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Global Collaboration in Law Schools: Lessons to Learn

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Abstract

This Introduction to the Symposium, Global Alliance for Justice Education (“GAJE”) North American Regional Conference, discusses four articles in the Fordham International Law Journal that advance a growing goal of the GAJE: developing scholarship to facilitate justice education and increasing awareness of the global justice movement. Each of the following four articles identifies ways in which collaborating law professors in significantly different contexts—China, South Africa, Nicaragua, and the United States—can learn from each other to develop vital programs of legal education and to strive for social justice.

INTRODUCTION

GLOBAL COLLABORATION IN LAW SCHOOLS: LESSONS TO LEARN

*Elizabeth B. Cooper**

The Global Alliance for Justice Education (“GAJE”),¹ is most grateful to the *Fordham International Law Journal* for publishing the four papers contained in this issue. Three of these papers were delivered in May 2006 at GAJE’s North American Regional Conference (the “Conference”), whose theme was “International Collaboration in Teaching, Learning, Lawyering and Scholarship.” The Conference, generously supported by both Fordham Law School and Columbia Law School, brought together more than eighty delegates from around the world.²

* Associate Professor at Fordham University School of Law. The author was a local co-host for the Global Alliance for Justice Education’s (“GAJE”) North American Regional Conference (the “Conference”) in May 2006, with Minna J. Kotkin of Brooklyn Law School. Catherine Klein of the Columbus School of Law, Catholic University of America and Louise McKinney of Case Western Reserve University School of Law served as co-chairs of the Conference. The event could not have been the success it was without the tremendous contributions of Barbara Schatz of Columbia Law School, Leah Wortham of the Columbus School of Law, Catholic University of America, Peggy Maisel of the Florida International University College of Law, Doug Frenkel of the University of Pennsylvania Law School, and Margaret Barry of the Columbus School of Law, Catholic University of America. The author extends her gratitude to Fordham University School of Law for supporting her work with the Global Alliance for Justice Education.

1. GAJE was founded by twenty-one law teachers, judges, and legal activists who met in Sydney, Australia, in September 1996 to discuss formation of an international organization committed to the promotion of “socially relevant legal education.” The participants came from eleven countries: Argentina, Australia, Bangladesh, Canada, China, Fiji, India, Nigeria, South Africa, the United Kingdom, and the United States. See GAJE History, <http://www.gaje.org/history.html> (last visited Nov. 29, 2006).

2. Delegates to the conference were from or had worked in China, El Salvador, Mexico, Nepal, Israel, Poland, Sweden, Moldova, Peru, and the United Kingdom, in addition to the United States. Conference presentations included: *Feminism and Clinical Education: The Relationship of Parallel Movements to Transform Legal Education; Developing Schools of Justice; The Political Paradigm of Human Rights Education; Cross-National Clinic Student Interpreters; The Autotrim/Customtrim Case and Its Implications for U.S. Based International Clinical Legal Education; Rewards and Challenges of Cross Cultural Externships; Lawyer Ethics and the Road to Justice: Lessons from Moldovan Law Students; Teaching Professional Responsibility Through Role Play in Latin American Clinics; Using Video in Human Rights Documentation and Advocacy: Effective Strategies from Partnerships with Local Organizations Worldwide; Training Methodology for Preparing Paralegals: Promoting Access to Justice in*

GAJE is a global alliance of people committed to achieving justice through education, with a focus on clinical education and other forms of socially relevant legal education. The mission of GAJE includes education of practicing lawyers, judges, non-governmental organizations, and the lay public.³ Delegates from every continent and over fifty countries have participated in GAJE's four worldwide conferences.⁴ The organization seeks to involve people from as many countries as possible, to avoid domination by any single country, and is "especially committed to meaningful participation from less affluent countries, institutions, and organizations."⁵

By publishing these four articles the *Fordham International Law Journal* is advancing a growing goal of GAJE: Developing scholarship to facilitate justice education and increasing awareness of the global justice movement. Each of the following articles identifies ways in which collaborating law professors in significantly different contexts—China, South Africa, Nicaragua, and the United States—can learn from each other to develop vital programs of legal education and to strive for social justice.

Professors Robert Lancaster and Ding Xiangshun's collaboration in writing and in practice provides one of the best object lessons of how global collaboration can succeed. Professor Lancaster is a clinical professor at Indiana University School of Law in Indianapolis and the Director of the China Law Summer Pro-

Marginalized Communities in the South; An Internet-Based Mental Disability Law Course: Implications for Social Change in Nations with Developing Economies; Clinical Legal Education and the Reform on the Higher Legal Education System in China; The Changing Scenario of Legal Education in Bangladesh: Sharing the Experience of Transformation to Justice Education; Methods of Facilitating Global Collaboration in Legal Education; The Development of Clinical Education in El Salvador; and Educating Chinese Judges, Prosecutors and Defense Attorneys in International Criminal Trial Norms and the Adversarial System of Justice.

