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KATHLEEN KELLY JANUS AND DEE SMYTHE

Navigating Culture in the Field: Cultural Competency Training Lessons from the International Human Rights Clinic

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I. INTRODUCTION

In an increasingly globalized and multicultural world, now more than ever, leading legal education centers are obliged to develop culturally sensitive leaders, able to transcend political boundaries and address issues of social injustice both domestically and abroad. Since the development of the first international human rights clinic thirty years ago, clinicians have looked to human rights clinics,¹ and particularly international fieldwork, as a way to advance clinical pedagogy and cross-cultural training.² Practitioners and clinicians have recognized the capacity of international human rights fieldwork to prepare students to negotiate cultural challenges, providing a framework for interaction between students, clients, partners, and other stakeholders in the field.³ And yet, with the steep rise of student involvement in international clinical fieldwork, little has been written about how traditional theories of cross-cultural competency training might apply to working with students in the field. Further, how do the unique issues that arise in human rights fieldwork illuminate ways in which traditional models for cross-cultural competency training could be enhanced more generally to improve how we teach students to navigate culture?

These are questions that we have spent a significant amount of time contemplating over the course of developing Stanford Law School's International Human Rights Clinic, which allows students to spend a significant portion of the school year in the field participating in human rights work in a clinical setting. Our insights are drawn from our shared experience of developing a partnership between Stanford Law School (SLS) and the Law Race and Gender Research Unit at the University of Cape Town (LRG), in which we experimented with numerous techniques to push students to become more self-aware in navigating culture through their clinical 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 the lessons we have learned through our work 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 consider incorporating these techniques into their curriculum and pedagogy. We argue that these lessons might also be applied in domestic clinics to strengthen existing models for cross-cultural competency training. Part II looks back on the history of teaching cross-cultural lawyering 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 III

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1. See, e.g., Dina Francesca Haynes, *Client-Centered Human Rights Advocacy*, 13 CLINICAL L. REV. 379 (2006); Deena R. Hurwitz, *Lawyering for Justice and the Inevitability of International Human Rights Clinics*, 28 YALE J. INT'L L. 505 (2003).
 2. See Johanna Bond, *The Global Classroom: International Human Rights Fact-Finding as Clinical Method*, 28 WM. MITCHELL L. REV. 317 (2001).
 3. See *id.* at 324.

examines the incorporation of 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 IV describes the field program that Stanford Law School's International Human Rights Clinic has established over the past two years at the University of Cape Town. Finally, Part V examines the ways in which the work of international human rights clinics in the field highlights some of the issues that many clinics, both domestic and international, face in helping students to navigate culture in the clinical setting and how we have addressed such issues.

II. THE HISTORY OF TEACHING CROSS-CULTURAL COMPETENCY 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 in 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 these techniques apply in the context of the international clinic and, specifically, international human rights fieldwork. This section examines the movement to create a framework for cross-cultural lawyering in clinical teaching, setting the stage to discuss how we might build upon these techniques to address the issues we have encountered in international human rights fieldwork, issues that undoubtedly arise in other clinical contexts as well.

Throughout the 1990s, numerous clinicians explored techniques for integrating cross-cultural competency training in the domestic clinical setting.⁴ One of the most important contributions to teaching cross-cultural competency in the clinical setting is a process called "the Habits," developed by Professors Sue Bryant and Jean Koh

4. See, e.g., Christine Zuni Cruz, *[On the] Road Back In: Community Lawyering in Indigenous Communities*, 5 CLINICAL L. REV. 557 (1999) (discussing lawyering from within native communities and how clinical instructors and students can prepare to enter communities across cultures); David Dominguez, *Beyond Zero-Sum Games: Multiculturalism as Enriched Law Training for All Students*, 44 J. LEGAL EDUC. 175 (1994) (discussing techniques for multicultural negotiation); Leslie G. 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, and arguing for a more contextualized approach to lawyer-client interaction that better facilitates the client's construction of her own narrative); Bill Ong Hing, *Raising 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); Michelle S. 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 E. O'Leary, *Using "Difference Analysis" to Teach Problem-Solving*, 4 CLINICAL L. REV. 65 (1997) (describing how "difference analysis" may be integrated into the clinical classroom to teach multicultural problem-solving).

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Peters. In her seminal 2001 article, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, Sue Bryant identifies and attempts to answer two questions: “(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 most effective basis for teaching cross-cultural competence is through 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 exposure to this approach, students gain awareness and knowledge of their own assumptions and biases, explaining why we use stereotypes and think in ethnocentric ways, and identifying new ways of thinking and behaving.⁷ She goes on to promote incorporating analytical and communication skills to allow students to competently engage in cross-cultural interactions.⁸

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

Although Bryant and Koh Peters describe the Habits as a way to teach “cross-cultural competency,” it does not appear from their writing that the goal is to achieve “competence” per se. Instead, the Habits are designed to provide a set of tools to help students gain self-awareness around how they encounter culture, the language to talk about it, and the reflective practices to learn from it. The goal of these tools is to become more effective cross-cultural lawyers.

Several authors have built upon Bryant’s and Koh Peters’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

5. Susan Bryant, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, 8 *CLINICAL L. REV.* 33, 37 (2001).

6. *Id.* at 50.

7. *Id.* at 55.

8. *Id.*

9. *See id.* at 64–78.

10. *See, e.g.*, Christine Zuni Cruz, *Toward a Pedagogy and Ethic of Law/Lawyering for Indigenous Peoples*, 82 *N.D. L. REV.* 863 (2006); Antoinette Sedillo López, *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); Nelson P. Miller et al., *Equality as*

Haynes draws upon the theoretical basis of cross-cultural skills-building in her article, *Client-Centered Human Rights Advocacy*.¹¹ Setting forth the key elements of teaching cross-cultural, client-centered lawyering in the human rights context, she identifies as the critiques of human rights advocacy the very issues with which students often struggle within the context of client representation.¹² Those issues include the risk that human rights lawyers will be perceived as “Western Imperialists,” with human rights lawyering viewed as a “zero sum game, in which an NGO or human rights activist goes looking for an issue to poke his nose into.”¹³ Human rights advocates are accused of “essentializing, othering, and re-victimizing of the victim,” often in the process constructing women from the developing world as the “Exotic Other Female.”¹⁴ Haynes argues that placing the client at the heart of human rights clinical projects is the most effective way to teach students, through client-to-lawyer interaction, how to grapple with questions of essentialist and imperialist practices.¹⁵ She suggests specific techniques to help students achieve this equilibrium such as identifying the client’s interests and recognizing other goals in play, ideally giving power back to the client through the interaction.¹⁶

While Haynes’ article builds on the theoretical work of Bryant, Koh Peters, and others by applying their framework of teaching cross-cultural lawyering in the context of the specific barriers that we face in international human rights clinics, the issues that Haynes cites are not unique to the international human rights clinical setting. They simply appear in a more exaggerated form, given the stark diversity of cultural contexts in which we work, all of which could also apply in the domestic context. For example, essentializing a woman who suffers from domestic violence could occur just as easily in the domestic setting as it could internationally, as could the co-opting of the social justice agenda by an activist without consultation of a local community.

Talisman: Getting Beyond Bias to Cultural Competence as a Professional Skill, 25 T.M. COOLEY L. REV. 99 (2008); Aliza G. Organick, *Tribal Law and Best Practices in Legal Education: Creating a New Path For the Study of Tribal Law*, 19 KAN. J.L. & PUB. POL’Y 63 (2009); Paul R. Tremblay, *Interviewing and Counseling Across Cultures: Heuristics and Biases*, 9 CLINICAL L. REV. 373, 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.”); Carwina Weng, *Multicultural Lawyering: Teaching Psychology to Develop Cultural Self-Awareness*, 11 CLINICAL L. REV. 369, 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.”).

11. Haynes, *supra* note 1.

12. *Id.* at 382.

13. *Id.* at 387.

14. *Id.* at 389–90.

15. *Id.* at 392.

16. *See id.* at 415.

III. THE DEVELOPMENT OF INTERNATIONAL HUMAN RIGHTS CLINIC FIELDWORK

Over the course of the past thirty years clinicians have integrated international fieldwork components into their clinics so as to enrich the way in which students participate in human rights projects. In the process, we have also aimed to provide our partners with added support by bringing students to do work for them under the supervision of experienced clinicians.

A byproduct of taking students into the field is that, while they are there, students are able to confront different cultures in a much more obvious way. In other words, although many aspects of international human rights fieldwork may seem unique, in fact many of the ways in which students experience culture in the international setting are not all that different from the domestic context, where differences such as language, education and income, and race and ethnicity are also very present, albeit sometimes in more subtle forms. Even so, it is often not until students are faced with these cultural differences in an international setting—where these differences are more pronounced—that they are able to truly see them. Similarly, working as clinicians with students in an international setting where cultural differences are so pronounced allows one to identify ways in which our traditional methods for cultural competency training could be enhanced.

The purpose of this section is to show how international human rights fieldwork has developed over the past few decades, the ways in which such projects highlight how students confront culture, and in turn how we can prepare them to do so in a way that is applicable to both domestic and international clinics.

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, over forty 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, most all of them

17. Hurwitz, *supra* note 1, at 527 n.95 (noting that the first three law schools to offer international human rights clinics were Yale Law School in 1989, American University Washington College of Law 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 School of Law, 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, International Human Rights Clinic (2003); and George Washington University School of Law, International Human Rights Clinic (2004). See Hurwitz, *supra* note 1, at 549. Since that time an additional thirty-four international human rights clinics have developed, for a total of forty-seven clinics. For a complete list, see *infra* Appendix.

have worked to incorporate international fieldwork opportunities for students to experience first hand how human rights advocacy works in the field.¹⁹

Johanna Bond first wrote about the importance of international human rights fact-finding as a clinical method in 2001.²⁰ She describes primarily fact-finding missions to investigate human rights abuses that result in advocacy reports or meetings with local non-governmental organizations (NGOs) and potential clients to form a litigation strategy on a potential case.²¹ Bond details 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.²²

In the ten years since Bond wrote about the emerging trend of international human rights fieldwork, numerous different models for clinical fieldwork experiences have emerged, all with varying lengths of time that students spend in the field and different types of work that students do there. 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 just for a short period of time, can be much more expensive than a domestic clinic that engages its students in fieldwork within the local community. With high international travel expenses, it remains an exceptional privilege to be able to send students into the field. While the large majority of clinics engage in some form of international fieldwork, most clinics do not have the resources to afford all of their students such opportunities. Even where financial resources are not at issue, given that most students participate in clinics at the same time that 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 for the types of fieldwork that international human rights clinic students can do, including spending the entire quarter (up to twelve weeks) in the field, working on clinic projects on a full-time basis. As fieldwork has become more

19. For a listing of which clinics provide students with international fieldwork opportunities, see *infra* Appendix.

20. Bond, *supra* note 2, at 319.

21. *See id.* at 320–24.

