

Negotiating Culture in Human Rights Fieldwork
Integrating cultural competency training into clinical pedagogy in the field

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INTRODUCTION

In an increasingly globalized world, leading legal education centers are obliged to develop culturally sensitive human rights leaders, able to transcend political boundaries and address issues of social injustice. Over the course of the past thirty years since the development of the first international human rights clinic, clinicians have praised international human rights clinic,¹ and particularly international human rights fieldwork, as an ideal area of law for advancing clinical pedagogy.² Practitioners and clinicians have recognized the capacity of international human rights fieldwork to prepare students to negotiate cultural challenges through its unique clinical pedagogy, which provides a framework for interaction between students, clients, partners and other stakeholders in the field.³ And yet, with the steep rise in the number of international human rights clinics in law schools doing international human rights fieldwork over the past decade, little has been written about how traditional theories of cross-cultural competency training in the clinical setting might be applied to doing work with students in country. In training the next generation of human rights lawyers through clinical fieldwork, what are the ways that human rights fieldwork differs from the traditional clinical model and what are the practical tools that instructors can use to approach the work in a way that teaches cultural competency?

¹ See, e.g., Hurwitz, Deena, *Lawyering for Justice and the Inevitability of International Human Rights Clinics*, 28 YALE J. INT'L L. 505 (2003); Haynes, Dina Francesca, *Client-Centered Human Rights Advocacy*, 13 CLINICAL L. REV. 379 (2006).

² Bond, Johanna, *The Global Classroom: International Human Rights Fact-Finding as Clinical Method*, 28 WM. MITCHELL L. REV. 317 (2001).

³ *Id.* at 324.

This is a question that I have spent a significant amount of time contemplating over the course of developing the international human rights clinic at Stanford Law School, which allows students to spend a significant portion of the school year in country participating in human rights fieldwork in a clinical setting. Through my experiences in supervising students on projects in Namibia ranging from HIV/AIDS anti-discrimination litigation to developing legislation implementing the Convention Against Torture, bringing the first-ever environmental test case, performing a needs assessment to help strengthen the communication among the magistrates and helping to create a strategic plan for the first Namibian Legal Aid Clinic, and more recently in Cape Town through the development of our partnership with the Law Race and Gender Unit, we have experimented with numerous techniques which pushed students to understand the importance of cultural competence in their work. These teaching methods have provided students with the tools to help understand their place in the human rights movement, allowing students to leave the program with a more robust understanding of the range of issues that they will confront as human rights lawyers.

The purpose of this article is to describe some of these lessons so that, as human rights clinics around the world begin to participate more and more in fieldwork similar to that of Stanford Law School's Clinic, they can incorporate these techniques into their curriculum and pedagogy. Part I looks back on the history of teaching cross-cultural competence in the clinical setting, highlighting the seminal works of Sue Bryant, Jean Koh Peters and others who have developed a strong framework for teaching students to become cross-cultural advocates. Part II examines the incorporation of human rights fieldwork into international human rights clinics over the past twenty years, describing the range of shapes that international fieldwork has taken and its capacity to act as a vehicle to teach students about navigating culture. Part III describes

the in country program that Stanford Law School's International Human Rights Clinic has established over the past three years in Southern Africa, first in Namibia and now at the University of Cape Town. Finally, Part IV examines the ways in which international human rights clinics doing work in the field are different from more traditional clinics and how we have incorporated traditional cultural competency training given these types of unique settings. Ultimately, it is through these types of culturally competent methods that clinical students will be properly positioned to negotiate issues of culture in human rights work throughout their careers.

I. THE HISTORY OF TEACHING CROSS-CULTURAL COMPETENCE IN THE CLINICAL SETTING

Building cross-cultural competency has been an important element of clinical teaching throughout the course of the movement toward developing best practices around clinical pedagogy. While over the course of the past two decades several clinicians have written about pedagogical techniques to integrate cross-cultural competency training into the clinical setting in a broader sense, few have explicitly addressed how to integrate these techniques in the context of the international clinic, and specifically international human rights fieldwork. This section will examine the movement to create a framework for cross-cultural lawyering in clinical teaching, setting the stage to discuss how this kind of training might be tailored to meet the specific needs of international human rights fieldwork.

Throughout the 1990s, numerous clinicians explored techniques for integrating cross-cultural competency training in the domestic clinical setting.⁴ Building on this work, one of the

⁴ See, e.g., Dominguez, David, *Beyond Zero-Sum Games: Multiculturalism As Enriched Law Training For All Students*, 44 J. LEGAL EDUC. 175 (1994) (discussing techniques for multicultural negotiation); Michelle Jacobs, *People From the Footnotes: The Missing Element in Client-Centered Counseling*, 27 GOLDEN GATE U. L. REV. 345 (1997) (suggesting combining client-centered counseling skills with a module on cross-cultural lawyering and student self-awareness training); Kimberly O'Leary, *Using Difference Analysis to Teach Problem-Solving*, 4 CLIN.

most important contributions to teaching cross-cultural competency in the clinical setting is a process called “the Habits” that was developed by Professors Sue Bryant and Jean Koh Peters. In her seminal 2001 article, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, Sue Bryant identifies and attempts to answer the two questions that they sought to answer in the course of their work: (1) what is effective cross-cultural lawyering and (2) how can we help ourselves and our students learn to be effective cross-cultural lawyers?⁵ Bryant claims that the basis for teaching cross-cultural competence is through the theory, increasing students’ awareness of the significant role that culture plays in “giving meaning to behavior and words; developing values and judgments; forming relationships with others and developing biases and stereotypes.”⁶ Through teaching this theory, students gain awareness and knowledge as to their own assumptions and biases, explaining why we use stereotypes and think in ethnocentric ways, identifying new ways of thinking and behaving.⁷ She then promotes incorporating analytical and communication skills to allow students to engage in cross-cultural interactions competently.⁸

With this as a foundation, Bryant sets forth what she calls the “Five Habits of Cross-Cultural Lawyering.”⁹ Habit One provides students a framework to identify similarities and

L. REV. 65, 72 (1997) (describing how “difference analysis” may be integrated into the clinical classroom to teach multicultural problem solving); Christine Zuni Cruz, [On the] *Road Back In: Community Lawyering in Indigenous Communities*, 5 CLIN. L. REV. 557 (1999) (discussing lawyering from within native communities and how clinical instructors and students can prepare to enter communities across cultures); Leslie Espinoza, *Legal Narratives, Therapeutic Narratives: The Invisibility and Omnipresence of Race and Gender*, 95 MICH. L. REV. 901 (1997)(challenging the “client-centered” model of interviewing and counseling, arguing for a more contextualized approach to lawyer-client interaction that better facilitates the client’s construction of her own narrative); Hing, Bill ong, *Personal Identification Issues of Class, Race, Ethnicity, Gender, Sexual Orientation, Physical Disability and Age in Lawyering Courses*, 45 STAN. L. REV. 1807 (1993)(discussing specific techniques such as interactive video simulations, controversial readings and lectures, self reflective journals and small group discussions to train students to be conscious and sensitive to diversity in clinical practice settings); Alex J. Hurder, *Negotiating the Lawyer-Client Relationship: A Search for Equality and Collaboration*, 44 Buff. L. Rev. 71 (1996)(promoting that we teach equality and collaboration between the lawyer and client in the clinical setting).

⁵ Bryant, Susan, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, 8 CLINICAL L. REV. 33 (2001).

⁶ *Id.* at 50.

⁷ *Id.* at 55.

⁸ *Id.*

⁹ *Id.* at 64-78.

differences between themselves and their clients, forcing them to focus consciously on the possibility that cultural misunderstanding, bias and stereotyping can occur. Habit Two asks students to identify the similarities between the client and the legal system and the lawyer and the legal system to explore all the ways in which culture may influence a case. Habit Three challenges students to explore alternative explanations for their clients' behavior. Habit Four focuses on cross-cultural communication, identifying skills that students may leverage in cross-cultural encounters. Finally, Habit Five asks the students to engage in self-analysis rather than self-judgment, resulting in more effective lawyering for their clients.

