

2010

Promoting Public Health through Clinical Legal Education: Initiatives in South Africa, Thailand, and Ukraine

Tamar Ezer

Ludmylla Deshko

Nicola Gunn Clark

Enga Kameni

Bruce A. Lasky

Follow this and additional works at: <http://digitalcommons.wcl.american.edu/hrbrief>

 Part of the [Human Rights Law Commons](#), and the [Legal Education Commons](#)

Recommended Citation

Ezer, Tamar, Ludmylla Deshko, Nicola Gunn Clark, Enga Kameni, and Bruce A. Lasky. "Promoting Public Health through Clinical Legal Education: Initiatives in South Africa, Thailand, and Ukraine." *Human Rights Brief* 17, no. 2 (2010):27-33.

This Article is brought to you for free and open access by the Washington College of Law Journals & Law Reviews at Digital Commons @ American University Washington College of Law. It has been accepted for inclusion in Human Rights Brief by an authorized administrator of Digital Commons @ American University Washington College of Law. For more information, please contact fbrown@wcl.american.edu.

Promoting Public Health through Clinical Legal Education: Initiatives in South Africa, Thailand, and Ukraine

by *Tamar Ezer*,* *Ludmylla Deshko*,** *Nicola Gunn Clark*,*** *Enga Kameni*,****
and *Bruce A. Lasky*,***** and edited by *Tamar Ezer* †

INTRODUCTION

The law can be a powerful tool in protecting public health. Studies reveal both the impact of human rights violations on health¹ and the importance of interdisciplinary partnerships for the law to achieve its full potential and lead to justice.² As one scholar describes, “Human rights are increasingly recognized as important to providing social conditions in which people can be healthy.”³ Additionally, as one law clinic instructor explains, “A multidisciplinary model can respond to the myriad needs of those who are poor or marginalized by their social, medical, or psychological circumstances.”⁴ Clinical legal education has a critical role to play in training advocates capable of working at the intersection of law and health.

The law’s impact on public health is especially apparent in the contexts of HIV/AIDS, palliative care, patient care, and access to medicines. Tackling vulnerability to HIV infection and ensuring access to treatment requires grappling with the underlying human rights abuses that fuel the AIDS epidemic. Legal services can help address many of these issues, such as discrimination, sexual and domestic violence, disinheritance, and women’s economic disempowerment. Palliative care’s⁵ holistic approach recognizes the importance of legal advocacy for persons with life-limiting illnesses, who often deal with complicated legal questions that can have a fundamental impact on their health. For many marginalized groups — people living with HIV, injection drug users, sex workers, and ethnic minorities — health systems can too often become places of punishment, coercion, and violations of basic rights rather than places of treatment and care. In many parts of the world, overly restrictive intellectual

property regimes place essential medicines beyond the reach of those who need them. Legal advocacy guided by human rights norms and mechanisms can help ensure access to essential medicines for developing countries and marginalized populations. Pursuing legal and administrative remedies is critical to ensuring a health system that genuinely protects both health and human rights.

The use of legal tools to promote public health requires a cadre of legal professionals to combine their legal skills with an understanding of health issues and the challenges facing underserved and socially marginalized groups. Clinical legal education programs are ideally placed to foster these professionals and to pilot initiatives that tackle the complex questions at the intersection of law and health.

This paper presents the pioneering work of four clinical legal education programs that have partnered with the Law and Health Initiative of the Open Society Institute’s (OSI) Public Health Program.⁶ In Thailand, the Chiang Mai University Legal Clinic has authored an HIV/AIDS Community Legal Education Manual and is piloting an HIV/AIDS and human rights educational program in prisons, detention centers, and village community centers servicing ethnic minorities.⁷ In South Africa, students from the Universities of Witwatersrand and Cape Town have conducted workshops on will-writing, debt, and family law for hospice caregivers and nurses working with palliative care patients.⁸ In Ukraine, students at the Donetsk National University Medical Law Clinic have provided legal consultations and representation for patients whose human rights were violated in the delivery of health care. And at the University of Pretoria, Master of Laws students drafted a submission to the African Commission on Human and People’s Rights requesting both recognition of access to medicines as an essential component of the right to health and a process to ensure implementation.⁹