22. *Id.* at 324–27.

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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 becomes how we can leverage this in-country exposure to help students learn to navigate culture in a way that helps them to become more effective cross-cultural lawyers in the global age.

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

International human rights clinics have been hailed as providing invaluable learning opportunities for students, not least because students are able to experience first hand the role that culture plays in our work as lawyers. Indeed, the ability to effectively navigate culture is 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.²³

As such, international human rights clinicians have embraced the idea that a central function of the international human rights clinic is to engage students in debate on the multiple cultural discourses that come into play in human rights practice.²⁴ Peter Rosenblum, one of the early leaders in the international human rights clinical movement, has said that the role of the human rights clinic is to train students to critique human rights advocacy in order to better understand their role in the process.²⁵ 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.²⁶

Specifically, human rights fieldwork highlights students' exposure to these issues first hand. Johanna Bond suggests that “clinics providing opportunities for students to

23. Hurwitz, *supra* note 1, at 520–21 (“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.” (citing RICHARD J. WILSON & JENNIFER RASMUSEN, PROMOTING JUSTICE: A PRACTICAL GUIDE TO STRATEGIC HUMAN RIGHTS LAWYERING 54 (2001))).

24. *Id.* at 521.

25. Peter Rosenblum, *Teaching Human Rights: Ambivalent Activism, Multiple Discourses and Lingering Dilemmas*, 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.

Id.

26. Hurwitz, *supra* note 1, at 521 (“By 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.”).

conduct field work, or ‘live’ human rights work, offer a unique, engaging learning experience that approximates the traditional direct-service model in critical ways.”²⁷ 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.”²⁸ 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, empathic lawyering, issues of difference and privilege, sound legal judgment, collaboration, and inter-disciplinary approaches to legal problems.”²⁹ 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, and “invites 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.”³⁰

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.³¹ Dina Haynes argues that it is through practice that students are best attuned to critiques of human rights activists about case selection and strategy.³² 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.

Many scholars 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.³³ Proponents of a more globally focused legal education have criticized the way in which 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.³⁴ As Claudio Grossman, Dean of American University, Washington College of Law, has stated, “Today’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

27. Bond, *supra* note 2, at 319–20.

28. *Id.* at 324.

29. *Id.* at 327.

30. *Id.* at 335.

31. See Haynes, *supra* note 1.

32. *Id.* at 381.

33. See, e.g., Frank S. Bloch, *Access to Justice and the Global Clinical Movement*, 28 WASH. U. J.L. & POL’Y 111, 113–14 (2008); Hurwitz, *supra* note 1, at 506–08.

34. Claudio Grossman, *Building the World Community: Challenges to Legal Education and the WCL Experience*, 17 AM. U. INT’L L. REV. 815, 819–20 (2002).

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liaisons for communications between and among formally organized legal systems with differing national histories, customs and experiences.”³⁵ 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.³⁶ Indeed, it has been said that “teaching 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.”³⁷ Providing opportunities for international human rights fieldwork, thereby exposing students to collaborations in a cross-cultural setting, is an important part of this approach.³⁸ All of these arguments for integrating international fieldwork in the law school setting as a way to approach global challenges are equally applicable to the domestic setting, where an ability to navigate culture is crucial to tackling social justice issues.

IV. STANFORD LAW SCHOOL'S INTERNATIONAL HUMAN RIGHTS CLINIC AT THE UNIVERSITY OF CAPE TOWN

Using the International Human Rights Clinic that we developed in Cape Town as a case study, we will illustrate some of the specific ways in which culture came into play in our clinical fieldwork, describing how we built upon the theoretical framework of Sue Bryant, Jean Koh Peters and others to help students navigate cultural issues as they arose. In describing what we have learned about 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, most international human rights clinics are primarily in-house. The Stanford Clinic has been unique in that it has taken place primarily “in-country,” or in the field, taking students abroad for an extended period of time during the school year to work on a variety of projects in a supervised clinical setting. From its beginning in 2005 until 2009, the Stanford Clinic began traveling with students to Africa to do supervised fieldwork with local partners, first in Ghana and then in Namibia for several weeks at a time. Because Stanford Law School (SLS) was transitioning to the quarter system during that time, some classes were offered on the quarter, allowing students to take courses that would not interfere with their fieldwork so that they could be in-country for up to eight weeks.

Starting in 2009, SLS’s full move to the quarter system provided a new opportunity to send students into the field for even longer periods of time. To leverage this new opportunity, we developed a model that is a hybrid between a

35. *Id.* at 827.

36. *Id.* at 828.

37. Adelle Blackett, *Globalization and Its Ambiguities: Implications for Law School Curricular Reform*, 37 COLUM. J. TRANSNAT’L L. 57, 74–75 (1998).

38. See Margaret Martin Barry et al., *Clinical Education for This Millennium: The Third Wave*, 7 CLINICAL L. REV. 1, 59–60 (2000).

clinic and an externship. The hybrid model allows students to spend the entire quarter working directly in-country with a field supervisor at the University of Cape Town (UCT) and with a faculty supervisor from Stanford on substantive preparation, goal setting, and reflection. Because we were sending a new batch of students to the University of Cape Town every twelve weeks, we were able to take an innovative approach, constantly testing new pedagogical methods for teaching students in the global setting.

South Africa presents an interesting and challenging place for students to become engaged in international human rights issues. With its complex and recent history of systemic inequality under apartheid and mounting challenges to the consolidation of its new democracy, students who participate in the Cape Town clinic gain a deep appreciation of how apartheid affected and continues to affect understanding of human rights in South Africa. These complexities, however, presented unique challenges both to preparing students for their clinical experience, as well as working with them to navigate their projects once in South Africa. The following is a detailed description of our clinical fieldwork model and how it evolved over the course of the past two years as the authors worked together closely to learn from our experiences and refine our methodology over time.

A. The Student Selection Process

Since 2009, we have had between two and four students participating in the Stanford Clinic in Cape Town (the “Cape Town Clinic”) each quarter. We generally received more applications for the program than we could accept, so we had a large and varied pool of students from which to choose. Applicants ranged from students who had never lived or worked outside of the United States, to students who had lived overseas for years working with development organizations such as the Peace Corps.

In selecting students, we generally tried to choose those who had some experience living or working abroad, as we felt these students would be most adaptable to working in a foreign context. The students we selected generally had some human rights background, whether through coursework or work experience. We assumed that these types of students would be the most likely to dedicate their careers to human rights and international work. Thus investing in them through the international clinic experience would likely be highly relevant and meaningful to shaping their careers.

That said, we did not exclude students who had not worked abroad or taken an international human rights course, and usually there were one or two students who participated in the clinic who had very little relevant experience. In general, we found that prior experience was not a factor in determining a student’s potential ability to navigate culture in-country and that the students were self-selecting by applying to spend part of their semester abroad, thereby showing a strong commitment to the work. In fact, it was often the students who did not have any experience at all who were able to exhibit a humility that was much more appropriate than students who had worked abroad for several years, and sometimes approached the work with

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arrogance. Further, almost none of the students had prior experience working specifically in South Africa. Often the students' experience working in other countries, while helpful, was not determinative of an ability to navigate the cultural context specific to South Africa.

The students that we selected were always a highly diverse group. Working in a country with a history of racial classification, and racialized discourses that remain present even in today's common parlance, the diversity of our students led to interesting discussions about the role of race in society. Students were able to observe not only how they were treated, both individually and as a group of diverse American students, but also how others were treated, providing a vehicle to understand how identity came into play in everyday interactions. Having such a diverse clinic also contributed to rich group discussions, with each student bringing a different lens to our reflections.

During the first year, students were selected based on an application that both SLS and UCT supervisors reviewed, followed by an in-person interview by Stanford faculty. But we found that this system did not provide an adequate opportunity for us to set expectations with students around the type of work that they would be doing in Cape Town, which was often highly research-oriented. In the second year, both SLS and UCT supervisors conducted in-person interviews of applicants, providing students with an opportunity to clarify their own expectations of the clinic and to make connections with their Cape Town supervisor early in the process.

B. Pre-Travel Preparation Coursework

In terms of preparation, our program sought to involve Stanford faculty to teach students about South African history, politics, and law as well as basic human rights advocacy skills in advance of arriving in Cape Town. This advanced preparation provided the students with a certain baseline of knowledge so that they could spend the entire quarter of between eleven to fourteen weeks working full-time on human rights projects. Throughout the course of the two years, we experimented with various approaches to ensuring that students were well prepared and able to take advantage of as much time as possible in-country. During the first year of the clinic, we prepared students with a one-week intensive course at SLS prior to departure. The intensive "boot camp" course gave students some substantive and theoretical background, including modules on South African history, 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. The boot camp course also prepared students with skills training. We drew on Stanford University experts from the political science department, history department, and the School of Medicine to bring an interdisciplinary perspective to the preparation.³⁹

39. Professor Joel Samoff from the Department of Political Science, Professor Richard Roberts from the Department of History, and Dr. Daryn Reicherter from the Stanford School of Medicine have all been strong supporters of our program.