3. See GAJE Homepage, <http://www.gaje.org/main.html> (last visited Nov. 29, 2006).

4. The first international GAJE Conference was held in Thiruvananthapuram, Kerala, India (1999); the second, in Durban, South Africa (2001); the third, in Krakow, Poland (2004). The fourth is scheduled to take place in Cordoba, Argentina in November-December 2006.

5. See GAJE Mission Statement, <http://www.gaje.org/mission1.html> (last visited Nov. 29, 2006). In furtherance of its mission, membership in GAJE is free and is open to any person interested in justice education, including teachers, educational administrators, lawyers, judicial officers, legal officers, paralegals or other legal workers. See Constitution of The Global Alliance for Justice Education art. 3(b), <http://www.gaje.org/Constitution.htm> (last visited Nov. 29, 2006); GAJE Membership, <http://www.gaje.org/membership.html> (last visited Nov. 29, 2006).

gram, a joint project of Indiana University School of Law—Indianapolis and Renmin University of China School of Law, where Professor Ding teaches and is the Coordinator of the China Trial Advocacy Institute (the “Institute”). Their Article, *Addressing the Emergence of Advocacy in the Chinese Criminal Justice System: A Collaboration between a U.S. and a Chinese Law School*, describes a unique partnership between two law professors and two legal institutions.⁶

Professors Lancaster and Ding have developed a series of innovative programs that seek to move China more rapidly and more thoroughly from its “historically inquisitorial system” to an increasingly adversarial system, albeit one that still is “far less adversarial than its Anglo-American counterpart.”⁷ The goal of this transition, more specifically, is to move the “Chinese criminal trial system to one that has greater respect for the rights of the accused and fairness of process.”⁸

Their article seamlessly explains how a change in statutory law alone will not permit China to adopt a more equitable system. Further improvements in the quality and consistency of legal education and the professionalization of judges and prosecutors are critical elements to the successful modernization of China’s criminal justice system.⁹

Together, they describe how the China Trial Advocacy Institute, a collaborative effort of their universities, is helping to speed this transition by educating “Chinese judges, prosecutors, and defense attorneys as well as law students in international criminal trial norms and the adversarial system of justice.”¹⁰ By

6. See Robert Lancaster & Ding Xiangshun, *Addressing the Emergence of Advocacy in the Chinese Criminal Justice System: A Collaboration Between a U.S. and a Chinese Law School*, 30 *FORDHAM INT’L L.J.* 356 (2007).

7. *Id.* at 356-57.

8. *Id.* at 357.

9. See *id.* The authors describe the rapid expansion of legal education in China—from only two functioning law schools at the end of the Cultural Revolution in the late 1970s to over 500 today. See *id.* at 365-66. With this rapid expansion, they note, has come great difficulty in creating and maintaining the quality of legal education. See *id.* at 366. As one example, they note that as of June 2005, only thirty-five of China’s 500-plus law schools had clinical legal education programs. See *id.* at 367.

10. See *id.* at 367; see also *id.* at 369, identifying the Institute’s long term goals as to “1) expose Chinese judges and prosecutors to the benefits of encouraging active advocacy in criminal cases; 2) stimulate meaningful discussion within the PRC legal community regarding the need for a more active defense; and 3) encourage the inclusion of trial advocacy training as part of PRC law school curriculum.”

developing a multi-media China Trial Advocacy Handbook, law school and lawyer training programs, and mock trial competitions, the Institute is well on its way to moving the Chinese criminal law system into the twenty-first century.¹¹ Indeed, the collaboration between Professors Lancaster and Ding and the development of their Institute provide beautiful models of international social justice education.