With the exception of the law clinic in Ukraine, these initiatives have emerged only in the last few years and are still developing. Thus, they do not serve as perfected models but rather convey the potential for clinical legal education to promote public health globally. The first two clinical initiatives focus on legal literacy, the third on providing legal services, and the fourth on human rights advocacy at a regional level. Thus, these programs’ objectives range from legal empowerment of marginalized communities to client-centered services to norm-setting and policy advocacy. This diversity reveals the variety of methods through which law and health partnerships can improve global public health.

* *Tamar Ezer is a Program Officer at the Law and Health Initiative of the Open Society Institute’s Public Health Program, United States.*

** *Ludmylla Deshko is the Director of the Medical Law Clinic and the Human Rights Protection Law Clinic at the International and European Law Centre at Donetsk National University in Ukraine.*

*** *Nicola Gunn Clark is the Legal Coordinator at the Hospice and Palliative Care Association of South Africa.*

**** *Enga Kameni is a faculty member at the Access to Medicines and Human Rights Clinical Group at the University of Pretoria, South Africa.*

***** *Bruce A. Lasky is the co-founder and Director of Bridges Across Borders Southeast Asia, and a Clinic Advisor and Adjunct Professor at Chiang Mai University, Thailand.*

† *Ms. Ezer would particularly like to thank Jonathan Cohen, the Director of the Law and Health Initiative of the Open Society Institute’s Public Health Program, for supporting and inspiring this work and for his helpful comments on this piece.*

This paper first explores the history of each initiative by providing background information on the participants and the problems they hoped to address. It then outlines the steps taken to set up these clinics and to ensure their ongoing development, and focuses on their implementation. Finally, this paper examines common themes emerging from these initiatives and reflects on potential lessons.

THAILAND: COMMUNITY LEGAL AWARENESS ON HIV/AIDS AND HEALTH

BACKGROUND

The Chiang Mai University (CMU) Legal Clinic was formed in 1994 to serve as a volunteer program for third year law students. In 2007, Bridges Across Borders Southeast Asia (BABSEA)¹⁰ partnered with the Clinic to help provide legal literacy education to socially marginalized groups throughout Thailand. One project focused on the development of an HIV/AIDS Community Legal Education Manual and the implementation of an HIV/AIDS, health, and human rights awareness program.

The Clinic identified a particular need for community legal awareness and HIV/AIDS lessons at the Chiang Mai Women's Prison. Women represent more than one-third of Thailand's HIV-positive population; 20,000 females over the age of fifteen are infected.¹¹ Women who use drugs or are incarcerated or undocumented ethnic minorities, and migrants are not only subject to extreme economic, social, and political marginalization, but are also disproportionately affected by HIV/AIDS. A study in northern Thailand found that women who use drugs and have a history of incarceration are five times more likely to be infected with HIV than women with no history of incarceration, regardless of whether they inject drugs.¹² Another study in Bangkok revealed that 25 percent of prisoners who consented to HIV tests were sero-positive, compared with just 1.5 percent in the general population.¹³ Currently, HIV/AIDS and tuberculosis are the major causes of death in custody.¹⁴

Despite these statistics, there is a serious lack of HIV/AIDS awareness and services among prison administration officials, and negative attitudes towards people living with HIV/AIDS prevail. The Department of Corrections allocates a mere 136 Thai baht (approximately U.S. \$4) per prisoner per year for health care.¹⁵ There are no doctors based in women's prisons, and routine visits fluctuate from once every two weeks to once a month.¹⁶ Prisoners at the Chiang Mai Women's Prison suffer from inadequate health services, insufficient medicine, poor protection from contagious diseases, and overcrowding.

The Clinic thus identified an important need to which they thought they could contribute; although law students may not be well placed to provide health education, they can teach simple introductory health-related concepts that connect to legal rights such as consent, confidentiality, non-discrimination, and access to health care.

