

*Making International Cooperation a Two-Way Exchange: Learning With Our Partners*

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Our presentation will draw upon two collaborations in developing clinical education abroad – Catholic University with Jagiellonian University and the Public Interest Law Initiative at Columbia University with a number of clinics in the former Soviet sphere. These initial collaborations have spawned additional connections – including a February 2006 two-day simulation at Koźminksi Law School in Warsaw in which students conducted two trials of the same case, one under American procedures and one under Polish procedures, with the five of us debriefing as well as playing courtroom personnel.<sup>1</sup> We will draw on various aspects of these collaborations to illustrate broader themes that we think make cooperative ventures – particularly those that cross boundaries of background and culture – effective and rewarding. Our examples will be international, but we will ask the audience to consider whether the factors we identify for rewarding collaborations hold true for interdisciplinary and other boundary-crossing projects.

Our reflections stem from a desire to avoid some of the problems that beset past efforts to promote legal education reform abroad. More information on the Law and Development Movement and lessons that might be learned from previous foreign assistance ventures concerning law, legal systems, and legal education can be found in Leah Wortham, *Aiding Clinical Education Abroad: What Can Be Gained and The Learning Curve on How to Do So Effectively*, 12 CLIN. L. REV. 601 (2006). Our reflections on cross-cultural collaboration also resonate with themes in Susan Bryant and Jean Koh Peters' work on the Five Habits of Cross-Cultural Lawyering and the four guiding principles underlying them. See Susan Bryant, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, 8 CLIN. L. REV. 33, 49 (2001).

Our presentation will explore and provide examples of factors that we think contribute to effective collaboration: attention to the assumptions made by each party; openness to shifting perspectives; recognition and use of each party's comparative advantage; the importance of personal bonds among those working together; willingness to consider a long-haul relationship; two-way exchange in which contribution and learning flow both ways; and appreciation for serendipity – the results that are not planned or anticipated.

Here is some background on the collaborations, which brought the five of us together in clinical ventures abroad.

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<sup>1</sup> The simulation was based on a wife's petition to eject her husband from their apartment, which had come to the Jagiellonian civil clinic. The simulation was first developed for a teacher training workshop for the GAJE 2004 conference and was undertaken by Koźminksi Law School students in February 2005. Common goals in all three situations were to explore differences in the role of the judge, the role of the lawyer, and the ability of each system to deliver an efficient, fair result. Interestingly, although the February 2006 goal was not to teach skills, our debriefing of the American-style trial somewhat inevitably involved discussion of theory of the case. This discussion both improved performance in the Polish-style trial and led students to conclude that persuasion, a skill sometimes said to be unimportant by those from the civil law tradition, is significant.

## **Catholic and Jagiellonian Universities**

Catholic University Law School's collaboration with Jagiellonian University began with JU faculty member Rett Ludwikowski finding his way to CUA in 1984. After the fall of the Communist regime and the first elections in Poland, Professor Ludwikowski successfully encouraged CUA to create a summer law program at Jagiellonian, which commenced in 1992. Each summer since, 25-30 American students have taken classes alongside a comparable number of Polish students from the various law schools there. Two CUA professors go to Kraków to teach each summer.

Serendipity intervened to add a clinical twist to the cooperation between the two law schools. Consulting for the Ford Foundation, former CUA Dean Clinton Bamberger encouraged Ford to make clinical programs a part of its Central and Eastern European strategy. Ford provided modest funding to two projects in the Czech Republic, but they ultimately did not take root. Knowing CUA's ties to Poland, Bamberger inquired if CUA knew a school in Poland interested in starting a clinic. On an unrelated track, the American Vice-Consul in Kraków had decided to promote clinical education, and assembled three interested JU faculty members, former Vice-Dean Maria Szewczyk, JU Human Rights Centre Director, Halina Nieć, and Ph.D. candidate, Fryderyk Zoll. U.S. Peace Corps volunteer Garrett Rothman signed on to help.<sup>2</sup> This group obtained an Organization for Security and Cooperation in Europe (OSCE) grant to hold a December 1996 conference in Kraków on clinical education. In a chance meeting with the Vice-Consul, the then-CUA-dean suggested Catherine Klein join the planning committee because of work she had done for ABA CEELI in Russia.<sup>3</sup> Wortham and Klein helped to plan the conference, and Klein attended.

