



Combining Learning and Legal Aid: Clinics in Africa

*Report on the First All-Africa Colloquium on Clinical Legal
Education, 23-28 June 2003*

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Clinical Legal Education in Africa

Report on the First All-Africa Colloquium on Clinical Legal Education, 23-28 June 2003, organized by the Association of University Legal Aid Institutions of South Africa, the Open Society Justice Initiative and the University of Natal.

University faculty and legal practitioners from over twenty countries attended the All-Africa Colloquium on Clinical Legal Education, which took place in Durban on June 23-28, 2003. The first continent-wide meeting on university-based legal clinics brought together over 60 individuals, ranging from seasoned “clinicians”—as clinical teachers and supervisors are known—to prospective pioneers, and included experience from both long-established clinics (such as in Kenya, South Africa and Zimbabwe) and the newest on the continent (in, for example, Mozambique and Sierra Leone). Reports from clinics outside Africa—in Bangladesh and Brazil—provided further valuable perspectives. For participants from countries currently considering the creation of university-based clinics—Angola, Ethiopia and Nigeria—the meeting provided a unique opportunity to learn about each phase, from start-up through curriculum development to potential collaboration with state legal aid services. Interested university faculty from francophone African countries, Benin, Burkina Faso and Senegal, where there are few initiatives as yet, were handed useful arguments for the promotion of clinical education.

The Colloquium’s objectives were: to inventory existing and expected clinical initiatives on the continent and discover how they can learn from each other; to identify key challenges in founding clinical programs and develop strategies for addressing them; and to explore strategies for effective networking and capacity building of African clinical programs. Discussion focused largely on highly practical issues—the objectives of legal clinics, the steps involved in setting one up, the likely obstacles in the African context and strategies for tackling them. Focused presentations were followed by region-specific working groups to discuss concrete aspects of legal clinic construction within universities. Significant time was devoted to

defining precise objectives for clinical legal education. These include in particular ensuring a rounded practical education for legal students and the contribution clinics can make to access to justice. The South African experience of integrating clinics with the state legal aid board and community-based paralegal networks to create “justice centres” offering fundamental legal support for individuals everywhere was examined in detail.

However, notwithstanding the meeting’s functional orientation, numerous bigger picture threads ran through the presentations and the overall debate. Among these were: the role of the legal profession in advancing social justice and human rights; the importance of real-life legal experience to a lawyer’s education; and the vital contribution law students can make to increased access to justice. There was much debate on the potential of clinics in the African context, where legal aid systems are often weak, access to justice incomplete, and university law departments inflexible or conservative.

The Colloquium generated a number of initiatives:

- Plans to develop clinics in a number of countries, notably in west Africa, where a nascent clinic in Sierra Leone may soon be joined by a pilot clinic in Nigeria, and possible initiatives in francophone west Africa. Other countries where developments are expected, resulting in part from the meeting, include Angola and Mozambique.
- Training courses for clinical professors are to be organized at the University of Natal early in 2004. To maintain the momentum generated by the Colloquium a second colloquium was suggested for 2004. A steering committee has been formed to oversee arrangements.
- Weeklong study-visits will be organized for national clinical teams to functioning South African clinics, to begin in late 2003 with groups from Nigeria, Sierra Leone and Ethiopia.

- The resource materials generated for the event will be organized and expanded to serve as a start-up and operational resource for clinical programs on the continent.

The event was organized by the Justice Initiative in cooperation with the South African Association of University Legal Aid Institutions (AULAI) and the University of Natal and sponsored by the Open Society Institute, with additional funding from the Ford Foundation, the Kenyan section of the International Commission of Jurists (ICJ) and the European Union funded Foundation for Human Rights in South Africa.

Introduction: Modelling South Africa

This report follows the Colloquium agenda in allocating significant space to South Africa's experience. The meeting's setting in Durban and the attendance of numerous experienced local clinicians reflect South Africa's uniquely advanced clinical background. Today 21 South African law schools run independently-funded law clinics. The first was established at the University of Cape Town in 1972. The Universities of the Witwatersrand (Johannesburg) and Natal (Durban) followed suit in 1973. By 1994, the South African Legal Aid Board had entered into partnership agreements with five universities to run additional public defender clinics for law graduates. These and similar initiatives now form the basis of "one stop shop" clinics called "justice centres", aimed at ensuring access to legal advice, information and assistance in rural and poor areas of the country.

