of participants, although 20% did not find this experience as valuable. Some participants, 25%, mentioned the need for continuity and public access to the project's product developed during the Clinics, and 20% suggested improvements in the organization and follow-up of the clinic's results.

Unlike multidisciplinary projects, where all projects must be available to the public, in clinics it is the client's choice whether or not to make the information

public. This is because the client will share information with the students that may be considered sensitive or even confidential. Not surprisingly, some clients request that students sign a confidentiality agreement.

The fundamental aspects highlighted by participants include the experience of working with real clients and the guidance from professors, valued by 90%, while 10% did not consider these aspects as important. The quality of teaching and the organization of the clinic were praised by 80% of participants, although 20% suggested improvements in terms of continuity of projects and practical application of the knowledge acquired.

These Copyright Clinics play a significant role in the practical training of our law students, providing them not only with theoretical knowledge but also with practical and socio-emotional skills necessary for the legal market. Interaction with real clients and the application of knowledge in practical cases are the most valued aspects by participants, who suggest continuity and greater practical application of the projects developed.

Despite the overall positive feedback, the survey revealed several areas where the Copyright Law Clinics fell short. A notable 35.3% of participants in one aspect and 26.3% in another did not feel that the clinics significantly helped in their formation as jurists. Additionally, while the clinics were generally seen as beneficial, some students did not report substantial improvements in certain skill areas. Only 47.4% noted improvements in their interpretation and analysis skills, and just 26.3% saw better writing skills, indicating that a significant portion of students did not feel these aspects were sufficiently addressed.

Furthermore, 15.8% did not find enhancements in their persuasion abilities, and similar percentages reported no significant gains in negotiation or mediation skills - which is expected, as the Clinics did not have relation to this kind of legal skills. There were also gaps in the development of digital literacy, with 47.4% not seeing improvements in the capacity to work remotely, with 26.3% feeling unprepared for remote work - especially the 2023 Clinic participants, who worked in a post-pandemic Clinic. Moreover, some students did not experience notable progress in managerial skills such as team management, with 42.1% indicating no improvement. These points suggest that while the clinics were broadly effective in exposing students to real-world legal challenges, they did not fully meet the needs of all students in specific areas critical to their professional development.

## Competencies and skills: survey insights, challenges, and limitations

To help our analyses of this data, the authors of this paper present a translated brief explanation of research conducted by FGV São Paulo Law School's CEPI (Center for Teaching and Research on Innovation) in 2021, which aimed at identifying the competencies and skills required for future lawyers. This research, titled "Formando a Advocacia do Presente e do Futuro: Habilidades e Perspectivas de Atuação"<sup>35</sup> ("Training the Legal Profession of the Present and the Future: Skills and Perspectives for Practice"), sought to understand the evolving demands of the legal profession in light of technological advancements. The primary objectives were to delineate the necessary skills and competencies for legal professionals, identify emerging areas and opportunities within the legal field, and address the challenges of legal education amidst technological changes.

The research highlighted several core competencies that are essential for future lawyers. These include cognitive competencies, such as logical reasoning and contextual analysis; instrumental competencies, like practical solution development and the use of technological tools; and interpersonal competencies, encompassing communication, teamwork, and relationship management.

Furthermore, the study emphasized the importance of socio-emotional skills, often referred to as soft skills. These include communication, collaboration, emotional intelligence, leadership, empathy, critical thinking, and creativity. The researchers pointed out that the COVID-19 pandemic underscored the critical need for these skills, particularly in terms of emotional intelligence and empathy in professional settings.

In addition to socio-emotional competencies, the research identified the necessity for legal professionals to possess technological and managerial skills. This is reflected in various competency models discussed in the study, such as the T-shaped lawyer (figure 1), who combines deep legal expertise with broad knowledge in areas like project management and data protection, and the Delta

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<sup>35</sup> CEPI FGV Direito SP. *Formando a advocacia do presente e do futuro: habilidades e perspectivas de atuação: destaques e tendências*. FGV Law School, São Paulo: 2023. Available at: <https://hdl.handle.net/10438/34165>. Last accessed: June, 8 2024.

model (figure 2), which integrates legal knowledge, personal effectiveness, and business operations skills.