Now aware of the JU clinical group, Klein and Wortham asked if they wished to join CUA in applying for a Ford Foundation grant, the first of which was awarded in January 1997. Under this grant, Fryderyk Zoll made his first visit to the U.S. for a month in March 1997. While he studied clinical education, he tutored Wortham and Lisa Lerman in Polish regulation of lawyers for a Comparative Legal Profession course that they were going to teach in the CUA summer program in Poland that year. His tutelage revealed that there was almost nothing in English about the Polish system that would be of use to students, so they developed a course plan in which Polish and American student teams found and translated Polish law on important topics and create the comparative materials. Zoll's attendance at the summer class and assistance to the Polish students in identifying and finding the materials made this possible. Mirroring the two-way exchange and interdependence of the JU-CUA teachers, American students in the class commented on the different, and better, experience of being forced to rely on their Polish colleagues' greater knowledge rather than merely sitting side-by-side in other classes where the Americans' greater fluency in English and familiarity with the teaching method often gave them an advantage.

JU's civil, criminal, and human rights clinics commenced in the fall of 1997, developing models for operating in a civil law system, creating relevant forms and record-

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<sup>2</sup> Rothman became the first administrator and fund-raiser for the new JU clinic and later came to CUA Law School as a student.

<sup>3</sup> Bob Dinerstein (American), Karen Tokarz (Washington Univ.-St. Louis), and Roger Burrige (Warwick University. UK) also participated in that December 1996 conference.

keeping systems, and working out the other details for clinics to function there. A labor law clinic was added the following year. The JU civil clinic provides written opinions to people on the legal issues in their cases, what might be termed an advice-only service in our system but has different implications in theirs. The Polish legal system, at least in theory, affords a broad right to counsel for indigents in civil cases, and petitions prepared by the students can be used to assert this right. Clients also sometimes can proceed on their own successfully in a more judge-directed system so long as they have the necessary documents. Over time, the civil clinic also has found two ways to appear in court: through representation as guardians for absent people and by forming a non-profit association, which is empowered by Polish law to represent people in consumer, alimony, and child support cases. The clinic also represents some clients through the negotiation stage. The labor law clinic operates through written opinions in a manner similar to the civil clinic. Labor law in Poland refers to a range of legal matters on regulation of the employment relation and social security.

The criminal clinic provides advice about proceedings in the criminal justice system to those accused and in some instances to victims who are seeking redress in the court system, particularly in domestic violence cases. The clinic also advises prison inmates, including referral to the other clinics as necessary for the legal issues raised. Up until a statutory change, students were able to appear in the lowest court in minor criminal matters.

Students in the human rights/refugee clinic, working with the clinic's cooperating advocate, represent refugees in administrative proceedings. Students also advise clients in making human rights complaints to the European Court of Human Rights in Strasbourg. In collaboration with other Polish clinics and other NGOs, the clinic recently succeeded in receiving a grant from the European Union to help integrate refugees into the labor market and the society.

The JU clinics have been an important piece of a variety of other collaborative efforts.

- The development of the JU clinics coincided with, and sometimes encouraged, interest in clinical ventures by other organizations including: the Public Interest Law Initiative (PILI), the work of which is described below; the American Bar Association Central European and Eurasian Law Initiative (ABA CEELI); and the United Nations High Commissioner for Refugees (UNHCR). JU and CUA faculty helped to organize and served as trainers in some programs run by those organizations.
- In 2001, the JU Clinic signed a cooperation agreement with the Polish Ombudsman - and other Polish clinics have now entered into similar agreements. The Ombudsman employs former clinic students who refer matters to clinics for investigation when there is a question of infringement of human rights and from clinics when it appears that intervention by that office would be beneficial. The Ombudsman also funded publication of almost thirty information booklets, written by clinical students, which instruct the public on their legal rights in areas including consumer, labor law, social security, family law, landlord tenant, and human rights.
- The clinical cast of characters is involved in other JU-CUA relationships, including a program through which CUA professors teach one and two-week courses in American law at JU and a CUA LL.M program in which most of the course work is done in Kraków.