South Africa is equally noteworthy for its strong legal structures for human rights and the rule of law, largely a result of the long civil rights campaign to overthrow apartheid. *Karthy Govender*, Chair of AULAI, observed that the 1996 Constitution embedded notions of "participative and direct democracy" founded on respect for the rights of South Africa's many constituent ethnic groups. "The process of drafting the Constitution was a formidable struggle to move from repression to democracy—and it was achieved by lawyers," he observed. The continued consolidation of South African democracy ensures that the country

remains a superb model for its neighbors, who often contend with extremely poor human rights conditions at home.

Today, vibrant debate on core human rights questions is embedded in South African public discourse. Colloquium participants had the privilege of an address by *Zachariah Yakoob* of the South African Constitutional Court on the role of social and economic rights in the current South African constitutional order. A drafter of the Constitution and author of the critical Grootboom ruling,¹ *Yakoob* declared "it is clear that if a man does not have health, housing, a job, food, water, his 'civil and political rights' are of no use to him. To approach such a man on the basis of the difference between civil and political and social and economic rights is meaningless." The South African Constitutional Court has played a unique role in providing substance to the social and economic rights of indigent South Africans.

The South African setting also allowed for analysis of issues specific to that country's often harrowing, recently inspiring, experience—yet highly relevant elsewhere on the continent. *Asha Ramgobin*, director of the University of Natal's clinic, together with *Munirah Osman-Hyder*, introduced participants to some of the more challenging cases to pass through the clinic. The virulence and agonizing consequences of South Africa's severe HIV/Aids outbreak have demanded a complex response, including but not restricted to legal measures to combat discrimination and obtain medicines. Ramgobin also related the Natal clinic's first major challenge—to represent 300 applicants from nearby Cato Manor, who were threatened with eviction to make way for construction development. A just settlement was ultimately achieved.²

¹ Government of South Africa v. Grootboom and others, Constitutional Court - CCT11/00 2001 (1) SA 46 (CC) 4 October 2000. The constitutional court ruled in this case that the government had an obligation to ensure that state budgetary funding was allocated to the progressive implementation of the right to adequate housing contained in the constitution.

² See Ramgobin, A., *Reflections on the Challenges Facing Public Interest Lawyers in South Africa: Balancing the interests of land claimants with the need for low cost housing in Cato Manor*.

Like many emerging democracies, South Africa is a country where the cautionary maxim cited by Karthy Govender that “a lawyer is either a social engineer or a social parasite” carries weight. Outstanding examples of public interest lawyers—from Durban resident Mahatma Gandhi through the civil rights movement to South Africa’s first post-1994 President Nelson Mandela—can be set against the stock figure of the “ambulance-chaser”, familiar everywhere. Among other things, clinical legal education is a means to find tomorrow’s public interest lawyers among today’s students of law. Their role is as critical in countries familiar with the small indignities of everyday injustice as in those devastated by human rights atrocities.

Although there is less experience of legal clinics outside South Africa, recent signs show a growing interest elsewhere on the continent. There are clinics in Kenya, Lesotho, Malawi, Tanzania, Uganda, Zambia and Zimbabwe and fledgling programs in Ethiopia, Mozambique and Sierra Leone (see the Chart in the Annex).

Laboratories of Learning

University-based clinics take different forms. Most include both classroom and practical lessons—where the classroom component often involves the teaching of skills and values through simulations, readings, discussion and reflection; and the practical experience can include working at in-house clinics under the supervision of university-based lawyers, or through externships with non-governmental legal organizations or courts. The classroom provides a forum for preparation of and reflection on the practical work. In all cases, clinics involve learning from experience—and in some countries they may further serve to supplement gaps in formal access to justice.

The pedagogical goals of clinical legal education are summed up in the term “laboratories of learning”. By introducing law students to the actual legal problems experienced by individuals in the course of their daily lives, clinics expose students to the realities of law in practice and to clients as real people with problems that can be framed,

refined and resolved by means of the law. These experiences widen students’ perspectives on the potential of law to deliver justice. Students in clinics further “learn how to learn from experience”, a process referred to by *Peggy Maisel* of the Florida International University College of Law as “reflective lawyering”. A sense of ethics and professional responsibility is thereby stimulated.