Professor Peggy Maisel, Founding Director of the Clinical Program at the College of Law at Florida International University, also addresses the needs of a legal system undergoing transition, focusing on the needs of South Africa's "broad based transformation away from the oppressive and segregated conditions under apartheid."¹² Starting in 1994, previously-all-white institutions opened their doors to blacks and "coloreds" who, under apartheid, were forced to study in separate and decidedly unequal law schools and university law departments.¹³

Even under apartheid, progressive law professors (from South Africa and elsewhere) and community leaders foresaw the potential power of clinical education to achieve important social justice goals. With the significant support of the Ford Foundation, clinics were started in the early 1970s, not too long after clinical education started to gain a toe-hold in American law schools.¹⁴

At the same time, these institutions have experienced a significant growth in the number and size of law school clinics. Such development is essential, says Professor Maisel, as it can: 1) integrate "poverty and development law issues into a curriculum that has traditionally ignored these subjects," ensuring that students better understand the needs of the majority of the citizens of South Africa;¹⁵ 2) promote "the important value of providing equal justice to even the most disadvantaged in society";¹⁶ 3) permit students to obtain and practice lawyering skills and to con-

11. *See id.* at 369-72 (describing Institute activities).

12. Peggy Maisel, *Expanding and Sustaining Clinical Legal Education in Developing Countries: What We Can Learn from South Africa*, 30 *FORDHAM INT'L L.J.* 374, 374 (2007).

13. *Id.* at 374, n.3, 375, n.5, 383, 385.

14. *Id.* at 381. More recent support also has come from the Attorney's Fidelity Fund (a project of the private bar in South Africa), *id.* at 397, as well as the United States-based Fulbright program, the Open Society Justice Initiative, and non-South African law schools. *See id.* at 413.

15. *Id.* at 375.

16. *Id.*

front ethical issues that regularly arise in practice;¹⁷ 4) increase access to the legal profession for those students—more likely black or otherwise disadvantaged—who previously were unable to satisfy the requirement to participate in a legal apprenticeship before being admitted to the bar because they traditionally were overlooked “in favor of those from more affluent classes;”¹⁸ and 5) expand legal resources available to poor people who otherwise would be unable to gain access to such services.¹⁹

Notwithstanding the value of clinical legal education in the development of post-apartheid South Africa, a number of obstacles have inhibited its growth and full integration into the country’s law programs. These obstacles include: 1) inadequate financial resources; 2) resistance to change at many legal institutions; and 3) a shortage of faculty with the ability to run law school clinics.²⁰ As described by Professor Maisel, “[t]he history of the clinical education movement in South Africa since 1994 has been an attempt to overcome these obstacles and bring legal clinics into the mainstream of legal education.”²¹

Among the most moving strategies Professor Maisel describes is the founding of the Association of University Legal Aid Institutions (“AULAI”). This organization, composed of university law clinics, has run a national conference on clinical education, engaged in creative and successful fundraising, been active in policy and curriculum development, and worked to improve the status of those teaching in clinics.²² Unfortunately, despite the best efforts of AULAI and its members, the lack of reliable funding has hampered the growth and development of South Africa’s clinical law program. Indeed, without such resources it is difficult—if not impossible—to plan or develop new programs, to mentor new faculty, or to provide essential legal services to those so keenly in need.²³

Despite these notes of caution and descriptions of struggle,

17. *Id.*

18. *Id.* at 376.

19. *Id.*

20. *Id.* at 387-88.

21. *Id.* at 388.

22. *Id.* at 392, 407.

23. *Id.* at 388-92. Professor Maisel points out the particular difficulty of maintaining and supporting clinical faculty when their salaries are so low, when they have limited status in their law schools, and when the ongoing uncertainty of their programs cause many to move on to other jobs. *Id.* at 402-07.

Professor Maisel notes that, given South Africa's "troubled history, the progress the clinical education movement . . . has been able to achieve is remarkable."²⁴ Indeed, there probably is no other country in the world where a law clinic exists at every law school and where such clinics have been so essential to the ongoing transformation from a painful past.²⁵

Professor Mao Ling of Zhongnan University of Economics and Law in Wuhan, China, also describes a period of significant transition in the country and its legal system.²⁶ She reminds us of the devastation visited on China's legal system by the Cultural Revolution, which lasted from 1967 to 1977. She observes that in the almost thirty years since China sought to re-institute "a rule-of-law society," legal education has made significant strides, but that "many problems remain."²⁷

Important indicia of this positive movement are found in the growth in the number of law schools, the increasing rigor of the application process, and the developing legal curricula.²⁸ Important gaps remain, however, particularly concerning the necessary training that new lawyers will need to help the new legal system succeed. For example, legal training still places too great a focus on a "knowledge-centered education model" that inhibits students' ability "to resolve practical problems[,] . . . to think creatively,"²⁹ and "to solve social problems."³⁰ Legal education, says Professor Mao, must incorporate more "skill-oriented and student-centered teaching methods."³¹

To ensure that China's legal education keeps pace with its soaring economic growth and development, Professor Mao proposes a three-pronged approach: 1) students must be taught "the supremacy of law and human rights," rather than any politi-

24. *Id.* at 419.

