

**NATIONAL LAW SCHOOL OF INDIA UNIVERSITY  
BANGALORE**



**REFRESHER COURSE FOR LAW TEACHERS  
ON  
CLINICAL LEGAL EDUCATION**

**13th November - 3rd December 1995**

**READING MATERIALS**

*Sponsored by :*

**UNIVERSITY GRANTS COMMISSION, NEW DELHI**

*Organised by :*

**LEGAL SERVICES CLINIC, NLSIU, BANGALORE**

NATIONAL LAW SCHOOL OF INDIA UNIVERSITY, BANGALORE

REFRESHER COURSE FOR LAW TEACHERS  
13 NOVEMBER - 3 DECEMBER 1995

- Sponsored by** : University Grants Commission, New Delhi
- Organised by** : Legal Services Clinic, National Law School of India University (NLSIU), Bangalore
- Subject** : Theory and Practice of Clinical Legal Education
- Venue** : National Law School of India, Bangalore
- Participants** : Forty (40) law teachers from law schools in India and few from Nepal and Bangladesh
- Faculty** : N.R.Madhava Menon(NRM), NLSIU  
D.K.Sampath(DKS), NLSIU  
D.Shankara Reddy(DSR), NLSIU  
Mr.K. Jairaj(JRJ), Managing Director, Karnataka Power Corporation Limited, Bangalore  
Kenneth S. Gallant(KSG), Fullbright Lecturer, NLSIU  
Frank S. Bloch(FBH), Professor of Clinical Education, Vanderbilt University Law School, USA  
Jane Schukoske(JSH), University of Baltimore School of Law, USA  
Roger Burridge(RBG), Warwick University Law School, U.K.  
Clark C. Cunningham(CKC), Washington University Law School, USA  
Prof. Marlene J Le Brun(MJB), Senior Lecturer in Law, Griffith University, Queensland, Australia
- Course Co-ordinator** : N.R. Madhava Menon  
with assistance from V. Nagaraj
- Duration** : Three Weeks - 13 November - 3rd December, 1995
- Objectives** : The Course, first of its kind in legal education, is intended to achieve the following objects:
- (a) Evaluate the current programmes of practical training in the law schools and examine the plans and strategies for their future development;
  - (b) Study the theory and practice of clinical teaching now prevalent in American and English Law Schools;
  - (c) Examine the scope of introducing courses on Alternate Dispute Resolution methods (Negotiation, Counselling, Conciliation, Mediation and Arbitration) within the curriculum of LL.B. Course;

- (d) Evolving a syllabus with teaching methods and materials for practical training courses such as trial advocacy, appellate advocacy and professional ethics;
- (e) Enabling participating teachers to work out syllabi and teaching plans for practical training courses in their respective law schools including techniques of supervision, evaluation, resource generation and integration with the rest of the curriculum;
- (f) Familiarise the participants with the National Law School experiment on clinical education and to seek critical feed-back from them with a view to assess feasibility of such experiments elsewhere in Indian Legal Education; and
- (g) Explore ways and means to involve law students in the legal aid programmes for supportive services as well as for instructing them on application of professional skills and ethics in live situations.

**Methodology** : Study of Reading Materials and Preparation of Review Notes; Lecture-cum-Discussion on Concepts and Theories; Individual and Group Exercises on Syllabus and teaching plans; Role Play and Demonstration of Techniques; Video-viewing and discussion on different approaches; Field visits and Practice Teaching.

**Expected Outcomes:** While all the objectives are expected to be addressed with varying degrees of emphasis during the course of three weeks, the following are few of the expected outcomes from the exercise:

- (a) A high degree of familiarity with current practices in clinical teaching around the world;
- (b) Understanding the strengths and weaknesses of practical training programmes followed in Indian Law Schools;
- (c) Preparing basic draft of action plans for development of clinical education in different law schools represented;
- (d) Producing the first draft of a handbook on clinical legal education the manuscript of which has been assembled by the National Law School of India;

- (e) Identifying distinct strategies for linking legal aid programmes with legal education in the context of local circumstances for maximising opportunities of learning skills with professional responsibilities;
- (f) Developing standardized procedures for student supervision and evaluation in practical training courses;
- (g) Exchange experiences and continue to learn from one another possibly through a South Asian Association of Clinical Law Teachers with participants of the course forming the initial membership.

SCHEDULE OF SESSIONS:

Monday 13.11.'95	FN AN	INAUGURAL FUNCTION An Overview of Clinical Legal Education in India (NRM) Discussion on Objects and Methods of the Course.
Tuesday 14.11.'95	FN  AN	Status of Clinical Education in my Law School- Presentation by Participants with emphasis on objects, content, methods, faculty involvement, student supervision and evaluation, budget, credits etc.  .....do..... (while presentations are made, participants will fill up the proforma giving data and analysis of the existing programmes)
Wednesday 15.11.'95	FN  AN	Concepts and Theories of Clinical learning/teaching (NRM, KSG)  Clinical Education in an American Law School (KSG)

Thursday  
16.11.'95

FN Clinical Education at the National Law School  
(NRM, DSR, VNJ)

AN Issues, Concerns and Pre-requisites for an effective programme of clinical education.-  
Group Exercise (In the context of the earlier presentations/discussion and with the assistance of data in the reading materials supplied, the participants in groups of eight will identify and prioritise basic requirements for effective clinical education)

Friday  
17.11.'95

FN Preparing the draft outline of one or more clinical courses to be introduced in one's law school. - Individual Exercise.  
N.B. Syllabus to contain objects, content, teaching methods, materials, budget support and expected sources, evaluation & supervision techniques and integration strategies to rest of curriculum.