Several authors have built upon Koh and Bryant's work to further refine and add to methods that are effective in teaching cultural competency in the domestic clinical setting.¹⁰ Specifically in the international human rights clinical context, Dina Haynes drew upon the theoretical basis of cross-cultural skills building in her article, *Client-Centered Human Rights Advocacy*.¹¹ In setting forth the key elements of teaching cross-cultural client-centered lawyering in the human rights context, she identifies the critiques of human rights advocacy, which are the very issues with which students often struggle within the context of client representation.¹² Specifically, those issues include the risk that human rights lawyers will be perceived as "Western Imperialists," whom critics would label as a "zero sum game, in which an

¹⁰ See, e.g., Weng, Carwina, *Multicultural Lawyering: Teaching Psychology to Develop Cultural Self-Awareness*, 11 CLINICAL L. REV. 369 (2005)(promoting a move from focusing on the multicultural lawyering pedagogy that focuses on learning substantive information about clients who are culturally different from the lawyer to teaching students how to develop self-analysis of his/her culture and its influences on the lawyer); Paul Tremblay, *Interviewing and Counseling Across Cultures: Heuristics and Biases*, 9 CLINICAL L. REV. 373 (2002) (explaining how the reality of cultural diversity might affect some fundamental lawyering practices and models, and specifically the models for interviewing and counseling); Christine Zuni Cruz, *Toward A Pedagogy and Ethic of Law/Lawyering for Indigenous Peoples*, 82 N.D. L. REV. 863 (2006); Nelson Miller, et al., *Equality As Talisman: Getting Beyond Bias to Cultural Competence as a Professional Skill*, 25 T.M. COOLEY L. REV. 99 (2008).; Antoinette Sedillo Lopez, *Making and Breaking Habits: Teaching (and Learning) Cultural Context, Self-Awareness, and Intercultural Communication Through Case Supervision in a Client-Service Legal Clinic*, 28 WASH. U. J. L. & POL'Y 37 (2008); Aliza G. Organick, *Tribal Law and Best Practices in Legal Education: Creating a New Path For The Study of Tribal Law*, 19-FALL KAN. J. L. & PUB. POL'Y 63 (2009).

¹¹ Haynes, Dina Francesca, *Client-Centered Human Rights Advocacy*, 13 CLINICAL L. REV. 379 (2006).

¹² *Id.* at 382.

NGO or human rights activist goes looking for an issue to poke his nose into.”¹³ Another issue specific to human rights clinics is the “essentializing, othering and re-victimizing of the victim,” whereby human rights activists are criticized for rendering the “Exotic Other Female” as the Other because she comes from a different culture, likely in the developing world.¹⁴ Haynes argues that placing the client at the heart of human rights clinics projects is the most effective way to teach students, through human client to lawyer interaction, how to grapple with questions of Western Imperialism, essentialism and imperialist practices.¹⁵ Specific techniques that help students achieve this equilibrium include identifying the client so as to best be able to represent those interests and recognizing other goals in play in order to work toward giving the power back to the client and hopefully empowering the client through that interaction.¹⁶

Thus, while Haynes’ article builds on the theoretical work of Bryan, Koh Peters and others by applying their framework of teaching cross-cultural lawyering in the context of the specific barriers that we face international human rights clinics, in this article I seek to take this effort one step farther by applying these theories to in country fieldwork outside of the domestic setting. The next section will address the development of international human rights clinical fieldwork as a vehicle to teach students cross cultural competency skills. In the final two sections, I will examine the application of these principles in the context of the work of Stanford’s International Human Rights Clinic with our students in Southern Africa.

¹³ *Id.* at 386 (citing Mutua, Makau, *Savages, Victims and Saviors: The Metaphor of Human Rights*, 42 HARV. INT’L L. J. 201, 201-202 (2001)).

¹⁴ *Id.* at 390 (citing Engle, Karen, *Female Subjects of Public International Law: Human Rights and the Exotic Other Female*, 26 NEW ENG. L. REV. 1509 (1992)).

¹⁵ *Id.* at 392.

¹⁶ *Id.* at 415.

II. THE DEVELOPMENT OF INTERNATIONAL HUMAN RIGHTS CLINIC FIELDWORK AS A VEHICLE TO TEACH STUDENTS ABOUT NAVIGATING CULTURE

A. The Development of International Human Rights Fieldwork

International human rights clinics first began to emerge in the early 1980s. By the early 1990s only three law schools offered clinical programs in international human rights.¹⁷ Since that time, nearly twenty law schools across the country have integrated international human rights programs into their clinical offerings.¹⁸ As international human rights clinics have become more established, many of them have worked to incorporate in country opportunities for students to experience first hand how human rights advocacy works in the field.

Johanna Bond first wrote about the importance of international human rights fact-finding as a clinical method in 2001.¹⁹ In her article, she describes a range of field opportunities including primarily fact-finding missions to investigate human rights abuse that result in advocacy reports or meetings with local NGOs and potential clients to form a litigation strategy on a potential case.²⁰ Specifically she describes a sampling of programs from around the U.S. as follows:

¹⁷ Hurwitz at 527, Note 95 (the first three law schools to offer international human rights clinics were Yale Law School in 1989, American University in 1990 and CUNY Queens School of law in 1992).

¹⁸ By 2003, thirteen clinics had emerged including: Yale Law School, Allard K. Lowenstein International Human Rights Clinic (1989); American University, Washington College of Law, International Human Rights Law Clinic (1990); CUNY Queens School of Law, International Women's Human Rights Clinic (1992); Columbia University School of Law, Human Rights Clinic (1998); Georgetown University Law Center, Women's International Human Rights Clinic (1998); New York University School of Law, International Human Rights Clinic (1998); University of California, Boalt Hall, International Human Rights Law Clinic (1998); University of San Francisco, International Human Rights Law Clinic (1998); University of Illinois College of Law, International Human Rights Clinic (2001); Harvard Law School Human Rights Clinic (2002); Seattle University School of Law, International Human Rights Clinic (2003); University of Virginia School of Law (expected date of establishment: Fall 2003) and George Washington University School of Law (expected date of establishment: Spring 2004). Hurwitz at 549. Since that time an additional XX international human rights clinics have developed including: [information gathering in process].

¹⁹ Bond, Johanna, *The Global Classroom: International Human Rights Fact-Finding as a Clinical Method*, 28 WM. MITCHELL L. REV. 317, 319-20 (2001).

²⁰ Bond at 320-25.

- Fordham University’s Crowley Program, founded in 1997, which took students to Turkey to conduct a fact-finding mission to investigate “allegations of official harassment and persecution of judges and defense attorneys and its effect on the international rights to due process and a fair trial” and subsequently conducted field missions with students in Hong Kong in 1999, Mexico in 2000, Guatemala in 2000, and Ghana in 2001;
- The University of Michigan Law School’s well-established externship program in South Africa, which offers externships in a variety of government agencies and NGO’s under the supervision of South African attorneys;
- Michigan’s program in Cambodia through its Cambodian Law and Development Program which gives Michigan students exposure to law and development issues through placements with NGOs focused on human rights issues;
- St. Mary’s Law School in San Antonio, Texas, which provides an opportunity for students to investigate human rights abuses, including environmental and gender based discrimination issues, along the Texas-Mexico border;
- Columbia’s Human Rights Clinic’s travel to Mexico with five students to meet with local NGOs and conduct interviews with local workers, resulting in a report which they disseminated among their local NGO partners;
- Columbia’s Human Rights Clinic’s travel to Haiti and the Dominican Republic to meet with local NGOs and potential clients to develop a litigation strategy for a pending case before the Inter-American Court of Human Rights;
- The University of California at Berkeley School of Law’s travel to Bosnia to conduct interviews of Bosnian judges as part of a project on justice, accountability and reconstruction culminating in a report entitled Justice, Accountability and Social Reconstruction: An Interview Study of Bosnian Judges and Prosecutors;
- Washington College of Law at American University’s International Human Rights Clinic’s travel to London to assist the Crown Prosecutor in connection with its involvement in the lawsuit against former Chilean dictator, Augusto Pinochet, arguing for Pinochet’s extradition to Spain and travel to Panama in the spring of 2001 to meet with clients and conduct further investigation for a petition before the Inter-American Commission.

