

REPORT ON THE
SECOND WORLD CONFERENCE OF THE
GLOBAL ALLIANCE FOR JUSTICE EDUCATION

RECONCILIATION, TRANSFORMATION AND JUSTICE

DURBAN, SOUTH AFRICA
5 – 14 DECEMBER 2001

INTRODUCTION

The second world conference of the Global Alliance for Justice Education (GAJE) took place in Durban, South Africa, on 5-14 December 2002. The overall theme of the conference, which included a one-day pre-conference workshop, a three-day main conference, and a five-day post-conference workshop, was “Reconciliation, Transformation, and Justice.”

This report is intended to provide a brief summary of the proceedings of the conference. Following an overview of the planning process for the conference, the report presents a summary of each substantive part of the conference: the pre-conference workshop; the main conference, including the opening ceremonies; the general business meeting; and the post-conference workshop, including a series of site visits to various justice education projects in and around Durban. The report also includes a series of appendices with listings of key conference committees and certain conference documents.

CONFERENCE PLANNING PROCESS

Planning for the conference began in 1999 at the business meeting following GAJE’s inaugural conference, which was held at Thiruvananthapuram, in the south Indian state of Kerala. A Conference Committee, chaired by Asha Ramgobin (Howard College School of Law, University of Natal; South Africa) developed the theme for the conference in close consultation with GAJE members, the GAJE Interim Steering Committee, and the Steering Committee’s liaison to the Planning Committee, Frank Bloch (Vanderbilt University Law School; USA). A list of Planning Committee and Steering Committee members is attached as Appendix 1.

Following a series of planning meetings and e-mail communication on the conference, the Planning Committee announced in late 2000 that the theme of the Durban conference should reflect global challenges facing justice education. In a notice on the GAJE listserv, the Committee explained its choice of “Reconciliation, Transformation, and Justice”: “In view of the violent conflicts among nations, within countries, among races, religious groups, . . . RECONCILIATION should be a part of the theme. However, it was felt that Reconciliation was not enough. [T]he theme needs to reflect activism and a movement toward tangible change: TRANSFORMATION. From transformation, the evolution was quick. [T]ransformation needs to be developed in an environment that makes the pursuit of JUSTICE its cornerstone.” The Committee sought to present a

program that would focus on development of skills and tools for teaching and supervising justice education, development of partnerships with individuals and organizations with common goals, as well as personal growth and reflection. In addition, the Committee felt that the content and outcomes of the conference should address issues pertinent to Africa, Southern Africa and South Africa and that conference participants should use this opportunity to learn from local experience and should leave behind skills and resources. The Committee decided to follow the general format of the Thiruvanthapuram conference (pre-conference workshop with a broad scope to set the tone of the main conference; main conference with “action orientated” panels and frequent use of smaller break-out sessions; post-conference “train the trainer” workshop) and to organize the entire conference so that small working groups could meet and work on specific tangible projects.

During the first half of 2001, the program was built around that theme and with those objectives in mind. In May 2001, the Committee announced that the theme of Reconciliation, Transformation and Justice would be set a “framework for discussion, dialogue, debate and sharing of ideas and skills, in an interactive, experiential environment.” The Committee chose to focus on three substantive areas that are important around the world and which are particularly relevant to the Southern African Sub Continent: Access to Land, Access to Justice for People Living with HIV/AIDS, and Environmental Justice. In addition, The Committee included a fourth, all-encompassing topic focusing on mainstreaming justice education in the law curriculum. Finally, the Committee noted that each of the four topics would serve to address global justice concerns in the areas of race, ethnicity, diversity, gender, and children rights. The final conference program was released in June 2001 together with a set of conference registration materials. The conference final program is attached as Appendix 2.

A fundraising Committee, chaired by Peggy Maisel (Howard College School of Law, University of Natal; South Africa) and Jane Shukoske (University of Baltimore; USA – on leave and serving in New Delhi as Director of the United States Educational Foundation in India), also worked closely with the Planning Committee to obtain for the conference and to facilitate delegates’ efforts to obtain financial support on their own. A Scholarship Committee, chaired by Judith Dickson (La Trobe University; Australia) received applications for scholarships covering conference fees and/or conference expenses and awarded grants. A list of Fundraising Committee and Scholarship Committee members is attached as Appendix 3.

Responsibility for running the conference was divided between administrative and substantive functions, under the overall supervision of the Planning Committee and its chair, Asha Ramgobin. Conference registration records, arrangements for conference sessions, conference meals and events, and lodging for delegates were handled by on-site “conference organizers” Mark Choonoo and Ashish Ramgobin, with assistance from Dorris Baker and Linda Williams at the Vanderbilt Legal Clinic (Vanderbilt University Law School; USA), which maintained registration materials and administered funds for most fees and grants paid in US dollars. The actual conference sessions, including both workshops, were run by a group of theme coordinators and conference speakers and

facilitators. The coordinators, speakers, and facilitators are listed on the final conference program, attached as Appendix 2.

PRE-CONFERENCE WORKSHOP: PERVASIVE JUSTICE EDUCATION
IN LAW SCHOOLS AND NGOs
(Wednesday, 5 December 2001)

The Conference opened with a one-day workshop on “Pervasive Justice Education in Law Schools and NGOs” prepared by Adrian Evans (Monash University; Australia), Neil Gold (University of Windsor; Canada), Margaret Barry (Catholic University; USA), Asha Ramgobin (University of Natal, South Africa), and David McQuoid Mason (University of Natal, South Africa). The workshop was intended to explore the immediate issues and challenges of instilling justice education concepts and ambitions in law schools and NGOs and to work toward moving on from just meeting and discussing justice education to its implementation.

The workshop began with a brief “morning contemplation” followed by an opening plenary session on “Introduction to Justice Education in the Curriculum” presented by Adrian Evans. This presentation also served to orient the workshop participants some of the general themes that would be explored throughout the conference. The remainder of the morning was taken up with two small-group working sessions on “Pervasive Curriculum Issues in Justice Education” and “Specific Approaches to Justice Education.” Questions presented to the working groups in the first session included: What does a pervasive justice education curriculum mean for law schools? What does a pervasive justice education curriculum mean for non-law school stakeholders? What are the elements of pervasiveness in both settings? The second session on specific approaches to justice education was organized around regional working groups from the following regions: Africa; Australia, US, and UK; Eastern Europe and Russia; and Asia. These working groups were asked to consider the cut off between local and cross-cultural/regional and universal in the context of an outline of a designed course.

After lunch and a short plenary session to introduce the afternoon’s program, there was a final small-group working session on “What is Universal in Justice Education?” followed a closing plenary “report back” session. During the small-group session, the working groups were asked to address the following questions: Is there a universal justice education curriculum or merely examples of universal justice education courses? If there are any universal elements, what are they: content, method, teachers, resources? The groups were also asked to prepare statements on universal elements uncovered during their discussions.