PREPARATION

The formation of a legal awareness program on HIV/AIDS and health required substantive training for students and faculty,



Courtesy of OSI.

Female inmates in Chiang Mai Women's Prison take part in training on health care and the law.

the development of community-based and interactive pedagogy, and the drafting of an *HIV/AIDS Community Legal Education Manual*. The Clinic first brought in outside organizations that worked on health and human rights issues, such as the Thai Aids Action Treatment Group (TTAG) and researchers from the Chiang Mai University Faculty of Medicine and Johns Hopkins University, to discuss issues related to harm reduction¹⁷ and incarceration. Then, through methodology workshops, students learned to develop and teach community lessons using role-plays, group discussion, visual materials, songs, and games. BABSEA simultaneously spearheaded the development of an *HIV/AIDS Community Legal Education Manual*, using the South African *HIV/AIDS, the Law and Human Rights: Resource Manual* as a model.¹⁸

To ensure that lessons were tailored to meet the needs of the Chiang Mai Women's Prison, the Clinic surveyed one hundred prisoners to evaluate their understanding of legal rights related to health care. Based on the results of this survey, the Clinic developed lessons that focused on the health and human rights of incarcerated persons.

IMPLEMENTATION

In mid-2008, Clinic students began community outreach and piloted the *HIV/AIDS Community Legal Education Manual* and supplementary lessons in village community centers, detention centers, and the Chiang Mai Women's prison. Teaching groups were staffed by fifteen to twenty second-, third-, and fourth-year students, with between three and five students teaching together at a time. Based on participants' feedback, the Clinic updated and developed additional lessons. The women prisoners were enthusiastic about the lessons, and the Clinic began a "Training of Trainers" portion of the curriculum so that the participants themselves could become peer educators.

Testing and improvement of the *HIV/AIDS Community Legal Education Manual* and supplementary lessons is ongoing and should be complete by mid-2010. Meanwhile, the Clinic was raised to the level of a Faculty of Law Department in March 2009 and received full accreditation as a university course in June 2009.

SOUTH AFRICA: INTEGRATING PALLIATIVE CARE AND LEGAL SERVICES

BACKGROUND

Since late 2007, the Hospice Palliative Care Association of South Africa (HPCA) has coordinated workshops, conducted by law students from the Universities of Cape Town and Witwatersrand, for hospice¹⁹ caregivers and nurses who work with palliative care patients. These workshops address the types of legal issues that caregivers in this field might encounter.

Palliative care aims to improve the quality of life for patients and families facing life-threatening diseases (e.g., AIDS or cancer) by relieving pain and suffering through physical, psychosocial, and spiritual care. The underlying philosophy is that every person has the right to quality of life and dignity in death, and dealing with the legal and human rights issues that arise during care-giving is a natural part of palliative care's holistic approach. In a country where 5.54 million people are infected with HIV — almost thirteen percent of the population²⁰ — it is critical that caregivers can address both the acute physical needs and social dimensions of the epidemic. Hospices are additionally concerned with the rights of caregivers, as their rights are inextricably linked to those of patients.

Hospices in South Africa acknowledge that their patients often face complicated legal problems, which can have a fundamental impact on their health. Common legal issues include:

- Planning for disposition of property (patients generally lack awareness of legal tools to ensure their assets are protected for their heirs);
- Planning for their children's care (patients need to make arrangements for the adoption or fostering of minor children);
- Accessing social benefits and state financial assistance;
- Assistance with debt management (illness and debt are often interrelated);
- Addressing discrimination (AIDS patients and their families commonly face discrimination in employment, housing, and education);
- Dealing with sexual and domestic violence, disinheritance, and economic abuse (AIDS patients are particularly vulnerable to these human rights abuses, and violence and illness often are often intertwined);²¹
- Navigating complex application procedures for identity documents and death certificates; and
- Accessing pain relief medication, palliative care, and health services in general (this is particularly difficult for marginalized groups such as refugees).