Bond also describes her work in Poland in the spring of 2001 as the Acting Director of the Georgetown Clinic, where she brought students for eight days of their spring break to investigate and document domestic violence and employment discrimination as human rights abuses. The ultimate goal for the project was to produce two human rights reports, one documenting

domestic violence and the other documenting sexual harassment. Bond describes her substantive preparation of the students in advance of the trip, the collaborative partnerships that she developed with representatives of Minnesota Advocates for Human Rights and Polish NGOs to conduct the interviews, and the way in which the fieldwork experience was uniquely able to accomplish many of the pedagogical goals for which human rights clinics strive.

In the ten years since Bond wrote about the emerging trend of International Human Rights fieldwork, numerous different models for in country clinical experiences have emerged, all with varying lengths of time that students spend in country and the type of work that students are doing and the type of engagement that students experience while on the ground. (Insert descriptions of new field projects – information gathering in process).

Even so, two of the biggest limitations on clinical fieldwork that Bond initially cited in her article remain: financial resources and time. It goes without saying that sending students to do work abroad, even if for just a short period of time, is much more expensive than a domestic clinic that engages its students in fieldwork within the local community. With exorbitant international travel expenses, it remains an exceptional privilege to be able to send students into the field, and only a small percentage of law schools can afford their students such opportunities. Even where financial resources are not at issue, given that most students take clinic at the same time they are taking other classes, it is impossible for them to leave the law school for more than a week or two at a time. This severely limits the type of work that students can do in the field, the extent to which they are able to create a connection with local partners and clients, and the depth of the reflection that is possible in such a constricted amount of time.

Stanford Law School's recent move to the quarter system has permitted new opportunities in terms of the type of fieldwork that international human rights clinic students can

do, including spending the entire quarter (up to twelve weeks) in country, working on clinic projects on a full time basis. As fieldwork has become more prominent in international human rights clinics over the past twenty years, and specifically in the context of moving toward more full time in country clinics where students are acutely exposed to culture in the course of their work, the question then becomes how we can leverage this in country exposure to help students learn to navigate culture in order to become effective lawyers in the global age.

B. The International Human Rights Clinic Fieldwork as a Vehicle to Teach Students About Navigating Culture

The international human rights clinic has been hailed as providing invaluable learning opportunities for students for a variety of reasons, including the opportunities it provides to experience first hand the role that culture plays in the work. Indeed, culture must be at the core of effective human rights advocacy, with careful analysis of custom necessary in order to determine which advocacy strategies will be the most effective, and which will result in backlash.²¹

As such, international human rights clinicians have embraced the idea that a central role of the international human rights clinic is to engage students in the debate of these multiple cultural discourses that come into play in human rights practice such as universalism versus relativism, and the critique of the international human rights movement as an exportation of imperial, Western values on the developing world.²² Peter Rosenblum, one of the early leaders in the international human rights clinical movement, has said that the role of the human rights

²¹ Hurwitz at 520-21 (*quoting* Richard J. Wilson & Jennifer Rasmussen, PROMOTING JUSTICE: A PRACTICAL GUIDE TO STRATEGIC HUMAN RIGHTS LAWYERING at 54 (2001)(“Key to promoting change that lacks popular support is a contextual understanding for the popular sentiment. Understanding why a practice that violates human rights is supported is essential to identifying the most critical approach to deconstructing it, whether through legislative reform, shifting popular opinion or enforcing existing laws.”)

²² Hurwitz at 521.

clinic is to train students to engage in the critiques of human rights advocacy in order to better understand their role in the process.²³ As Deena Hurwitz describes, through this kind of engagement, human rights clinics give students the opportunity to think critically from a cross-cultural perspective, resulting in a better understanding of what it means to be a human rights lawyer: “[b]y responding to cultural difference, anticipating unexpected consequences, emphasizing transnational collaboration, and exploring the correlation between universality and relativism, students come closer to embracing the essence of human rights lawyering.”²⁴

Specifically, human rights fieldwork highlights students’ exposure to these issues first hand. Johanna Bond first wrote about the importance of international human rights fact-finding as a clinical method in 2001, suggesting that “clinics providing opportunities for students to conduct field work, or ‘live’ human rights work, offer a unique, engaging learning experience that approximates the traditional direct-service model in critical ways.”²⁵ Bond claims that this type of human rights fieldwork opportunity is “particularly well suited for such a clinical setting, because it heightens the experience of human rights practice by motivating students and improving their lawyering skills through client contact.”²⁶ Specifically, Bond argues that fact-finding as a clinical teaching method accomplishes many of the traditional clinical pedagogical goals including: “social justice education, systemic legal problems, empathetic lawyering, issues of difference and privilege, sound legal judgment, collaboration and inter-disciplinary

²³ Rosenblum, Peter, *Teaching Human Rights: Ambivalent Activism, Multiple Discourses and Lingering Delimmas*, 15 HARV. HUM. RTS. J. 301, 304-05 (2002) (“The purpose is to train students to be ‘ambivalent advocates’ – committed to action, but alert to the multiple consequences; to make them more sympathetic to the plight of people trying to do good, while at the same time more critical of those who do it without reflecting on the possible negative consequences.”).

²⁴ Hurwitz at 521.

²⁵ Bond, Johanna, *The Global Classroom: International Human Rights Fact-Finding as a Clinical Method*, 28 WM. MITCHELL L. REV. 317, 319-20 (2001).

²⁶ Bond at 324.

approaches to legal problems.”²⁷ But beyond the typical clinical experience where students are forced to face their biases and challenge their assumptions, global human rights work provides a particularly ripe opportunity for clinicians to encourage students to think beyond the basic cultural differences they see, “inviting a discussion about a lawyer’s professional obligation to address human rights issues in a culturally sensitive manner while maintaining an uncompromising, rights-oriented approach.”²⁸

Others have argued that international human rights fieldwork is important in order to engage students in a “client-centered” approach, thereby exposing them to the intercultural aspects of human rights advocacy more generally.²⁹ Dina Haynes argues that “via client-centered human rights lawyering in human rights clinics in particular, we can most effectively attune law students and prospective human rights lawyers to the valid aspects” of critiques that human rights activists are at risk of Western Imperialism and essentializing victims in both the selection of their causes and advocacy strategies.³⁰ By engaging in a multi-cultural client-centered approach, students are forced to examine their assumptions and how those assumptions come into play in the lawyering process. Being in the field affords students the opportunity to engage with clients directly in order to accomplish the goals of a client-centered approach in a way that they would not be able to from an in-house clinic.

Many have said that internationalizing our legal education through the integration of cultural training is particularly important in the context of the globalization of our legal system.³¹

Proponents of a more globally focused legal education have criticized the way in which

²⁷ Bond at 327.

²⁸ Bond at 335.

²⁹ Haynes, Dina Francesca, *Client-Centered Human Rights Advocacy*, 13 CLINICAL L. REV. 379 (2006).

³⁰ Haynes at 380.