After a year of using the boot camp preparation model, we decided that one week was not enough time for students to absorb all of the information that they needed in order to prepare for their work in Cape Town. Students were overwhelmed by the amount of material that we covered in essentially attempting to fit a one-quarter course into one week. It also allowed no opportunity for reflection by students on the material, or for a conversation between faculty at the University of Cape Town and the students to develop shared understandings of often complex issues. Accordingly, in 2010–2011 we adjusted the model to prepare students through supervised home study over the course of several weeks prior to their departure, providing a reading list with weekly written assignments on the articles they were assigned. All the questions we asked students to consider directly addressed either the content and politics of custom and culture or the tensions between rights and culture.⁴⁰ We asked students to think, for example, about their own understandings of “culture;” who

40. Some of the questions we ask the students to consider in the context of the prescribed readings include:

- a) Who gets to speak to whom, and where, on the content of the customary law that is recognized and entrenched in the constitution and other legislation?
- b) What are the consequences for the ordinary, rural South African of a customary discourse that moves the debate around ‘what is custom’ from within the community to the macro politico-legal arena?
- c) How do the notions of disagreement, negotiation, contest, and ‘struggle’ fit in with your pre-conceptions of custom—comfortably or otherwise?
- d) What spaces do you find in the contemporary discourse around democracy and ‘tradition’ for custom as it is lived on the ground to surface?
- e) What room has been left in the negotiations between government and traditional leaders for true democracy (indigenous or constitutional), even only in the form of consulting ordinary people on what form of leadership they prefer?
- f) How, if at all, have the readings to date shifted your understanding of custom and customary law?
- g) How are your ideas of culture and custom challenged by the explicit distinction between official and living customary law?
- h) Reflect on the implications of tensions between state and living customary law that specifically apply to women and their ability to attain tenure security in light of power struggles taking place in the political arena.
- i) What does an actor-oriented perspective on human rights offer as possible solutions for reconciling rights and culture?
- j) Apply this conception of rights to custom (with all its tensions) as you’ve come to understand it through these readings—to what extent does it work?
- k) If it doesn’t work, what alternatives do you know of and maybe feel more drawn toward?
- l) What is the significance of the secure right to participate in decisions about what is custom (i.e. the power of definition) in a context where the politics of custom and tradition are mostly dislodged from the local, rural community?
- m) What value remains in (i) group/communal rights, and (ii) local (on the ground) processes when limited individual self-interests and elite alliances become privileged in the nature of macro-level political discourse about custom that currently prevails?

These questions and the associated reading list were largely developed by Dr. Sindiso Mnisi Weeks, Senior Researcher at LRG and Senior Lecturer in African Customary Law at UCT.

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defines the content of custom and customary law; how notions of disagreement, negotiation, contest, and “struggle” fit with their own preconceptions of culture and custom; and how various approaches to rights are best able to reconcile rights and culture. Through these reflections and engagements we hoped to engender a more informed and sophisticated discussion of culture than those arising from the decontextualized extremes that are often presented when rights are juxtaposed against culture.⁴¹

We also adjusted the content of the preparation as we went along. Because the nature of the work that students did in Cape Town required so much historical and political context, we found that some of the initial skills training was far less relevant than the substantive material that we covered. Thus, in our second year of the Cape Town Clinic, we came to focus almost entirely on the substantive content of the work, covering modules such as the history of South Africa, the development of pluralistic legal systems under apartheid, custom and land, and culture and rights. The home study preparation culminated in a two- or three-day intensive course at SLS, where we discussed the readings that the students covered in the weeks leading up to the class, allowing them to further engage with the substantive issues. As we discuss further below, because a highly sophisticated understanding of these topics is necessary for the students to adequately navigate the cultural issues they face in their projects, we found that this model for preparation was much more effective for the Cape Town Clinic.

C. Development of Institutional Knowledge in Students

Another important aspect of our model was to ensure that, each quarter, incoming students learned from the collective knowledge of their classmates who had previously participated in the Cape Town Clinic. As the Cape Town Clinic developed, the goal was that each group of students would be better prepared for the work that they would be doing at the LRG and that the knowledge base on the substantive issues would grow at Stanford Law School, thereby enriching the experience of the students who participated in the clinic as well as the value of their contributions to the work being done in Cape Town. We saw this deepening knowledge as a central benefit of adopting the UCT partnership model, in that it presented a structural way of moving beyond the problem of superficial ad hoc interventions, which bedevils international human rights fieldwork.

In order to help build a well of institutional knowledge, each returning student was responsible for writing a lesson plan in preparation for a student-led class that introduced incoming clinic students to the projects they would be working on and

41. For example, framing discussions of rights, custom, cultural relativism, and essentialism around the perpetual problem of female genital mutilation/cutting (FGM/C) is singularly unhelpful in preparing students for human rights fieldwork in a country where FGM/C is not a problem that they are going to confront. If anything, inapposite examples may further entrench students' perceptions of human rights work as involving “exotic others.” It may also lead students to believe that culture only appears in more extreme examples, when, in fact, it is the more nuanced ways in which culture comes into play that can be the most challenging to navigate.

the substantive issues they would deal with once they arrived. During the intensive preparation course, returning students each led a lesson on the projects with which they had been involved, thereby orientating the next group to the work and transferring as much knowledge as possible.

Further, around a third of the returning students continued to work on related projects during the quarter following their return from Cape Town. This allowed them to deepen their involvement in LRG's projects, often by way of collaboration with experts at Stanford. This meant that at any one time we had a group of students preparing to go to Cape Town, a group in-country, and a group who had returned but were still actively engaged with the issues.

D. Projects at the University of Cape Town

Once the students arrived at UCT, they worked with field supervisors under the primary supervision of Dee Smythe. As a South African and a graduate of both UCT and SLS, she was in the ideal position to straddle both systems.⁴² Although students did not take classes with the UCT students, some worked directly with final-year UCT students who were working on LRG's projects. They were also "adopted" by UCT Law School's postgraduate student association, which ensured that they were included in social and cultural events, many of which drew on and reflected the extended African composition of UCT Law School's postgraduate student complement.

At UCT, students were initially placed on one of two projects. During the first year we placed students with the Refugee Rights Project (RRP), giving students the opportunity to work with refugee problems and providing them with insight into international refugee law in the African context. Students interviewed potential clients, reviewed case files, developed legal strategy, and worked with the Department of Home Affairs to advance cases. The RRP does exceptional work on refugee-related problems and provided students with an opportunity, which they relished, to spend their days in direct contact with clients.⁴³ Students had to come up to speed very quickly on the political contexts of the Democratic Republic of the Congo and Zimbabwe, the primary countries from which South Africa was receiving refugees at the time.

Despite these advantages, the RRP ultimately did not match the model that we were developing at UCT. Much of the work that students were doing at the RRP,

42. In the second year, Professor Smythe was appointed Clinical Lecturer at Stanford Law School, so that in effect we had Stanford faculty-led supervision in Cape Town.

43. Generally students spend their mornings at the RRP interviewing clients and making credibility assessments about whether to take cases for asylum. While student client meetings are not supervised, the student takes the facts to one of her colleagues in the unit to discuss whether to take the case. Once the student decides to take the case, with the input from the RRP supervisor, the student works to build the case for the asylum hearing, drafts the petition, and works with the client to prepare for the hearing. The student then represents the client before the immigration judge, who takes the case under consideration. The judge does not render a final decision on asylum matters for months or years given the back-log in the system, so students often never hear the outcomes of their cases.

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while differing in geographical context, mirrored that which they could be doing at any refugee and immigration clinic in the United States. This was reinforced by the RRP's explicit preference for students with a background in refugee and immigration law. Because the RRP was exceptionally busy, the scope for us to build in opportunities for reflection and directed learning was limited. Perhaps most importantly, by its nature, it did little to challenge students to think about the complexities of working to attain the recognition and protection of human rights from *within* a vastly different culture. On reflection, for us it did not sufficiently challenge students to move beyond a paradigm of victim and savior, with few opportunities to engage pedagogically with the role of international human rights clinicians in contestations around rights and culture.

The second project, at LRG, was deeply immersed in contestations around rights and culture. LRG seeks to support the rights claims of women and other vulnerable people living under customary law in South Africa's former "homelands," which are home to around 17 million people.⁴⁴ LRG does this by way of a number of participatory processes, including documenting actual and changing social practices to use as evidence of "living law" in litigation and policy debates about customary law and women's rights, holding regular workshops, and supporting rural communities to bring their concerns to the attention of decision makers. It works closely with a diverse range of partners, including the Legal Resources Centre and Women's Legal Centre, both of which engage in public interest litigation, rural community-based organizations, women's groups, and NGOs. It also works very closely with parliamentarians and other political leaders, which provides students with direct exposure to South African politicians, as well as leading human rights advocates.

LRG operates in a context of strong political demands by chiefs to be given governmental powers and the accompanying erosion of citizenship rights in the former homelands, as laws are passed that return them to the forms of governance and deeply contested boundaries that existed under apartheid rule. The projects on which our students have worked over the past two years are illustrative of the resultant tensions. A number of students have worked, for example, on supporting civic education around the Traditional Courts Bill.⁴⁵ This bill gives sole jurisdiction over traditional courts to chiefs and makes it a criminal offense not to appear before such a court when summonsed. Chiefs may impose sentences including banishment and forced unpaid labor (in civil cases), while any form of legal representation is denied. LRG argues that the bill will undermine the consensual and layered nature of customary dispute resolution mechanisms. It will particularly disadvantage women, who are generally not allowed to represent themselves at such courts, or even to appear in person. This does not mean that traditional courts should cease to exist,

44. Ben Cousins, *Contextualising the Controversies: Dilemmas of Communal Tenure Reform in Post-Apartheid South Africa*, in *LAND, POWER & CUSTOM: CONTROVERSIES GENERATED BY SOUTH AFRICA'S COMMUNAL LAND RIGHTS ACT 3, 4* (Aninka Claassens & Ben Cousins eds., 2008).

45. REPUBLIC OF S. AFR. TRADITIONAL COURTS BILL (2008), <http://www.justice.gov.za/legislation/tradcourts/B15-2008.pdf>.

but raises a serious challenge for how to regulate them in a manner that supports both the development of customary law and women's rights.

Students have addressed themselves to various aspects of this problem, helping to organize a national consultative workshop with human rights NGOs and rural communities from across the country, working with archival material to show that chiefly authority has always been limited by the existence of other dispute resolution structures—such as village and headmen's courts—and tracking budget flows and financial accountability of traditional courts, which are able to levy substantial fines. Two of the students have worked at the study site in Kwazulu Natal, observing traditional courts in action. Other students have worked on building a constitutional challenge to the imposition of tribal levies; developing educational materials on forthcoming traditional council elections and lobbying provincial governments to make the elections more democratic and transparent; challenging the disestablishment of democratic traditional governance structures, which were replaced with imposed hereditary systems of leadership; and challenging the non-recognition of certain customary marriages by the Department of Home Affairs. The latter work was done at the specific request of LRG's community partners, who complained that the Department's unlawful refusal to register marriages after one of the spouses had died seriously impacted widowed women.

