An Internet-Based Mental Disability Law Program: Implications for Social Change in Nations with Developing Economies

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Abstract

This Article first briefly discusses the use of distance learning in a law school environment, and considers the special implications of distance learning for persons with disabilities. It then explains the structure and rationale of these courses, reports on a course section taught in Nicaragua in the Fall-Winter of 2002, and considers plans to replicate the Nicaraguan experience throughout other nations with developing economies in Africa, Asia, Central America, and Central and Eastern Europe. Finally, this Article assesses the potential impact of such a course on developing-economy nations.
AN INTERNET-BASED MENTAL DISABILITY LAW PROGRAM: IMPLICATIONS FOR SOCIAL CHANGE IN NATIONS WITH DEVELOPING ECONOMIES

Michael L. Perlin*

INTRODUCTION

The past thirty-five years have witnessed a revolution in U.S. mental disability law. This revolution is one that largely constitutionalized virtually every aspect of the involuntary civil commitment and release process, as well as most pressure points in the course of institutionalization (the right to treatment, the right to refuse treatment, the right to the least restrictive alternative course of treatment). It saw the first broad-based federal civil rights statutes enacted on behalf of persons with mental disabilities,¹ and the creation of a patients' bar to provide legal repre-

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¹ See, e.g., Bd. of Trs. of the Univ. of Ala. v. Garrett, 531 U.S. 356 (2001) (Eleventh Amendment barred suits for monetary damages because its authorization in Title I exceeded Congress's power); Sutton v. United Air Lines, 527 U.S. 471 (1999) (persons whose medical or physical impairments are corrected by medication or other methods do not have a "disability" under the ADA); Olmstead v. L.C., 527 U.S. 581 (1999) (under Title II of ADA nations are required to provide willing persons with mental disabilities community-based treatment when resources are available); Kansas v. Hendricks, 521 U.S. 346 (1997) (statute is constitutional even though additional confinement follows prison time); Godinez v. Moran, 509 U.S. 389 (1993) (defendant who waives right to counsel need not be more competent than a defendant who does not); Heller v. Doe, 509 U.S. 312 (1993) (statute requiring different standards of proof for committal of persons with mental illness and persons with mental retardation is constitutional); Riggins v. Nevada, 504 U.S. 127 (1992) (reversed conviction because trial court enforced administration of antipsychotic drugs during defendant's trial); Zinermon v. Burch, 494 U.S. 113 (1990) (state is required to inquire into person's with mental illness request for admission to and treatment in mental hospital); Washington v. Harper, 494 U.S. 210 (1990) (the right to be free of medication must be balanced against the state's duty to treat inmates with mental illness and run a safe prison); City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432 (1985) (mental retardation is a characteristic that the government may take into account); Jones v. United States, 463 U.S. 354 (1983) (there is no correlation between severity of crime committed and time necessary for recovery); Mills v. Rogers, 457 U.S. 291 (1982) (state may recognize greater
sentation to such persons.\textsuperscript{2} Paradoxically, this revolution also saw a ferocious backlash against forensic patients, especially, but not solely, persons found not guilty by reason of insanity.\textsuperscript{3} It also saw a widening of the net that, by blurring the boundaries of civil and criminal mental disability law, has increased the categories of persons subject to the involuntary civil commitment power to now include those charged with certain sexually violent offenses and persons subject to “assisted outpatient commitment.”\textsuperscript{4} The revolution continues today, and there is no reason