³¹ See, e.g., Bloch, Frank S., *Access to Justice and the Global Clinical Movement*, 28 WASH. U. J.L. & POL’Y 111, 113-14 (2008); Hurwitz at 506-08 (citing *Special Feature: The State of International Legal Education in the United States*, 29 HARV. INT’L L.J. 239, 269 (1988)).

traditional legal education fails to give importance to the types of interpersonal and negotiation skills necessary to transcend cross-cultural differences, or its failure to examine the ways in which historical and theoretical understandings of the world should inform our choices as lawyers.³² As Claudio Grossman, the Dean of American University, Washington College of the Law, has stated: “[t]oday’s law school graduates must acquire the skills to function as facilitators and problem solvers in international transactions. They must also be able to act as liaisons for communications between and among formally organized legal systems with differing national histories, customs and experiences.”³³ Thus, an important element of developing this new kind of curriculum tailored toward training the next generation of global lawyers is including cultural issues in the academic agenda.³⁴ Indeed, it has been said that “[t]eaching law students to be effective actors in a globalized environment may have at least as much to do with cross-cultural sensitivity and a knowledge of the world as with the way that ‘the law is taught.’”³⁵ Providing opportunities for international human rights fieldwork, thereby exposing students to collaborations in a cross-cultural setting, is an important part of this approach.³⁶

Thus, while it has been well established in the theoretical literature that international human rights fieldwork is an important way to expose students to cross cultural experiences, as we look forward, we must reflect upon the extent to which our programs embody the values that we hope to teach students about our role as human rights clinic within the greater movement, as well as the more practical pedagogical techniques that we might implement in order to provide students with the tools to navigate culture in a field setting. Using the International Human

³² Grossman, Claudio, *Building the World Community: Challenges to Legal Education and the WCL Experience*, 17 AM. U. INT’L L. REV. 815, 819 (2002).

³³ Grossman at 827.

³⁴ Grossman at 828.

³⁵ Blackett, Adelle, *Globalization and its Ambiguities: Implications for Law School Curricular Reform*, 37 COLUM. J. TRANSNAT’L L. 57, 74 (1998).

³⁶ Barry, Margaret Martin, Jon C. Dubin and Peter A. Joy, *Clinical Education for This Millennium: The Third Wave*, 7 CLINICAL L. REV. 1, 60-62 (2000).

Rights Clinics that Stanford has developed in Southern Africa as an example, I will provide a outline of some of the pedagogical approaches we have used in an attempt to achieve these goals, drawing from the theoretical framework that has been laid by Sue Bryant, Jean Koh Peters and others.

III. STANFORD LAW SCHOOL'S INTERNATIONAL HUMAN RIGHTS CLINICS IN SOUTHERN AFRICA

In describing the lessons that we have learned with respect to the types of clinical teaching methods that are most effective in human rights fieldwork, it is important to describe the context of the Stanford Law School International Human Rights Clinic (the “Stanford Clinic”). While fieldwork has become quite common in international human rights clinical pedagogy, unlike any other law school human rights clinic in the U.S., the Stanford Clinic has been one of the first to take students in country for an extended period of time during the school year to work on a variety of projects in a supervised clinical setting. Starting in 2005, Stanford Law School (SLS) has taken a global, engaged approach to its International Human Rights Clinic, traveling with students to Africa to engage in supervised fieldwork with local NGOs.

Over the course of the last three years since I have been involved, Stanford Law School’s International Human Rights Clinic has taken two primary forms. Over the course of 2007-09, the clinic was fully in country in Namibia, where students worked with local partners under the supervision of Stanford faculty, who remained in country with the students for eight weeks or one half of the semester. Over the last year, the clinic has developed a hybrid model whereby students spend the entire quarter working directly in country with a field supervisor at the University of Cape Town and separately work with a Stanford faculty supervisor on substantive preparation, goal setting and reflection. I will describe each of the models more fully in turn.

A. Stanford Law School's Namibia Clinic³⁷

During the Spring Quarters of 2008 and 2009, Professor Barbara Olshansky and I traveled to Namibia with ten students to spend seven weeks doing field work on several projects we had developed with the guidance of the University of Namibia Law School, the Law School's Human Rights and Documentation Centre, Namibia's Justice Training Centre, and the Legal Assistance Centre, among other local partners. Professor Olshansky chose Namibia as the site of our first long-term clinic given that it is one of the newest democracies in Southern Africa, only 20 years out of Apartheid, providing a significant opportunity for the students' work to make a real impact in developing the laws of the country, which are still very new. Additionally, Namibia is arguably one of the strongest democracies in Africa, such that the projects in which the students were involved could contribute to acting as a model for the rest of Africa's new democracies. Finally, given that Namibia is such a small country, it provided students with unparalleled access to high-level officials including members of Parliament, the Supreme Court and all levels of the Executive Branch, not to mention civil society groups.

We structured the clinic over the course of a semester, such that ten students spent the first ten weeks preparing for their fieldwork by beginning to do research on their projects, participating in a weekly seminar covering substantive and skills-based training, and the last seven weeks in country. Once in Namibia, students worked full time on their projects, with weekly case rounds, meetings with instructors, classes teaching the local Oshidonga and Khosian languages and lectures from local experts in the evenings. One of the most significant limitations of the majority of clinical fieldwork opportunities from a pedagogical standpoint is time to dedicate to reflection. With a limited amount of time to tackle the underlying purpose of

³⁷ Professor Barbara Olshansky, who was responsible for developing the Namibia Clinic at Stanford Law School, has since taken the Namibia clinic and its projects to the University of Maryland School of Law, where she is a Visiting Professor running the International and Comparative Law Clinic.

the in country trip, be it meetings with NGOs, client interviews, or other research, reflection understandably often takes a back seat to the work at hand. To the extent reflection does occur, it happens in a rushed way in the taxi two and from meetings, preventing the ability to dive deeply into more substantive conversations about the ways in which students see culture influencing their work.³⁸ The fact that Stanford's international human rights clinic takes place over the course of weeks and months affords much more time for students to both engage in more meaningful discussions about the way they are experiencing culture through their work, but also to think critically about ways in which they might adjust their approach throughout their time in country in order to model culturally competent behavior.³⁹

The students worked on several different projects throughout the course of the two years that we operated the Namibia Clinic, including: working with the former Dean of the Law Faculty of the University of Namibia to assist in preparing a set of strategic recommendations for the University of Namibia's in house legal aid clinic; working with the HIV/AIDS Project of the Legal Assistance Centre (LAC), Namibia's premier human rights NGO, to assist the organization in filing a groundbreaking HIV/AIDS discrimination case on behalf of women who have been forcibly sterilized during cesarean sections based on their HIV positive status; working with the Land, Environment and Development Project at the Legal Assistance Centre to file the first environmental test case in Namibia and to prepare a factual assessment of the problems around the lack of transparency in the process of obtaining mining licenses in Namibia and the resulting

³⁸ Bond at 341 ("It was difficult to schedule time for the students to reflect on what they were hearing, to process and synthesize the information about the legal system, to assess their strategies for information gathering and to make any necessary changes in their approaches. We tried to schedule time to de-brief in the evenings, but most of these conversations quickly turned on the logistics of the next day's schedule. Out of necessity, much of the reflection about individual interviews took place in the taxi on the way to the next interview. The students needed more time to reflect on their own interviewing skills, and they needed more time to reflect on the big picture.")

³⁹ Beyond the type of reflection that happens because of the sheer amount of time that we are able to spend in country with our students, there are also several practical techniques that I have used to help students engage in meaningful reflection during their time in country such as journals, reflection papers, individual reflection sessions and case rounds.

environmental damage and human impact in terms of access to water; working with the Justice Training Center of the University of Namibia, and the Namibian Ministry of Justice, to assist in the creation and implementation of a sustainable open source web-based system that will enable Namibian judges to collaborate with each other, review important opinions immediately, and access key domestic and international legal materials; researching the issue of countries' implementation of U.N. Convention Against Torture ("CAT") in order to draft comprehensive proposed legislation that had been requested by members of the Namibian Parliament; and working with an international NGO, to assist in the collection of affidavits and research of potential domestic, regional and international mechanisms to bring justice on behalf of women who had suffered politically motivated sexual violence.