According to *David McQuoid-Mason*, professor and veteran clinician at the University of Natal, clinical students become skilled *inter alia* in: client interviews and counseling; advocacy; negotiation; critical thinking; problem-solving; legal research; case-planning; drafting; communication skills; and “thinking on your feet”. The role of clinics in nurturing these skills is particularly important in those African countries whose legal traditions have placed more emphasis on formalism and less on good lawyering skills, as Maisel notes. In many law departments on the continent, according to *Yousuf Vawda*, a former Chair of AULAI, “students have to be prepared for a profession with a particular history and ethos [where] little attention is paid to critical thinking, to extending the parameters of the possible and the desirable or to examining both positive and negative aspects of law and practice.” In these circumstances it is perhaps no harm if law clinics rock the faculty boat.

For clinics to function effectively, the curriculum must include the above skills explicitly as educational objectives, together with the goal of promoting public interest law. The latter is encouraged among students by prioritizing the legal problems that reflect the most important development needs of the country of which they have first-hand experience—and by emphasizing the equal right to justice of disadvantaged clients and communities.

“Experiential learning generates its own resources”
Yousuf Vawda contrasted the ideal clinic—where student groups would be small, resources abundant, clinicians highly experienced, and students proactive—with the reality in most law schools: “usually the reverse”. Law clinics champion *experiential learning*, recognizing that apparent shortcomings are also the raw materials for working in a given social reality. By using the resources at hand,

the results will more closely match the environment where practice is to take place. Good teaching is equally possible in low-tech environments, Vawda commented, because learning is less dependent on the kind of equipment available than on the willingness of clients, students and supervisors: "People are our best resources."

Nevertheless, if clinics are to be successful a number of basic conditions must be met. Student groups must be as small as possible. Some form of accreditation is needed, at least in the mid- to long-term—otherwise students' coursework will impinge on clinical engagement. Teachers must be trained and able to meet regularly in order to ensure some basic common objectives and methods. Joy K. Asiema of the University of Nairobi, Kenya, noted that a good clinical class requires extensive preparation by the teacher, attention to detail during execution, and proper evaluation afterwards by both teachers and students. And staff must be properly paid—preferably as part of the faculty—so that they do not simply leave in search of better work.

Other cost-effective methodologies to assure that clinics become a quality learning environment include an explicit emphasis on problem-solving (through, for example role assumption), partnerships and team work. Close supervision by experienced teachers—or by advanced students, who can receive credits for it—is vital to ensuring a reflective learning experience. Evaluation and feedback processes need to be embedded, both in the classroom and "in the field".

Law and society

Because clinics operate in a particular social and legal context, they can engender an understanding of the bigger picture and a broader view of the role of law in society. As McQuoid-Mason remarks, "Student activities in legal aid clinics expose them on a regular basis to social justice issues in the new South Africa. Clinical work enables them to obtain a realistic insight into whether the government is able to deliver on the ambitious list of socio-

economic rights enshrined in the final Constitution."³

Furthermore, in countries rich in cultural diversity, where customary law is often embedded in the legal system—as in many African countries—clinics provide an occasion to examine possible or actual clashes between different traditions—and involve students in their resolution. In one example from the University of Natal's clinic, a client from a Zulu-speaking traditional family brought a complaint of non-payment of bride price (*lobola*). Rather than simply applying the law, clinicians chose instead to examine the practice from the perspective of women's rights. Questions of this kind are relevant in numerous countries. Should traditional practices be treated as sacred cows or should they be open to critical examination in the interests of equality and justice?

Integration with the curriculum

Joy K. Asiema described a "hybrid" clinic in the University of Nairobi, which provides students with valuable experience but is not yet fully integrated into the law curriculum. Clinical education at the "Students' Association for Legal Aid and Research" (SALAR) is very popular, but as yet neither mandatory nor accredited. Students receive training and prepare briefs on cases which are then passed to lawyers.