The fact that LRG works closely with civil society organizations to organize communities and bring litigation challenging the law meant that although the students' project work was primarily research-oriented, most students who worked on the project also had opportunities to obtain field experience. Such opportunities included visiting field sites in other provinces, observing strategy sessions relating to litigation of customary law matters, engaging with experts, preparing discussion documents for and briefing project partners, and seeking difficult to obtain information on pressing legal issues from government institutions. Our approach has been that students should not go into the field unless they have shown themselves to be adequately prepared. This is a matter of respect for the communities that LRG works with and for their partners in non-governmental and community based organizations (CBO's) who support such field visits and whose credibility is ultimately at stake. Students learn that they cannot fly into a new context—particularly one as socially complex and politically fraught as this—and expect to immediately be documenting stories of human rights abuses in a proverbial African village. Ideally, it is only once they have started to ask their own questions—ones that cannot be adequately answered by the literature—that students should be sent into the field. Even where we provide students with the questions, the answers they elicit can only really be useful if students enter the field well prepared. Poor preparation results in more than just useless data; it makes it all the more difficult for host organizations to credibly engage with field sites at a later point.

In order to ensure that our students did have a sense of who their "clients" were, even where they were not engaging in fieldwork, we placed them in one of two deeply rural communities in the Eastern Cape for a week shortly after they arrived in South Africa. In both villages we partnered with local women's groups, who hosted

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the students. These partnerships ensured that the benefits of our involvement were shared within the village and that the students were exposed to a range of people and projects during their visits. As we will discuss further below, all of the students described this experience as very important in contextualizing their work at LRG.

E. Supervision and Reflection

As we experimented with preparation and placement, we also had to take an iterative approach to the question of supervision. Field supervision over all of the students was facilitated by Dee Smythe, with direct project supervision provided by LRG's senior researchers.⁴⁶ In the beginning, Kathleen Kelly's role was to facilitate reflective supervision from a distance while the students were in South Africa. Students were required to submit reflection papers and participate in distance seminars, which helped them to reflect on their ability to learn from experience, receive critical professional feedback on performance, and use the experience to gain greater proficiency in some skill or competency that they wished to develop.

Throughout the course of the quarter, students were asked to write regularly in journals, which they submitted to their Stanford supervisor once every week for the first month of the fieldwork and bi-weekly for the remaining eight weeks of the quarter. The purpose of the journal assignments was to support the educational goals of individualized learning about the student's own growth as a lawyer and to inculcate in the student a habit of self-initiated learning and reflection.⁴⁷ Journal topics focused on personal reflection about experiences and observations, which included self-critique of the role and performance of the student, critique of others in the legal environment, and critique of the international human rights regime as a whole. Once the assignments were submitted, the Stanford supervisor would respond to students in writing by email within a week, in order to keep the reflection timely and relevant. In responding, Kathleen shared reactions to students' comments, questioned assumptions or statements made by the students, and responded to students' questions and concerns.

In addition to correspondence regarding journal reflections, Kathleen 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—about thirty to forty-five minutes with each student—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 in students' work in the field, conversation was often steered towards examining ways in which culture affected their work.

Finally, "case rounds" provided yet another opportunity for students to engage in reflection about their cases. Case rounds were conducted under supervision from

46. Aninka Claassens, Sindiso Mnisi Weeks, and Mazibuko Jara, all highly experienced Senior Researchers at the LRG, provided primary project supervision of students during this time.

47. Harriet N. Katz, *Personal Journals in Law School Externship Programs: Improving Pedagogy*, 1 T.M. COOLEY J. PRAC. & CLINICAL L. 7, 8 (1997).

Stanford via Skype twice during the quarter, allowing students to resolve difficult problems in presenting their project or case. Prior to the rounds, the presenting team sent a short memorandum to clinic students and to the instructor, briefly describing the case and providing questions for discussion. The presenting team gave a short overview of the case and led class discussion for approximately forty-five minutes, focusing on one or two specific questions or issues they were confronting in their project or case. The rest of the class provided constructive suggestions based on the memorandum and background material provided. While the journals, reflection papers, and individual reflection sessions focused on one-on-one reflection, large group discussion enabled students to learn from each other's perceptions about how culture came into play in their project, sometimes influencing ways in which the presenting team approached their work.

Students also reflected regularly in person with Dee and their project supervisors throughout the quarter. They met formally with LRG staff once a week, where they presented and discussed progress on their work, and engaged in regular informal reflections with colleagues and supervisors at UCT. Bi-weekly strategy sessions, in which researchers and public interest lawyers discussed particular issues of concern, provided another opportunity for some students to present and discuss their work. During these sessions the students were treated as integral and valuable members of a multidisciplinary human rights team. Finally, reflection also happened informally among students. Because the students were living together in Cape Town, further conversations about the ways in which they were encountering culture happened over breakfasts, dinners, or the walk to work in the morning. As such, the students were constantly reflecting both formally and informally on the ways in which they were experiencing culture throughout the course of their time in Cape Town.

In theory, the bifurcated supervision model 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.⁴⁸ Students interacted separately with their field supervisor, who oversaw the day-to-day work, and a faculty supervisor, who was responsible for facilitating reflection on the students' experience. The idea was that because 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 experiences. Because the roles of practitioner and teacher were separate, the students and faculty members could jointly, freely, and candidly reflect upon the students' field experiences.

In practice, the bifurcated supervision model did not function as well as we hoped. Unlike the past Stanford clinics, in which the faculty supervisor was on the ground with the students, here Kathleen was unable to participate in witnessing

48. See Peter Jaszi et al., *Experience as Text: The History of Externship Pedagogy at the Washington College of Law, American University*, 5 CLINICAL L. REV. 403, 404-05 (1999).

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them working on their projects or supervising them in their work product because she was not in Cape Town with the students. Thus, reflections necessarily relied upon the students' ability to spot cultural issues as they arose, taking away the invaluable role that a clinic supervisor can have in helping students to identify issues they may not have otherwise seen as significant.

Further, the fact that supervision from Stanford did not involve their field supervisors established an unhealthy dynamic whereby the students could play the supervisors off of each other. For example, one student was not working as hard as she could have, leaving the office early every day and failing to turn in adequate work product. In her telephonic reflections, she complained that she had a difficult time developing a relationship with her field supervisor. The real reason the student was having a hard time earning respect from her supervisor was because she was not showing up for work and putting pressure on the other students by not completing her work. This meant that our discussion about possible ways of engaging her field supervisor was misguided. Even though we all sought to keep in regular contact so that we could try to avoid these kinds of miscommunications, it was not a substitute for dedicated in-country supervision. From UCT's perspective the fact that students were accountable to two supervisors was experienced as undermining the relationships that they were trying to build with the students, and students complained that the extent of the required reflections was redundant, given that they were already closely supervised in the work that they were doing.

The key lesson that we took from a fully bifurcated system of supervision is that it is fundamentally at odds with a partnership model of international human rights work. If we purport to be working in partnership with local organizations, we need to include those partners in student reflections. This is particularly valuable in developing shared understandings and dispelling cultural misconceptions—and simple misunderstandings masquerading as cultural misconceptions—on both sides. Ideally, we should build relationships of trust with our partners, such that their view of our students and the work of international human rights clinics is as open to contestation as our students' own cultural biases. This cannot happen when our partners have become the *object* of our reflection.

Accordingly, in 2010 we eliminated the telephonic reflections and limited the students' formal reflections to a half dozen written assignments throughout the quarter. The primary thrust of the written reflections was to ask the students to develop learning goals and contemplate their progress toward meeting those goals as they progressed. We also formally introduced Bryant's and Koh Peters's "Habits" during the intensive course, and asked students to reflect upon a cultural interaction they had during the course of their work in which the Habits came into play.⁴⁹ Finally, students also had two other formal reflection assignments dealing with their

49. The assignment was as follows: Describe a situation that you have experienced during your first month in South Africa in which you can apply one of the Five Habits. In what ways did your own biases and assumptions come into play? How might more awareness of your cultural blinders have changed the interaction? How have you adjusted your approach as a result?

conceptions of rights and culture, as well as a discussion of their experience in the Eastern Cape.

As before, students sent their reflections to both of us. Kathleen provided written feedback on each paper, provoking students to reflect on additional questions they might not have considered. This time, however, Dee also weighed in with students about their reflections in person, providing additional context for their intercultural observations. By creating a more open process of reflection, we were able to develop shared understandings of how students were confronting culture, thereby dispelling misconceptions that could otherwise arise.

F. Summary

In sum, the strength of the clinical model that we developed is that students were able to have particularly in-depth substantive preparation for the projects to which they were assigned, enriching their field experience in a way that a traditional externship or field clinic might not otherwise do. Further, as the program developed, each group of students was more prepared than the previous group because the incoming students took on projects with guidance from the outgoing students. This ensured that students were able to engage with the work in a more meaningful way from the start, as opposed to taking several weeks to get up to speed before they were truly effective. With greater preparation, students' contributions are much more useful, allowing the students to feel like they are making a valuable contribution to building a coherent response to human rights problems, rather than taking on one-off projects where students might wonder how useful their contributions really are. The students' ongoing contributions to the work of LRG through the advanced clinic added further value to the substantial investment of local partners in time and training of our students. Finally, the length of time that the students were able to spend in the field is one of the most unique aspects of the Cape Town Clinic because it allowed students a multitude of ways to encounter culture in their interactions in the field, building a practice of cultural reflection that can last throughout their careers.

V. HOW CAN WE LEARN FROM INTERNATIONAL HUMAN RIGHTS CLINICAL FIELDWORK TO EXPAND WAYS THAT CLINICS TEACH ABOUT CULTURE?

Throughout the course of developing the Cape Town Clinic, we have used a variety of teaching methods that are particularly appropriate for helping international human rights clinic students approach their in-country work in a culturally competent way, drawing on the techniques described by Susan Bryant, Jean Koh Peters, and others. The following lessons that we have learned from implementing these techniques to develop self-awareness, confront biases, and develop practical skills for interacting with partners in the field may be useful to build upon traditional models of cross-cultural competency training both internationally as well as at home. First, we discuss how cultural competency training can be useful to help students to understand their role in the human rights movement. Second, we describe how

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incorporating substantive training can be an important way to help prepare students to encounter culture. Third, we address how challenging students' preconceived notions of what it means to be a human rights lawyer can be an important lesson in cultural humility. Finally, we examine how creating opportunities for meaningful interactions with the communities whom the students seek to impact can be an important way to provide cultural perspective with respect to the students' work.