liberty interests for persons with mental illness than U.S. Constitution); Youngberg v. Romeo, 457 U.S. 307 (1982) (state is under duty to provide institutionalized individual with safe conditions, freedom from bodily restraint, and habilitation); Vitek v. Jones, 445 U.S. 480 (1980) (inmate entitled to due process before he is found to be mentally ill and transferred to a mental hospital); Addington v. Texas, 441 U.S. 418 (1979) (mental illness must be proven by more than a preponderance of evidence); Parham v. J.R., 442 U.S. 584 (1979) (holding statute requiring neutral fact finder to determine admission of children to state mental health hospitals comports with due process); O’Connor v. Donaldson, 422 U.S. 563 (1975) (unconstitutional to confine a nondangerous person capable of surviving safely in freedom to a mental hospital); Jackson v. Indiana, 406 U.S. 715 (1972) (statute that effectively condemned defendant to permanent institutionalization deprived him of equal protection and due process under the Fourteenth Amendment); Rennie v. Klein, 653 F.2d 836 (3d Cir. 1981) (patients with mental illness committed involuntarily retain their constitutional right to refuse antipsychotic drugs); Rogers v. Okin, 634 F.2d 650 (1st Cir. 1980) (psychiatrists are more well-suited to balancing interests of patients and public safety); Wyatt v. Stickney, 325 F.Supp. 781 (M.D. Ala. 1971); aff’d sub nom. Wyatt v. Aderholt, 503 F.2d 1305 (5th Cir. 1974) (mentally ill have constitutional right to adequate treatment in mental hospital); Lessard v. Schmidt, 349 F.Supp. 1078 (E.D. Wis. 1972) (a statute that fails to provide person alleged to be mentally ill with adequate procedural safeguards is unconstitutional); and, Rivers v. Katz, 67 N.Y.2d 485, 504 N.Y.S.2d 74 (1986) (persons with mental illness have right to control their own medical treatment).


Although definitions vary across states and types of mental health settings, the term forensic typically refers to a legal status whereby a person has a mental illness and is involved with the criminal justice system. Types of forensic patients may include defendants referred for court-ordered pretrial psychiatric evaluations, defendants found by the courts to be incompetent to stand trial, defendants acquitted as not guilty by reason of insanity (NGRI), defendants convicted as guilty but mentally ill, and some convicted defendants who committed sex crimes.

Linhorst & Turner, \textit{supra}, at 184.

to expect any abatement in case law, statutory amendments, or advocacy initiatives in the coming years.

But it is a revolution that has largely been a U.S. movement. Although there have been important developments in other nations—in both common and civil law countries—by and large, this has been a U.S. revolution. For a variety of economic, social, and legal reasons, few nations with developing economies have replicated this revolution.6

Human rights activists and mental health advocates, however, have recently begun to expand their work to investigate conditions in other nations and to seek to make basic, systemic changes in the ways that persons with mental disabilities are treated.7 Much of this rapidly-evolving international mental disability law is based on the principles first articulated in the U.S. constitutional decisions,8 which are set out in documents such as the U.N.’s Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (“MI Principles”).9

It has been difficult to bring this education and information

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in economic, efficient, comprehensive, and meaningful ways to nations with developing economies. The new technological revolution, however, has brought with it the tremendous potential, barely explored as yet, of using the Internet as a teaching tool. What is known is that, in a virtual classroom, interaction and cross-fertilization of ideas are nurtured and encouraged; and teaching and learning are accomplished across all geographic, political, and economic barriers.

Through the technology of Internet-based education, the author has created a program of on-line mental disability law courses for attorneys, activists, advocates, important stakeholder groups (consisting of consumers and users of psychiatric services, sometimes referred to as "survivor groups"), mental health professionals, and governmental officials in such nations. The object of these courses is to teach participants the bases of U.S. constitutional mental disability law (principles that form the basis of international human rights law in this area), and to encourage the creation and expansion of grass-roots advocacy movements that optimally may lead to lasting, progressive change in this area. This is especially timely in light of recent


14. See Perlin, supra note 6, at 433. In the creation of this program, it was essential to combine students with different professional backgrounds and perspectives so as to have the best chance to maximize meaningful pedagogic interaction that would optimally lead to social change. Eventually, the creation of multi-professional classroom sections will also aid in the ambitious venture of democratizing legal education. Interestingly, this is a topic that, in recent years, has been discussed most frequently in the law journals in the context of nations with developing economies. See, e.g., Bado Attila & Nagy Zsolt, Some Aspects of Legal Training in Hungary, 37 U. Tol. L. REV. 7, 9 (2005) ("[T]he significant increase in the number of participants in higher education, and
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research demonstrating how the Internet has already become an important provider of advocacy services and advocacy information to many persons with disabilities, and how inaccessible most current websites are to many persons with disabilities.