Participants at the various working sessions made the following general comments:

Pervasive Justice Education in Law Schools

Justice education requires that teachers always ask in whose interests the law operates and how issues of vested interest are talked about in classrooms. These questions can

lead to local designs for socially relevant legal education, inserting a ‘justice’ aim and ethos (or objective) into all courses. Teachers should acknowledge that values and morals of law students – and notions of fairness, ethics and what is ‘proper’ – must be central to the teaching agenda in all courses, subjects and units in law. Courses should cover not only the existing law *per se* but also the realities of its implementation. A touchstone first year course (‘Injustice in Your Legal System’) should be included in the curriculum that identifies justice issues as central to the learning and practice of law. Courses such as ‘Morality and Law’ sound acceptable but often are weak in their process and outcomes.

Justice education must always be guided by local and regional contexts. For example, the issue of a just interpretation of law raises particular questions in civil law systems. Alternative dispute resolution (ADR) is a very important strategy to break down a culture of ‘contest’ in many advocacy-based legal systems, in favor of a broader understanding of justice.

Law schools should recruit teachers open to justice education concerns, prioritizing between otherwise equal candidates on the basis of a willingness to take on a justice identification in their teaching. In order to direct the best mix of teachers and resources into justice education, law schools ought to consider local and regional alliances. Law students should be treated as adults; law courses should be designed with them as consultants, allowing them to recognize that the ‘power issue’ permeates all legal education. Students should also be encouraged to put back into their communities as a part of their responsibilities after graduation.

Law clinics are a potential ‘best practice’ method of inculcating better values/interest in justice in students but they may be, in practical terms, too expensive for many publicly funded law schools and can become mechanical (pretending to be value neutral) in their operation. Less costly alternatives should be considered, such as community-based externships and student research tasks/exercises that focusing on current topical issues of impoverishment and lack of power for members of the community.

Justice education can benefit practitioners by providing a meeting point between the letter of the law and the reality of the practitioner’s conduct, and as such should be a part of any “continuing legal education” requirement for lawyers. Justice education and clinical programs as ‘movements’ are very important for countries that lack a functioning legal aid system, particularly when individual clients and systemic issues in the community are given equal importance as advocacy objectives. Through justice education activities, clients learn how to access ways and means to get legal redress; by operating in the community, students and teachers help citizens recognize the rights of others and their own responsibilities.

Pervasive Justice Education in NGOs

NGOs can play an important role in justice education. Often, the NGO is the center for community action (not just for legal aid). Law schools and NGO’s can combine through

clinical programs and specific justice education projects – such as ‘Street Law’ – in order to maximize the reach of justice education. Indeed, NGO’s may be better at certain aspects of justice education than law schools - e.g., in lay training (in primary and secondary schools; for prison officials, social welfare workers), in identifying gaps in legislation, in media use, in lobbying and advocacy with legislators - and can help law schools improve their justice education programs. Justice education is about empowerment (do not be distracted by the cliché); it can be most effective by broadening its reach and by sharing information across communities, schools and borders, affluent and poor especially, in markets and community centers, through songs, street plays and role plays.

Suggestions for Specific Courses in Justice Education

A course on “Justice Education” would cover the concept of justice, including the philosophical justification for the existence of justice, balancing of power and equity, and access. It should include case studies, in which student could select an issue and carry out practical research on topics such as poverty, racism, gender inequity, land rights, refugees and internal domestic displacement, treatment of minorities, and HIV/AIDS. Students would gain a sensitivity to the ‘intersectional’ nature of law, would re-evaluate their of concepts of justice, and would focus on recommendations for change.

A course on “Property Law” would address social injustice by instilling an appreciation that poverty is a function of a lack of power, in turn of an absence of wealth, which is no more than the lack of property. The course would aim to gain a socially relevant understanding of the evolution of property law (i.e., the values which underlie it), to compare how concepts of property operate cross-culturally, and to develop means to effectuate social justice in property law.

A course in “Human Rights Law” is a central tool of justice education and would involve the study of ‘best practice’ models of human rights conventions (e.g., European Convention on Human Rights). The convention could form the basis of a progressive course structure, moving from comparative studies to local implementation, in conjunction with a local NGO. An initial Human Rights course should be followed by several specialized courses, including clinical specializations. Topics include notions of justice, economic justice, ethical and moral implications for practitioners, and public interest law.

A justice education curriculum could also include a training module for media people. This could be a collaborative workshop of NGOs, representatives of the media, and law school faculty and students, aimed at identifying what role the media is currently playing and can play in the pursuit of social justice. The workshop could use a newsworthy instance of injustice as a study topic and thereby sensitize media to concerns in media reporting. The training module would also seek to explore the view of the media on the same points and to understanding what types of media are best for different purposes. The participants could then create a media product on the same item.

Clinical programs provide an ideal means for justice education and can be used in all of these courses, especially clinical programs that include explicit ethical/values content. Clinical activities offer experience-based learning opportunities that bring justice concepts to students in a real-world context and allow students to work with and learn about procedural elements and power barriers, conventional and alternative solutions, and community as central to learning. The courses should be student-centered, using active learning and peer-to-peer learning. Values identification by students is at the center, using case studies from the active involvement of the local community to present issues of justice and injustice. Assessment for these courses must reflect values addressed in the course (having rigour, reward and credibility); therefore, it should include a creative, project/community based assessment, with group output.

In most instances, these courses could benefit by using teachers connected to an NGO in some way. NGO practitioners could participate directly to the extent that the courses use participative/ interactive methods. NGOs would profit from having a clinical teaching role, with spin-offs for research, advocacy and recruitment of future staff.

Universal Elements in Justice Education

Justice education is a systematic approach that involves social, political and historical awareness; there may be no universal ‘curriculum’ for justice education, but there are some principles: promoting equality among all peoples, providing access to information and the legal services that enforce rights, supporting the need for value formation, demonstrating inclusiveness and not just tolerance of diversity, encouraging social responsibility from students and academic staff.

Justice education seeks to identify the values underlying law, taking into consideration different national and ethnic backgrounds, religions, and cultures.

Justice education develops the notion that acceptance of responsibilities is of equal importance as the assertion of rights.

Justice education is change-oriented, tied to identified needs of society and its minorities. Outcomes of projects are measured and reported, with an eye toward implementation.

Justice education is dedicated to achieving useful, beneficial results for local communities through the regular supervision of students working in communities while using strategies for community service developed by those communities. Students exposed to community-based justice education programs are encouraged to continue their work in, for example, community-based law clinics.

Justice education follows a practical, participative, and action/reflection learning approach to develop tools for shifting power balances.

Justice education is self-reflective and self-critical; students are taught to use critical reflection techniques to link law and experience in their work.

Justice education is inclusive, thereby modeling the giving up of power, reserving judgment, and showing empathy. Non-lawyer actors in the legal process participate in and learn from justice education; clients are invited to talk to students about their experiences with the legal system.

Justice education incorporates cultural methods of learning; e.g., dance programs with disabled children, Oz reconciliation via 'sorry days', songs sung while working the Philippine rubbish stacks, radio dramas on women's rights, NGO use of street plays and games.

Justice education relies on innovative, convinced, and inspiring teachers who see fairness and due process as basic in their mentoring (teaching by example and within communities). Justice education teachers are dedicated to helping others involved in law/legal education to think more broadly.

Justice education uses all available and effective resources, including, for example: the local community, with special respect for community expertise; personal intellectual and activist histories; case law and case histories, especially those of NGOs; experience and examples from other countries; religious and cultural leaders, exploring common ground them.