- Fryderyk Zoll spent a semester in Washington with his family as a Fulbright scholar, where he wrote a book on legal education reform.
- In 2002, JU joined with representatives of clinics from other universities in Poland to found Fundacja Uniwersyteckich Poradni Prawnych, a Legal Clinics Foundation, to encourage the growth of quality clinical legal education by establishing national standards for clinics, sponsoring training conferences and raising funds for which qualified clinics can apply. All public universities in Poland now have a legal clinic, and the first was recently established at a private law school.
- In 2004, Fryderyk Zoll served as local chair for the third Global Alliance for Justice Education (GAJE) conference in Kraków in 2004, which was staffed by students from the JU clinic.<sup>4</sup> The Kraków Conference was attended by 168 participants from 43 countries. At this meeting, PILI sponsored a session in which the leaders of the Legal Clinics Foundation met with Chinese professors about the development of a national committee of clinical educators in China. In previous GAJE conferences in India and South Africa, JU and CUA professors collaborated in leading workshops on ethics and co-facilitated many other discussions.

### **Public Interest Law Initiative at Columbia University Law School**

PILI, the brainchild of Edwin Rekosh, was born during his tenure as a consultant to the Ford Foundation between 1995 and 1997. In 1996, Ford and the Soros legal program in Central and Eastern Europe (Constitutional and Legal Policy Institute or COLPI) sponsored a symposium on public interest law at which the inspiring David McQuoid Mason described the important role of law school clinics in South Africa. McQuoid Mason's experience convinced Rekosh and others that law school clinics could be an important part of a strategy to develop public interest law in Central and Eastern Europe and countries of the former Soviet Union. At a follow-up symposium in 1997, clinical legal education was an explicit focus; by that time, the Deputy Director of COLPI had become convinced that clinical legal education ought to be a priority. Just prior to the 1997 meeting, Rekosh brought the idea for the Public Interest Law Initiative to Columbia University Law School, where (after conversations with Dean David Leebron and then head of the Clinical Program Barbara Schatz) it found a home.

In the spring of 1998, COLPI organized two meetings on clinical legal education, one for law school deans and one for professors nominated by them, at which COLPI introduced the concept of clinical legal education<sup>5</sup> and indicated that funding might be available for those interested in starting clinical programs involving client representation.<sup>6</sup> A break-through

<sup>4</sup> See [www.gaje.org](http://www.gaje.org).

<sup>5</sup> See the paper written for the deans by Edwin Rekosh, *Possibilities for Clinical Legal Education in Central and Eastern Europe*, on the PILI website at <http://www.pili.org/2005r/content/view/158/26/>.

<sup>6</sup> COLPI had two main requirements for funding: that the clinic involve client representation rather than simulation, and that the clinic be "mainstreamed" – that is, that it be approved by the dean and offered for credit as part of the regular curriculum. These requirements distinguished COLPI and PILI's approach from that of ABA CEELI, which had supported law school clinical projects since 1994. Believing that live-client clinics in the region were not feasible, ABA CEELI pushed for changes it considered more realistic, e.g., more interactive teaching and moot courts. The clinical projects it sponsored focused on simulation and often were not integrated into the overall law school program. Differences in goals may have accounted for these differences in approach. Because COLPI and PILI saw clinics as potentially transformative, helping to build rule of law and contributing

moment came when the dean of a Bulgarian law school, who had been quite negative about clinics at the initial meeting, endorsed them at the second. Her initial skepticism was based on the belief that clinical programs were unnecessary in light of the requirement in Bulgaria and other civil law countries that law students do a stint in a real world setting (a “practicum”) as part of their legal training. Her conversion resulted from conversations with her sons, recent law graduates, who convinced her that the practicum often was a waste of time and that better techniques were needed to integrate theory with practice. This was part of larger discussions of the extent to which “live client” clinics were a good fit with the structure and culture of law schools in civil law countries.