A. Providing Students with the Tools to Understand Their Role in the Human Rights Movement

Working in the field for a short period of time always runs the risk of being perceived by local partners and students as “parachuting in” to solve human rights problems without a deeper understanding or appreciation for the cultural issues at play. Local partners faced with requests to accommodate students for short periods will inevitably put those students onto “non-core” or “nice to have” projects. At the same time, students coming in for a short period may be reinforced in their culturally informed belief that international human rights can be best protected and advanced through the quick-fix triad of “fact-finding,” local education, and international advocacy. Guiding students to think about their role in the human rights movement is an important part of cultural competency training because it forces students to face the “Western Imperialist” critique head on.⁵⁰ Engaging students in discussions about how we interact with our local partners and the critiques that we may face as western lawyers doing human rights work globally is crucial to informing how they approach the work and can provide an important basis for discussion about our role as human rights advocates more generally. By teaching students to be conscious about our goals and limitations the objective is that they learn to approach the work with humility, a lesson that is important not only in the context of human rights fieldwork specifically but also to social justice work more generally.

At the very beginning of every preparation course we start by introducing students to the concepts of universality of rights and cultural relativism, raising the question of whether human rights can ever be universal in a culturally diverse world. These concepts form the lens for many future reflections. We assigned 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 a method for exploring alternative explanations for the attitudes that they may find in-country.⁵¹ For example, in Mutua's critique, he examines the work of human rights activists in terms of a “Savage-Victim-Savior” relationship, whereby 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.⁵²

50. See Haynes, *supra* note 1, at 386–89.

51. Bryant, *supra* note 5, at 70–71.

52. Makau Mutua, *Savages, Victims, and Saviors: The Metaphor of Human Rights*, 42 HARV. INT'L. L.J. 201, 204 (2001).

This critique can be jarring for bright-eyed, well-intentioned students who come into the clinic assuming that their work could not be perceived as anything other than a positive contribution to the world. At the same time, it provides an opportunity to think about viewpoints that may be diametrically opposed to their own. We do not take a position on the Western Imperialist critique, but instead use it as a basis for group discussion so that students can achieve a better understanding of how others might perceive them in the field.

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 start their work in-country.⁵³ For example, we facilitated culturally specific simulation exercises to examine the extent to which we should defer to local partners versus maintaining our own position on case strategy issues.

One of the simulation exercises involves a law student who is interviewing women in Zimbabwe who have suffered politically motivated sexual violence. The hypothetical student is working with a Zimbabwean NGO, whose goal is to bring a claim before the African Commission. During the course of her interviews, the student realizes that what the survivors really need is not justice, but instead food, treatment for their HIV, and skills training so that they can get a job to get back on their feet. The student must talk with the NGO to express her doubts about their litigation strategy. She believes that the NGO is ignoring the survivors' needs and that she has an ethical obligation to these women to promote a more client-centered approach, particularly given that she is the one who has been talking with the women and feels like she is the one who best knows their needs. The representative of the NGO has over ten years of experience as a human rights attorney, having brought several cases before the African Commission. He himself has seen the suffering of Zimbabweans at the hands of President Robert Mugabe's ZANU-PF regime, including lack of food, medical treatment, and skills training. He feels that politically motivated sexual violence against women is an issue that has not been addressed. He has seen many naïve law students come to work with local NGOs for short periods of time and, although he is skeptical of their ability to make an impact on the project in such a short period of time, he has a lot of respect for their clinic and has allowed them to assist with the project, particularly given that he is so strapped for resources. Yet he is concerned that once confronted with the poverty and desperation of the women's lives, the students will become distracted by the immediate needs of the women as opposed to focusing on the larger goal of bringing a case before the African Commission.

This simulation exercise elicits a rich discussion regarding the students' role in doing work in the field. We discuss whether students should confront an NGO partner when they do not agree with the NGO's strategy, or whether it is better to be

53. 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 naïf." Rosenblum, *supra* note 25, at 304.

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more deferential. Are there situations when it is ethically important to challenge a case strategy? In those cases, what might a culturally sensitive approach look like? Bryant encourages students to become accustomed to identifying alternatives to their easily assumed interpretations of a client's behavior or motivations, in the context of international human rights fieldwork.

Our preparation forces students to begin to examine other ways of thinking more generally in the context of working with local partners on the ground. In this simulation, we discuss the NGO representative's own biases that come into play with regard to the law students. How might he feel given that he has seen so many well intentioned students come for short periods of time into his NGO only to take more resources than they give? How might this taint his impression of the students? What are some ways that students might be able to approach their work in order to allay these concerns? In sum, engaging in these types of simulation exercises 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.⁵⁴

This foundation provides the framework for a language students may use during the course of their work in the field as they begin to figure out their own role as a human rights advocate. For example, we have had several students come into the clinic with unrealistic expectations of what they can achieve during the short time they are in Cape Town. South Africa's history of colonialism and apartheid has resulted in a complex web of power structures that deprive millions of people who live in rural parts of the country of basic citizenship rights. Once students dive into the work of the LRG they quickly realize that there are no simple solutions, that this complicated web will take years to untangle, and that their research will be a very small part of a much larger advocacy effort over time. The "victories" are few and far between, and some students might not know the impact of their work until years later.

The lack of straight forward remedies juxtaposed with the dire poverty that students see when they arrive, both in the townships surrounding Cape Town as well as the rural areas in the Eastern Cape, sometimes leads students to question the

54. This example is drawn from an experience Kathleen had during Stanford's Namibia Clinic. The lack of likely judicial remedies available to the women, coupled with the dire immediate circumstances, led the students to question the value to the women of a human rights report with the eventual goal of obtaining justice when their real needs were much more basic, such as food, shelter, and medicine. In the end, as opposed to questioning the strategy of our NGO partners, who were clearly already aware of the dire conditions that the women faced, the students decided to ask if there was anything they could do to help the women with some of their more immediate needs. As a result, the students ended up working on a volunteer basis with one of our Zimbabwean partners, when they returned to the United States, to help raise money to start a shelter to house women who had suffered sexual violence during the elections, providing them with an opportunity to rebuild their lives. In this way, the students were able to take a holistic approach to their work, leveraging their resources in order to make an impact beyond just the legal forum. By realizing their own strengths and limitations, they were able to capitalize on the similarities of their goals with those of the Zimbabwean partners—i.e., to provide support for the women—as opposed to questioning the project altogether. As such, the students were able to avoid the perception of being Western imperialists who knew better than their partners on the ground what would be best for the women, thereby coming to a much more successful result.

value of what they may perceive to be obscure historical research when the needs of the people are so much more basic and immediate. These kinds of challenges can lead to important conversations around our role as human rights advocates working as guests in a fieldwork setting. In writing their reflections, we ask the students to think about the similarities and differences between their goals and the goals of our partners as a way to acknowledge where differences lie, so that we may address these differences. We ask them to consider when it is appropriate for the students to raise concerns about the substance of their projects with their supervisors and how their critiques might be perceived. In other words, how does a law student, who is coming to South Africa for just a few weeks, engage with the strategy of South African human rights organizations that have been working in the communities for decades? We also invoked Habit Four in thinking through ways in which the students might raise the issue to communicate in a culturally respectful way.

We do not want our students to feel silenced by the numerous critiques of human rights fieldwork to which they are exposed. Instead, our aim is that they learn to work in mutually respectful partnerships with local organizations based on open conversations. At LRG students were encouraged to express their views on legal and advocacy strategy and were given substantial leeway to shape their own outputs. For the most part, students responded positively to this opportunity, often engaging in lengthy ad hoc discussions about strategy. Based on how this model has played out for us, we would strongly encourage others setting up human rights field placements to have conversations with their partners about the clinic's pedagogical goals and, in particular, to explicitly encourage a relationship of open dialogue between students and field supervisors.

Using cross-cultural competency training to help students better understand their role in the social justice movement is a tool that could also be applied more broadly to domestic clinics. Very often students are coming in as outsiders, not only in the context of international human rights fieldwork but also in the context of any kind of domestic poverty law clinic where socioeconomic barriers exist, or a criminal defense clinic where most students will never understand first hand what it means to have contact with the criminal justice system. As we have seen in our international human rights fieldwork, by guiding students to recognize their role as clinical participants and eventually in the social justice movement more broadly, we can help them to be more effective advocates by helping them to navigate issues such as when it may be appropriate to question the legal strategies of partner organizations and how we can communicate our concerns so as to be mindful of critiques that others may, in turn, pose of *their* interventions.

B. Incorporating Substantive Training as a Way to Prepare Students to Encounter Culture

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

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training? Throughout the course of the past two years, we have found that one of the most important sources in preparing students to identify the types of critiques and biases they may face in-country is substantive training on the historical, political, and legal issues related to their specific projects.

As with most clinics, our fieldwork program has involved significant preparation prior to beginning work on student projects through a clinical seminar. Because students doing fieldwork in an international setting do not have the benefit of a shared history with their clients, substantive preparation is one of the most important parts of our cultural training. For example, how can students begin to understand the similarities and differences that they may experience with their clients and others, or alternative explanations of their behavior, if they do not understand how apartheid governed every aspect of people's lives: where they lived, where they worked, who they married? How can students understand how the culture of the legal system and legal actors may influence a case if they do not have basic knowledge of South African law, which is a mixed common law-continental system? By providing students with a landscape of the substantive issues, they are able to draw on this knowledge in order to provide cultural context for their work.

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 prior students on the actual work that they will be doing in-country. In the past, the substantive preparation began with lectures related to the history and politics of apartheid, as well as on the challenges of South Africa's subsequent transition to democracy. Because most of the project work related to customary law, we discussed at length the history of pluralist legal systems. The substantive preparation portion also included a segment on the role of race in South Africa, in which we discussed the similarities and differences with the ways that race comes into play in our own society. This year we found the substantive preparation to be so useful that we shifted the focus to include even more substantive training, including a much more in-depth analysis of tradition and law in South Africa in present day and colonial times, custom and land, and culture and rights in South Africa. Bringing prior students into the preparation process also allowed students to ask questions about the history of apartheid and race relations in today's society in a safe environment, so that when they arrived in South Africa they had already started thinking about how the country's peculiar history and continuities might impact on their work.