Justice education should be the true focus of legal/lawyer education; law school education is only a part of this greater whole (and gives no guarantee of justice *per se*).

MAIN CONFERENCE (Thursday through Sunday, 6-9 December)

Opening Session, 6 December

The main conference opened in a special session at the Phoenix Settlement Trust, site of Mahatma Gandhi's early political work in South Africa. Registration. The program began with brief remarks on aspirations and goals of GAJE and the Durban conference by Asha Ramgobin, chair of the Durban Conference Planning Committee and Frank Bloch, co-chair of the Inaugural Conference Planning Committee. Opening speeches were presented by Ela Gandhi, MP, member of the Phoenix Settlement Trust, and founder of the Gandhi-Luthuli Peace Institute, Mewa Ramgobin, MP, chairperson of the Phoenix Settlement Trust, Geoff Budlender, director of the Constitutional Litigation Unit of the Legal Resources Centre, and Yasmin Sooka, member of the South Africa Truth and Reconciliation Commission. Cultural Events were interspersed throughout the program, which was followed by an opening dinner.

First Morning Sessions, , 7 December

The first full day of the main conference opened with a morning contemplation. This was followed immediately by the first plenary session with presentations and discussion on “Reflections on the Truth and Reconciliation Process in South Africa.” and “11 September 2001 and its Aftermath.”

The first part of the first plenary session on “Reflections on the Truth and Reconciliation Process in South Africa” featured three speakers intimately involved with the South African Truth and Reconciliation Commission (TRC) who described how the Commission worked, what it did and did not achieve, and the strengths and weaknesses in the process. The South African Truth and Reconciliation process is often seen as a hopeful example and possible model for responding to human rights atrocities around the world. The session, both intense and thought provoking, brought both tears and the desire for more dialogue about the lessons to be learned from the TRC experience in South Africa.

Wendy Watson, the first speaker, was the director of the Durban office of the TRC. This office received and investigated complaints over a five-year period in the largest province, Kwa Zulu Natal, and the Free State. Wendy outlined the three responsibilities of the TRC: to investigate complaints of gross human rights violations; adjudicate applications for amnesty; and provide for reparations. She then focused her talk on the first role: to receive and investigate the complaints of gross human rights violations.

In her description, Wendy noted that there were many “successes” in this aspect of the work such as family members finally learning what had actually happened to their loved ones and sometimes where their bodies could be found. This helped bring some degree of closure and relief for longstanding open wounds. She also showed a short video that included snippets of some of the most powerful and moving testimony during the human rights hearings, and she noted that there were many examples both of remorse expressed by perpetrators and forgiveness expressed by victims or their families. The healing effect of these displays for the people involved but also for those watching was probably the most significant benefit from the process.

On the other hand, she noted that there were instances of old angers being renewed and people suffering “relapses” after testifying. One key contributor to these problems was both the delays and inadequacy in the reparations process that served to quash expectations that there would be real help for victims and their families.

John Daniels followed with a presentation on the amnesty process, perhaps the most controversial aspect of the TRC work. John was a chief researcher for the TRC and one of the authors of the final TRC report on the amnesty process. He noted that, contrary to the popular perception that amnesty was freely given to many of the perpetrators of gross human rights violations, only about 12% of the more than 7,200 claims filed were actually approved. This was so because of the strict criteria that had to be met before someone could receive amnesty. The key ones that most often were the basis for denying amnesty were that there had to be full disclosure of what happened; the action had to be taken by someone who was a member of a defined political entity or organization; it had

to be directly or indirectly authorized by that organization and in furtherance of its political goals; and the act could not be unreasonably or excessively cruel. One example he described involved the denial of the application of the assassins of Chris Hani, the President of the South African Communist Party, because the Amnesty Committee found that it was not the policy of the Conservative Party, the entity on whose behalf the assassination was allegedly committed, to eliminate opposition political leaders.

Finally, Father Michael Peters spoke about his experience as the survivor of a car bomb in which he lost an arm, his testimony before the TRC, and his current work as a trauma counselor. Like Wendy Watson, Father Peters expressed his disappointment with the failure of the government to make good on its promise of adequate reparations for the families and survivors of gross human rights violations, and he saw this as the worst aspect of the TRC process.

Professor Peggy Maisel facilitated the session and spoke about her experience attending hearings and following the TRC process during a five-year period. She mentioned how moved she was listening to the testimony of victims and how difficult it seemed to be for many of them to relive that painful period. Nevertheless, it was her impression that the process was extremely important for the country to have gone through and that various persons she spoke with afterwards expressed how much they learned about what actually went on during that period. As a result, Professor Maisel concluded by expressing her belief that some of the gains from the South African experience might be able to be replicated in other countries, including her own, the United States.

The second part of the first plenary session was an open discussion on “11 September 2001 and its Aftermath.” The session was added to the conference program in order to allow participants an opportunity to relate the events of 11 September 2001, which took place less than two months before the conference began, to the overall goals of justice education and to the work of the conference. It also allowed participants an opportunity to express their personal thoughts and experiences of those events.

The morning concluded with a second plenary session on the first theme of the conference – reconciliation – during which the coordinators for the four sub-themes of the conference explained the scope of their sub-themes to enable delegates to choose which break out session to attend. The sub-theme “Mainstreaming Justice Education in the Law Curriculum” was presented by Frank Bloch (USA) and Munirah Osman-Hyder (RSA); the sub-theme “Land and Social Justice” was presented by Thuli Mhlungu (RSA) and Judith Dickson (Australia); the sub-theme “Access to Justice for People Living with HIV/AIDS” was presented by Avrom Sherr (UK) and Lorraine Sherr (UK); and the sub-theme “Environmental Justice” was presented by Jeremy Ridl (RSA) and Gracian Banda (Zimbabwe).

First Afternoon Sessions, 7 December

The afternoon began with the first group of break out session on the topic “Defining the Parameters of Justice and Injustice.” There were four small groups, each based on one of the four sub-themes presented at the morning plenary.

Mainstreaming Justice Education in the Law Curriculum

Adrian Evans, one of the pre-conference workshop planners, began the session by discussing issues and themes that arose during the pre-conference workshop. He linked those issues with the ones would be addressed in the next couple of days. During the pre-conference, participants looked at what is meant by justice education, what would a justice education course look like, and whether there is such a thing as universal justice education. This session would look at defining parameters of justice and injustice in the context of mainstreaming justice education in the law curriculum. Three main themes ran through this session: Collaboration/partnering, educators, and resources.

Panelists showed how GAJE provides educators with support, useful ideas. Sivanandan Sivakumar (Kerala Law Academy, India) spoke of a number of justice education initiatives in Kerala stimulated by the inaugural GAJE conference held in the state capital, Thiruvanthapuram, in 1999. In addition to continuing to organize Lok Adalats (people’s courts), they began large-scale legal literacy camps to educate people about the Lok Adalats and to encourage people to use them to resolve their disputes. On 7th of May 2000 in Thrissur District of Kerala, a village was declared “litigation free.” Dean Rivkin (University of Tennessee, USA) described the Equal Justice Project of the American Association of Law Schools, for which he serves as director. Over 2,000 people participated in 19 colloquia nationwide over one and one-half years. The underlying premise of the project was that many low-income persons in the United States are either not represented or represented inadequately. The conveners also believed that law schools have responsibility in this area and need to collaborate with the equal just community. More information on the Equal Justice Project can be found at its website – www.aals.org/equaljustice. Other participants spoke about other projects in their respective regions. Partnering – with each other, non-clinical teachers, other institutions, our students, the community, and NGOs – is critical to provide justice education. Bringing people together for conferences such as GAJE or the Equal Justice Colloquiums helps provide, nurture and support justice education.