B. Stanford Law School's South Africa Clinic

Over the past year, using the knowledge we gained from the clinic that we developed in Namibia, Stanford has developed a new clinic in partnership with the University of Cape Town Law Race and Gender Unit. Southern Africa presents an ideal place for students to become engaged in international human rights issues. With such a recent history of apartheid, where until just 15 years ago the black population suffered systematic deprivations of core rights, the country is now working toward becoming a just society in which international human rights are enjoyed by all sectors of the population. Students who participate in the South Africa Clinic gain an appreciation of how apartheid affected and continues to affect understanding of rights in South Africa.

The Clinic begins each quarter with an intensive, full-time, one-week course at SLS prior to departure. An intensive course prepares students with the relevant substantive and theoretical

background including modules on South Africa, the impact of race, human rights and cultural relativism, human rights and development, customary law in South Africa and refugee law in the African context. In preparation for the in country projects, the intensive course also includes skills training on the tools of international human rights advocacy, the role of social science and anthropology in international human rights fieldwork, interviewing skills, working with an interpreter, interacting with survivors of trauma and researching South African, regional and international law.

Four students per quarter then travel to South Africa to work full time on their projects for the Quarter, which last between nine and twelve weeks (depending on the length of the quarter). Once the students arrived at the University of Cape Town's Law Race and Gender Unit, they interact day-to-day with a field supervisor, Professor Dee Smythe, who oversees the students' work, and provided direction on the projects and cases. Meanwhile, I facilitate reflection on the students' experience from a distance. In this supervised field placement model, because the faculty supervisor is not involved in the day-to-day work, the purpose of distance reflection is not to question the strategy involved in the projects. Instead, through journal writing and reflection sessions, my role is to help students reflect critically on their experiences and develop a practice of self-reflection in the work that they do so that they can learn from their experience.

Given that students worked directly with supervisors in the field, the introductory course also incorporates a heavy emphasis on teaching students how to work effectively with a supervisor. Because this clinical program involves field placements, and is not a traditional clinical model, excessive faculty involvement in the supervisory relationship would be inconsistent with the program goals. Thus, to control the supervisory relationship in the field

placement, the introductory course equips students in advance to interact effectively with their supervisors at the University of Cape Town. For example, students are given the tools to identify their own supervision needs, to understand their supervisor's priorities and to respond to supervision issues as they arose.

Once at the University of Cape Town, students are placed on one of two projects. First, the Refugee Rights Project gives students the opportunity to work with the refugee populations that are arriving in South Africa at increasing rates, providing unique insight into international refugee law in the African context. Students interview potential clients, review case files, develop legal strategy and work with the Department of Home Affairs to advance cases.

The second project is the Rural Women's Project, which seeks to support rural women in South Africa who are engaged in struggles for change and to document actual and changing social practices to use this as evidence of "living law" in litigation and policy debates about customary law and women's land rights. The project stems from the resurgence of claims to chiefly authority that South Africa is currently seeing, the basis for which is often found in key pieces of apartheid and colonial legislation and proclamations of the illegitimate former "homelands." As a result, poor rural people, and women in particular, are struggling to access basic rights of citizenship. To help unravel this web of law and politics, students assist in researching and preparing reports on statutes, case law and customary law. They are asked to do historical research into latent "homeland" legislation and precedents that are undiscovered due to the opaque nature of colonial and apartheid regulation of the former homelands. This is particularly relevant because the present government's reinforcement of traditional powers and boundaries relies on these illegitimate processes.

Some students have had the opportunity to visit field sites in other provinces, sit in on strategy sessions around litigation of customary law matters, prepare discussion documents for and brief project partners and seek out information that is difficult to obtain on pressing legal issues, as and when they arise. Current issues with which the Law Race and Gender Unit has been concerned include the Traditional Courts Bill (currently before Parliament), challenges to the resurgent imposition of chiefly levies, investigation of old apartheid-imposed tribal boundaries now resuscitated, and facilitating rural women's responses to proposed amendments to the Recognition of Customary Marriages Act.

Field supervision on the above projects is facilitated by Professor Dee Smythe and other UCT Faculty. Instructor supervision from SLS included reflection papers and distance seminars, which helped students to reflect on their ability to learn from experience, including how to receive critical professional feedback on performance, and how to use the experience to gain greater proficiency in some skill or competency that they wish to develop. Because I was not overseeing students on a day-to-day basis, the reflection happened from a distance. Throughout the course of the quarter, I asked students to write regularly in journals, which they submitted to me once every week for the first month of the fieldwork and bi-weekly for the remaining eight weeks of the quarter. Students were told that the purpose of the journal assignments was to support the educational goals of individualized learning about the students' own growth as a lawyer and to inculcate in the student a habit of self-initiated learning and reflection.⁴⁰ Journal topics focused on personal reflection about experiences and observations, which included self-critique of the role and performance of the student, of others in the legal environment and of the international human rights regime as a whole. Once the assignments were submitted, I would

⁴⁰ Citing Katz, Harriet, *Personal Journals in Law School Externship Programs: Improving Pedagogy*, 1 T.M. Cooley J. Prac. & Clinical L. 7 (1997).

respond to students' work in writing by email within a week's time in order to keep the reflection timely and relevant. In the responses, I shared reaction to student's comments, questioning assumptions or statements made by the student, and responded to student questions and concerns.

In addition to correspondence regarding journal reflection, I also engaged in regular telephonic reflection sessions with students, weekly for the first four weeks of the fieldwork and bi-weekly thereafter. The reflection sessions encouraged additional reflection upon the topics discussed in students' journals, and allowed students to engage in interactive reflection and self-critique with the instructor. Because of the emphasis on the important role that culture plays students' work in the field, I often steered the conversation in that direction, examining ways in which culture affected their work.

The supervised field placements model also provided the unique opportunity for students to reflect with an instructor who was not involved in the strategic decisions of the casework, allowing students to focus on their role in engaging with the project without fear of repercussions from the person who was invested in those strategic decisions.⁴¹ Students interacted separately with a field supervisor, who oversaw the day-to-day work, and a faculty supervisor, myself, who was responsible for facilitating reflection on the students' experience. The idea was that given that the faculty member overseeing the field placement program is unburdened by cases and practice obligations as in the clinical setting, a supervised field placement model allows the faculty supervisor to focus exclusively on guiding the students in reflecting critically on their

⁴¹ Jaszi, Peter, et al., *Experience as Text: The History of Externship Pedagogy at the Washington College of Law*, American University, 5 Clinical L. Rev. 403 (1999).

experiences. Because the roles of practitioner and teacher are separate, the student and faculty member can jointly, freely and candidly reflect upon the students' field experiences.⁴²

Finally, bi-weekly case rounds also provided yet another opportunity for students to engage in reflection about their cases. Case rounds were conducted under my supervision via Skype twice during the quarter, presenting an opportunity for students to resolve difficult problems in presenting their project or case. Prior to class, the presenting team sent a short memo to clinic students and to the instructor, briefly describing the case and question(s) for discussion. The presenting team gave a short overview of the case and lead class discussion for approximately forty-five minutes, focusing on one or two specific questions or issues they are currently confronting in their project or case. The rest of the class came prepared to provide constructive suggestions based on the memo and background material provided. The case rounds format provided yet another way for students to engage in a discussion about culture. While the journals, reflection papers and individual reflection sessions focused on one-on-one reflection, by also bringing the discussion into the group context, students were able to learn from each other's perceptions about how culture came into play in each other's projects, sometimes influencing ways in which the presenting team approached their work.

IV. INCORPORATING CULTURAL COMPETENCY TRAINING IN THE CONTEXT OF INTERNATIONAL CLINICAL FIELDWORK

Throughout the course of developing the Namibia and Cape Town clinics, we have used a variety of teaching methods which are particularly appropriate for helping international human

⁴² While this type of arrangement did allow for students to have much more open and uncensored discussions about how they were experiencing culture through their professional environment, in the end this type of relationship proved difficult as students sometimes tried to play the field supervisors off of the faculty supervisor. As a result, this year we will be changing the program to focus the reflection in country during the time that the students are actually working on the projects so that they can focus on navigating a single supervisorial relationship.

rights clinic students approach their in country work in a culturally competent way, drawing on the techniques described in Susan Bryant, Jean Koh Peters and others. While the techniques themselves are highly effective in helping students to develop self-awareness, confront biases and develop practical skills for interacting with partners in the field, the nature of international human rights fieldwork presents unique ways in which cross-cultural issues manifest themselves. The following is a discussion of how those unique issues come into play and the ways in which we have addressed them through cultural competency training.