AN Presentation and Discussion of the outlines.

Saturday  
18.11.'95

FN Fact Investigation and Legal Research  
AN FREE

Monday  
20.11.'95

FN Teaching Negotiation and Counselling Skills  
Lecture - Discussion (KSG, FBH, JRJ, DKS)

AN Simulation Exercises on Negotiation, Role Play, Group Exercise

Tuesday  
21.11.'95

FN Teaching Interviewing Skills - Lecture  
Discussion (KSG, FBH, VNJ)

AN Simulation Exercises on Interviewing, Role Play - Group Exercise

Wednesday  
22.11.'95

FN Teaching Conciliation/Mediation skills  
Lecture - Discussion (DKS, FBH, KSG)

AN Simulation Exercises on Conciliation / Mediation, Role Play, Group Exercise

Thursday  
23.11.'95

FN Teaching Trial Advocacy Courses  
Lecture / Demonstration (DSR, FBH, KSG, DKS)

AN ..... do .....

Friday  
24.11.'95

FN Supervision and Evaluation of Student work  
in Clinic. Lecture-Demonstration  
(VNJ, FBH, KSG)

AN Supervision and Evaluation of student work  
in Field (VNJ, FBH, KSG)

Saturday  
25.11.'95

LOK ADALAT PROGRAMME  
Observation/Participation/Evaluation

Monday  
27.11.'95

FN Community Law Reform Competition and Student  
Learning of Skills  
Presentation & Discussion - NLSIU Students

*Improving Law Teaching*

AN [ i) Placement Training Programme at NLSIU and  
its potential for Practical Training  
(NRM, NSG)  
ii) Public Interest Litigation and Consumer  
Advocacy involving Law Students  
(NRM, DKS, DSR)

Tuesday  
28.11.'95

FN i) Human Rights Courses and Clinical  
Programmes: Prospects for integration  
ii) Legal Aid Administration and scope for Law  
School Involvement. Lecture/Discussion  
(NRM, CKC)

AN Visit to Rural Mediation Centre of National  
Law School at Ramanagaram

Wednesday  
29.11.'95

FN Revisiting the draft Clinical Education  
Programmes and revising the proposal for  
submission to the Faculty of the respective  
Law Schools. - Supervised individual  
exercise.

AN Presentation of Final Drafts and Discussion  
on them

Thursday  
30.11.'95      FN      Strategies for Implementation - Support of University, U.G.C., B.C.I. Government, Legal Aid Board, Bar Association, etc. Discussion.

AN      Generating Financial and Human Resources for the Programme. Discussion

Friday  
01.12.'95      FN      Developing and sustaining a cadre of clinical professors and field supervisors and a working library - Status, Competence and Prospects

AN      Co-operation among clinical teachers at the local, national and regional levels - Plans and Programmes  
*Dinner*

Saturday  
02.12.'95      FN      COURSE EVALUATION

AN      *Soli Soberse*  
~~Valediction Cultural Programme and Farewell Dinner~~

Sunday  
03.12.'95      PARTICIPANTS DEPART

FACULTY:      KSG - Kenneth S.Gallant      DSR - D. Shankara Reddy  
                 DKS - D.K. Sampath      NRM - N.R.Madhava Menon  
                 VNJ - V.Nagaraj      FBH - Frank Bloch  
                 JRJ - Jairaj      KVV - K.V. Vasudeva Murthy  
                 JSH - Jane Schukoske      CKC - Clark Cunningham  
                 RBG - Roger Burridge      MJB - Marlene J Le Brun

## INTRODUCTION

For a long time now, Universities and colleges teaching law have been experimenting with a number of programmes and activities intended to impart practical training to the law students. After the abolition of the compulsory apprenticeship scheme as a condition precedent for the enrolment to the bar (1964), it became essential to incorporate practical experience in some form or other within the law school curriculum. Regrettably the attempt has not been successful with the result a large number of law graduates with hardly any exposure to court procedures and litigation skills have joined the profession diluting standards far below acceptable levels. Many of them did not know even the basics of court manners and professional ethics which brought them into trouble with the Disciplinary Committees of the Bar Council. It is heartening to learn that the All India Law Ministers' Conference (1995) has resolved to bring back the scheme of compulsory apprenticeship under a senior lawyer for an year after LL.B. Degree before a new entrant can be given license to practice. However, even after such a reform, the need for clinical experience during legal education will remain an integral part of meaningful professional legal education. As such, it is desirable for progressive law schools to evaluate the experience of the past, look at the experiences of law schools in other developed countries and evolve alternate models, viable and relevant to the Indian situation.