It was noted that justice educators included a large number of people – law teachers, the justice community, students, NGOs, clients, and members of the community. Louise McKinney Case (Western Reserve University, USA) spoke about her experience in Kenya where students initiated a clinic in which NGOs were recruited to help supervise the work of the students. A concern arose regarding the use of NGOs as supervisors especially when the level and adequacy of supervision is low. This often results in making such experiences non-graded and at times non-credit bearing.

In many countries, the low ratio clinic model does not work. For example, classes in Uganda may have 150 - 300 students. This requires the development of new models of providing experiential learning and exposing students to how the legal system affects real

people. Some concrete examples included: 1) bring in guest speakers from the community and NGOs to speak about how the law was working; 2) establish internships for the students during breaks and during the academic year; 3) help connect students with NGOs; 4) encourage the development of student clubs which focus on justice issues; 5) partner with the courts; 6) have students do projects as part of a course which would expose them to justice issues; 7) have students pair up with advocates and pro bono attorneys; 8) recruit faculty who are committed to justice education; 9) convince administrators of the value of justice education; 10) try to convince all teaching faculty to incorporate justice issues into their courses; 11) have students help fund part of the clinic (in Nairobi, for example, where law schools have no money for clinics students who want to have a clinical experience pay \$3 to pay for the cost of materials.)

Access to Justice for People Living with HIV/AIDS

The first separate session for the AIDS/HIV theme group began the work of picking up on the general theme presented at the previous plenary session: The Sub-Saharan Africa pandemic of AIDS/HIV has reached frightening proportions. Reactions in different countries to issues of treatment, the presence of medication and general discrimination against people with AIDS/HIV has become a major issue for legal services across the world and particularly in some developing countries in relation to medicine and treatment.

The presenters in the first break out session were Professor Avrom Sherr of the Institute of Advanced Legal Studies (UK) and Professor Lorraine Sherr of the Royal Free and University College Medical School, both of the University of London (UK). Avrom Sherr described the work of the European project considering legal service provision in relation to discrimination issues. The area of study and subsequent delivery needed close scrutiny. The problems, attitudes, social context and stigmatization of people infected and affected by AIDS and HIV needed to be understood by those attempting to provide legal services. They fell into a number of different groups and each of those groups, such as gay men, sex workers, intravenous drug users, ethnic minority immigrant populations suffered from other forms of discrimination in addition to any arising from the presence of the disease. Particular issues of confidentiality, delay and system of service applied for each group. Learning on these was essential for someone attempting to set up a clinic and deliver legal services for these client populations.

Lorraine Sherr addressed the psychological perspectives involved in elements of care and in understanding the effects of stigma and discrimination. Care until recently had mainly been palliative. The new treatments were not a cure, but for some people it seemed they would make the difference between life and death. The treatments were not an easy option and there were major problems of adherence. There were also significant problems relating to the provision of certain drug therapies to women in childbirth, without considering the longer-term effects of reaction to the provision of the drugs for the short period of childbirth and labor. This may prevent the usefulness of such a drug subsequently in treatment of the mother. Saving the child was wonderful but saving both was far preferable.

Land and Social Justice

Reconciliation through restitution was the topic of this session. Thabi Shange (RSA), a KwaZulu-Natal Regional Land Claims Commissioner, gave a presentation on South Africa's experiences of reconciliation through land restitution. Her view was that this was an example of a 'success story'. However, the issue of tenure had emerged as the most contentious and complex legal and social issue.

She identified four factors which her experience showed must be dealt with if the reconciliation process was to be meaningful for all concerned. These were:

- How to reconcile the constitutional rights of the claimants with those of the 'owners'
- The emotional attachment to the land
- The economic disparity between the claimants and the current 'owners'/occupiers
- The psychological factors ie, pain suffered, desire for revenge etc

The challenge for the Land Claims Commission was to keep the process of restitution moving forward despite these difficulties and to find practical ways of moving closer to an equal distribution of land. She hoped that within 20 years the ratio would have moved from the present 80/20 to 50/50.

The presentation provoked discussion about the applicability of the KwaZulu model to other countries. Participants were interested in the extent of government commitment to the process and the financial resources available. There was discussion about the extent to which reconciliation was realistically possible and ways in which changed land uses could be utilized for the economic benefit of the community.

Environmental Justice

Jeremy Ridl (RSA) introduced the theme of environmental justice as a basic human right. The erosion of and lack of development of environmental rights was the focus of the debate. It was suggested that this area of teaching should be mainstreamed. This was not accepted but the debates were invited. Environmental racism, the impact of HIV AIDS in rural communities and the lack of access to resources were indicated as the key issues.

The afternoon concluded with a third plenary session during which each of the four small groups reported back on their deliberations. The session was facilitated by Susan Brooks (USA)

Second Morning Sessions, 8 December

Following a brief morning contemplation, the conference continued with the fourth plenary session in which the sub-theme coordinators again presented their topics in the context of the two themes for the day: "Transformation" and "Justice." This session was followed by the second group of break out sessions – each based again on one of the four

sub-themes presented at the Friday morning plenary – on the topic “Identifying Challenges to Change.”

Mainstreaming Justice Education in the Law Curriculum

The “Mainstreaming Justice Education” session began with presentations on programs in both developed and developing countries and programs with regional and national foci. The Global Public Service Law Project, at New York University School of Law offers an LL.M. degree in Public Service Law. It is designed to bring foreign activists from throughout the world together for one year. Each year at least ten non-U.S. citizens or permanent residents receive a full tuition waiver, travel and stipend. For more information on this program, see www.law.nyu.edu/globallawschool/gpslp.html. Georgetown University College of Law offers an 18-month LL.M. program entitled Leadership and Advocacy for Women in Africa (LAWA). Participants spend approximately 11 months in class and then an additional 6 months working with NGOs and other public interest groups. Several graduates of the program attended the conference and talked about work they were doing in their communities. Clinic students at Georgetown work with alumni and provide research and drafting services on various issues. Public Interest Law Initiative in Transitional Societies (PILI) at Columbia University Law School offers a two-year fellowship program focusing on Eastern and Central Europe, Russia, and Central Asia. Students spend one year in the United States and then work for one year in their home countries. For more information on this program, see www.pili.org. International Commission of Jurist: the African Human Rights and Access to Justice Program is now in 16 African countries. Lawyers work with low-income people and provide human rights education.

These programs raise a series of challenges, including the question whether it is best to spend large amounts of resources on such a small group of people. The rationale is that if the programs invest in a few key people then those people can serve as catalysts for change. It is also believed that by taking people out of their own context and exposing them to as much as possible the experience will be transformative. Two key factors for successful programs such as these are selecting the right people and obtaining sufficient funding

Exchange programs, involving both students and faculty, can be very important as well. Some students from US law schools have come to South Africa this year; since they are graduate students in their last year of classes, they could serve as supervisors for the South African undergraduates. Students can serve as teachers; they teach each other, their clients, their professors, and newer students.