By shifting our focus from skills training to substantive preparation, prior to arriving at UCT, students already had knowledge of colonial and apartheid history in South Africa, allowing them to better navigate the legal questions surrounding traditional authorities that they were researching. In particular, students learned that many of the authorities that are deemed "traditional" by law in South Africa are often not actually traditional at all, but are instead artifacts of a history of indirect rule under colonialism and apartheid.⁵⁵ After apartheid, many of the same traditional

55. See Aninka Claassens & Sindiso Mnisi, *Rural Women Redefining Land Rights in the Context of Living Customary Law*, 25 S. Afr. J. ON HUM. RTS. 491 (2009).

leaders who colluded with the National Party regime remained in power, with their authority now reestablished through the Traditional Leadership Governance and Framework Act of 2003, which relies in large part upon the Black Authorities Act of 1951, a cornerstone of apartheid.⁵⁶ Indeed, the very question of “culture” in South Africa cannot be discussed without understanding how the debate around “what is custom” has been shifted from within the community to the macro politico-legal arena at the expense of ordinary rural South Africans.⁵⁷ In sum, the complicated web of power in contemporary South Africa impacts in particular ways on South Africans living in the former homelands, which are home to more than one-third of the population, or about 17 million people.⁵⁸

Understanding the historical and political reality of South Africa is therefore essential to the students’ ability to navigate culture throughout the course of their fieldwork, and cannot be understood in a single lecture. It requires an entire course of preparation to allow students to dive into the issues so that they are sufficiently prepared. This substantive focus during the students’ preparation course allowed us to dive more deeply into the discussions that Sue Bryant outlines as Habits One and Two—namely to analyze the similarities and differences between their own culture and the South African culture—and to ask students to identify the differences and similarities between themselves and the people that they would serve through their projects with their historical place within the South African legal system.

From a practical perspective, integrating more substantive training into our “boot camp” program was useful in terms of preparing the students for their work so that they could arrive in Cape Town ready to embark on their projects, increasing the value they provided to LRG and giving them a greater sense of satisfaction as a result. Whereas it used to take students at least a few weeks to fully grasp the historical and political context of the work they would be doing, by covering this during the several months before students arrived, they were much more conversant in the relevant issues when they began their work with LRG. This has an enormous impact on students’ ability to feel engaged in the work early on, avoiding some of the cultural misunderstandings that might have previously occurred. The importance of ensuring that students were properly informed of the substantive context of the work they were doing at LRG was made apparent to us in the first year of the clinic where we dealt with a couple of students who spent weeks trying to understand how their research was relevant, even though the immediate relevance of their contributions to LRG’s strategies had been repeatedly explained to them. Eventually we realized that what they were struggling with was less about understanding the instrumental value of their contribution to LRG’s immediate goals, but rather, how their project contributed to bringing about broader social change in the context of South Africa’s very particular history.

56. *Id.* at 494.

57. See BARBARA OOMEN, CHIEFS IN SOUTH AFRICA: LAW, POWER & CULTURE IN THE POST-APARTHEID ERA 87 (2005).

58. Cousins, *supra* note 44.

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The importance of recognizing historical similarities and differences was also apparent for a number of students who were drawn to working at LRG because of their background in Native American Law and strong views on the need to promote indigenous rights. For these students, because of the U.S. history of failing to recognize Native American rights, this meant carving out and protecting politically autonomous spaces for the advancement of group rights that could be bulwarked against individualist conceptions of rights and state intrusion. All were initially surprised when this worldview did not neatly translate to the South African context. In South Africa, they were faced with a state that was actively collaborating to exclude 17 million people from democratic forms of governance; in the words of late-colonial African historian Mahmood Mamdani, turning them from citizens into tribal subjects.⁵⁹

In many respects the clinic was arguably most useful, if at times perplexing and frustrating, for these students, who had thought deeply about traditional governance structures. They were asked to think further and justify what they valued about their cultures in order to find some principled basis on which to justify taking what might otherwise have appeared to be a diametrically opposite position on what they were dealing with in South Africa. This led them to think about the value of consensual association, the right to “opt-out,” and the structure of accountability. For those students, identifying cultural differences and similarities allowed them to ultimately make a greater contribution in their work in South Africa, but will also forever complicate the easy assumptions that they might otherwise make about their own culture. In this regard, one student reflected as follows:

My assignments in the LRG have . . . given me a greater appreciation for the diversity of tribal concerns worldwide. Many tribes, mine included, see their struggle as part of the greater global struggle for indigenous rights. Something we rarely consider, though, is the right *not* to be indigenous. I now have a more complete understanding of self-identification and suspect I will have a distinct advantage dealing with intertribal disputes where the origins of identity frequently influence conflicting goals.⁶⁰

By incorporating lessons about the history of traditional communities in South Africa, students such as this one are able to analyze the similarities and differences between U.S. Native American Law and customary law in South Africa during the course of their work to develop a deeper appreciation for both.

Providing students with a more robust understanding of the history of race in South Africa has also had an important impact on their ability to analyze cross-cultural interactions. Many students have traveled to South Africa under the impression that apartheid can be analogized to the U.S. history of segregation under the supposedly “separate but equal” Jim Crow laws. While both systems resulted in racial segregation, they were based on very different historical circumstances. By

59. MAHMOOD MAMDANI, *CITIZEN AND SUBJECT: CONTEMPORARY AFRICA AND THE LEGACY OF LATE COLONIALISM* (1996).

60. Student Reflection Assessment No. 1 (Oct. 29, 2010) (on file with authors).

providing students with the historical perspective in South Africa, where apartheid came on the heels of centuries of colonization and was more about maintaining power over the nonwhite population as opposed to an exhibition of racial prejudice, they are better able to understand not only the context of apartheid but also how that history has influenced present law and politics, as well as interpersonal relations. As one student reflected:

It is easy to draw parallels between the history of racial tension in South Africa and the United States. Both countries once had legal forms of racial separation, allowing an outnumbered minority to control and exploit a large workforce. Both countries are now dealing with the aftermath of that once legal separation and social advocates continue to push to remedy its lasting consequences. However, as compelling as these facial parallels may seem, it is both easy and dangerous for an advocate that works in one country to assume to understand the racial dynamics of a country simply because that country has racial dynamics that seem facially similar to her own. I struggle with this issue daily and I am constantly employing the “camel’s back” habit and forcing myself to reflect on my own cultural biases I find myself literally reminding myself that I am here to learn and not to impose my own culturally narrow understanding of what is and isn’t appropriate discussions of race.⁶¹

The student further discussed how, in reflecting with Dee, she was unknowingly talking about race in such an abstract way that Dee had to stop her to ask, simply, “Are you talking about race?” The student was caught off guard, reluctant based on her own cultural understandings of how race should be discussed to even say the word “race.” Through these interactions the student began to rethink the construction of race, not only in South Africa, but also in her own country: “the open discussion of race I have encountered in South Africa has caused me to reflect on my own perceptions of the effectiveness of the use of the word and its place within social advocacy.”⁶² It is through these types of open conversations and supervised reflections about the very substantively different historical context of South Africa that students

61. Student Reflection Assessment No. 2 (Apr. 22, 2011) (on file with authors).

62. *Id.* The student wrote, on this point:

In South Africa, everyone talks about race. It is not talking about race directly that can sometimes create unease. In fact, in my first meeting with Dee I was discussing the perceived differences I had observed between South African and American society. Without noticing it, as a true American, I began speaking so abstractly that finally Dee stopped me and asked, simply, “Are you talking about race?” I was caught off guard. Yes, *race*, I said nervously, half-wondering if someone from home would hear me say it.

As an educated “woman of color,” my experience has taught me to do two things very well—either avoid the conversation of race altogether, or, frame the discourse as neutrally as possible. To be fair, race is a tricky word. Any discussion of it results in arbitrary line drawing. Still, the open discussion of race I have encountered in South Africa has caused me to reflect on my own perceptions of the effectiveness of the use of the word and its place within social advocacy.

Id.

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are able to have these moments of self awareness that allow them to truly understand the nuanced ways in which they are experiencing culture.

Integrating substantive training to enhance students' ability to recognize similarities and differences in their intercultural interactions is undoubtedly a lesson that could also be applied in the context of in-house domestic clinics. One could imagine the value in understanding the history of the landlord tenant relations or city planning and community development issues in the United States, for example, in litigating an impact case related to tenants' rights issues in a community law clinic. The same could be said for providing students with a more in-depth understanding of the politics surrounding U.S. political relations with Guatemala in order to more effectively litigate on behalf of an asylum applicant who has fled the region due to gender-based persecution. This type of substantive training is valuable not only in attorney-client interactions in order to provide students with the tools to identify where various biases and assumptions may lie, but also from a strategic standpoint in order to better understand how to effectively litigate on behalf of one's client given the barriers of the client's goals when mapped onto the avenues for relief provided by the legal system as described by Bryant and Koh Peters in Habit Two.

C. Challenging Students' Preconceived Notions of What it Means to Be a Human Rights Lawyer

Another way in which cultural competency training has been important in our international human rights clinical fieldwork is as a vehicle to challenging students' preconceived notions of what it means to be a human rights lawyer. More often than not, students who applied to participate in the Stanford Clinic expect that their experience will include direct client contact that allows them to make an impact in individuals' lives. Instead, much of our fieldwork did not involve individual client representation, but working with NGOs on larger-scale advocacy and the development of complex multi-layered cases for long-term impact litigation. In spite of efforts to set their expectations, students sometimes became frustrated when their field projects did not fit within the traditional direct services relationship that they had envisioned. In some cases, students had a difficult time understanding why their own personal learning goals to have client contact came second to the needs of our partner organizations. Drawing on more traditional cross-cultural competency theory—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 partners, dispelling students' preconceived notions of what it means to be a human rights lawyer, thereby allowing them to be more effective in their work. As more and more in-house clinics begin to think outside the box with respect to project selection beyond direct client services, these lessons from the international human rights fieldwork may apply more broadly.