The Nairobi clinic's objective of fuller integration in the academic curriculum is shared by most university clinics. Of necessity, clinics often begin small and only gradually accumulate the skills and experience required for recognition as a full-fledged accredited course. Often, a clinic must demonstrate both its value as a teaching tool and its genuine use to public interest law in order to win over faculty members who may at first be suspicious on both counts. Over time, however, everyone benefits from the transition. The university broadens its curriculum and appeal. Only a course offering credits or the equivalent will justify the time required by students to apply themselves fully. Only committed students can properly assist the local community. A curriculum course can attract and keep better staff faculty, and ensure that they are paid

³ McQuoid Mason, D., "Teaching social justice to law students through community service: The South African experience" in Baloro et al, *Transforming South African Universities, Capacity Building for Historically Black Universities*, Africa Institute of South Africa, 2000, p.91.

properly. Teachers too can benefit from a closer view of laws in operation in the real world. Clinics become a means to improve the quality of the legal profession generally.

Access to Justice: Clinics and Legal Aid

“Legal aid in Africa exists in name only in most countries,” according to *Clifford Msiska* of Penal Reform International in Malawi. “This fact is confirmed by the overcrowding in prisons, with high remand populations across the continent.” Although indispensable to the fundamental right to a fair trial, few African states are capable of providing legal assistance as demanded by international human rights norms “where the interests of justice so require”. In addition, for many Africans, both their rights and the legal system to which they pertain are written only in foreign languages and are poorly known or understood. Msiska notes that in Kenya legal aid is in practice available only in cases of homicide “and even then only for the trial phase.” Resources are a problem, but not the only one: lawyers are comparatively few, generally urban-based, and overwhelmingly concerned with civil matters.⁴

When it comes to legal aid systems, governments in many countries are unable to operate in isolation from civil society, due in part to a lack of adequate resources but also to the fact that the intended beneficiaries might need to have their needs articulated independently.⁵ In South Africa, university-based clinics have become increasingly integrated with the wider national system of legal aid delivery.

The need for legal aid in South Africa is great. According to *Martin Monyela*, Secretary General of the National Community Based Paralegal Association (NCBPA), three million households—

⁴ Msiska, C., “A Paper on Paralegal Advisory Services in Malawi Presented at the First All-Africa Clinical Education Colloquium”, 25 June 2003.

⁵ Bengtsson, D., “Justice For All? Law Clinics in South Africa”, LLM. Thesis, Gothenburg University, Spring 2002, p.27. Online at: <http://130.241.135.85/studentuppsatser/uppsatser/200278.pdf>

almost 18 million people—live under an official poverty line of U.S. \$58 or less per month. Of these the hardest hit are women and blacks: 57 percent of black South Africans are designated poor as against 2.1 percent of whites. About 20 percent of South Africans have no formal education, and many do not speak English, still the predominant language of legislation in South Africa.⁶

After 1994, the effective democratization of legal aid in South Africa created unprecedented pressure on a system poorly designed to meet everyone’s needs. By 1998 the Legal Aid Board (LAB) was close to bankrupt, and the *judicare* system—by which private lawyers were paid on a case by case basis to represent indigenous defendants *ex officio*—had to be reviewed definitively.⁷ By then, however, legal clinics had already established an important role in supplementing the legal aid system.⁸ State legal aid was increasingly used to help fund law clinics, many of which had been in operation since the early 1970s from 1994 on, when clinics began to take on some of the legal aid caseload. In South Africa, where clinic students cannot represent clients in the courts, they can nevertheless fulfill crucial legal functions in numerous areas where representation is not required—notably legal research and advice. Also, law student provision of these services is highly cost effective, coming in, between 1994-1996, at about half the amount paid for *judicare* lawyers.⁹

Paralegals

Access to justice is a problem for the poor—the wealthier can generally afford lawyers. Few lawyers, for their part, choose to work in the non-lucrative legal aid sector, or indeed in criminal law generally. In poor countries there are not enough lawyers to meet the

⁶ Monyela, M., “Presentation to All Africa Clinical Legal Education Colloquium”, 25 June 2003.

⁷ McQuoid-Mason, D., *Access to Justice and the Role of Law Schools in Developing Countries: The South African Experience*, 2 June 2003, p.37. Forty-six percent of a total of 997,707 cases were referred between 1994-1998.

⁸ McQuoid-Mason, “Legal Aid and Development: Lessons from South Africa and Some Thoughts for Nigeria” in *Law and Development: Facing Complexity in the 21st Century*, Cavendish Publishing Limited, 2002, pp.208-209. See also Bengtsson, pp.2-3.

⁹ McQuoid-Mason, *supra* fn 8.

demand for legal services and qualified lawyers are generally concentrated in urban areas—with a consequent under-servicing of legal needs in rural and poorer areas.