Opportunities for change will depend on local political and legal contexts; often the government in power is not interested in justice education and wants to restrict such programs. In these situations, NGOs, which receive their funding from outside sources, are in the best position to do justice work. Moreover, funding source can affect one’s freedom of expression. Few countries have the resources to staff Ford Foundation style clinics; in some countries, NGOs may have more freedom of expression due to their

outside funding sources. The question then came up: how to create models for clinical programs that are resource poor? Does it make sense to devote large sums of money to a few as is done in the clinical programs mentioned above? Finally, several suggestions were provided for creating incentives for students to participate in programs/courses focusing on justice: give students credit for clinical offerings; grade clinical courses; provide post-graduation funds for LLM students, visiting scholars, or fellows to do work in their home-countries such as is done by Columbia University.

Access to Justice for People Living with HIV/AIDS

Professor Elizabeth Cooper of Fordham University Law School (USA) led the second break out session on issues of transformation and justice relating to people infected and affected. This session concentrated on how the legal and human rights issues differed in different parts of the world, and the importance of different areas of legal work in the assistance of this client group. If the clients were to be assisted, they may feel uncomfortable with labels such as “disability”. These labels could be used as a shield but they might have a prejudicial effect on the confidence, self-perception and standing of each of the individuals concerned.

This session also involved two important presentations relating to access to drugs and treatment for people with AIDS and HIV in Sri Lanka and South Africa.

Manel Kappagoda of the North Bay Legal Service in San Francisco, California (USA) spoke of the particular problems, and her work in relation to, the island of Sri Lanka perched between the backgrounds of India and Africa. She described the excellent work being carried out there at a distance and in situ; a tremendous model for work from outside to be conducted in the developing world.

Yousuf Vawda (RSA) explained the background to the difficulties faced in South Africa and then introduced his wife who works on the South African Treatment Action Campaign who delivered an excellent presentation explaining both the particular South African background and problems and the enormous success of the work of the TAC, in a case which subsequently went to the Constitutional Court and succeeded there.

Land and Social Justice

Edgar Bernal (Phillipines) opened this session with a presentation focusing on the use of litigation to enforce compliance by mining and energy companies with existing laws. The gap between the law and compliance with it was agreed by many participants to be wide. Litigation was said to be a powerful tool but discussion also focused on the need to work with communities in education on legal rights and in organizing for a variety of community –wide actions.

The discussion moved to consider ways of extending the work of lawyers back to law students and Mariela Puga (Argentina) talked about her work as a public interest lawyer working with law students and indigenous communities. Again litigation was a tool used

but it was clear that research and the development of action oriented organizational skills were equally important.

The group raised questions of implementation of activism into the law curriculum, development of model courses, resources and support for the (usually) clinical teachers. A critical issue discussed was the need for lawyers and law students to be prepared to learn from the communities in which they worked as against imposing expertise.

Finally, Sihle Mkhize, Director of the Association for Rural Advancement (RSA), addressed the session. The presentation focused on the theme of transformation in the area of land. It led on from the discussion of the Land Claims Commission giving participants both some historical information on land ownership and dispossession in South Africa and then describing the project of the AFRA and the challenges ahead.

He described how, in mid-2000, several NGO's (the Campus Law Clinic of the University of Natal [CLC], the Association for Rural Advancement [AFRA], the Legal Resources Centre [LRC], the Community Law and Rural Development Centre [CLRDC], and the National Community-Based Paralegal Association [NCBPA]) who were working with rural communities in KwaZulu-Natal and had witnessed the impact of the lack of legal support for farm-occupiers on a first-hand basis, met with the aim of pooling their resources and the services they are able to provide in a more effective manner.

A project was developed with the goal of empowering farm occupiers to access the benefits and protections of Government's Land Reform Programme. The key was agreed to be legal service provision, education and training, and advocacy. Sihle Mkhize described one of the features of the project as the use of paralegals and other community workers.

It was clear from the session's presentations that education and training of the communities in which legal projects were planned, was a critical component of any project. All three presenters had focused on the broad approach needed to achieve lasting reform.

Environmental Justice

This session took place in the bush. The group travelled to Shongweni Resources Reserve where the relevant issues were debated. Participants were from South Africa, Tanzania, India, Bulgaria, the United Kingdom, the United States of America, Ghana, Argentina, Australia, and New Zealand.

Dean Rivkin (USA) led the debate. He shared valuable experience on the establishment and management of environmental law clinics that have a focus on bringing environmental justice to disadvantaged and vulnerable communities. Some practical issues were noted for future debate. The need for empowerment of institutions and affected communities was recognized as an area for study. How to take the law to the people that were observed in action with their environment remained unsolved. Pollution

affects the least empowered communities and this is a serious environmental justice issue. As educators, we need to address it. All agreed that this is fertile area of study.

Second Afternoon Sessions, 8 December

After lunch, a third group of break out sessions took place on the topic “Developing Strategies for Change and Change Management.”

Mainstreaming Justice Education in the Law Curriculum

The session began with presentations focusing on collaboration and new alliances. One example was a long-term, multi-disciplinary rehabilitation project initiated at Delhi University for the victims of the earthquake that struck Gujarat in January 2001. It was a volunteer-based project, open to all members of the University community. More than 100 students and a score of teachers from a variety of disciplines worked with this project, the objectives of which were to be part of the rehabilitation process of earthquake affected people in a few selected villages and to bring experiential learning back to the university system. One issue was the awarding of credit. Some argue that it is social work, and thus law students can’t get credit. Others say it is law, and social work students can’t get credit. Problems of assessment and grades also raise difficulties with granting credit. In this instance, the students did not receive academic credit.

New alliances are being built between universities and NGOs. Other opportunities are to work with the organized bar in legal aid and pro bono programs and for clinicians to form associations, such as CLEA in the USA and AULAI in South Africa. In Poland, students have been working closely with the ombudsman’s office. Students evaluate cases and when they find human rights violations, they prepare a report for the ombudsman. The approach was developed in part over concerns the organized bar may be threatened by the development of clinics which teach skills and values.

Educators must be open to new ideas. We need to continue to find new models of delivering justice and justice education, especially models which take into account the realities of developing countries. Educational conferences such as this one and others can lead to change. For example, Columbia’s fellowship program grew out of a Ford Foundation conference in Durban in 1997. A “three-step” or “three Cs” approach from England is: 1) create an invitation list – the bar, the dean, funders, members of an advisory committee: selection to serve will be seen as a compliment; 2) convene a meeting with food; 3) have clinic students give a presentation about the clinic. It can also be useful to invite the dean or school administrator to attend a justice conference where s/he will learn something about the issues. Strong student evaluations can serve to educate the dean and others about the value of experiential learning and clinics. Ultimately, students are the best recruiters for new students to new programs.

It is important to educate NGOs to think long-term and to work in alliances with the bar and law schools. They are part of creating the next generation of activists. Lawyers must also be made aware of the importance of social justice through clinics, colloquia,

conferences, and new institutions (e.g., Bar committees); the key is to challenge existing assumptions. Fellowship programs at institutional in other countries can be transformative experience for participants and hopefully others in the home countries when the participants return. The key to these programs is that they provide a stimulating environment in which individuals are encouraged to open their minds and think creatively about transformation.

