

The Academic Forum and Professional Development Committee  
and  
The Pro Bono and Access to Justice Committee

Session for Monday, October 4, 10 a.m.

## **'Skid row': poverty law and pro bono work by lawyers**

### **'Pro Bono aspects of the Law Clinic and Street Law Programmes at the University of KwaZulu-Natal in South Africa'**

Speaker: David McQuoid-Mason

1. Your program: The Law Clinic and Street Law programmes at the University of KwaZulu-Natal, South Africa

- What institution houses your program? –
  - Law Clinic: The Faculty of Law, University of KwaZulu-Natal, Durban
  - Street Law: The Centre for Socio-Legal Studies, Faculty of Law, University of KwaZulu-Natal, Durban
- What degree does it offer?
  - The Faculty of Law offers LLB, LLM and PhD programmes
  - All LLB students have to complete a public interest law course that either involves placement with the Law Clinic or the Street Law Programme.
- What sorts of positions do your graduates generally seek?
  - About half our students go into legal practice.
  - Most of the graduates wishing to become legal practitioners seek articles of clerkship with law firms or community service contracts with law clinics, Legal Aid South Africa or with public interest law firms such as the Legal Resources Centre as candidate attorneys (solicitors).
  - A few graduates intend to become advocates (barristers) and undertake a period of pupillage with a pupil master who is a member of the local barrister's association.
  - Some graduates join the public service as prosecutors.
  - The remainder of the students become legal advisers for corporations such as banks, finance houses, insurance companies etc.

- Do your students have court access?
  - Law Clinic students may accompany the in-house attorneys or pro bono lawyers from private practice to court when their cases are heard, but may not themselves appear in court.
  - Student practice rules for law students have been mooted since 1985 but were never introduced – despite promises to do so by the Minister of Justice during President Mandela’s first democratic administration.
  - Street Law students do not go to court but conduct mock trial training of school children at the schools where they teach the pupils about law, democracy and human rights.
  - Up to 24 school children can participate in a Street Law mock trial which has three witnesses for the prosecution, and two witnesses and the accused for the defence.
  - The mock trials are presided over by Law Faculty Staff or legal practitioners from the barrister’s profession (or the judiciary) on a pro bono basis.

2. Agencies or firms outside of academia that you work with:

- Do you work with agencies or firms that themselves serve the low-income public or that assist you in serving the low-income public?
  - The Law Clinic serves poor and marginalized communities and cooperates with paralegal organizations such as the Community and Rural Development Centre, NGOs dealing with people living with HIV and AIDS, Legal Aid South Africa, and NGOs dealing with violence against women.
  - The Street Law programme trains NGO personnel, social workers and municipal officials who deal with poor and marginalized communities about the law and the legal framework.
  - Street law students also educate school children and awaiting trial, prisoners, orphans and other marginalized people about law democracy and human rights.
  - Street law staff members train police officers, prosecutors, public defenders, district medical officers and nurses in aspects of medico-legal practice.
  - Street law also provides training for dedicated groups on HIV/Aids, human rights and the law.
- How have you become acquainted with agencies or firms that you work with? How do you maintain relationships with those persons? If you seek to expand your network, how do you do so?

- The Law Clinic has operated since it was founded by the present writer in 1973 and generations of lawyers have been through the programme – some of whose law firms have offered to assist the Clinic.
  - The Director of the Law Clinic maintains contact with local law firms and law graduates, and one major law firm provides pro bono assistance on a regular basis to the Clinic.
  - The Law Clinic provides back-up services to clusters of paralegal advice offices.
  - The Law Clinic is affiliated to the Association of University Legal Aid Institutions (AULAI) which maintains links with the Law Society of South Africa and the National Department of Justice and Constitutional Affairs.
  - The present writer was also a member of the National Association of Democratic Lawyers (NADEL) from its inception and some of its members have participated in the Law Clinic and Street Law programmes on a pro bono basis.
  - The Street Law programme has operated in South Africa since it was founded by the present writer in 1986 and has a long history of working with members of the legal profession, the provincial justice departments, the provincial education departments, high schools, prisons and NGOs.
  - There are Street Law coordinators at nine universities and a National Street Law Coordinator who deal directly with the agencies and firms in their areas.
  - The Street Law network is continually expanding, particularly after the programme started dealing with medico-legal issues.
- Do those agencies identify persons needing services or broader issues needing development and resolution?
    - The agencies identify persons who need either legal services from the Law Clinic or legal literacy training from the Street Law programme.
    - In recent years there has been a proliferation of legislative changes such as a new Children's Act, a new Child Justice Act and major amendments to the Sexual Offences Act with the result that the agencies keep requesting Street Law to conduct workshops to introduce the changes in the law to their staff members.
    - For example, when the new Sexual Offences Act amendments and the Child Justice Act were introduced Street Law had requests from Legal Aid South Africa and the provincial departments of justice to update their staff members on the implications of the new legislation.
    - Several staff members of the Law Clinic have been trained to assist the Street Law programme to introduce practical aspects of the recent legislative changes to the above agencies.
  - Do you refer individuals needing services to other firms or agencies? Do you work with agencies that provide services?