Paralegals provide one means to help address these problems. Paralegal offices in rural locations can serve both as centers for dissemination of basic legal information and as the first port of call for individuals needing legal advice or assistance. In Malawi, where up to 50 percent of prisoners are awaiting trial, one approach has been to provide prisoners themselves with the basic legal knowledge for their own defense, according to Clifford Msiska. Part of South Africa's response to the burgeoning demand for legal services, has been to formalize the involvement of a nation-wide network of paralegals through a Legal Practice Bill, yet to be passed, which recognizes paralegals and ascribes them some powers, such as a limited right of appearance in courts.

According to Monyela, two factors facilitate this formalization.¹⁰ The first is the existence of an organized paralegals network in South Africa since the formation of the NCBPA in 1996, bringing together over 350 advice offices from all nine provinces. The second is the development of standards and qualifications to ensure a basic quality of service among paralegals. This process, which is currently underway in South Africa, can be facilitated through links with universities and university-based clinics. The University of Natal has so far trained 150 paralegals in this way.¹¹

To function effectively paralegals must have the backup of “a practitioner who can take matters to court where the paralegal feels there is a need to litigate”, according to *Bongani Khumalo*, director of the Community Law and Rural Development Centre.¹² Links with the formal legal profession are also needed to allay qualified lawyers' concerns that paralegals might steal their clientele and/or harm clients' interests through unprofessional

service. With the support of the legal profession paralegals can act fruitfully as a channel and filter for the formal system rather than a drain on it.

Since 1998, South Africa has been working towards combining the legal services of university clinics, paralegals and the LAB into *justice centres*, providing basic legal information, legal advice and the information needed for recourse to the courts where necessary. According to *Brian Niar* of the LAB, there are 40 justice centres currently in existence in South Africa, with 20 more planned for the end of 2003. Ultimately the aim is to have one within 100 kilometers of every town and village.

Specialized clinics

Clinics can play a crucial role in focusing legal assistance on the rights of marginalized or vulnerable groups, such as ethnic minorities, refugees, children, prisoners or women. Specialization allows clinics to tackle systemic deficiencies in the delivery of justice, while at the same time building the expertise of students in a particular area of law. Often the first step is to inform individuals of their rights. “Street law clinics”, as they are called in South Africa, aim explicitly at raising rights consciousness among targeted vulnerable groups. In Benin, a similar role is performed by non-university-based non-profit legal centers targeting women. “What we try to do,” according to *Marie-Elise Gbedo*, director of the Cotonou-based Association de Femmes Juristes, “is to show that justice is not just for the rich—it is for all.”

Examples of South Africa's specialized clinics were presented at the Durban Colloquium. *Lee Ann de la Hunt* of the University of Cape Town spoke of that clinic's program on the rights of refugees, a significant issue in a country positioned close to several troubled states. The situation of refugees is exacerbated by what de la Hunt describes as “the general xenophobia in our country”. The clinic's work was formalized with the UNHCR in 1998. One of the clinic's students recently published a paper detailing South Africa's obligations towards refugees. “We feel that the way our society treats foreigners is a measure of our commitment to international human rights,” says de la Hunt. A project at the clinic at Rhodes University focuses on domestic violence, considered acceptable in many parts of the country, according to *Sibongile Mkumatela*.

¹⁰ Monyela supra fn 6.

¹¹ Khumalo, B., “Community-Based Sources of Legal Information and Redress”, paper presented at the Africa Clinical Legal Education Colloquium, 25 June 2003.

¹² Ibid.

McDivitt Hove of the University of Natal clinic spoke about the children's rights program there. Children are frequently incarcerated in South Africa, although unlike adults they are not generally equipped to educate themselves about their rights. Hove declared: "What we must do for these children is give them a sense of belonging. And incarceration will not do that. The only way we can do that is through society—through what we do." *Rowena Bernard* and *Gary Howard*, also of the University of Natal's clinic, spoke respectively about clinical projects on HIV/Aids, an urgent problem in South Africa, and on land rights, an issue with complications extending back to the apartheid days. Eviction cases require swift reactions on the parts of clinics—something which has been facilitated in South Africa through so-called "clusters"—i.e. groups of clinics and other legal actors who coordinate around certain issues. Each of these subjects is relevant in other African countries too.