Resources are also critically important. Where persons active (or potentially active) in justice education cannot afford to attend conferences such as this one, scholarships must be made available. Differing fee schedules can allowed many more persons with varying amounts of resources to attend. Journals and other publications provide an inexpensive way to share information, and websites and e-mail can be used to stay in contact with each other, share ideas and materials.

Access to Justice for People Living with HIV/AIDS

Manel Kappagoda (USA) chaired this session in which three different modes of delivery for legal services were presented. Laura Lane (USA) explained how legal services were delivered in the North Bay area in California to the particular client groups in San Francisco. Brendan Christian (RSA) explained how legal services were being developed in Durban, covering a very different range of clients. Elizabeth Cooper (USA) then explained how her clinic in New York State worked. The ensuing discussion related to emerging strategies and mechanisms intended to transform and respond to the challenges of AIDS/HIV and to answer the question, "What are the gaps and challenges facing law schools, law clinics and the legal profession in relation to discrimination against people with AIDS and HIV?"

Land and Social Justice

The session focused on practical ways of integrating study and practice of land reform, access to land and its relationship with social justice, into the law curriculum.

Theo Scheepers (RSA) gave a presentation on a project developed to engage law students with local communities. This project grew out of the ideas for curriculum reform and justice education advocated at the first GAJE meeting in 1999.

Given the ongoing difficulties of resources (human and financial) required in introducing practically oriented courses into the law curriculum, the group discussed ideas for involving community members in the teaching. Such people were thought to include local political, social, business and youth leaders. The advantages, apart from resources, were seen to include the integration of the legal education into the community. This would hopefully teach new lawyers the value of listening to the community or group in which they intended to work as well as providing them with some practical skills for future socially relevant legal practice.

Environmental Justice

Glendyr Nel (RSA) reported back on the field trip. She presented an accurate account of the issues, most of which were left unresolved by the participants. Taking environmental law to the people is an area in great need of attention by educators and their institutions. That was the consensus of the group. She reported a sighting of the rare Crowned Eagle but it was not confirmed!

There was then a fifth plenary “report back” session covering the second and third break out sessions.

The conference concluded with a two-part sixth plenary session chaired by David McQuoid Mason (RSA). The session began with a presentation on “Financing Justice Projects” with Alice Brown from the Ford Foundation, Southern Africa, Ashley Ally from the Legal Aid Board of South Africa, Mike Boyd from the Attorney’s Fidelity Fund South Africa and Karthy Govender from the AULAI Trust, facilitated by Ed O’ Brien from Styreet Law Inc. (USA). This was followed by a closing address from Judge Mohammed Navsa of the Supreme Court of Appeal of South Africa and Chairperson of the Legal Aid Board.

GENERAL MEETING (9 December)

There was a general meeting of the membership on Sunday morning, 9 December, during which a constitution was adopted for the organization. That meeting is reported separately.

POST-CONFERENCE “TRAIN THE TRAINER” WORKSHOP (10-14 December)

Building on the experience of the inaugural GAJE conference held in India in 1999, the main conference was followed by a set of interactive workshops that addressed specific justice themes. These were organized as a “Train the Trainers” workshop. The workshop was held over a period of five days; however, the main sessions took place in the first three days, which were followed by a free day for relaxation and sightseeing and a final day of site visits to justice education projects in the Durban area.

The main workshop sessions were originally planned to run over three days, focusing on three areas – Street Law, Trial Advocacy and Legal Ethics – although the workshops covered a wide variety of topics and skills. Subsequently, in part due to ‘conference fatigue’, and at the request of the participants, the time period of three days for each of the three workshops was reduced to two days. The third day was devoted to a workshop on social transformation with a particular emphasis on the management of people, programs and processes. The general program for each of the first three days is described below, followed by brief narrative reports on each of the three parallel sessions.

Monday, 10 December

Following a welcome and introduction to the workshop from David McQuoid Mason (University of Natal, South Africa), the overall post-conference workshop coordinator, the co-ordinators of each of the three workshops gave a brief description of their workshop program for the day. The participants then met in a series of parallel sessions on “Teaching Street Law, Human Rights and Democracy,” “Teaching Legal Ethics,” and “Teaching Trial Advocacy.”

Tuesday, 11 December

The session began with each of the workshop coordinators giving a brief report on their workshop activities of the previous day, followed by a short introduction to the day’s program. The second day of the workshop continued with parallel sessions on the three topics from the day before: “Teaching Street Law, Human Rights and Democracy,” “Teaching Legal Ethics,” and “Teaching Trial Advocacy.”

Wednesday, 12 December

Each of the workshop coordinators gave brief reports on the “Teaching Street Law, Human Rights and Democracy,” “Teaching Legal Ethics,” and “Teaching Trial Advocacy” workshops. This was followed by a short introduction to the workshop on “Social Transformation: Managing People, Programs and Processes.”

Thursday, 13 December

This was a free day, during which most delegates went to the Tala or the Hhluhluwe-Umfolozi Game Reserve.

Friday, 14 December

For the final day of the workshop, the organizers arranged a number of on-site visits to justice education projects in the Durban area. The visits were to the following sites:

- The Courts – The New Family Courts, Criminal and Civil Courts.
- University Law Clinics in Kwa Zulu Natal – Universities of Durban Westville, Natal – Durban and Pietermaritzburg and Zululand.
- Centre for Socio-Legal Studies and Street Law – a street law program in action.
- Independent Medico Legal Unit – training for forensic nurses in dealing with women and children who are survivors of domestic violence.
- An HIV/AIDS project at the McCords Hospital.

- The Juvenile Detention Centre and Westville Prison.
- The KwaZulu Natal Land Cluster – A cluster of 5 non-governmental organizations addressing access to land issues in rural areas, includes a site visit to client communities – Tour to Cato Manor/Umkhumbane Site of Forced Removals, Reconstruction and Development Project and Land Restitution.

Workshop Reports

Reports on the three groups of participants – Street Law, Trial Advocacy and Legal Ethics – follow:

Street Law Group

Twenty-six delegates, representing 19 countries and covering both the common and civil law worlds, attended the Street Law workshop. Delegates were expected to achieve the following outcomes: 1) To understand the concept and value of legal literacy work in the community; 2) To be able to apply the basic Street Law methodology in a given setting; 3) To design (and adapt) a Street Law program that could be effectively used in individual delegate's own jurisdictions; 4) To be able to evaluate the application of a Street Law program in practice; and 5) To be equipped with the reasons and strategies for convincing others of the worth and means by which Street Law programs could be established and developed. The workshop was facilitated and led by Ed O'Brien (Street Law Inc, USA), Monika Platek (University of Warsaw, Poland), David McQuoid-Mason (University of Natal, South Africa) and Richard Grimes (College of Law, England).