With COLPI’s support, in the fall of 1998, PILI sponsored its first international colloquium on clinical legal education, designed to explore the goals, the pedagogy and the practical aspects of establishing and operating clinical programs. Held in New York and Washington, the conference was attended by 14 professors from Central and Eastern Europe and countries of the former Soviet Union. The conference provided opportunities for participants to visit clinical programs at Columbia, Catholic, and other law schools. PILI and COLPI organized subsequent colloquia for professors from the region in Poland in March 1999 and November 2002, Bulgaria in June 2000, and Latvia in October 2001. In between these colloquia, PILI and COLPI arranged for Columbia clinical teachers and others to consult with and provide training for budding clinical programs in the region. The result is a network of dozens of clinical programs in more than 20 countries.

PILI simultaneously worked to create sub-networks of clinics to represent particular client populations, with significant effort focused on developing clinics to represent non-profit organizations. The goals were twofold: to draw a new set of donors – those interested in promoting civil society – to support clinics; and to strengthen civil society by linking academics with the network of centers that had been established to support NGOs.<sup>7</sup> This project, in which Barbara Schatz, who teaches a clinic in non-profit organizations at Columbia, played a central role, involved several steps:

- Discussion of PILI’s proposal for an NGO Clinic project with professors and heads of NGO resource centers in the region, leading up to a successful proposal to the Mott Foundation for support;
- Formation of a steering committee composed of interested professors from the region and the heads of NGO resource centers. The Steering Committee met first in June 2000 to discuss the concept of an NGO clinic and related operational issues (e.g., what kinds of organizations would make suitable clients? what kinds of issues would be

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to the development of a public interest law infrastructure, the representation of actual clients who could not afford legal services was key.

<sup>7</sup> In both these respects, the effort drew on the work of the United Nations High Commissioner for Refugees (UNHCR) to develop a network of clinics to represent refugees. In 1999, PILI and UNHCR jointly organized a workshop in Kraków for those interested in starting such clinics, with the JU clinic and ELTE clinic in Budapest already in place as models. The network now consists of clinics in 16 countries coordinated by the Hungarian Helsinki Committee. The network is a good example of collaboration between funders. COLPI provided universities with funds to establish clinics in general, and UNHCR provided additional funds to spur the creation of refugee clinics. It is also a successful effort to link academics with the institutions which assist refugees. PILI has also worked to establish clinics specializing in children’s rights, environmental advocacy and other fields.

appropriate for the clinic? what substance and skills would students need to learn – who would teach them and how?) The steering committee also met in April 2001 in Budapest, and in January 2002, in New York for further discussions of pedagogical, operational and funding issues.

- International conferences in Budapest in 2001, St. Petersburg in 2002, St. Petersburg and Ekaterinburg in 2003, and Bratislava in 2003. At the conferences, professors reported on their progress in establishing NGO clinics, discussed issues in representing organizations rather than individuals and the related pedagogy, considered effective ways for clinics to collaborate with resource centers, and addressed the ever-present issue of how to sustain their clinics when the initial funders withdrew.
- Consultative visits by Barbara Schatz to universities operating or trying to establish NGO clinics;
- A variety of study tours, e.g., in which Russian faculty visited NGO clinics in Budapest and Warsaw and Bulgarian law professors visited NGO clinics in New York and Washington.

The collaboration between PILI and the NGO Clinic at ELTE University in Budapest is an example of the interchange. The head of the clinical program at ELTE, Agnes Kover, developed the NGO Clinic after participating in PILI's first two clinical colloquia and the initial NGO Clinic Steering Committee meeting, and observing the Non-Profit Organizations Clinic at Columbia. Kover then helped to facilitate PILI's initial conference on NGO Clinics in 2001. In 2002, Schatz observed classroom teaching in the ELTE Clinics and watched students and a supervising attorney meeting with clients at an NGO Resource Center. She then proposed some ideas for the pedagogical program to help students in their client work. With financial support from PILI, Kover then developed an NGO Clinic curriculum based on a series of interactive exercises designed to integrate substance, skills, and ethics. At the conferences in St. Petersburg and Ekaterinburg in 2003 aimed at introducing the idea of NGO clinics to Russian clinicians, Kover's curriculum was part of the conference materials, and she and Schatz jointly ran a session on student supervision. Schatz's clinic curriculum changed as a result of the collaboration, and a graduate of the ELTE NGO Clinic now works at PILI.