The fact that many aspects of human rights advocacy are non-legal in the traditional sense is a constant tension that human rights clinics across the country must confront.⁶³ For example, Deena Hurwitz cites a project in the Yale International Human Rights Clinic, which sought to assist the Commission for Reception, Truth and Reconciliation in East Timor in the documentation of abuses during the early years of Indonesia's occupation. While the project was enormously valuable in the sense that little had been written about that period, the "students became overwhelmed with preparing what [they viewed as] essentially an annotated bibliography."⁶⁴ In another example from the Berkeley International Human Rights Clinic, students' expectation of participating in impact litigation or legal research and writing on issues that matter to them got in the way when they were asked to research provisions of the North American Free Trade Agreement (NAFTA) in order to speak about them in lay terms to working-class Americans during their trip to the border. In that case, the students revolted because they felt that their assignment was not legal work. They wanted to do something that was more conventionally "legal," or at least consistent with their perceptions of "legal," such as filing a NAFTA complaint, in spite of the fact that the absence of legal protections was not the central problem.⁶⁵

Similarly, some students apply to the Stanford Clinic as a way to gain real life "client contact" in the field.⁶⁶ One student stated in the clinic application as follows:

Working in the International Human Rights and Development Clinic will be a powerful opportunity to interact with women, hopefully learning from them and helping to improve the legal and social structure. Moreover, it will allow me to learn about the law and how it operates and affects the lives of real people in real life situations.⁶⁷

Another student stated quite explicitly: "I am excited about the opportunity for direct client contact."⁶⁸ When we pushed students to describe what they meant by "direct client contact," many actually expected to be working in rural African villages, directly with the people whose lives they hoped to improve. While client contact is no doubt a worthy pedagogical experience for students, and while we do provide interaction with rural communities whenever we can, it is not necessarily the way in which our students can be most useful to our partners in the field. Furthermore, we

63. Hurwitz, *supra* note 1, at 544 ("A common dilemma with clinic-based advocacy concerns whether the project is sufficiently 'legal' to be a useful pedagogical experience for law students.")

64. *Id.*

65. *Id.* at 544-45.

66. Arguably, even the clinical movement has contributed to fostering this perception of client contact as a central part of a lawyer's everyday work. For example, 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. *See, e.g.*, Jacobs, *supra* note 4; Sedillo López, *supra* note 10; Tremblay, *supra* note 10. While an important pedagogical tool, client contact is just one aspect of what it means to be a lawyer.

67. Student Clinic Application No. 1 (on file with authors).

68. Student Clinic Application No. 2 (on file with authors).

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need to seriously consider the ways in which indulging the need for “direct client contact” may reinforce for the students problematic conceptions about the nature of human rights lawyering. More cynically, it is necessary to guard against some students’, often quite explicit, yen for a human rights safari, with all its preconceptions about “real” Africa.

LRG’s work is a classic example of where the important contributions that students can make do not always fit neatly within such preconceived notions of human rights lawyering. In terms of litigation, LRG is concerned with developing cases that will bring about major structural changes. Such cases are built over years, on the back of painstaking research done in partnership with a range of local and international experts (historians, political scientists, economists, sociologists, and anthropologists), public interest lawyers, and local community-based organizations. For students, this could mean spending twelve weeks tracking down the laws of a quasi-independent “homeland” and describing its taxation powers in order to show the link between contemporary and apartheid forms of tribal taxation. None of the material is available on Westlaw or LexisNexis. Much of it is only available in archives. The next student picks up where the last left off, together building a solid body of evidence that will stand up to the scrutiny of the succession of courts through which the case will need to go before gaining constitutional redress. In this way, students get to contribute to a human rights project that is bigger than themselves, requiring collaboration not only with colleagues working on the project at that time, but with students who have worked before and after them.

At LRG students also had the opportunity to “try on” different strategies for promoting human rights. One student, who described himself as “a bit of a relativist,” reflected on the scope of the opportunities as follows:

Whether consciously or unconsciously, the LRG recognizes law’s limitations in ways my prior legal studies have denied. Knowing a new statute will not change the world, it uses legal knowledge to empower minor revolutions. I admire this, and hope to employ similar tactics back home.

I have been particularly impressed by the LRG’s grassroots engagement activities. The East London conference brought community leaders from across the province to discuss methods of resistance. It sought bottom up solutions, passing their knowledge of law onto the citizens most affected. While much of the conference was spoken in Xhosa, the expressions on people’s face[s] needed no translation. They were clearly motivated.

Currently, I am drafting a fact sheet for the upcoming Limpopo tribal elections. I find this work similarly inspiring. I am interpreting regulations for the people most affected by them. They can decide for themselves what to do from there.⁶⁹

While this student clearly “got” the value of a holistic approach to human rights lawyering, other students who arrived with preconceived ideas of the types of skills

69. Student Reflection Assessment No. 1 (Oct. 29, 2010) (on file with authors).

that they “should” be learning during their clinical fieldwork experience were less impressed with being asked to draft “fact sheets” or assist with convening community meetings.

The same problem may arise in respect of faculty expectations. As Johanna Bond points out, in doing international human rights clinical 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 the work done. Their faculty counterparts may be primarily concerned with getting the job done in a way that maximizes learning for the students.⁷⁰

This is not a phenomenon that is unique to the clinic’s relationships with its partners, as most clinics face this tension with their own partner organizations. That said, when working in the field the stakes are heightened because of the negative way in which our partners may perceive this attitude when students are invited as guests to work in local settings.⁷¹ As Bond says,

[b]ecause some of the tenets of international human rights have, at times, been used to promote Western ethnocentrism rather than a true human rights agenda, clinicians involved in cross-cultural collaboration must teach students to be sensitive to issues of power and subordination. The Clinic must teach students to collaborate with international “clients” in a productive and, most importantly, respectful way.⁷²

When a situation arises where a student becomes frustrated that his or her learning goals are not being met, cultural competency training can be an important mode to provide students with the tools to reflect upon their perception of human rights advocacy and how misconceptions can negatively affect their relationships with our partner organizations. Realizing that the disjuncture between student conceptions of human rights work and the needs of LRG was an ongoing issue, we began to address this with students even before they went into the field so that they could begin to become more sensitive to their role in human rights advocacy, specifically with respect to their involvement in the clinic. For example, invoking Habit One and assigning our NGO partners to the role of the “client,” we discussed whether there were areas where the goals of the students may be different from the goals of the NGO. We also discussed the students’ role as clinic participants in the context of Habit Four—thinking through how students can communicate with our NGO partners to show sensitivity to the limitations of their work with them.

During the first year of our program in Cape Town, more than one student expressed frustration that they did not have the types of client interactions that they expected from the “clinical” experience. We used these opportunities to reflect with students on the ways in which promoting our own goals over those of our partners

70. Bond, *supra* note 2, at 342.

71. *See id.*

72. *Id.*

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might further embody the “Western Imperialist” critique that we have discussed, ways in which the students may have romanticized what it would be like to work in Cape Town, and how, given our limited involvement in the projects, in the end it should be our partners who make the ultimate decisions about how the project proceeds. It was through repeated reflections that we were able to work with students to dispel their preconceived notions of human rights lawyering and to discuss how alternative forms of advocacy beyond direct services lawyering can have an impact. By consciously engaging in the conversation some students become more critically aware of the gamut of opportunities to contribute to human rights advocacy, and sensitive to the idea that we should be working for our partners on the ground and not the other way around.

We also used this opportunity to reflect on our own role in setting expectations for students about the type of work that they would be doing in Cape Town. For example, were we being clear with students during the application process that they may not have direct client contact at LRG? How could we do a better job of describing the experience of working with LRG and the importance of their research in the context of the greater human rights movement within South Africa? And perhaps most important, what were the implications of calling our program a “clinic” when it looked nothing like the classic direct services model that our students, many of whom had participated in other clinics prior to coming to Cape Town, had come to expect from a clinical experience and where their supervisors in the field were not formally trained in clinical pedagogy? During the second year of the program we worked to dispel some of these misunderstandings by bringing Dee to Stanford to lead the student interviews and describe the work of LRG to the students directly so they could better grasp the nature of LRG’s work. By creating a more engaged interview process, we were able to set better expectations for the students coming into the clinic, and also do a better job of selecting the students who would be more suited to do the type of research in which LRG engages.

The use of cultural competency training as a way to help set expectations and dispel myths about the lawyer’s role in the social justice movement can also be applied more generally to domestic clinics. As clinics begin to select projects that fall outside of the traditional direct services model, they too will have to face students who may be frustrated that their projects are not “legal” enough. Instead of working toward fitting our clinical projects into the paradigm of the “Perry Mason” image that many students may imagine as the quintessential lawyer, we can use this as a teaching moment to help students understand the breadth of opportunities to make an impact using legal advocacy and research tools. For example, students who are researching laws for foster children in California for an NGO partner and then preparing a research memo, or a plain language guide for vulnerable families, are learning skills that are as valuable as those students who are representing foster children before a judge as court appointed special advocates. By using cross-cultural training models that help students step outside of the traditional paradigm to identify goals that are consistent with the goals of the partner organization, we will not only create more realistic expectations for students who want to do social justice work; we will also

help them to navigate the cross-cultural aspects of representing individuals and organizations working in poor communities, thereby allowing them to be more effective in their work.

D. Creating Opportunities for Meaningful Interactions with the People Whose Lives the Students Seek to Impact

During the course of our international human rights fieldwork, students are sometimes forced to confront extreme poverty and cultural difference, often in a way that they never have before. In doing so there is a potential for students to be left paralyzed by the seeming hopelessness of the poverty and cultural difference if this exposure is not coupled with intense reflection on how the students are experiencing it and how it is affecting their work. It can also negatively impact their work product as students essentialize their clients.⁷³ In identifying the similarities and differences between themselves and the individuals whose lives they eventually seek to impact, students may feel unable to identify with their eventual clients at all, thereby inhibiting their ability to raise antennae to recognize their own ethnocentric thinking and preventing them from seeing through their own biases and assumptions.⁷⁴ At the same time, in a place like Cape Town it is also possible to live 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. A question with which our clinic has grappled is how to use clinical teaching methods to force students to confront issues of difference and privilege. Again, this is an issue that is not unique. Students participating in in-house clinics may be working to serve low income populations without ever having meaningful exposure to the individuals they seek to serve, and other clinics may be able to apply our lessons more broadly.

As a way to combat these issues in our South Africa clinics, we always begin with a tour of the entire city, including very poor local suburbs, or so-called townships. Sensitive to avoiding stereotypical “poverty tourism,” we use guides who are based in and knowledgeable about local communities and try to facilitate a program that ensures maximum engagement with local residents. In doing this, we seek to expose students to both the vulnerabilities associated with poverty in South Africa, as well as the remarkable resilience of the communities on behalf of whom they will be working. Where appropriate, 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 this way, students are able to interact informally with community members, and talk with mothers and children, observing 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

73. See Haynes, *supra* note 1, at 389–90.

74. See Bryant, *supra* note 5, at 88–89.

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to face before. By coupling the “township tours” with reflections, students were quick to realize just how many biases and assumptions they had made about what it means to be poor in Africa.