Clinics Elsewhere: Africa, Asia, Latin America

Participants learned of the significant experience of clinics in Kenya and Zimbabwe, as well as recently founded clinics in Mozambique and Sierra Leone. Clinicians from Bangladesh and Brazil provided comparative perspectives from further afield.

Kenya and Zimbabwe

Clinical structures differ. Moi University in Kenya, as described by *Tom Ojienda*, has a similar structure to the University of Natal, South Africa—including preparatory clinical components in the first three years of the LLB degree, with practice at the clinic reserved to the fourth year. In the University of Zimbabwe, however, which has run a clinic since 1973, students are excluded in first year but already begin work on cases in their second and third years, according to *Vengai Guni*, the clinic's director. By their fourth year, better students can take cases in the High Court with the permission of the Attorney General—a possibility not available to South African students. During the summer breaks, Zimbabwe's clinical students are "farmed out" to private law firms, the Attorney General's office and

other private sector work such as at insurance companies.

Human rights cases have recently become "a burgeoning field" in Zimbabwe, according to Guni, and many cases are taken on in students' fourth year, including a contemporary case where bail set on a political leader charged with treason, at 10 million Zimbabwean dollars (c. U.S.\$ 12,000), was "tantamount to not allowing bail at all". In Guni's understated words "Human rights cases are often dangerous, but we manage."

Bangladesh

By contrast, in Bangladesh neither students nor staff are allowed to practice law, according to clinical pioneer *Mizanur Rahman*, and so the emphasis is on simulation and moot courts. Yet in a country whose judiciary has been referred to by Transparency International as "the most corrupt institution in the world",¹³ there is plenty of room for alternative approaches in the classroom. Clinics aim to eschew the "Asian despotism" model of guru-like teaching in Bangladeshi schools, in favor of empowering a generation first as independent "rebellious lawyers", and then as "developmental lawyers" to tackle the massive poverty that plagues the country.¹⁴

Brazil

Brazil's legal clinics have been in operation for over 30 years, when they were established as a response to military rule, according to *Ana Claudia Pardini* of the Dom Paul Evaristo Arns clinic in the Catholic University of Sao Paulo. Today they can function as legal offices, once they obtain a license, to serve households earning less than U.S.\$ 280 per month. Students are closely supervised as they file their first cases, and attend court in the gallery only. Since its beginning in 1999, the clinic has been inundated with cases: 15,000 in total, of which 500 are currently pending. In one groundbreaking case, the clinic challenged the city of Sao Paulo on behalf of two

¹³ Transparency International Bangladesh, *Annual Report of Transparency International Bangladesh 2002*.

¹⁴ Rahman, M., "From Traditional to Rebellious to Developmental Lawyering: Tortuous Journey of clinical Legal Education in Bangladesh", presentation at the First All-African Colloquium on Clinical Legal Education, Durban, 25 June 2003.

neighborhoods, Jardim Angelo and Capao Redondo, both of which suffered high levels of homicide. A simulated tribunal generated media attention, forcing the state to agree to build recreational “social areas” for the two areas. The decision impacts 200,000 people directly.

New schools: Sierra Leone and Mozambique

The newest African clinics are in Sierra Leone and Mozambique. *Yada Williams* of the Human Rights Clinic at Fourah Bay College in Sierra Leone described an inter-disciplinary clinic that works together with non-legal departments such as economics and sociology to develop a means to help the country overcome the horrific human rights legacy of more than a decade of civil war. The clinic, he said, is “creating a pool of human rights activists in an understaffed human rights community.” A clinic established in 2003 in Eduardo Mondlane University in Mozambique has barely begun operations. Clinicians *Elisia Vieira* and *Tomas Timbane* reported that firm foundations are slowly consolidating beneath the enterprise, though many challenges remain, with few staff to date, no full time lawyers, and scant funding. The new clinic has an arrangement with the Human Rights League of Mozambique, which refers clients with cases suited to the clinic’s capacity and experience.

Setting up a Clinic

At the Colloquium, region-centric working groups discussed the challenges met, where clinics already exist, or expected, where they do not. Possible strategies were put forward.

