

Transnational Teaching Tools: On-line Materials, Legal Clinics, and Refugee Law

by

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The call for written reflections on the education of lawyers for transnational challenges coincides with the launching of a transnational teaching effort in the Human Rights field. Just this month an on-line Refugee Law Reader has become available to law professors and law students world-wide. As a member of the team that developed a model Refugee Law curriculum to be used in multiple countries and then created an on-line teaching resource that allows the curriculum to be readily accessible, I propose to discuss how we successfully accomplished this project.

Refugee Law, by its nature, is transnational because under international law refugee status is available only to those who have left their homeland and crossed an international border. Absent from their country of origin, refugees and asylum seekers ask another nation to provide protection from persecution. By definition, then, national laws of at least two jurisdictions – and often many more – are involved. Although there is an international law framework for defining refugees, acceptance of individual refugees is a matter of national law, and the national laws vary enormously.

While refugee law may force an awareness of transnational legal issues more than some other topics, the reality of communication, commerce, and travel in 2004 is that practitioners in every field of law must confront the impact of foreign legal systems. As a consequence, lawyers must be equipped to recognize and respond to multiple sources of law and differing legal perspectives. Accordingly, I believe that the Refugee Law Reader experience can be replicated

in other subject areas; it can provide a template for future transnational efforts to identify core legal issues, craft a model curriculum, and prepare documents and teaching materials that can be used simultaneously by law faculties in different nations and different legal systems.

I. The Genesis

The Refugee Law Reader evolved as legal educators and non governmental organizations (NGO's) began to work together to provide legal support to uprooted people in need of legal protection. After the collapse of the Soviet Union, most of the newly independent states in Eastern Europe and Western Asia enacted legislation to protect refugees, but many lacked the infrastructure and resources to translate the law from theory into practice. At the same time, many institutions of higher learning in these countries lacked resources. The law faculties, in particular, were often in a state of confusion, as the former legal and economic systems were dissolving before new legal structures were in place. Simultaneously, refugees appeared at the borders and attempted to secure the protection the new laws promised.

After various stopgap measures and much brainstorming, the United Nations Commissioner for Refugees (UNHCR) and other NGO's began to explore the possibility of establishing legal clinics in law faculties in Eastern and Central Europe. With appropriate training and supervision, the law students in these clinics could both "learn by doing" and provide legal services meeting a desperate need. Several law professors interested in human rights expressed an interest in exploring clinical teaching methodology. UNHCR made a commitment to support clinical law training to create a new generation of Refugee Law teachers and advocates. Some university administrators, grateful for additional intellectual and material support, blessed the creation of legal clinics in the law faculties, and the experiment had begun.

Other NGO's, especially the Hungarian Helsinki Committee, became involved and joined with the UNHCR to create "Legal Assistance through Refugee Clinics" (LARC), an ongoing structure to support conferences and training sessions. The conferences brought together law

professors from North America experienced in clinical teaching, law professors from Europe experienced with classroom teaching, experts in refugee law from other regions, such as South America and parts of Asia, and novice law instructors from Central and Eastern Europe. Over time, through the conferences and meetings, it became clear that the newly crafted courses in Refugee Law and the newly emerging clinical efforts in Central and Eastern Europe were crippled due to the meager infrastructure in many of the law faculties trying these innovative approaches. Semi-annual professional development conferences did not fill the gap caused by lack of access to teaching materials and the unreliability of photocopiers. The NGO's agreed to back a bolder initiative: the creation of a model curriculum, the selection and compilation of pertinent teaching materials, and the distribution of the curriculum and materials to new law clinics in various communities throughout Central Europe, the Baltics, the Balkans, and the western region of the Commonwealth of Independent States (CIS).

II. Transforming the Idea into Reality

Developing the transnational teaching materials began in earnest only after three initial steps had been taken. First, we had identified the subject matter and had an idea of the concrete problems that this body of law presents to law students. Second, we knew our target audience: the twenty or so new refugee law clinics that had come into existence in the former Soviet bloc countries. Third, we had NGO commitment to provide financial and technical assistance. Now we had to make it happen. We needed to select authors who could work together effectively, language(s) for the materials, methods of publication and distribution, and ways to provide instructional support for those using our materials.

A. Selecting the Authors

Because the immediate goal was to craft teaching materials for professors and students in the LARC clinics, which were largely in Europe, it was critical that the authors understand the context of law teaching in Central and Eastern Europe and that they be experts in the European

dimension of refugee law. We assembled a group of seven law professors, assisted by one UNHCR advisor. We represented several continents, multiple countries (Denmark, Hungary, Ireland, Moldova, the Netherlands, the United Kingdom, and the United States), different legal traditions (civil law and common law), and varied teaching experiences (mostly classroom lecture, but some clinical approaches). Perhaps the single most important characteristic shared by this group was that all had lived and studied law in more than one country. In a sense, experiential learning bound us together. Having learned the ineffable differences between studying different legal systems and actually living under them, we were better equipped to create an effective transnational product.

Strong shared values and experiences were important, because we strenuously disagreed with each other about many aspects of our joint project. We found that the common principles and approaches to which we had agreed could often look fundamentally different after individuals had translated them into specific materials. We had disagreements about organization, contents, scope, types of materials, and editorial comments. Nonetheless, we continued to believe that we could resolve our differences and provide useful teaching materials for a target audience that was eager for them.