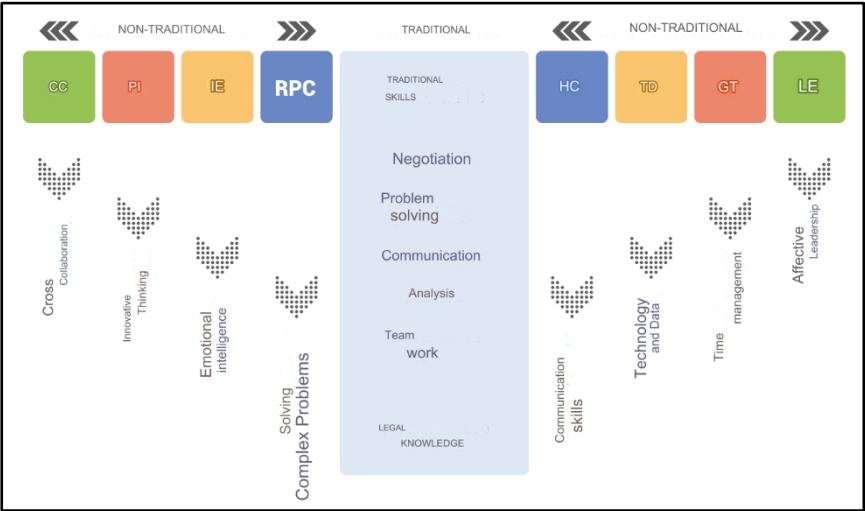


Figure 1: *The T-Shaped Lawyer*, Smathers, R. *The 21st century t-shaped lawyer*. *Law Practice*, v. 40, n. 4, p. 32-38, 2014.

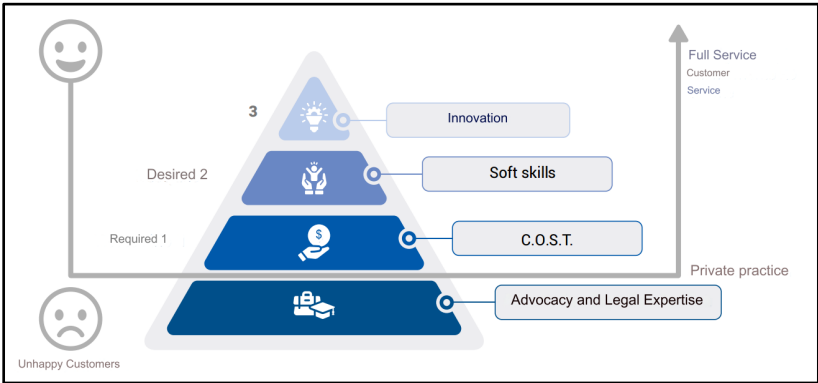


Figure 2: Destefano, Michele. *Legal upheaval: a guide to creativity, collaboration, and innovation in law*. American Bar Association: Ankerwycke Books, 2018.



Figure 3: Skills and competencies map, CEPI FGV Direito SP. Formando a advocacia do presente e do futuro: habilidades e perspectivas de atuação: destaques e tendências. FGV Law School, São Paulo: 2023.

The research concludes with a competencies and skills map (figure 3), detailing 13 general skills across four main competency areas: legal, technological, managerial, and socio-emotional. This map serves as a guide for law firms, educational institutions, and other legal organizations to align their training and development programs with the evolving needs of the legal profession, ensuring that future lawyers are well-equipped to navigate and excel in a rapidly changing landscape.

Legal education debates often revolve around the teaching of skills necessary for legal practice. While it is generally accepted that preparing students for legal practice is a primary goal, there is disagreement on whether law schools should be responsible for teaching these skills. The authors of this paper understand that the separation of theory and practice in legal education is

detrimental, as it disconnects the law from societal realities, hindering the development of competent professionals.