Challenges

The primary challenge located by all groups was a lack of resources. This includes shortages of material/administrative resources, such as the limited availability of office/classroom space for a clinic, low access to computers and communications infrastructure, insufficient pay for potential clinicians, a lack of books and training materials. Transport was frequently mentioned as a practical difficulty, particularly where access to justice is constrained for rural communities to which, ideally, clinic students should travel. In

addition there are often scarce human resources—an absence of training and experience in practical legal education of clinic staff and low capacity to fundraise.

Other challenges identified across all regions included:

- Large student interest as against probable initial low faculty involvement;
- The fact or likelihood of lukewarm reception from the faculty, and a resistance to altering curricula;
- Language difficulties—students may speak different languages and/or have low literacy in English/French/Portuguese, the languages of law in Africa;
- Absence of student practice rules to enable students in the final grade to appear in court with supervision;
- Resistance on the part of professional legal practitioners to the involvement of non-professionals, including students and paralegals;
- The generally low knowledge among general populations regarding their rights.

Some challenges are specific to particular countries/regions. For example, the legal system in some regions, such as lusophone Africa, may differ from that in operation in countries with clinical experience; requiring that potential models be adapted significantly before use. University systems too differ: government influence over university structures in the francophone African countries can prevent faculty staff from altering curricula significantly without state support. In addition, clinical legal education needs a stable democratic environment in which to function, a condition lacking in a number of countries. In anglophone west Africa, unstable academic calendars, resulting, in Nigeria, from general unrest (such as labor disputes), or, in Sierra Leone, from long-term political instability, pose a significant problem to adopting new curricula. In East African countries with a tradition of clinical legal education, identified challenges were more functional in nature—one participant claimed that clinicians were “stuck with traditional assessment procedures—i.e. reporting—and need to think more innovatively”.

Strategies

Many of the possible solutions to the above challenges depend to a significant extent on the support of university faculty. These include, for example,

obtaining sufficient classroom space and equipment, starting training programs or fundraising initiatives, tailoring curricula to local needs, crediting clinical work, and networking with legal professionals and paralegals. Engendering the goodwill of the department—and overcoming any initial hostility—is therefore a priority. This may mean inviting faculty members to offer input into the clinical program during setup and operational stages, or asking for contributions of teaching time or for help in evaluating student progress. New clinics functioning at a small scale risk isolation from the department unless integration is pursued proactively. One clinician reported taking advantage of a change in leadership at the law department in order to give a presentation about the clinic and its activities to the faculty as a whole, thereby greatly increasing coordination between the clinic and the department.

Other strategies include promoting national and regional networks to create momentum behind the notions of clinics and of public interest law, collaborating with NGOs both in setting clinics up and channeling relevant cases to them. In francophone Africa, it was suggested that, to begin, loose arrangements between clinics and universities might demonstrate the usefulness of clinics, which could commence operations physically outside university campuses at first.

A template for starting up

Robin Palmer of the University of Natal, has laid out a nine-point list of issues that must be explicitly addressed by anyone wishing to set up a clinic:

1. The clinic's objectives and mission statement;
2. The clinic's structure within the law school/university or NGO;
3. Funding;
4. Infrastructure, administrative structures/ staff;
5. Training needs (for staff and students);
6. The academic curriculum;
7. Cooperation with government and non-governmental bodies;
8. Marketing, public relations and fundraising;
9. Developing a medium- and long-term plan.

Participants at the Colloquium gave thought to each of these points in constructing clinics in their respective countries, and drew up a list of strategies under each heading in each country present.

Conclusion

The four-day Colloquium included much besides practical discussions on setting up clinics. There were organized visits to the campus clinic at the University of Natal, and to a functioning paralegal office outside Durban. The Colloquium's peaceful setting on the campus of the University of Natal made for a pleasant environment to meet informally, conducive to reinforcing the foundations of this de facto network of African clinicians. A steering committee has been set up to guide the process more formally. Training courses for clinical professors are to be organized at the University of Natal early in 2004, and study visits to South African clinics will be organized for clinical teams from other African countries. To maintain the momentum, a second Colloquium was suggested for 2004.