PREPARATION

With the goal of improving patient care, HPCA began reaching out to the legal community in South Africa and drawing upon their resources. Law schools, especially Street Law programs,²² immediately presented an opportunity for partnership; although there is a shortage of lawyers in South Africa, law schools are

able to provide services to low-income patients for free. Desia Colgan, a lecturer at the University of Witwatersrand Law Faculty who coordinates a Street Law program, started experimenting by having students conduct Street Law sessions not only in prisons, but also in hospices and palliative care facilities.

Meanwhile, HPCA ran a three-month pilot program during which University of Cape Town law students conducted workshops on debt, will-writing, and family law for hospice caregivers at St. Luke's Hospice. The workshops aimed to provide hospice workers with information on critical legal issues affecting patients in poor communities. St. Luke's Hospice embraced the workshops and decided to make them a regular part of its training for new caregivers; furthermore, St. Luke's community branches are now also providing this training to their experienced hospice caregivers.

However, the pilot program also presented some challenges. Before law students could run their own workshops, they needed to be trained in facilitation skills so that they could effectively present material, initiate discussion, encourage problem solving, and supervise small group work.²³ Additionally, the law students needed to be oriented to the needs and challenges of their audience²⁴ and taught how to turn the issues raised into practical case studies for participants working in small groups to resolve. Students could then explore the legal dimensions of solutions suggested by these small groups, thus reinforcing them and only bringing in recourse to the legal system when necessary.

HPCA also developed written tools to help students navigate the legal issues encountered by palliative care patients. HPCA compiled useful materials from Black Sash's²⁵ paralegal manual²⁶ and Street Law (South Africa)'s online resources.²⁷ They also produced their own hospice and paralegal manual, *Legal Aspects of Palliative Care*, which addresses many of the issues faced by hospice patients, their families, community caregivers, and hospice staff.²⁸ Chapters were co-written by palliative care and legal experts and include typical case studies, potential solutions for laypersons, legal recommendations, and additional sources for assistance.

The pilot program also illustrated that legal workshops fill an important community need, but are most effective when paired



Courtesy of OSI.

Palliative care workers take part in legal training program, South Africa.

with legal services. The advantages of legal workshops include helping caregivers recognize legal issues, encouraging open discussion of possible solutions, and empowering communities to resolve problems themselves; they also introduce participants to the steps they can take to protect their rights using legal tools, such as wills. This approach is particularly critical in South Africa, where there are not enough experienced lawyers to meet community needs. However, HPCA has learned that raising legal awareness is most successful when followed with direct legal support as needed. Accordingly, HPCA is developing legal referral networks for hospices so that patients can receive ongoing support. HPCA has also partnered with ProBono.org, an organization that links lawyers from corporate law firms in Johannesburg with pro bono opportunities.²⁹ HPCA additionally encourages law students to invite local paralegals to join their workshops, thus building a connection between the hospice caregivers and paralegals in the community.

IMPLEMENTATION

Following up on the three-month pilot program and the new partnerships that were forged, HPCA is currently coordinating a one-year program where law students from the Universities of Cape Town and Witwatersrand conduct legal workshops for hospice caregivers and nurses. HPCA is implementing this program in three hospices, two in urban areas and one in a rural area.

The program has already seen some benefits for both patients and caregivers. For instance, one caregiver who was trained through the program was able to secure her mother's access to her father's pension fund after his death. Educating caregivers has proven to be particularly effective, as they empower patients and the communities they serve by spreading knowledge.

HPCA hopes to draw lessons from the pilot program and to expand and institutionalize the provision of integrated palliative care and legal services. HPCA is currently developing a training module with basic legal material that can be included in standardized training curricula for all levels of hospice staff — palliative care doctors, nurses, social workers, community caregivers, and administrators. HPCA also plans to eventually expand the program to hospices across South Africa.³⁰ The ultimate hope is for better health outcomes and access to justice in even the poorest communities.