In analyzing the effectiveness of this working group, I would highlight several specific factors. First, the authors were predominantly European law professors. Even more important, one of the prime movers of the group was from a former Soviet bloc country; he understood in his bones the way law had been taught and the needs for new ways of teaching it. His connection with the target audience was palpable. Second, there was limited North American participation. As an American who has been involved in many international meetings, I can comment that frequently American law professors have access to more resources, but they often have less exposure to international legal issues and less experience with other legal cultures. Our common law approach often seems dissonant to law professors trained on the continent and our perspectives can sometimes seem parochial and heavy-handed. It is crucial that the American perspective does not dominate the transnational effort. Third, our team of authors

contained a visionary who did not flag in his efforts to realize his dream of creating a model curriculum and a comprehensive set of materials that would constitute an enduring resource. Fourth, our editor-in-chief possessed the fortitude, determination, patience, and diplomatic skills necessary to keep the project moving forward. She generously devoted much of her sabbatical leave to overseeing the final stages and to bringing the Refugee Law Reader to completion.

B. Selecting the Language

One of the first decisions was the language of the teaching materials. We chose to use English for two reasons. English would make the materials most accessible to the students and professors in the refugee law clinics that comprised the target audience and the largest majority of pertinent legal sources were already available in English. We decided not to spend funds on translations. We discussed other alternatives, including using the original language of any document, but decided that uniformity was preferable.

C. Selecting the Method of Publication and Distribution

In light of the costs of legal books, photocopying limitations, and the general difficulty of gathering legal documents from multiple national and international bodies, we decided it would be best to harness our project to modern information technology. All of the Refugee Law clinics had some internet access, but hard copies of refugee law materials were scarce. We concluded that an on-line resource would be more accessible than books, no matter how good our distribution efforts. We also thought that we would be able to update an on-line Refugee Law Reader more quickly and easily. Accordingly, we budgeted for technical assistance to enable us publish a professional and user-friendly set of on-line teaching materials.

D. Flexible Materials

We knew that the circumstances and conditions of teaching Refugee Law would vary

enormously from country to country and faculty to faculty, so we agreed to design a curriculum and related materials for three different teaching scenarios: 48 hours (2 semesters), 24 hours (1 semester), and 12 hours (a module that is one component of a larger course). Due to financial and timing constraints on our work, we could not include a full body of materials on clinical teaching in this phase of the undertaking. Because we knew that the instructors in the Refugee Law clinics were often overburdened novice teachers, we decided to provide teaching suggestions as well as the most effective legal resources that we could assemble.

E. Working Methods

Each author took responsibility for a major segment of the teaching materials. Working in our respective offices and communicating largely by e-mail, we each assembled a compilation of treaties, resolutions, regulations, directives, statutes, scholarly articles, excerpts from treatises, and judicial and administrative opinions pertinent to our assigned sections.

After we submitted our proposed segments and commented on each other's efforts, we met in Budapest for an intensive two-day workshop in which we could assemble the separate portions, debate the shape the materials were assuming, and make joint editorial decisions face to face. Supported by the NGO technical staff (who managed to produce for each session an updated power-point presentation showing the collective decisions we had made in the prior session), we rearranged and sharpened the focus of the model curriculum and reviewed every document recommended for inclusion. It was exhausting, but tremendously productive.

We returned to our homes to fine tune the materials and to craft three additional types of instructional support. For each topic and sub-topic we set forth major teaching points, elaborated on the current conceptual and political debates between policy-makers and refugee advocates, and generated editorial notes containing cross references to other portions of the materials, suggestions for teaching strategies, and other points we thought might be useful for the law professors.

F. Copyright Issues

Meanwhile, the technical staff, aided by the editor-in-chief, worked with publishers to secure permission to use most of the copyrighted material. This took time, persuasion, and negotiation, but the results were more favorable than we had hoped. More than three-quarters of the copyright holders granted general permission; the others agreed to allow the Refugee Law Reader to publish their materials in a password-protected manner so that the LARC Refugee Law clinics could access them. The successful resolution of the majority of the copyright issues meant that we could make our on-line teaching materials available to law teachers, students, and clinics far beyond our target audience. Indeed, it is now available world-wide to all those with internet access.

III. The Result

Throughout the final stage, technical and legal problems loomed, were conquered, and gave rise to new rounds of crisis. Ultimately, twelve months after our intensive two-day workshop and several years after the early discussions of developing teaching materials to support Refugee Law clinics in multiple countries, the *Refugee Law Reader: Cases, Documents and Materials* is a reality. It is a comprehensive on-line resource containing hundreds of legal texts, academic commentaries, judicial opinions, and other documents. More than a reference work, it includes teaching pointers and editorial notes to assist law teachers. Professors, students, scholars, and advocates can download it, free of charge, at <http://www.larc.info/reader>.

The on-line *Refugee Law Reader* is now a transnational teaching resource that addresses the needs of Refugee Law clinics in Central and Eastern Europe. Simultaneously, it serves a larger purpose. Making it available on-line and deciding to include legal sources from multiple national systems as well as international legal materials means that the *Refugee Law Reader* reaches far beyond its original audience. It is one model to consider in educating lawyers to

respond to transnational challenges that arise in our increasingly interconnected world.

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