In some cases where students have not initially had the opportunity to interact with their individual clients, when they finally do it can completely transform their perspectives and allow them to be much more effective in their work. But it is not without challenges. For example, one of our students went to visit a traditional community after spending the preceding quarter working on a project involving the use of customary courts to resolve disputes. After several weeks researching the practices of customary courts throughout South Africa in anthropological texts, the student had the opportunity to witness a customary court in session. It was only through this trip that she was able to realize how many generalizations there had been in the anthropological texts she had been using for research, and the extent to which she had been essentializing “Zulu culture” in her own thinking and writing. It is difficult to know how we could have pre-empted this student’s resultant frustration with her own limitations. Without the close reading of scholarly texts and discussions with experts at LRG that preceded her trip she would arguably not have had the same insight into the specificity of practice and tradition that she was able to identify on her field trip. So, visiting a traditional court earlier in the research process may not have assisted her to avoid essentializing the subjects of her research. The challenge lies in helping students to strike a balance between the often destabilizing recognition of cultural diversity and the belief that what they do can have an impact in improving people’s lives.

Incorporating time in a rural Eastern Cape village into the early part of the program has been an important way to allow students the opportunity to interact with communities that their projects at LRG seek to serve. By providing meaningful opportunities for students to interact with the people in the village, staying in their homes, preparing evening dinners, and learning more about their community development projects, the students come to appreciate people from rural communities as individuals as opposed to an “exotic other,” helping to avoid the type of essentializing that could otherwise result. Without exception, the students found this trip to be extremely valuable in framing their subsequent work.

Other opportunities, including participating in rural workshops, have augmented students’ ability to engage critically with local priorities. One student who attended a conference in the Eastern Cape, in which LRG had partnered with nine rural CBOs and NGOs, described her trip in a reflection paper as follows:

Having the opportunity to interact with people from rural communities, hear their concerns, and witness their level of engagement with the issues served as a great foundation for the clinical experience. I left the Eastern Cape conference so impressed with the energy, awareness, and thoughtful eloquence of the participants. In boot camp and in writing our summer reflection papers, I often felt like we were discussing issues in a vacuum. Without more information directly from rural people themselves, it was difficult for me to ascertain how average people felt about issues like levies, chiefs, constitutional rights, etc. I

was also uncertain about how connected LRG's efforts were to the needs and concerns of local people, and uncertain about how LRG selected its cases. To some extent, I continue to think critically about these issues, but the more exposure and discussions we have, the more confident I am becoming that LRG has correctly interpreted rural concerns and priorities.⁷⁵

According to students' feedback, being exposed to rural life provided important context for their projects, allowing students to visualize what is meant by "traditional," at least with respect to a traditional community in the Eastern Cape. But most students also recognize that one week in the Eastern Cape can only provide them with a relatively superficial sense of context. Our hope is that the experience provides sufficient motivation for the students to dig deeper.

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 a rich well of experiences from which students can draw in discussions of cross-cultural lawyering.⁷⁶ Although the Stanford Clinic at UCT did not have a formalized relationship engaging students in such peer-to-peer professional opportunities, it has been clear from our past Stanford 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.⁷⁷

75. Student Reflection Assessment No. 3 (on file with authors).

76. Sarah H. Paoletti, *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.

Id. at 1183–84.

77. For example, in one project that Kathleen was involved with in Namibia, we paired our students with University of Namibia law students to prepare a needs assessment. Instantly, our students were forced to work collaboratively with the University of Namibia students, relying on them for cultural considerations in developing a questionnaire. When they administered the questionnaire, again, our students were reliant on the University of Namibia students to overcome the language barrier. Whereas our students

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It is not uncommon for students to come away from their fieldwork experiences with an acute sense of difference and privilege. Particularly those students who have not spent a significant amount of time in developing countries are often left shocked by the overwhelming nature of the poverty that they have witnessed. This can very quickly lead to an “us/them” paradigm, where students “become blind to the more subtle points of privilege.”⁷⁸ It is not only the international human rights clinic which is vulnerable to the “us versus them” criticism by creating clinics that are separate from the communities that we seek to serve. Although many community law clinics are separate from the law school, located directly in low-income communities, most clinics remain within the privileged confines of the law school environment. Thus, the more in-house clinics can also begin to imagine ways to create meaningful interactions for students with the populations that they serve, such as taking students into low income communities or developing peer-to-peer relationships with people from vulnerable communities, the more that students will be able to identify commonalities in their relationships with their clients, and the less likely they will be to essentialize.

VI. CONCLUSION

As our clinics become more global, we have been forced to confront cross-cultural pedagogy in ways that are not new to clinical teaching, but are certainly much more pronounced when spending as much as twelve weeks in South Africa with American law students eager to put their skills to work. It is through this new way of experiencing cross-cultural competency training that we as clinicians can learn more broadly how to implement existing training models in more meaningful ways. These lessons may also help us to think critically about how we might formulate our projects going forward in ways that allow precisely these types of teaching moments to arise in our clinics so that we can strengthen our students’ capacities as cross-cultural lawyers in the twenty-first century.

went into the discussion thinking that they had a significant amount of knowledge to convey about the subject area based on their experience of performing similar surveys in the United States, they soon realized that they had just as much to learn from the students with whom they were working.

78. Bond, *supra* note 2, at 335.

APPENDIX: International Human Rights Clinics⁷⁹

Clinic	Year Founded	Participation in International Fieldwork
American University, Washington College of Law, International Human Rights Law Clinic	1990	Yes
Boston University School of Law, Asylum and Human Rights Clinic	2008	Yes
Cardozo Law School, Human Rights and Genocide Clinic	2005	Yes
Columbia University School of Law, Human Rights Clinic	1998	Yes
Cornell Law School, International Human Rights Clinic	2007	Yes
CUNY Queens School of Law, International Women's Human Rights Clinic	1992	Yes
Duke Law, Duke Guantanamo Defense Clinic	2004	Yes
Emory Law, International Humanitarian Law Clinic	2007	No
Florida International University, Carlos A. Costa Immigration and Human Rights Clinic	2004	Yes
Fordham University School of Law, Walter Leitner International Human Rights Clinic	2007	Yes
Fordham University School of Law, International Law and Development Africa Clinic	2008	Yes

79. This list is an update to the list published by Professor Deena Hurwitz in the appendix to her 2003 article, *Lawyering for Justice and the Inevitability of International Human Rights Clinics*, which was drawn in part from a survey initiated by the AALS International Human Rights Law Section in spring 2002. Hurwitz, *supra* note 1, at 549. The survey continues to be ongoing and has been administered by Marcella David and Beth Lyon. As law schools respond, their survey submissions are posted on the Section's website. See *Human Rights Survey*, AALS INT'L HUM. RTS. SEC., <http://vls.law.villanova.edu/clinics/aals/humanrightssurvey.htm>. (last visited Oct. 7, 2011). This Appendix also draws upon a more informal survey of international human rights clinics following the International Human Rights Clinicians Conference at American University, Washington College of Law in May 2011. As with the list originally prepared by Deena Hurwitz, this Appendix reflects "a specific characterization of human rights work, encompassing those clinics that use international human rights law and mechanisms exclusively or predominantly in their projects and strategy." Hurwitz, *supra* note 1, at 549 n.170. Similarly, this Appendix does not include clinics that devote some part of their work to domestic human rights work—e.g., Rutgers School of Law-Newark's Constitutional Litigation Clinic, which was established in 1970, but has been litigating human rights issues domestically and internationally since 1994. Further, only current clinics are listed, leaving out international human rights clinics that may have been founded earlier but cease to exist.

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Clinic	Year Founded	Participation in International Fieldwork
George Washington University School of Law, International Human Rights Clinic	2004	Yes
Georgetown University Law Center, International Women's Human Rights Clinic	1998	Yes
Harvard Law School Human Rights Clinic	2002	Yes
New York University School of Law, Global Justice Clinic	2010	Yes
New York University School of Law, International Human Rights Clinic	2003	Yes
Northwestern School of Law, Center for International Human Rights	2004	Yes
Santa Clara University Law School, International Human Rights Clinic	2012 (expected)	TBD
Seattle University School of Law, International Human Rights Clinic	2003	Yes
Seton Hall Law, Immigrants' Rights/International Human Rights Clinic	1990	Yes
St. Mary's Univ. of San Antonio School of Law, Immigration and Human Rights Clinic	1992	No
Stanford Law School, International Human Rights and Development Clinic	2005	Yes
University of California, Berkeley Law, International Human Rights Law Clinic	1998	Yes
University of California, Hastings College of the Law, Refugee Human Rights Clinic	2003	Yes
University of California, Los Angeles, International Justice Clinic	2008	Yes
University of Cincinnati, Urban Morgan Institute for Human Rights	1979	Yes
University of Connecticut School of Law, Asylum and Human Rights Clinic	2002	No
University of Illinois College of Law, International Human Rights Clinic	2002	No

Clinic	Year Founded	Participation in International Fieldwork
University of Iowa College of Law, International Human Rights Clinic	2012 (expected)	TBD
University of Maryland School of Law, International Clinic	2009	Yes
University of Miami School of Law, Human Rights Clinic	2011	Yes
University of Minnesota Law School, Human Rights Litigation and International Advocacy Clinic	2009	Yes
University of Minnesota Law School, Immigration and Human Rights Clinic	1992	No
University of New South Wales, Human Rights Clinic	2011	No
University of North Carolina School of Law, Immigration/Human Rights Policy Clinic	2004	No
University of Pennsylvania Law School, Transnational Legal Clinic	2006	Yes
University of Quebec at Montreal, Clinic for the Defense of Human Rights	2005	Yes
University of San Francisco, Frank C. Newman International Human Rights Law Clinic	1998	Yes
University of Southern California, International Human Rights Law Clinic	2011	Yes
University of Texas Law, Human Rights Clinic	2009	Yes
University of Toronto, International Human Rights Clinic	2003	Yes
University of Utrecht, Conflict, Human Rights & Criminal Justice Clinical Programme	2009	Yes
University of Virginia School of Law, International Human Rights Law Clinic	2003	Yes
University of Wyoming College of Law, Center for International Human Rights Law and Advocacy	2011	Yes
Willamette University College of Law, International Human Rights and Refugee Rights Clinic	2008	No
Yale Law School, Allard K. Lowenstein International Human Rights Clinic	1989	Yes