A. Teaching Through Modeling: Project Selection

Project selection in international human rights fieldwork is particularly challenging because it forces the clinic to face the “Western Imperialist” critique head on.⁴³ Indeed, bringing students in country for such a short period of time always runs the risk of being perceived by local partners as well as students as “parachuting in” to solve human rights problems without a deeper understanding or appreciation for the cultural issues at play. Teaching cultural competency starts with developing a model for fieldwork that embodies the values for human rights advocacy that we want to impart to our students. Whether or not students are a part of this process, the model for clinical fieldwork that they see is crucial to informing how they approach the work. For example, a human rights clinical project that starts and ends with pedagogical objectives at the center of attention without consideration for the needs and wishes of local partners or clients is contrary to a culturally sensitive approach. The benefit of the Stanford Clinical model is that it invests in projects for the long term, which is beneficial on numerous fronts.

⁴³ Haynes, 13 CLINICAL L. REV. at 386 (*citing* Makau Mutua, *Savages, Victims and Saviors: The Metaphor of Human Rights*, 42 HARV. INTL. L. J. 201(2001)).

First, the projects in which the clinic invests are not just one-off cases, but projects that build on an investment of time and resources by the law school over the long run. For example, in Namibia, we were able to work successfully with the Legal Assistance Centre of Namibia, one of the most prominent human rights organizations in the country, the University of Namibia Law School, or the Government of Namibia is because we had spent so much time with them over the course of the two years that our clinic was in Namibia. Our frequent trips in country showed them that we were invested in the projects, which allowed them to give our students more substantive work. The fact that our students were able to stay in country for up to eight weeks also allowed them to be engaged with our partner organizations in a way that would be impossible to develop over the course of a one or two week trip over Spring Break. Another benefit of the way that we developed our projects for the Namibia Clinic was that we guaranteed our partners that clinical faculty would be working with students during the entire time they were in country, which oversight resulted in significantly more polished work product for our NGO partners.⁴⁴

Similarly, at the University of Cape Town, the program that we have developed ensures that we were taking the lead of our local partners as opposed to driving the projects ourselves. Professor Dee Smythe, who received her JSD at Stanford Law School and was therefore highly familiar with our legal system, has been uniquely positioned to engage our students on issues of South African and international human rights law, while having an understanding of where they are coming from in the U.S. system. As with the Namibia clinic, the students stay in country for the entire quarter, allowing them to work closely with University of Cape Town's Law Race and

⁴⁴ An important limitation on this model, of course, is faculty fatigue. It is hugely exhausting to be with students in country, which even over the course of two months where the work is spread out, generally amounts to 14-16 hour days. Further, finding faculty who are willing to spend such long periods of time in country is also challenging, though if possible I believe worth the effort given the benefits of this kind of model.

Gender Unit, and develop as advocates over the course of the quarter. The program builds upon itself as students return and help to prepare the next crop of students, thereby ensuring a deeper knowledge transfer with each group.

B. Preparing Students to Encounter Culture Through Seminar

In international human rights fieldwork, because the cultural encounters happen in real time during a more concentrated in country exposure, we have to rely on more focused pedagogical tools such as pre-travel training as opposed to a concurrent seminar. How does this change the way in which we implement cultural competency training? Throughout the course of the past three years, we have found that studying the critique of Western human rights lawyers coupled with substantive training on the historical, political and legal issues related to their specific projects, are most important in order to prepare students identify the types of critiques and biases they may face in country.

Each of our in country programs has involved significant preparation that is skills-based, theoretical and substantive. For the Namibia program our students prepared throughout the quarter before going in country, and for the South Africa, this preparation was compressed into a one-week boot camp at the beginning of the quarter.⁴⁵ At the very beginning of every course I start by introducing students to the concepts of universality versus cultural relativism, concepts that form the lens for many future reflections. Through this lesson, I assign the critiques of Makau Mutua and others, encouraging students to view the human rights movement from a completely different perspective and invoking Sue Bryant's Habit Three, which teaches students

⁴⁵ We learned after teaching a year's worth of one-week boot camp courses that the amount of material is simply too dense for students to absorb in one week, and have decided to switch back to the model where students prepare for their fieldwork in a quarter-long course before going in country.

a method for exploring alternative explanations for the attitudes that they may find in country.⁴⁶ For example, in Mutua's critique, he examines the work of human rights activists in terms of a "Savage-Victim-Savior" relationship, whereby the human rights activists are people who perceive themselves as "rescuers" of victims of human rights abuses in the developing world, saving them from third world aggressors and creating a system of Western civilization therein.⁴⁷ This critique can be jarring for bright-eyed, well-intentioned human rights advocates who come into the clinic assuming that their work could not be perceived as anything other than a positive contribution to society. At the same time, it provides an opportunity to think about viewpoints that may be diametrically opposed to their own.

By weaving this critique of human rights advocacy throughout the course of the students' preparation, they begin to engage in their own internal debate and reflection about their role in the human rights movement as they begin their work in country.⁴⁸ For example, we engage in culturally specific role-play exercises related to professionalism to examine the extent to which we should defer to local partners versus maintain our own position on certain issues. Engaging in such role-plays allows students the opportunity to begin stepping into the cultural roles that they will soon be facing in country, providing them with the language and the tools with which they can discuss the issues. Similar to the way in which Bryant encourages students to begin to become accustomed to challenging oneself to identify the many alternatives to the interpretations to which we may be tempted to leap in examining a client's behavior or motivations, in the context of international human rights fieldwork, this kind of preparation forces students to begin

⁴⁶ Bryant at 70-71.

⁴⁷ Mutua at 205.

⁴⁸ Peter Rosenblum states that the goal of this kind of engagement with students is to "teach human rights without adopting the destructive enthusiasm of the critic or the pristine fervor of the idealist, without trumpeting the inexorable march to victory or trashing the unwitting naif." Rosenblum at 305.

to examine other ways of thinking more generally in the context of working with local partners on the ground.

Because students doing fieldwork in an international setting do not have the benefit of a shared history as their clients, substantive preparation is an important part of our cultural training. The substantive preparation takes the form of a series of lectures on the historical and political context of the students' projects, as well as class presentations from the prior students discussing the actual work that they will be doing in country. For example, in our Cape Town program the substantive preparation begins with lectures related to the history and politics of apartheid as well as a lesson on construction, reconstruction and the state of affairs. Because most of the project work relates to customary law, we discuss at length the history of pluralistic legal systems. The substantive preparation portion also includes a segment on the role of race in South Africa, in which we discuss the similarities and differences to the way that race comes into play in our own society.

In addition, each returning student is responsible leading a class session for the next round of clinic students. The purpose of this assignment is to help prepare the next group of students who will be working at the University of Cape Town on the substantive issues that they will be dealing with once they arrive in an effort to transfer as much knowledge as possible to them. As the program develops, the goal is that each group of students will be more and more prepared for the work that they will be doing on the ground as the knowledge base of the substantive issues at Stanford Law School grows, thereby enriching the experience of the students who participate in the program as well as the value of their contributions to the Law Race and Gender Unit and the Refugee Rights Project at the University of Cape Town. It also allows students to begin to engage in the cultural debate as pertains specifically to their

upcoming projects in a safe environment, so that when they arrive in country they have already started thinking about their role in the work.