25. *See id.*

26. *See* Mao Ling, *Clinical Legal Education and the Reform of the Higher Legal Education System in China*, 30 *FORDHAM INT'L L.J.* 421, 421 (2007).

27. *Id.*

28. By 1976, as the Cultural Revolution was in its decline, only two law schools survived, graduating only forty-nine students. *See id.* at 422, n.3 (citation omitted). The students largely were selected politically and trained to do political enforcement work. By 2001, there were close to 400 law schools or law departments capable of educating 170,000 law students. *See id.* at 423.

29. *Id.* at 424; *see also id.* at 428; (stating that "a qualified legal professional should understand both the science of law and the science of society").

30. *Id.* at 428.

31. *Id.* at 429.

cal or social ideology;³² 2) students should be educated not only about the Chinese system of law, but also about other systems, particularly western systems that focus on the rule of law;³³ 3) students must be taught not only “knowledge,” but also “practical skill-training in advocacy, legal research and writing, problem solving, alternative dispute resolution, professional ethics and personal integrity.”³⁴

There are many ways to achieve these goals, but Professor Mao focuses primarily on the expansion of clinical legal education as providing a possible “breakthrough” in reform of China’s legal education system.³⁵ She believes that the advent of clinical legal education has the potential to move students from passive to active learning; to engage teachers in a transition from lecturing to interactive teaching; to open up classroom discussions; to facilitate students’ acquisition of legal skills; and to develop students’ appreciation of the rule of law, the importance of justice and fairness, and their commitment to the legal profession.³⁶ It has the further benefit of providing legal aid to the disadvantaged who increasingly have access to courts and to legislatures seeking justice and law reform, but who are not likely to succeed without adequate representation.³⁷

Thus, Professor Mao sees clinical legal education as both a free-standing boon to improving the abilities of lawyers as well as a means to further modernize the Chinese legal education system by placing increasing emphasis on the actual practice of law

32. *Id.* at 430.

33. *See id.*

34. *Id.*

35. *Id.* at 432. Professor Mao observes that despite initial resistance to clinical legal education, many now see it as necessary to the modernization of Chinese legal education. *See id.* She believes that two other modifications to the existing system of legal education also are necessary: improving skills training through both externships and moot court competitions and reforming the apprenticeship/externship graduation requirement to be both more accessible and more rigorous. *Id.* at 431-32.

36. *Id.* at 434.

37. *Id.* The Ford Foundation seems to agree with this assessment, as its generous support has led to a significant expansion of legal education and to the founding of the Committee of Chinese Clinical Legal Educators (“CCCLE”). *See id.* at 433. The CCCLE is a non-profit organization whose “mission is ‘to bring all clinical legal educators, administrators and others together to perform theoretical and practical research of foreign and Chinese clinical legal education programs, cooperate and carry out exchange clinical legal education activities with counterparts abroad and at home, and promote the growth of clinical legal education in China.’” *Id.*

and the representation of clients in need, as well as on the value the rule of law above all else.

Professor Michael L. Perlin, the Director of the International Mental Disability Law Reform Project and the Online Mental Disability Law Program at New York Law School, takes us in a somewhat different, but related, direction. At the heart of Professor Perlin's article is a concern for spreading justice far and wide for those with mental disabilities—from his law school in cosmopolitan New York to the far reaches of Nicaragua, Central and Eastern Europe, Japan, and elsewhere.³⁸

To achieve his goal, Professor Perlin has harnessed the power of the “technological revolution”³⁹ to export the “American revolution” that has started to recognize the rights and dignity of people with mental disabilities.⁴⁰ Specifically, he has “created a program of on-line mental disability law courses for attorneys, activists, advocates, important stakeholder groups . . . , mental health professionals and governmental officials”⁴¹ both to teach pertinent U.S.-based law and “to encourage the creation and expansion of grass-roots advocacy movements that optimally may lead to lasting, progressive change in this area.”⁴²

When Professor Perlin sought to offer the course in Nicaragua, he did so by partnering with activists with whom he previously had worked. As he describes, “[i]t was essential that such stakeholders be part of any course to be offered if the program were to have true legitimacy.”⁴³ He notes that such programs are particularly important in nations with developing economies, where the people are recovering “from decades of totalitarian regimes and/or military dictatorships”⁴⁴ and where “remarkably little attention [has been] paid to mental disability law.”⁴⁵ Partnerships in this context can be particularly fruitful for the local

38. See Michael L. Perlin, *An Internet-Based Mental Disability Law Program: Implications for Social Change in Nations with Developing Economies*, 30 *FORDHAM INT'L L.J.* 435 (2007).