The nature and content of clinical programmes depend on the objects intended to be achieved by clinical teaching. It is not enough to say that it gives practical training or teaches skills of advocacy. What are the skills necessary, how much of it can be imparted whilst in law school, what type of programmes can best give such skills consistent with the rest of the law curriculum, what type of study materials can be made available for the purpose, who will teach such courses and under what methodology, how can the student learning of skills be assessed and graded for promotion and award of degree, how will the programmes be funded - all these and more need to be addressed in order to develop a workable scheme of clinical education. For a number of reasons, historical, economic and organizational, these questions have never been addressed seriously either by the Bar Councils or by the Colleges/Universities teaching law. As such, the available experience is inadequate to give guidelines on future programmes in this direction. The only redeeming factor in an otherwise disappointing situation is the inarticulate attempt by the legal aid movement in the country to induct law students and law schools in giving para-legal services particularly to the poorer sections of the community. There have been some notable successes in this regard and it is necessary to institutionalise them for the benefit of the community as well as for the improvement of professional legal education.

### **The National Law School Experiment**

During the last eight years that National Law School of India University (NLSIU) has been in existence, a variety of clinical courses are evolved, monitored and modified with some promising

returns in educational advancement. These include project assignments, placement-training on vacations, community-based law reform scheme, legal aid support services, public interest litigation, rural mediation project, and select specialised clinical courses around family, labour and criminal disputes. These are outside the usual moot court, mock trial, simulation exercises and field visits. With 300 marks spread over three specific clinical courses in the final year of the LL.B. Programme, the experiment consolidated over the years has helped to maximise clinical experience of students and to integrate the same profitably with the mainstream curriculum. With inputs from some Visiting Clinicians from English and American Law Schools and with specialised training of a section of the Faculty acquired through exchange programmes in select law schools abroad, NLSIU could make a positive breakthrough in clinical legal education.

The present Refresher Course on Clinical Legal Education, the first of its kind in India, is organized by NLSIU to reflect on NLSIU experience in clinical education in the light of similar programmes elsewhere and to explore the possibilities of institutionalising the scheme for professionalising legal education in Indian Law Schools. The Law School is ready to publish a teaching manual on the subject for the benefit of teachers and students and the materials to be included in the volume would be put to critical review by the teachers assembled for the Refresher Course. An international faculty of clinical professors from America, England and Australia are participating in the three-week refresher course which hopefully will evolve strategies and programmes to teach skills of interviewing, negotiation and counselling, mediation, conciliation, trial and appellate advocacy, as well as standards of professional ethics. More importantly, the course will initiate the development of a cadre of clinical teachers in different law schools who will continue to exchange experiences and learn from one another for the cause of better legal education.

We are happy that the present course has attracted some law teachers interested in clinical teaching from neighbouring countries of Nepal, Sri Lanka and Bangladesh. We welcome them in our joint effort to strengthen professional legal education in the South Asian region.

The materials included in this volume have been assembled over a period of 2 or 3 years by myself and my colleagues of whom Professors D.K.Sampath and V.Nagaraj requires special mention. The success of NLSIU Clinical programmes owe a great deal to the dedicated efforts of Prof.D.K.Sampath, Senior Advocate from Madras and Visiting Professor of NLSIU, Mr. D.Shankar Reddy, Former Director of Public Prosecutions and Adjunct Professor of NLSIU and Mr. V. Nagaraj, Assistant Professor and Programme-in-Charge, Clinical Education at NLSIU. I am sure with their rich experiences available to the Refresher Course, the course will be another milestone in NLSIU endeavour towards achieving excellence in legal education.

Dr.N.R.Madhava Menon  
Director, NLSIU

READING MATERIAL FOR REFRESHER COURSE

NOV 13 TO DEC 2ND 1995

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2. Clinical Education concepts and concerns by Dr. N.R. Madhava Menon 9-20
3. Clinical method of law teaching by Frank S.Bloch 21-34
4. Clinical Education and the year 2010 by Arthur B.LaFrance. 35-40
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2. A closet within the house; Learning objectives and the law Law School Curriculum and by Andrew Petter 58-68
3. How to learn skills by Prof. D.K.Sampath 69-80
4. Interviewing and counseling by Prof. Frank S Block and V.Nagaraj 81-123
5. Case planning and strategy by Prof. Frank S Bloch 124-133
6. Negotiation by Prof. D.K.Sampath 134-140
7. Teaching Negotiation:Avaluable experience by Bernard M.Ortwein 141-150
8. Teaching Mediation:The Need to Overhaul Legal Education by Karen D.Kraemer 151-154
9. A Modiation Teaching Tool by Mary Beth Legenaur 155-172

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| 10. | General Guide to Teaching Advocacy<br>by Kenneth Gallant           | 173-180 |
| 11. | Ten Rules of Appellate Advocacy<br>by Hon Justice M.D.Kirby AC CMG | 181-204 |

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