- The Law Clinic refers individuals needing legal services to private law firms or Legal Aid South Africa in situations where the cases fall outside the Clinic's areas of expertise (e.g. labour law and criminal cases), or there is a conflict of interest.
  - When Street Law students identify school children who need legal assistance they refer them to the Law Clinic which might in turn use its own in-house lawyers or refer the case to private lawyers who assist them on a pro bono basis.
  - Street Law works with a large number of NGOs and paralegal advice offices who provide legal and paralegal services to marginalized and poor communities by training them to run legal literacy programmes for their constituents.
- Do you conduct "due diligence" to determine the competence of persons to whom you refer individuals? Do you provide training to such persons?
    - The Law Clinic has a pro bono agreement with a prestigious law firm that conducts a rigorous selection process for its junior associates to whom individuals are referred from the Clinic.
    - The Law Clinic orientates the pro bono junior associates from the law firm to the type of work that the Clinic undertakes.
    - Street Law does not refer many cases to private lawyers and largely works with the Law Clinic and its supervisors
    - Street Law does however provide training to individuals or organizations that want to improve their skills in providing legal literacy education to communities.
    - More recently Street Law has been involved in the training of Legal Aid South Africa's experienced and recently qualified legal aid practitioners in aspects of medico-legal and legal practice.
    - On occasion Street Law has been asked to train members of a large private law firm in Cape Town on how to use legal literacy techniques so that community-based legal education can be done by their staff to fulfill their mandatory pro bono duties.

### 3. Outcomes for students and partners

- Do you encourage mentorship of your students by practitioners?
  - The in-house attorneys in the Law Clinic provide most of the mentoring for the law students in the programme.
  - Where cases are referred to private practitioners on a pro bono basis the law students who have been dealing with the case are also mentored by the practitioner concerned and this is encouraged by the Law Clinic staff.
  - Mentorship of Street Law students is done by the relevant Street Law instructors and coordinators.

- Where members of the legal profession assist with Street Law mock trials or as resource persons the students involved receive mentoring from the practitioners concerned.
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- What can your program do to support teaching by practitioners?
  - The Law Clinic can support teaching by practitioners by making them aware of the nascent legal skills of law students and provide them with guidelines concerning what other skills the students need to develop.
  - The Law clinic can also support practitioners who teach law students by exposing them to interactive clinical teaching techniques and ensuring that their time with the students is used optimally.
  - Street Law can support practitioners who are keen to become involved in legal literacy programmes by training them in interactive teaching techniques which are substantially more effective than standard lecture presentations.
  - Practitioners who are invited to act as resource persons in Street Law classes at the University are briefed to engage interactively with the students.
- Are your students motivated by networking opportunities with your partners?
  - The Law Clinic students are motivated by the opportunity to obtain practical skills and to experience dealing with live clients.
  - Networking opportunities with pro bono partners is an added bonus but most students tend to work more closely with the in-house practitioners.
  - The Street Law students are motivated more by their often exciting experiences in teaching school children, awaiting trial prisoners and others about the law, than by networking with Street Law's partners.
  - Empirical evidence from the Street Law journals kept by law students regarding their experience in the programme indicates that most of them improve markedly in their ability to communicate the law to ordinary people and find that they grow greatly in self-confidence when addressing numbers of pupils and prisoners on aspects of the law.
- Do you think that your students are more likely to undertake pro bono work in their professional careers after working in your program?
  - Anecdotal feedback from Law Clinic students is mixed in that most still want to go into commercial practice with a few opting for public interest work.
  - Anecdotal feedback from Street Law students is also mixed with most still wanting to go into commercial practice but with a few wishing to continue their legal literacy training work after they qualify as lawyers.

- What models of academic-community partnership, other than those you engage in, are present in your community?
  - Law student organizations such as Students for Law and Social Justice (SLSJ) and the Black Law Students Association (BLSA) have tried to build some academic-community partnerships.
  - SLSJ have organized seminars involving academic lawyers and legal practitioners who discuss topical issues affecting human rights, social justice and the delivery of legal services.
  - The BLSA has undertaken some legal literacy Street Law programmes for community groups and prisoners.
  - At the Pietermaritzburg campus of the University of KwaZulu-Natal the Centre for Criminal Justice conducts training and advice for women who are victims of violence.

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