This substantive preparation allows us to begin the discussions that Sue Bryant outlines as Habits One and Two, namely to begin to analyze the similarities and differences between their own culture and the South African culture, and to ask the students to identify the differences and similarities between the people that they will serve through their projects and their historical place within the South African legal system. It has been clear throughout the course of the last year that the students who go to Cape Town more prepared on the substantive issues are the ones that end up excelling in the work that they do.⁴⁹ They are most apt to navigate the cultural issues because they have a better sense of the similarities and differences of the people with whom they are working, both at the Law Race and Gender Unit, but also the eventual beneficiaries of the work, the rural people that they seek to serve.

C. Recognizing the Differences Between Representing International NGOs As Opposed to Clients

Another way in which international human rights fieldwork is unique is that most clinical projects involve representing NGOs as opposed to individual clients. The majority of the articles discussing teaching cross-cultural lawyering in a clinical setting focus on client-centered lawyering, which requires different skills such as interviewing and counseling, intercultural communication, and working with interpreters.⁵⁰ While the cross-cultural questions that we

⁴⁹ In fact, whereas the boot camp course also used to incorporate skills training such as interview skills, working with interpreters and other more practical aspects of human rights advocacy, because we found the substantive training so crucial to students' ability to be effective in understanding the cultural aspects of their projects, we have re-focused the boot camp to emphasize these substantive areas of learning even more, including a unit on tradition and law in South Africa today and in the past and an in-depth examination of the relationship between custom and property rights in South Africa.

⁵⁰ See, e.g., Tremblay, Paul, *Interviewing and Counseling Across Cultures: Heuristics and Biases*, supra; Jacobs, Michelle, *People From the Footnotes: The Missing Element in Client-Centered Counseling*, supra; Sedillo Lopez,

confront in dealing with representing international NGOs as opposed to individual clients may include some of these elements, there are also issues that arise in representing international NGOs that are unique. For example, whereas identifying the client may be a simpler question in the context of direct client services, when we are working with international NGOs in the field, the question of identifying the client may bring on an entirely new meaning, forcing students to adjust their assumptions and biases accordingly. Similarly, in working with international NGOs in the field, it may be more complicated for students to develop a more typical “lawyer-client” relationship. The effect of this is that students often have a hard time accepting the client goals in lieu of their own pedagogical goals. Drawing on more traditional cross-cultural competency theory such as developing self awareness, understanding parallel universes and utilizing cross-cultural communication techniques, coupled with analyzing these issues through the lens of the critique on “Western Imperialism” can be an effective way of helping students to align themselves with the goals of our international NGO partners, thereby allowing them to represent them more effectively.

1. Identifying the Client

One of the challenges that we face in working with an international NGO is that often it is unclear who the ultimate client is. As Dina Haynes describes in her piece on client-centered international human rights work, identifying the client can be a challenging task: “By ‘who the client is,’ I mean several things: 1) that in the esoteric sense, an individual “is” more than her legal claim, and should be understood holistically; 2) that the client can be an individual or a herself/itself, but which impact others who are similarly situated; and 4) that the client can also

Antoinette, *Making and Breaking Habits: Teaching (and Learning) Cultural Context, Self-Awareness, and Intercultural Communication Through Case Supervision in a Client-Service Legal Clinic*, supra.

pursue a matter on behalf of others who will be the objects of the remedy.”⁵¹ This is further complicated when an individual is not involved at all, and instead you are reporting directly to an NGO, an organization that is made up of many individuals who are likely representing other individuals, or perhaps a broader cause. Because there are so many layers between the students and the eventual individuals whose lives they are seeking to impact, identifying the ultimate “client” and discussing the potential for essentializing the individuals they seek to serve is important in order to interact most effectively and represent the appropriate interests.

This issue arose in a project that we worked on to gather information for a report highlighting the sexual violence against women in connection with the elections in Zimbabwe. Our clinic asked to assist with interviews of numerous women who had suffered sexual violence at the hands of Robert Mugabe’s ZANU-PF Youth Militia and to draft affidavits of their stories. Although it would have been possible to individually represent any one of these women in a case against her perpetrators, our client was the international NGO who was gathering the stories in order to try to promote them more broadly in an attempt to gain more global justice as opposed to individual justice. Nonetheless, through the course of the interviews, it was clear that many of the women were also interested in obtaining own justice against their own individual perpetrators. This led to numerous reflection sessions with students about the goals of the project, and how to comport oneself accordingly knowing that we were representing the international NGO in its endeavors as opposed to the individual women. For the first part of our time in country, before the students had the chance to interact directly with the women, we also had numerous discussions about how our own biases may come into play in “othering”, essentializing and otherwise making assumptions about the goals of” the women themselves.⁵²

⁵¹ Hanyes at 395-96.

⁵² Haynes at 399.

2. Helping Students Distinguish Between Pedagogical Goals And Client Goals

Whereas working with international NGOs can present the problem of identifying the client on the one hand, on the other hand, when the client is identified as the NGO, the problem can then become that clinic students seek to place their own goals before that of the NGO because of the impersonal nature of the “client.”

Many human rights clinicians have expressed the challenge of aligning our pedagogical goals with the goals of our local partners. For example, Johanna Bond points out that in doing international human rights fieldwork, there is often “tension between the pedagogical goals of the faculty and the advocacy goals of the NGO. Representatives of the NGOs, for example, may be primarily concerned with simply getting work done. Their faculty counterparts may be primarily concerned with getting the job done in a way that maximizes learning for the students.”⁵³ This is complicated by the fact that when we are in country we are generally working with NGOs as opposed to directly with individual clients. As such, we have seen a tendency for students to demand of the NGOs that their projects meet their own learning goals as opposed to if it were a individual client giving direction.

An example of this is through our work with the University of Cape Town’s Law Race and Gender Unit (LRG). Because the LRG is focused primarily on research-based work to support eventual legislative advocacy or litigation, students are not able to experience the types of “performance moments” that a student might hope for in a clinical setting such as the opportunity to advocate before a court or tribunal. This presents an ideal opportunity to discuss with students the ways in which promoting our own goals over those of our partners might further embody the “Western Imperialist” critique that we have discussed. Through journals and

⁵³ Bond at 342.

more extensive reflection papers, students develop and evaluate progress toward learning goals that they set at the beginning of the quarter. Often, when students arrive in country, these exercises force students to confront the extent to which their own personal goals may not be in sync with the goals of the projects themselves. For example, many students who worked with the Law Race and Gender Unit at the University of Cape Town initially expressed a desire to learn how to work directly with people. Although the Law Race and Gender Unit does some fieldwork related to their projects, a large part of the work that they do is research-based, focused on providing support to other organizations who work directly with clients to implement the litigation strategies that are developed as a result of the research. As a result, in spite of my attempt to set expectations for students that they should not expect direct client contact, many students left for South Africa hoping that interviewing people in traditional African villages would be part of their work, likely influenced largely by a misconception of what it means to be a “human rights lawyer.”⁵⁴

Students who went into their work with goals that were incongruous with the goals of our NGO partners were forced to re-examine the extent to which human rights work should be lawyer-driven as opposed to client-driven. They were forced to reflect upon the extent to which their own actions of creating certain expectations about the work was a form of western imperialism or importing values. This was especially true even when the goals were not necessarily inconsistent, but when projects would change mid-quarter. Reflection about how students’ goals fit within projects as they evolved helped students to be more comfortable with the uncertainty, and thereby more prepared to work in an environment where students were able

⁵⁴ Hurwitz at 544 (“Expectations can create tensions with students, too, particularly when they have preconceived notions of human rights advocacy.” Hurwitz goes on to explain an example of Laurel Fletcher’s clinic at Berkeley Law School, where students felt that their assignment “was not legal work,” instead wanting to “do something useful.” “They wanted to become involved in the issues, but did not see a role for themselves in the priority areas identified by the interview subjects”).

to act as so-called “ambivalent advocates” who are “committed to action, but alert to the multiple consequences; to make them more sympathetic to the plight of people trying to do good, while at the same time more critical of those who do it without reflecting on the possible negative consequences.”⁵⁵

The act of engaging in this kind of reflective conversation about potentially incongruous goals between the student and the partner organization or the client does not necessarily mean that we will successfully reach all of those students, to guide them to their “ah-ha” moment where they realize that their own learning goals may never align with their project and that we sometimes must learn to subvert our own objectives to those of the partner or client in the interest of cultural sensitivity. Indeed, some students leave their field experience never learning that lesson. But by consciously engaging in that type of conversation, more often than not, students become much more critically aware of their role in the human rights movement, and sensitive to the idea that we should be working for our partners on the ground and not the other way around.