In the context of the Copyright Clinics, the survey revealed both strengths and limitations. While the majority of participants positively evaluated the clinical experience, highlighting the importance of the practical application of knowledge and interaction with real clients, there were areas where participants felt the clinics did not fully meet their needs. Notably, a significant percentage of students did not perceive substantial improvements in skills such as interpretation and analysis, writing, persuasion, negotiation, mediation, and digital literacy. These points indicate that, despite the overall effectiveness of the clinics, there are specific gaps that need to be addressed for a more comprehensive student education.

In addition, we, as professors and facilitators of the teaching process, anticipated that our students would demonstrate proficiency in management. This skill is fundamental to all interactions between clients and lawyers that the students engaged in. Furthermore, it is a core competency emphasized through group work and studies, with the goal of developing the final product delivered to each client.

The reflection on these results points to the need for an innovative and integrated educational approach that combines theory and practice. The disconnect between theory and practice can be detrimental, as it distances the law from social realities and impedes the development of competent professionals. Therefore, legal education institutions must adapt their training programs to include practical and relevant teaching methods, preparing students for the multifaceted challenges of the legal profession.

Moreover, the survey results reinforce the idea that certain competencies are more effectively developed in a clinical setting than in other courses. Practical teaching methods, such as clinics, have been shown to enhance students' specialized legal knowledge, logical-legal reasoning, and legal writing abilities significantly. There are, however, other skills that are more suitable for development in multidisciplinary projects. The multidisciplinary projects are designed to address complex, real-world challenges through collaborative efforts across various fields. These projects involve law students working together with peers from other disciplines, such as business, economics, and social sciences, to develop innovative solutions. These findings underscore the

strengths of clinical education in fostering essential skills and competencies that are best developed by contact with a real client and working in a real-life legal situation.

In summary, the CEPI research and the results of the Copyright Clinics highlight the importance of a legal education that goes beyond theoretical content, incorporating practical, technological, managerial, and socio-emotional skills. This holistic approach is essential to prepare lawyers who can effectively and successfully navigate an ever-evolving legal environment.

### **Conclusion and future outlook**

The findings from CEPI's research and the evaluations of the Copyright Clinics highlight the critical need for innovative teaching methods that diverge from traditional doctrinal approaches, particularly within the context of Brazilian and Latin American legal education. The traditional methods, while foundational, are insufficient on their own to equip students for the complexities and evolving nature of the legal profession. The survey results from the clinics underline the strengths of practical teaching methods, such as clinics, in enhancing students' specialized legal knowledge, logical-legal reasoning, and legal writing abilities. However, they also reveal gaps in skills like digital literacy, negotiation, and mediation, suggesting a need for a more holistic approach.

This recognition calls for a sustained effort to explore and improve practical teaching methods in law schools. Law schools are encouraged to continue integrating practical experiences, such as clinics and simulations, which effectively bridge the gap between theory and practice. There is an anticipation of further research and development in legal education methodologies to refine the teaching of a full spectrum of skills, including digital literacy, negotiation, mediation, and socio-emotional competencies.

As technology continues to transform the legal field, legal education must incorporate training in relevant technological tools and platforms, ensuring that future lawyers are proficient in using technology to enhance their practice. The importance of a holistic approach to legal education cannot be overstated. Programs must be designed to foster cognitive, instrumental, interpersonal, and managerial skills, preparing students for the multifaceted challenges of the legal profession.

In conclusion, the insights gained from the CEPI research and the Copyright Clinics provide a valuable roadmap for the future of legal education. By embracing innovative, practical, and holistic teaching methods, law schools can better prepare their students to navigate and excel in the ever-evolving landscape of the legal profession. This approach not only meets the current demands but also anticipates future developments, ensuring that legal education remains dynamic and responsive to the needs of the profession.