The first day of the workshop was devoted to exploring the fundamental principles of Street Law, with demonstrations of how it works interspersed throughout the sessions. Delegates were asked to identify human rights concerns in their own countries and to suggest how a legal literacy program might tackle such issues. The subject matter resulting was wide and varied, from the plight of child laborers to the protection of women who were abused. Health, housing, education, social security and personal liberty were all seen as relevant concerns and matters capable of being addressed using the Street Law approach. The potential for this form of community-based education was clear; law schools could (and indeed do) work with a wide range of people, including school pupils, prisoners, farm workers, women, tenants, claimants, NGO volunteers. The need for clear outcomes was stressed – the students and the community group who they intend working with both need to know what is expected of them and how success in reaching those objectives can be monitored. The design of outcomes was an important starting point in establishing a clear and workable program. For greatest impact outcomes should be clear and attainable.

Using interactive techniques (and in true Street Law style!) the workshop participants then looked at what makes an effective Street Law session. Following the process

chronologically (from initial preparation to presentation and evaluation) this can be summarized as:

- Identification of subject area (in consultation with community group)
- Setting outcomes for law students
- Research in subject area
- Preparation of presentation, including feedback on content and teaching and learning strategies
- Explanation to group of topic with ‘focuser’ to get group’s attention
- Clear explanation of outcomes
- Instructions to group of what is to happen during presentation
- Interactive presentation led by students
- Summary of content by students to group
- Debrief – evaluation with group on whether the outcomes were achieved – reinforcing understanding or identifying gaps (perhaps addressed by further sessions)
- Double debrief – evaluation with students on session and outcomes (for students)

An example of Street Law in practice was then given using the ‘stop action’ method. Delegates were given a topical scenario (a country’s president had introduced far-reaching powers to restrict the activity of suspected terrorists) and had to argue for and against the president with anyone who wished to do, so stopping the action at any point. The person interrupting then had to take over the argument. The purpose was to elicit a range of views on difficult and relevant issues to better understand when the state may (and may not) legitimately restrict individual activity. This activity was followed by a visit to a community center where local school children, under the guidance of members of The University of Natal’s Socio-Legal Centre, had prepared a human rights ‘flea market’. Here it was not goods that were being sold but ideas; school pupils aged from 11 to 18 put on a very impressive display ‘selling’ multi-racial porridge, anti-AIDS medicine and a conflict resolution spray!

The workshop continued with further discussion on the Street Law method, including an interactive demonstration of another technique known as “taking a stand.” An issue of pressing relevance was introduced (if Osama bin Laden were captured, where should he be tried?). Delegates had to take a position and were then asked to give reasons. Hearing the reasons for the various stands taken, delegates were free to move to alternative positions representing any change in view they might be undergoing.

The second day of the workshop began with delegates brainstorming teaching and learning strategies. A variety of interactive techniques were identified including small group work, debates, mock trials and other forms of role-play.

Participants were then divided into working groups. Each group was given the same task: to design a Street Law program that could be implemented in a particular jurisdiction. Having researched and prepared content, each group was required to act out the session

in front of one other group and a pair of workshop facilitators. The bulk of the day was devoted to this, with the facilitators moving between groups to support developments. Each group was asked to follow the scheme hi-lighted in the box on pages 2-3.

The groups prepared and delivered material on the following topics: juvenile justice; general principles of human rights; domestic violence; health care; the death penalty. Each presentation followed the suggested format. The group carried out the debrief of the target audience (as the community representatives we had to pretend we were pupils in a secondary school). The workshop facilitators provided the double debrief – of the delegates who acted as the law student presenters.

The exercise demonstrated 2 things: Street Law is a flexible tool that could be used to address a wide range of rights and responsibility issues; and, when followed closely, the methodology gave as sound framework for preparation, delivery and evaluation.

The afternoon session was devoted to considerations that went beyond simply the design and presentation of Street Law: the supervision of law students and the measure ment of outcomes. The key to extracting the maximum benefit form clinical program such as Street Law is to ensure that the reflective process –doing and thinking about the doing – is carefully structured into the curriculum. Students would come to expect and benefit from regular and constructive feedback. The intensive nature of clinical work built a strong working, productive and valued relationship between teacher and student. The measurement of outcomes is important to inform future developments and to assess student performance. Devices for achieving useful and relevant evaluation were identified and strategies for using the information produced were discussed. The importance of consumer (client and student), tutor and external feedback was stressed.

This led neatly into the final session which looked at how to develop a clinical program and specifically how to ‘sell’ it to faculty, managers and prospective funders. Delegates role-played encounters between the different stakeholders with each giving the other a run for their money. Forearmed is forewarned!!

At the end of the workshop views were canvassed from the floor and by questionnaire on the effectiveness of the sessions. The general perception seemed to be that the workshop had hit the right balance between theory and practice. Some delegates expressed the view that it was unlikely, without financial backing, that they could convince their own law schools to develop a comprehensive Street Law program and that, in any event, additional in country or region training may be needed to build capacity. This could be most effectively done by working in partnership with others, notably NGOs, on individual projects. The delegates and facilitators undertook to try to stay in contact and to continue to share good practice. GAJE would continue to offer support in developing this, amongst other, clinical programs.

Trial Advocacy Group

The Trial Advocacy workshop was organized by Nigel Duncan (Inns of Court School of Law, UK), Susan Kay (Vanderbilt University, USA), Les McCrimmon (University of Sydney, Australia). A total of 20 participants engaged in the training program, ranging from students with no advocacy experience to those with several years of trial advocacy experience.

The workshop began with participants introducing themselves and explaining the main characteristics of their jurisdictions' trial procedures. The main aims of the workshop were then outlined: to introduce and give practice in the National Institute of Trial Advocacy (NITA) method of training advocates while looking critically at the use of that method in particular contexts. Participants then worked individually and in groups to identify their expectations of the workshop. Among the expectations expressed was one (to develop materials) that the organizers had not anticipated; as a result, the program was changed somewhat to accommodate this interest.

The substantive work began with a demonstration of the basic NITA method of practice and feedback using a submission to the court based on one set of papers. The participants then broke into two groups to devise their own fact scenario, choosing from among the main conference themes of Access to Land, Environmental Justice, and HIV/AIDS. Two excellent fact scenarios were produced, which participants then went on to use as the basis of their own submissions. The participants were also provided with the witness statements in a criminal case, which was their homework for the second day's practice in witness handling techniques.

The remainder of the first day (and the first part of the second day) was devoted to participants practicing and organizers giving feedback on their submissions. This exercise was designed to serve two purposes: first, to assist the participants to develop their own advocacy skills and also to introduce them to the process of giving feedback in the context of advocacy training.

After concluding the practice and feedback work from the prior day session, the second day continued with the group working on examination-in-chief (direct examination) and cross-examination of a witness in a murder trial. The process here developed on the earlier one in that participants took all the main roles. They undertook the parts of witness and judge, of counsel and of trainer. Once the trainer had given feedback on counsel's performance, the organizers gave constructive criticism of that feedback. This was designed to assist individuals to become effective advocacy trainers themselves, although it is merely a first step in that process.

The concluding sessions of the workshop concentrated on techniques for effective use of the body while conducting advocacy and methods-of-case analysis to enable effective preparation for advocacy.

Ethics Group

Approximately 30 participants spent two days together, working in large and small groups with a team of “coaches.” The participants came from many different countries and legal systems, some having a well defined ethical code, others without such a system. A substantial number of Chinese teachers formed one group because of the need for an English language interpreter. The other groups were very diverse. The workshop facilitators had assigned participants to different groups to help insure that groups would consist of teachers from different countries and with different levels of teaching experience.