First, this Article briefly discusses the use of distance learning in a law school environment, and considers the special implications of distance learning for persons with disabilities. It then explains the structure and rationale of these courses, reports on a course section taught in Nicaragua in the Fall-Winter of 2002, and considers plans to replicate the Nicaraguan experience throughout other nations with developing economies in Africa, Asia, Central America, and Central and Eastern Europe. Finally, this Article assesses the potential impact of such a course on developing-economy nations.

I. DISTANCE LEARNING IN LAW SCHOOLS

Distance learning is generally defined as "communication which connects instructors and students who are separated by geography and, often, by time," or as "the electronic connection of multiple classrooms." There are many different ways through which law schools and universities have adopted distance learning models: "[P]artnerships between public or private sector universities and for-profit corporations to market distance learning; for-profit subsidiaries, wholly-owned by a public or private nonprofit university; for-profit subsidiaries of a public or private nonprofit university, funded by venture capital; and for-profit distance learning institutions created and owned by a

especially in legal education, which occurred in the last one and a half decades in Hungary and in the last two or three decades in Western Europe, can be called the democratization of education."); Pamela Phan, Clinical Legal Education in China: In Pursuit of a Culture of Law and a Mission of Social Justice, 8 YALE HUM. RTS. & DEV. L.J. 117, 133 (2005) ("For the rule of law to really take hold, should legal education elsewhere be similarly designed to strive for 'democratization' of the local legal culture?"). See generally Philip Iya, The Legal System and Legal Education in Southern Africa: Past Influences and Current Challenges, 51 J. LEGAL EDUC. 255, 355, 358 (2001).


16. See infra notes 27-41 and accompanying text.

for-profit corporation."³⁸ Professor Henry Perritt has articulated the challenge of creating such educational models in this way:

United States law schools have an important role to play in connection with these revolutionary phenomena. They can and should support electronic publishing and virtual library initiatives by public institutions. They must continue to perform their functions of generating intellectual and human capital in the form of scholarship and well-educated graduates, taking into account the new substantive legal issues presented by the Internet. It is increasingly clear that the Internet provides a new set of educational tools—tools for "distance learning." More schools must begin to understand how these tools can be used to improve the quality of their teaching.¹⁹

Distance learning courses enable students to share different perspectives, and provide a new environment for teaching law students to collaborate with other types of professionals,²⁰ a characteristic increasingly essential to the effective practice of law.²¹ Distance learning—the use of computers, telecommunications, and digital networking to permit learning outside the boundaries of the classroom—"holds the potential to expand the availability of cross-listed courses by reducing these barriers . . . [and] can provide professors of cross-listed courses with pedagogical tools for enhancing interdisciplinary communication and collaboration, and circumventing some of the problems inherent in teaching students from different disciplines."²²

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²¹ See id. at 34.

²² Id. at 35. On the Internet’s "integrative possibilities" in this context, see Richard Warner et al., Teaching Law With Computers, 24 RUTGERS COMPUTER & TECH. L.J. 107,
In the law school setting, distance learning allows students from all over the world to attend a distant law school without the trouble and expense of leaving home. In response to technological developments and the "inevitab[ility]" of change, the American Bar Association ("ABA") has amended its law school standards to allow distance learning as part of the law school curriculum. Under Standard 306 ("Distance Education"): (a) A law school may offer credit toward the J.D. degree for study offered through distance education consistent with the provisions of this Standard and Interpretations of this Standard. Such credit shall be awarded only if the academic content, the method of course delivery, and the method of evaluating student performance are approved as part of the school's regular curriculum approval process. (b) Distance education is an educational process characterized by the separation, in time or place, between instructor and student. It includes courses offered principally by means of: (1) technological transmission, including Internet, open broadcast, closed circuit, cable, microwave, or satellite transmission; (2) audio or computer conferencing; (3) video cassettes or discs; or (4) correspondence. . . .