39. *Id.* at 438.

40. *Id.* at 437.

41. *Id.* at 438. Prof. Perlin is the first to create such internet-based mental disability law courses and currently offers five such courses, with three more under development. See *id.* at 444-45, n. 42.

42. *Id.* at 438.

43. *Id.* at 447.

44. *Id.* at 450.

45. *Id.* at 453.

advocacy organizations, who often are under-funded and in need of non-financial, as well as financial, resources, not only during the course, but through partnerships that can continue for years to come.⁴⁶ By harnessing the power of the Internet “to transform and invigorate legal education,”⁴⁷ Professor Perlin succeeds in creating social change both in law schools and far beyond.

Although there are many differences separating the transitions occurring in China, South Africa, and Nicaragua, all are moving from more restrictive and oppressive regimes to more open governments; thus, concomitant changes must be made in the legal education systems in these countries—both to keep pace with these changes and to ensure that they continue to develop.

Indeed, China and South Africa are radically different countries, yet the similarity of the transitions experienced by their programs of clinical legal education is noteworthy. China is still deciding how open it wishes to be, but the openness of twenty-first century China cannot be compared to the China of a mere ten, twenty, or thirty years ago.⁴⁸ The shift from a planned economy inevitably has brought contact with western and with developed countries. Chinese professionals travel to and study in the United States, Europe, and Africa. American, European and African companies have opened offices in China. The internet—even with restricted access—provides information about events and ideas that just a few years ago would not have been possible.⁴⁹

South Africa has made a far clearer transition: It has rejected the heinous apartheid laws and is a vibrant democracy.

46. *Id.* at 450-53.

47. *Id.* at 454.

48. *See generally* Lancaster & Ding, *supra* note 6; Mao, *supra* note 26. The author traveled for one month throughout China during the summer of 2006 on a Fulbright-Hays study tour; numerous individuals with whom she spoke, including the national guide for the group, confirmed that China is undergoing massive changes, particularly with regard to its economy. These changes—still largely under the control of the Central Government—started with the death of Mao Zedong and the ascension to power by Deng Xiaoping and have continued even more rapidly over the last ten years.

49. *See generally* Elizabeth B. Cooper, Report on the Interdependence of China’s One-Child Policy and the Status of Chinese Women (October 2007) (unpublished paper on file with the author).

Yet, the apartheid era has left scars that are not readily healed.⁵⁰ The economic, educational, and social divide between blacks and whites remains wide. It will take longer than the twelve years since the collapse of apartheid to create racial and economic parity in South Africa.⁵¹ Indeed, the United States, where slavery was abolished over 140 years ago and where *Brown v. Board of Education* was decided over fifty years ago,⁵² has yet to create such equality.

Although some lawyers tend to defend the status quo, others are on the front lines to challenge it. Indeed, progressive lawyers and, in particular, clinical law teachers are at the vanguard of trying to make our political, legal and economic systems more just. Clinical legal educators around the world have many of the same goals: to educate our students about poverty and justice; to teach them lawyering skills; to encourage them to take on jobs—or at least cases—representing the traditionally underserved; to provide legal services for those who cannot afford to hire an attorney to obtain social justice; to work with community-based organizations to create economic and legislative justice; to bring the voices of the poor and disenfranchised into the classroom; and to help our colleagues in law schools and in the bar recognize the value of clinical education.

Most clinical educators believe that educating the next generation to create social change—to bring about a more just society—is at the core of what we do, why we do it, and how we do it. The partnerships described in the four “GAJE articles” in this issue of the *Fordham International Law Journal* reflect global clinical education at its best: lawyers working hand-in-hand, learning from each other,⁵³ and creating innovative education methods for social justice through their work around the world.

50. See generally Maisel, *supra* note 12.

51. The author traveled to Durban, South Africa for the second global GAJE conference in December 2002 and then to Capetown. Numerous individuals reported great joy about the end of apartheid, but significant disappointment with the lack of economic progress for black South Africans. Travel through a township revealed people living in extraordinary poverty and hardship that would not be readily remedied.

52. See *Brown v. Bd. of Educ. of Topeka, Kansas*, 347 U.S. 483 (1954).

53. In her Article, Prof. Maisel notes “the need to understand the system for legal services delivery in each particular country prior to establishing effective law clinics and clinical education programs there.” Maisel, *supra* note 12, at 383-84.