The workshop planners wanted to create a model in which the participants would act as teachers throughout the training - and would have the opportunity to collaborate on developing new teaching methods and materials. The idea was to provide participants with the opportunity to create, demonstrate and get critiqued on their teaching methodologies. The facilitators/coaches would facilitate the process by explaining and fostering it, and being there to offer advice and feedback. This model had been developed and tested in a successful teacher training program several of the planners had planned and participated in earlier in the fall in Riga, Latvia.

The overarching theme of the workshop was “balancing messages of caution with messages of inspiration.” The goals for the workshop were (1) to have participants share ideas about the range of things that might be considered within the subject of legal ethics; (2) to provide some ideas and practices about teaching techniques, and (3) to encourage people to think not only about the substantive information they want students to absorb but how the combination of the topic and the way it is taught might combine to give a “message” to students about social justice and lawyering.

The first day of the Ethics Workshop included some large group and small group exercises that helped define the substantive domain of legal ethics issues that participants might be interested in teaching about and refining teaching objectives one might have.

The first large group session began with an Ice-Breaker Exercise to welcome and introduce participants: each person was randomly paired with another participant (including the coaches); each pair then spent 2 ½ minutes interviewing their partner; and each pair then introduced their partner to the whole group. This was followed by a debriefing of the exercise in which the planners discussed their goals for the exercise, asked for feedback from the group, and then passed out a handout that listed and described a variety of other ice-breaker exercises that the participants might want to experiment with in their classes. The remainder of the morning was spent in small groups, each with a group recorder/reporter, discussing legal ethics issues in specific context and any applicable ethical rules that might govern the situation. The goal for these sessions was to get a broader picture of the situation that exists in various countries, and to begin to identify similarities and differences. The reporters from the various small groups gave brief presentations at a follow-up large session, listing the issues that had been discussed and explaining why they were considered important.

The afternoon of the first day opened with a large group session in which Leah Wortham (USA) presented an overview of one paradigm of ethics (from the USA) with some comparative perspectives. Her presentation included reference to an article she published in the Polish law journal *Klinika* (<http://www.ujhr.org/en/articles/wortham.htm>). This was followed by small group sessions in which each participant identified a legal ethics issue that he or she thought would be important to educate some target group on in their country (i.e., law students in general, law students in clinic, law students in a criminal law or some other substantive law class, lawyers, judges, others.) In a follow-up large group session, the participants brainstormed possible teaching objectives.

The second day of the workshop focused on each team designing a teaching presentation and presenting it to the full group. Each teaching presentation was designed to focus on three levels: a substantive legal ethics issue to be taught, the teaching methods to teach about it effectively, and the “meta-message” about justice and legal ethics that might be absorbed by the student in the teaching exercise. Each group selected an ethical issue, identified specific teaching objectives, created a factual context for the problem, and selected a target audience for the teaching exercise.

In the afternoon, the three small groups each gave presentations lasting approximately 75 minutes. Group One chose to focus its presentation on the issue of the lawyer’s obligation relative to truth and disclosure to the tribunal - an examination of the question of the proper boundaries of the lawyer/client relationship. What are the appropriate rules re lawyers and/or their clients making false statements or presenting false evidence to a tribunal? Group Two focused on the ethical lawyer’s possible responses to systemic corruption in the legal system. They developed a hypothetical that raised the question of whether it would be ethical to pay a bribe to a corrupt official in order to obtain information necessary to assist a client. Group Three developed a role-play and teaching presentation around the issues of lawyer/client communication and the problem of the student lawyer over promising favorable results.

The workshop concluded with a large group closing session. The three groups were given a few minutes to discuss whether they wanted to make any changes in their teaching plan in light of the presentation. Then the participants reflected on the lessons learned from the workshop generally. Individually, participants were given the opportunity to provide a quick reflection on something of value from the workshop or suggestions for a future training workshop on legal ethics.

The following is a list of some of the ethical issues that were described by participants during the course of the workshop, in no particular order:

- Lack of accountability of lawyers for the quality/competence of their performance; lack of effective system of redress when lawyers fail to provide competence service to their clients (Russia).
- Lack of enforceability of valid judgments; how to help clients implement the judgment of the court in system where there is no formal channel to force

- compliance; system relies on having a good “relationship” with the state bureaucracy. (China)
- Widespread corruption of system of requiring “fees” for legal documents that lawyer should have a right to have access to without payment of such bribe. (India and many other countries)
 - Misuse of allowable procedures, for example, to cause delay where it is in the interest of a client – raising issue of individual morality vs. authorized behavior. (Bulgaria)
 - Concern that clinic students may give wrong advice, for example, promising a potential client not to worry that the clinic will contact them shortly when that is not going to happen. (South Africa)
 - Racial differences between lawyer/client that may render the lawyer’s services ineffective, for example, if lawyer does not believe client or is incapable of understanding client’s options due to lack of familiarity with client’s culture. (USA)
 - Lawyers who think they know better than their clients. (South Africa)
 - When lawyers negotiate or otherwise interact with unrepresented opposing parties; sometimes the lawyer/law student acts more like a judge than an advocate. (USA)
 - Obligation to the tribunal/opposing party to tell “the truth.” (Russia and others)
 - Accountability of lawyers, for example, when client pays a significant fee and fails to receive any service; what should the system of lawyer discipline be. (South Africa)
 - Corruption in legal education: large number of law graduates but few jobs. (Poland)
 - Lawyers’ emphasis on making money, not in justice, not in providing quality service.
 - Unethical lawyers are ones who often win cases; therefore, are ones that clients want to have.
 - Tensions in confidentiality rules relative to lawyer’s duty to court and duty to client; candor/ withdrawing from representation.
 - Lack of disclosure about fees.

- Lawyers who take an excessive number of cases
- System/culture that relies heavily on “who you know.”
- Status of lawyers: recent change in China from state worker to “independent contractor”- not clear what this will mean for profession.
- Pro bono obligations: whose obligation is it to provide free legal services to poor people.
- The legal profession in general is not pushing towards justice (e.g., focus on money; not integrating different races/genders in big law firms; services for poor clients).
- Access to profession: efforts to keep it an elite, homogeneous group through restrictive admissions, limited opportunities for apprenticeships and employment.
- Corruption: stealing money, destroying documents, requiring bribes, failing to enforce judgments.

Appendices

Editorial Note

This report was compiled and edited by Frank Bloch, who also provided introductory text. Adrian Evans provided text for the section on the pre-conference workshop; Peggy Maisel provided text for the section on the first plenary session; Maureen Laflin provided text for the section on the “mainstreaming justice education” theme of the main conference; Judith Dickson provided text for the section on the “land and social justice” theme of the main conference; Avrom Sherr provided text for the section on the “HIV/AIDS” theme of the main conference; Jeremy Ridl provided text for the section on the “environmental justice” theme of the main conference; David McQuoid-Mason provided text for the section on the general sessions of the main post-conference workshop; Richard Grimes provided text for the section on the Street Law portion of the post-conference workshop; Nigel Duncan provided text for the Trial Advocacy portion of the post-conference workshop; Catherine Klein provided text for the Ethics portion of the post-conference workshop.