Self-evidently, distance learning has great implications for international legal education as well as for domestic legal education. A report in the Fletcher Forum of World Affairs concluded: "[T]here is no doubt that ICTs [Information and Communication Technologies], if properly adopted and implemented, can bring economic and cultural opportunities to developing countries. Education facilities may be greatly improved through dis-

156 (1998). "Studies [have shown] that students' social concerns, technological failure, time constraints, content, camera shyness, the site facilitator's role, and the time needed to process information all affect the extent to which students will interact" in a distance learning setting. Charlene L. Smith, Distance Education: A Value-Added Model, 12 ALB. L.J. SCI. & TECH. 177, 181-82 (2001); see supra note 14.


24. See Matasar & Shiels, supra note 13, at 911.

distance learning and Internet access.\textsuperscript{26}

II. THE SPECIAL IMPLICATIONS OF DISTANCE LEARNING EDUCATION FOR PERSONS WITH DISABILITIES

One of the specific challenges in creating a distance learning pedagogy in mental disability law is the need to provide a program that can also be meaningfully accessed by persons with disabilities.\textsuperscript{27} For example, a recent study by the U.K.-based Disability Rights Commission showed that eighty-one percent of British websites are inaccessible to persons with disabilities.\textsuperscript{28} Scholars have started to explore how the Internet can provide individuals with disabilities the tools to enable them to live independently,\textsuperscript{29} and "to gain greater independence and social integration,"\textsuperscript{30} and have thus begun to call for a coordinated study to examine the extent to which Internet sites are accessible to persons with disabilities.\textsuperscript{31} A study of 200 websites affiliated with centers for independent living concluded:

Accessible technology for persons with disabilities has the potential to enhance independence in life. Its future development holds promise for a wide range of persons with disabilities. . . . The commitment to digital equality as a civil right must be founded in policy that incorporates accessibility and universal design in public and private programs providing

\textsuperscript{26} Peter Cukor & Lee W. McKnight, \textit{Knowledge Networks, The Internet, and Development,} 25 FLETCHER F. WORLD AFF. 43, 47 (2001).
\textsuperscript{28} See Press Release, Disability Rights Commission, User-Friendly Websites for All (Mar. 8, 2006), http://www.bsi-global.com/News/Releases/2006/March/n440d89306e52b.xalter (last visited Nov. 10, 2006); see also Axel Schmetzke, \textit{Web Accessibility at Universal Libraries and Library Schools,} 19 LIBRARY Hi TECH 35, 41, 43 (2001) (in a study of the twenty-four most highly ranked schools of library and information science, only fifty-nine percent of main campus library web pages were accessible).
\textsuperscript{29} See Ritchie & Blanck, \textit{supra} note 15, at 5.
\textsuperscript{31} See Peter D. Blanck & Leonard A. Sandler, \textit{ADA Title III and the Internet: Technology and Civil Rights,} 24 MENTAL & PHYSICAL DISABILITY L. REP. 855, 857 (2000).
technological access to all.32

At least one new project—Technology for Independence: A Community-Based Resource Center—has been launched with the expressed purpose of “increas[ing] the capacity of community and consumer-directed disability organizations to design, implement, and disseminate research that promotes access to and use of [assisted technology] for independence.”33 Another project, the Tech-Dis Technology for Disabilities Information Service, has articulated as its mission “enhancing access for those with . . . disabilities; to learning and teaching, research and administration across higher and further education through the use of information and communication technologies.”34 Recently, web designers have begun to understand the importance of making websites accessible.35 More specifically on point, legal research search engines have begun to address the needs of persons with physical disabilities through the use of screen readers or screen enlargement programs to best attempt to “level the field” via adaptive technology.36 And there has been significant litigation on such questions as whether Internet chat rooms are places of public accommodation for the purposes of the Americans with Disabilities Act (“ADA”).37 In that context, Peter Blanck and his coauthors argue that “[e]xamination of the application of the ADA

to Internet services and sites is needed, not only for persons with disabilities, but for all underrepresented individuals in society—the poor and isolated, and the vulnerable.”

Persons with disabilities are one of the multiple target groups of the courses that are the subject of this Article. It is essential that this venture—and other similar ones—have the capacity to reach those persons who are the subject of the statutes, case law and regulations in question, no matter where they might be located.