D. Confronting Extreme Difference and Poverty

Another difference between international human rights fieldwork and more traditional clinics, is that students may be forced to confront extreme poverty, perhaps in a way that they have never been exposed. There is a potential for students to be left paralyzed by the seeming hopelessness of the poverty if this exposure is not coupled with intense reflection on how the students are experiencing it and how it is affecting their work. In identifying their similarities and differences between themselves and the individuals that they eventually seek to impact, they may be left unable to identify with their eventual clients at all, thereby inhibiting their ability to

⁵⁵ Rosenblum at 304-05.

raise antennae to recognize their own ethnocentric thinking and preventing them from seeing through their own biases and assumptions.⁵⁶ On the other hand, in a place like Windhoek, Namibia or Cape Town, South Africa, it is also possible to exist without ever seeing the severe poverty that exists just outside of the colonial town centers, which could be deceiving to students, depriving them of the full experience of the potential impact of their work. The question for an international human rights clinician is how do we use clinical methods to force students to confront issues of difference and privilege?

1. Providing Opportunities for Meaningful Interactions with the People Whose Lives the Students Seek to Impact

As a way to combat these issues, in our Southern Africa clinics, we always begin with a tour of the entire city, including the local townships. Sensitive to avoiding the stereotypical “poverty tourism” where tourists travel around in a bus taking pictures of apartheid struggle monuments without ever stepping foot in the community, when we take students to the townships we engage with local residents who tell their stories and provide a tour of empowerment projects within their communities. We have also provided other opportunities for interaction with local communities such as an opportunity to volunteer with a local soup kitchen or a women’s shelter. In so doing, students are able to interact with community members, talk with mothers and children, seeing the obvious differences with which they are confronted, but at the same time the human similarities that bind us all. These interactions set the stage for students to eventually imagine parallel universes in working directly with clients in the field and confront themselves as cultural beings, full of biases and stereotypes they may never have had to face before.

⁵⁶ Bryant at 88-89.

The fact that students doing international human rights fieldwork can actually meet the individuals that they represent is one of the enormous benefits of doing work in country. Many students who do not initially have the opportunity to interact with their individual clients often end up completely transforming their perspectives once they are finally able to have that in person interaction. For example, our work with the women from Zimbabwe did not come until after nearly three months of research for the international NGO with whom we were working. Throughout the course of our time in the field leading up to the interviews with the women, I could sense nervousness from the students about what their interactions with the women would be like. One student in particular, after reading some of the prior affidavits, confided in me that she felt like she was not sure that she would be able to “stay strong” throughout the course of the interviews after hearing how traumatic the stories were. This led to a discussion about how that student’s fears about what had happened to these women may impact her ability to interview the women in a nonjudgmental way. By providing her with the language to identify similarities and differences, when the student finally did meet the women in person, to place faces and individual stories on these mothers, daughters, wives and sisters, that she was able to see them as individuals as opposed to the “other.”

Another student had a similar experience in our Cape Town clinic when she went to visit the traditional community that she had been researching all quarter. The student’s project involved identifying ways in which the people of Msinga used customary courts in order to resolve disputes. After several weeks researching their practices, the student had the opportunity to travel to Msinga to witness the customary court in session. It was only through this trip that she was able to realize how many generalizations that had been in the anthropological texts she had been using for research, causing her to essentialize in her own write-ups. By witnessing the

very different practices and traditions between two tribal groups in Msinga within just a few miles of each other, she was able to challenge her own assumptions about the practices that she had been researching, resulting in a much more culturally informed work-product.

2. Creating Peer-to-Peer Relationships for Students in the Field

In addition to providing direct community contact, another way that has been particularly effective in helping students to eliminate the focus on the “other” is by creating a peer-to-peer relationship with other students in country in order to develop a two way street for learning. It has been said that creating “bi-national” clinics, where U.S. students work side by side with students in the Global South can be an effective way to rich well of experiences from which students can draw in discussions of cross-cultural lawyering.⁵⁷ Although the Stanford programs in Southern Africa do not have a formalized relationship engaging students in such peer-to-peer professional opportunities, it has been clear from our work that those students who have had the experience of working at a peer level with young people in the field have been enormously beneficial toward helping students navigate cross-cultural exchanges. It is not uncommon for students to come away from their in country experiences with an acute sense of difference and privilege. Particularly those students who have not spent a significant amount of time in the developing world are often left shocked by the overwhelming nature of the poverty that they

⁵⁷ Paoletti, Sarah, *Transnational Responses to Transnational Exploitation: A Proposal for Bi-National Migrant Rights Clinics*, 30 U. PA. J. INT’L L. 1171, 1183 (2009)(“[A]s more clinical programs develop across the globe, we have an opportunity to develop richer, more comprehensive exchanges through clinic to clinic collaborations....This form of direct collaboration among students can contribute to the richness of opportunities for students and professors in a number of different ways, both self-serving and altruistic. The apparent altruistic reasoning is simple: North-South clinic collaborations allows for clinics in the northern hemisphere to provide direct support to the work of emerging clinics that may be operating in more difficult political environments and with fewer resources. From a self-serving perspective, bi-national clinical collaborations provide our students with access to client populations and first-hand accounts of legal systems and how they operate that they may not otherwise be privy to. In addition, it provides our students with a more comprehensive set of experiences from which to draw upon in discussions of the cross-cultural lawyering, recognizing that the cross-cultural lawyering of today does not just refer to the lawyer-client relationship, but also the relationship between lawyers, between lawyer and client, between lawyer and decision-maker, and between legal systems.”)

have witnessed. This can very quickly lead to an “us/them” paradigm, where students “become blind to the more subtle points of privilege.”⁵⁸

From what we have seen, students who engage with peers in the context of their fieldwork are much more likely to challenge their own presumptions, not only about local partners, but also about their clients. For example, in one project to assist the University of Namibia Katutura Legal Aid Clinic, we paired our students with University of Namibia law students to prepare a needs assessment of the township community. Instantly, our students were forced to work collaboratively with the University of Namibia students, relying on them for cultural considerations in developing the questionnaire. When they administered the questionnaire outside of a local supermarket, again our students were reliant on the University of Namibia students to overcome the language barrier. Whereas our students went into the discussion thinking that they had a significant amount of knowledge to convey about how to form clinics based on our history of clinical education in the U.S., they soon realized that they had just as much to learn from the students with whom they were working. Another way that we created peer relationships for our students in Namibia was by hosting an evening lecture series bringing in local leaders in order to encourage students to incorporate local ideas into their own way of thinking about the issues. Through witnessing the types of conversations that ensued about race, culture and human rights, it became clear that the extent to which students can be forced to interact meaningfully with local partners and peers can truly inform the extent to which they are able to navigate culture in their projects.

⁵⁸ Bond at 334.

CONCLUSION

As our students become more and more globally engaged, it is important that we integrate cultural sensitivity training into our clinical pedagogy, not only so that we can create mutually beneficial relationships where students can provide valuable assistance to our NGO partners around the world, but also so that we can train students to think critically about their role in the human rights movement so that they can effectively participate in building it. The examples from the Stanford Clinic's in country programs are some ways that we have found useful for teaching students how to navigate culture in the field. As clinical fieldwork becomes more prominent in the law school curriculum, I look forward to continuing the conversation around how we might develop innovative ways to train the next generation of human rights lawyers in a culturally sensitive way.