ANNEX 1: African Clinical Initiatives Overview, September 2003

Country	University-based clinic?	Relevant Organizations	Remarks
Angola	No	Catholic University/ Agostino Neto University	600 lawyers in the country. 90 percent of lawyers in the capital, Luanda.
Benin	No	Association de Femmes Juristes du Benin (3 centres); University of Abomey-Calavi; National University of Benin	Non-university clinical centers exist. Students can't practice. Curriculum centrally controlled.
Burkina Faso	No	University of Burkina Faso	Students can't practice. Curriculum centrally controlled.
Ethiopia	New initiative underway.	Mekelle University, Tigray; University of Addis Ababa (no clinic)	Intensive lobbying required to convince government to allow accreditation.
Kenya	Two.	University of Nairobi; Moi University	"Hybrid" approach—clinics are integrated with courses but no credits, live client meetings and externships.
Lesotho	One.	University of Lesotho	Students give counsel and interviews, do legal research and monitored internships.
Malawi	One starting up.	University of Malawi	"Practical legal studies" department—will mainstream into course. Three faculty. 300 lawyers for 10 million people.
Mozambique	One new initiative underway.	Eduardo Mondlane University	Since March 2003: "Centre for Practical Legal Studies" Cases are referred to the "Human Rights League". Labor rights; prison visits.
Nigeria	Plans in progress with British Council help.	Augustine Nnamani Enugu Campus; University of Ibadan; University of Ado-Ekiti	130 million people; 36 universities; 13th poorest country in the world. A street law clinic exists. British Council support.
Senegal	No. Students help in non-university clinic.	Université de Gaston Bergé, St. Louis.	Initiative to start a clinic <i>outside</i> the university, drawing on law students.
Sierra Leone	One recent initiative.	Fourah Bay College, Freetown	"Human Rights Clinic." Extracurricular, no credits, open to other faculties besides law.
South Africa	Over twenty clinics since 1972.	A clinic in every law school.	Compulsory, accredited part of LLB. Legal clinics work together with Legal Aid Board and paralegal network.
Tanzania	One clinic.	University of Dar-Es-Salaam	Four year clinical program, including internships. Aim to foster legal practice in the core region.
Uganda	Two clinics.	Kampala Law Development Center	All lawyers undertake a diploma course to develop skills in legal practice. Focus on juvenile justice and community awareness.
Zambia	One clinic.	University of Zambia, Lusaka	Works closely with the Law Association of Zambia; training, counseling, training paralegals and legal awareness; government internships.
Zimbabwe	One clinic since 1973.	University of Zimbabwe	Compulsory for third and fourth years. Human rights focus planned. Currently most cases deal with "fast-track land redistribution". Students can practice.

Annex 2: List of Participants

Angola

1. Mr. Eduardo Vita
Angola Bar Association

Benin

2. Mrs. Marie -Elise Gbedo
Women Lawyer's Association

3. Dr. Victor Topanou
Law Faculty
National University of Benin

4. Mr. Gilles Badet
University of Abomey-Calavi

6. Mr. Eduard Andre Gogan
Prisoner Assistant Project

Burkina Faso

5. Prof. Salif Yonaba
Faculty of Legal and Political Sciences
University of Burkina Faso

Botswana

6. Prof. Daniel Nsereko
University of Botswana

Ethiopia

7. Prof. Wray Witten, Dean
Faculty of Law
Mekelle University

8. Mr. Abraham Ayalew
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Mekelle University

9. Eyoel Behailu
Faculty of Law
Mekelle University

Kenya

10. Mrs. Joy K. Asiema
Faculty of Law, University of Nairobi

11. Mr. Tom Odhiambo Ojienda
Moi University Faculty of Law

12. Kanyi Kimondo
ICJ—Kenya

Lesotho

13. Mr. Qhalehang Letsika
University of Lesotho Faculty of Law

Malawi

14. Ms. Ngeyi Ruth Kanyongolo
University of Malawi, Chancellor College

15. Mr. Raphael Kasambara
University of Malawi, Chancellor College

16. Mr. Chikosa Banda
University of Malawi, Chancellor College

17. Mr. Clifford Msiska
Penal Reform International

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18. Mr. Tomas Timbane
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19. Mr. Filipe Sitei
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Eduardo Mondlane University

21. Ms. Elysa Vieira
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Namibia

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University of Namibia

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Nigerian Law School
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University of Ibadan, Law Department

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University of Ado-Ekiti, Nigeria

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26. Mr. El Hadji Daouda Seck
University of St. Louis

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28. Mr. Emeka Taylor
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Tanzania

30. Ms. Cheggy Mziray
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34. Dr. Margaret Munalula
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35. Col. Clement Mudenda
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36. Dr. Vengai Guni
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