III. THE INTERNET COURSES

The first Internet-based courses on mental disability law attempted to disseminate the core universal principles of mental disability law to the full range of activists, advocates, professionals, and stakeholders described above. For example, the first


[S]urvivor groups generally have opposed the constitutionality or application of involuntary civil commitment statutes, see, e.g., Project Release v. Prevost, 722 F.2d 960 (2d Cir. 1983), or supported the right of patients to refuse the involuntary administration of psychotropic drugs, see Rennie v. Klein, 653 F.2d 836, 838 (3d Cir. 1981) (Alliance for the Liberation of Mental Patients, amicus curiae), but also have involved themselves in a far broader range of litigation. See, e.g., Colorado v. Connelly, 479 U.S. 157 (1986) (impact of severe mental disability on Miranda waiver; Coalition for the Fundamental Rights and Equality of Ex-patients, amicus). The involvement of such groups in test case litigation—exercising the right of self-determination in an effort to control, to the greatest extent possible, their own destinies, see, e.g., JUDI CHAMBERLIN, ON OUR OWN: PATIENT-CONTROLLED ALTERNATIVES TO THE MENTAL HEALTH SYSTEM (197[8])—is a major development that cannot be overlooked by participants in subsequent mental disability litigation.
40. See BLANCK ET AL., supra note 38, at 1098 (“students with disabilities are three times less likely to use the Internet to perform routine tasks than their nondisabled peers”).
41. See Donald Polden, Planning and Decision-Making for Law School Information Technology, 18 SANTA CLARA COMPUTER & HIGH TECH. L.J. 259, 259 (2002) (stressing how increased usage of information technology has the value of extending the geographic reach of faculty and student research and scholarship).
42. There are currently five courses being offered as part of the New York Law School (“NYLS”) program: Survey of Mental Disability Law (“SMDL”), The Americans with Disabilities Act: Law, Policy and Practice (“ADA”), International Human Rights Law and Mental Disability Law (“IHR”), Lawyering Skills for the Representation of Persons with Mental
course, *Survey of Mental Disability Law* ("SMDL") includes these components:

- fourteen hours of DVDs;
- a notebook of readings, cases, and materials to supplement the casebook\(^43\) and book of readings;\(^44\)
- weekly reading assignments with focus questions;
- one or two written assignments;
- on-going, threaded, on-line message boards;
- a weekly, moderated on-line chat room;\(^45\) and
- two live, two-day-long seminars, one approximately one month after the course begins, and one at the course conclusion.\(^46\)

Courses are also offered via partnerships, both domestically\(^47\) and internationally.\(^48\) In addition to the pedagogical

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\(^{46}\) In the domestic sections of the course, these seminars are one day each. The first seven weeks cover civil/constitutional issues (involuntary civil commitment, institutional rights, the right to refuse treatment, deinstitutionalization, and disabilities discrimination), the next six cover criminal issues (competencies, the insanity defense, sentencing, sexually violent predator acts, and the importance of mental disability in criminal trial process issues—such as confessions and the privilege against self-incrimination) and the final week sums up the course. See NYLS’s Website, http://www.nyls.edu/pages/167.asp (last visited Nov. 10, 2006).

\(^{47}\) NYLS has now offered more than twenty sections of the initial online course, *SMDL*. This course is also being offered on an ongoing basis domestically at NYLS, at
goals, there are social goals as well for the international sections of the course:

- to establish new partnerships with additional activist groups in the nations in which the course is offered; \(^49\)
- to provide participants with a firm grounding in all key aspects of mental disability law in the context of the State's specific (civil law) legal system; \(^50\)
- to offer participants the opportunity to learn how to resolve the dichotomy between the law on the books and the law in action, similarly in the specific context of the State in which the course is being offered; and,
- to enable participants to interact in a collaborative way to search for solutions to problems unique to that State. \(^51\)

Each of these goals is addressed separately.

**A. Establishment of Partnerships**

The author worked extensively with mental disability rights activist groups on trips to Central and Eastern Europe, and to Japan, and, as previously noted, led international sections of program courses in Japan. Under the auspices of Mental Disability Rights International ("MDRI"), he presented workshops and advocacy training in Hungary, Estonia, Latvia, Uruguay, and Bulgaria, and similar programs in Poland, Costa Rica, Guatemala, and the Czech Republic. \(^52\) He also lectured in Nicaragua at La Universidad Nacional Autónoma de Nicaragua, Leon ("UNAN-Leon") on a variety of criminal law and procedure topics. Subse-
quently, he worked with lawyers and activists in Taiwan in an effort to create a Pan-Asian mental health advocacy network to be built on the framework of the online courses.

He worked with officials of the Pan-American Health Organization and activists in such groups as the Nicaraguan Association for Community Integration ("ASNIC") and Inclusion-Interamericana to create a section of the Internet course in Nicaragua. It was essential that such stakeholders be part of any course to be offered if the program were to have true legitimacy.

B. Provision of Firm-Grounding

In every State, there is a remarkable overlap between the body of decisions that define U.S. constitutional mental disability law and the body of international human rights standards that mandate humane treatment of persons with mental disabilities. Internationally, there is a shameful history of human rights abuses in psychiatric institutions: the provision of services in a segregated setting that cuts people off from society, often for life; the arbitrary detention from society that takes place when people are committed to institutions without due process; the denial of people's ability to make choices about their lives when they are put under plenary guardianship; the denial of appropriate medical care or basic hygiene in psychiatric facilities; the practice of subjecting people to powerful and dangerous psychotropic medications without adequate standards; and the lack of human rights oversight and enforcement mechanisms to protect against the broad range of abuses in institutions.

The MI Principles can be used as a guide to the interpretation of international human rights covenants as they apply to people with mental disabilities. In the case of Victor Rosario Congo v. Ecuador, for example, the Inter-American Commission on Human Rights found:

[T]he Commission considers that in the present case the guarantees established [under Article five] of the American

53. See supra note 49.
54. See Rosenthal & Rubenstein, supra note 8; Rosenthal & Sundram, supra note 8.
Convention must be interpreted in light of the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care. These principles were adopted by the United Nations General Assembly as a guide to the interpretation in matters of protection of human rights of persons with mental disabilities, which this body regards as a particularly vulnerable group.  

The case continued:

The UN Principles for the Protection of Persons with Mental Illness are regarded as the most complete standards for protection of the rights of persons with mental disability at the international level. These Principles serve as a guide to States in the design and/or reform of mental health systems and are of utmost utility in evaluating the practices of existing systems. Mental Health Principle 23 establishes that each State must adopt the legislative, judicial, administrative, educational, and other measures that may be necessary to implement them.

These principles are also standards of assessment that make meaningful international human rights monitoring by non-governmental organizations ("NGOs") more possible.

Besides teaching participants the basics of all the major components of mental disability law—of civil/constitutional mental disability law, institutional mental disability law, and forensic mental disability law—the course illuminates the parallels with international human rights in such a way that participants will be able to most effectively integrate the substance of that law into the practice of mental disability law and in the nations in question.


57. Id. at n.8 (citing Rosenthal & Rubenstein, supra note 8, at 273); see Perlin et al., supra note 43, at 367.

C. The Law on the Books / Law in Action Dichotomy

There is an inconsistency that has plagued U.S. mental disability law since it began: cases decided by the U.S. Supreme Court level are not followed by the states. The Supreme Court articulates sophisticated doctrine, for example, by mandating dangerousness as a prerequisite for any involuntary civil commitment finding, yet state trial courts ignore that doctrine.59 The Supreme Court issues elaborate guidelines to be used in cases of criminal defendants who will likely never regain their competence to stand trial, yet, nearly thirty years later, half the states ignore these standards.60 This gap is a reflection of the level of pretextuality that permeates U.S. mental disability law. That is:

[T]hat courts accept (either implicitly or explicitly) testimonial dishonesty and engage similarly in dishonest (frequently meretricious) decisionmaking, specifically where witnesses, especially expert witnesses, show a “high propensity to purposely distort their testimony in order to achieve desired ends.” This pretextuality is poisonous; it infects all participants in the judicial system, breeds cynicism and disrespect for the law, demean participants, and reinforces shoddy lawyering, blasé judging, and, at times, perjurious and/or corrupt testifying. . . .61

As a result of this pretextuality, the law on the books is often little more than an illusion, and “successful” cases brought on behalf of persons with mental disabilities are often little more than “paper victories.”62

Residents of nations with developing economies in Central and South America are no strangers to pretextuality in many

59. See Perlin, supra note 6, at 428.
other areas of the law and of society.\textsuperscript{63} One of the aims of this course is to help participants identify the pretexts endemic to mental disability law, and to develop strategies for dealing with these pretexts in their work. For example, an analysis of the European Commission on Human Rights\textsuperscript{64} concluded that it has interpreted the European Convention on Human Rights "very restrictively in psychiatric cases."\textsuperscript{65} The cases included in this analysis, which characterize the handcuffing of patients as "therapeutically necessary,"\textsuperscript{66} or sanction the use of seclusion for "disciplinary" purposes,\textsuperscript{67} certainly bespeak pretextuality. It is essential that such pretextuality be identified and answered,\textsuperscript{68} and the SMDL course focuses specifically on this issue.\textsuperscript{69}

D. Interactive Collaboration

Many of the problems faced in nations with developing economies are regional problems, ones that flow from decades of totalitarian regimes and/or military dictatorships.\textsuperscript{70} Currently-existing advocacy programs are often modest, and operate on shoestring budgets. An interactive program such as the one described here offers participants an excellent opportunity for ongoing, robust interaction in a supportive environment.\textsuperscript{71}


\textsuperscript{66} See id. (discussing Herczegfalvy v. Austria, 15 Eur. Ct. H.R. 437 (1993)).

\textsuperscript{67} See id. (discussing Dhoest v. Belgium, 12 Eur. Ct. H.R. 155 (1987)).

\textsuperscript{68} See, e.g., Perlin et al., supra note 43; Perlin, \textit{Institutional Psychiatry}, supra note 55.

\textsuperscript{69} See, e.g., Perlin, supra note 44; Perlin, supra note 6; Michael L. Perlin, \textit{"Half-Wracked Prejudice Leaped Forth": Sanism, Pretextuality, and Why and How Mental Disability Law Developed As It Did}, 10 J. Contemp. Legal Issues 3 (1999).


\textsuperscript{71} See also, C. Raj Kumar, \textit{Corruption in Japan—Institutionalizing the Right to Information, Transparency and the Right to Corruption-Free Governance}, 10 New Eng. J. Int'l &
One of the features of the course is permanent message boards on the course website. Each week, the instructor begins a new threaded message, discussing that week's readings. All participants are encouraged to join in and to discuss the reading and the videotapes prior to the chatroom session. Chatroom conversations from earlier sections are logged in a special online library, and may be referred to both by students and by professors as a means of enriching the dialogue and discourse. Each week in the chatroom, the students and the adjunct professor discuss the readings, focusing on a few of the more critical issues raised in the cases and materials. The conversation is free-wheeling, but always respectful, and new ideas circulate with dizzying speed. After the chatroom sessions, flurries of emails, both to the entire group and to individuals, explore in greater depth some of the ideas pursued in the chatroom. The written assignments build on the readings, the tape viewings, the message boards, and the chatrooms. The course culminates with in-person seminars.

IV. THE NICARAGUAN COURSE

The author and Professor Henry Dlugacz, a social worker
and attorney who has worked extensively to monitor conditions in forensic mental health and correctional institutions, offered the course in Nicaragua in the Fall 2002 semester. The instructors traveled to Managua in October and December 2002 to conduct two, two-day seminars with section participants. These seminars served multiple purposes: to explain to the participants the critical differences between common law and civil law legal systems; to work with section members more intensively on legal issues in the course that were felt to be the most important to Nicaraguan participants; and to begin working with section members on post-course activities: the publication of a white paper that provides a full overview of the state of mental health care in the State, the planning of a national mental health law conference, and the creation of a regional mental health advocacy network.

Although the course was officially over in December 2002, the instructors continue to work with section members on this set of post-course activities, and have returned to Nicaragua for meetings with both section members and other activists. For example, the author has since presented a magisterial lecture at a joint meeting of the Seventeenth Central American Congress on Psychiatry, the Fifth Nicaraguan Congress on Psychiatry, the First Regional Symposium on Biological Psychiatry, and the First Regional Symposium on Addictions, attended by many members of

because of its status as a State with a developing economy (as opposed to Japan, which is highly industrialized and boasts a developed economy).

75. The course was funded by a grant from the U.S. Department of State, Agency for International Development.

76. There were eighteen students in the Nicaraguan program, including lawyers, judges, psychiatrists, psychologists, human rights activists, and non-psychiatric physicians. The instructors believe that this interdisciplinarity was critical to the success of the program. In the domestic sections of this program, having self-identified as persons with disabilities have frequently participated. The instructors hope to insure that such persons will regularly be part of future international sections.

77. As part of this work, section members produced three discrete sets of documents: the translation of all tape transcripts into Spanish; the publication of all Nicaraguan laws that affect mental disability law in that State; and the publication—in Spanish—of the most important U.S. constitutional mental disability law decisions, with brief commentaries as to their implications for international human rights law.

78. A host of empirical questions remains to be answered. In the long run, are face-to-face sessions essential (as the author believes)? Will the inclusion of participants with disabilities add a new perspective that shifts the focus of the section (as the author believes)? How does the quality of the students affect the program’s success? Finally, will such programs always lead to ongoing collaboration on the part of the students?
the section, and then participated in a panel discussion at the same meeting along with two section members. Such ongoing involvement in the mental disability law system of Nicaragua further increases the likelihood of meaningful social change.

V. FUTURE SECTION ITERATIONS

There are efforts to expand this course to new populations in both Nicaragua and other nations with developing economies in Central America. The instructors have met with the Presiding Justice of the Supreme Court of Nicaragua and with the Director of the Nicaraguan Judicial College to discuss the possibility of offering judicial training to all Nicaraguan judges via the Internet-based course, and have since begun negotiations with other judicial officials to offer the course to the judiciaries of all nations in Central America. In addition, the instructors hope to offer a section of the course in Guatemala, Costa Rica, and elsewhere in the Caribbean/Central American region.

In these ways, the instructors seek to reach activists and advocates in other Central American nations with developing economies, and the judges who must ultimately rule on questions of law that affect persons with mental disabilities. It is clear that each State in the region will present different challenges and will offer different structures for both the delivery of mental health services and for the legal regulation of such services. It is hoped, however, that by modifying the syllabi and seminar presentations, the instructors can take these differences into account and present material that is most important and appropriate to the needs of participants from each nation.

VI. THE ULTIMATE POTENTIAL IMPACT OF SUCH A COURSE ON DEVELOPING-ECONOMY NATIONS

There has been remarkably little attention paid to mental disability law in nations with developing economies, notwithstanding the fact that studies that have been done unanimously excoriates the quality of institutional care, the lack of community alternatives, the absence of legal advocacy, and the widespread extent of judicial apathy.79 There has been numerically meager,

ITY RIGHTS INTERNATIONAL, HUMAN RIGHTS AND MENTAL HEALTH: HUNGARY (1997),
but substantively strong scholarship focusing on these issues in these nations. In recent years, scholars and social critics in nations with developing economies have begun to write about the need for expanded distance learning programs in such nations, and how such programs can be an effective force for social change. It is hoped that, through the use of the Internet and distance learning technologies, this social change may potentially come about. The author’s experience in Nicaragua suggests that this is, indeed, a reasonable goal.

**CONCLUSION**

The Internet has the capacity to transform and invigorate legal education through the use of distance learning methodologies. The first Internet-based mental disability law course, offered domestically in 2000, has now expanded to include international sections, such as the one in Nicaragua in the Fall 2002 semester. Building on the course’s pedagogy, the instructors continued to work with local activists in Nicaragua after the course formally concluded. The instructors are also actively seeking to offer the course both to other important parties in Nicaragua (the judiciary) and to groups in other Central American nations. It is hoped that this model will be successfully replicated in these nations and elsewhere.

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