UKRAINE: PROTECTING HUMAN RIGHTS IN PATIENT CARE

BACKGROUND

In 1999, Donetsk National University became the first educational institution in Ukraine to establish both a medical law course and clinic. The Medical Law Clinic is currently one of 16 clinics under the University's Center for Practical Studies. While the first two clinical legal education initiatives presented above focus on legal literacy and community empowerment, the Medical Law Clinic provides direct client services.

The Medical Law Clinic was created to address rampant human rights violations within the Ukrainian health system. Ukraine, like much of the former Soviet Union, is dealing with the legacy of a health system that disempowers patients and routinely tramples on their basic rights to privacy, confidential-

ity, non-discrimination, and informed consent. The Medical Law Clinic aims to address these violations and to strengthen the existing legal tools that can be used to remedy abuses committed in the delivery of patient care. Students in the Medical Law Clinic provide patients with legal consultations and representation in court. At the same time, the Clinic aims to develop a new generation of lawyers who can lead law reform efforts in the transition from a Soviet system toward a sounder legal framework to govern health services.

PREPARATION

While the Medical Law Clinic is already an established practice known for its protection of patient rights, it constantly seeks to improve its services. In 2007, the Clinic's Director joined a Ukrainian working group to develop a Practitioner Guide for lawyers handling cases that address human rights in patient care.³¹ This Guide will hopefully be a resource for both the Medical Law Clinic and clinical legal education programs throughout Ukraine. The Guide is being produced as part of an OSI regional series of Guides in Armenia, Georgia, Kazakhstan, Kyrgyzstan, Macedonia, Moldova, Russia, and Ukraine. Each Guide examines patient and provider rights and responsibilities as well as procedural mechanisms for protection at the national, regional, and international level. The Guides are designed to be practical "how to" manuals that address both litigation and potential alternative mechanisms such as ombudspersons and medical licensing bodies. The Ukrainian Guide will also be accompanied by a website that includes relevant laws and regulations, case law, sample forms, and practical tips for lawyers.³² The Medical Law Clinic hopes to thus build on its experience of protecting human rights in the delivery of patient care and to share insight into useful legal tools with other lawyers and clinical legal education programs in Ukraine.

IMPLEMENTATION

The Medical Law Clinic's Director now supervises ten Master's of Law students who provide underprivileged and marginalized patients with legal consultations and representation. The Clinic takes on about three cases a month and meets twice a week; in the first session, students study the governing law and international human rights standards, and the second session is dedicated to meeting with clients. Recent cases taken on by the Clinic have addressed such issues as the confidentiality of HIV status, employment rights of people living with HIV/AIDS, access to medical records, and access to medicines. The Clinic has also reached out to medical students from Donetsk University to benefit from their expertise in some of the cases. In addition to taking cases, the Clinic has additionally conducted trainings for lawyers, judges, and patients on basic rights in the delivery of health care.

AFRICA: USING HUMAN RIGHTS NORMS AND MECHANISMS TO ACCESS ESSENTIAL MEDICINES

BACKGROUND

In 2008, the Centre for Human Rights at the University of Pretoria, in collaboration with the Washington College of Law

at American University in Washington, D.C., established a short course and clinical group addressing access to medicines and human rights as part of its Master's program in Human Rights and Democratization in Africa. Students in the clinical group worked to bring access to medicines issues before the African Commission on Human and People's Rights. In contrast to the previously discussed case studies, this clinical project focused not on the provision of legal services or literacy at the client or community level, but rather on advocacy to influence regional norms and policies.

The burden of disease in developing countries is exacerbated by inadequate access to skilled medical care and medicines that are routinely used to cure and treat illnesses in wealthier countries.³³ Sub-Saharan African countries remain the most affected by the HIV/AIDS pandemic, with sixty percent of all HIV/AIDS cases occurring in a region that is home to only ten percent of the world's population.³⁴ The region additionally suffers from high prevalence rates of tuberculosis and malaria. Malaria is responsible for over one million deaths globally, with eighty percent of these deaths occurring in sub-Saharan Africa.³⁵ These statistics demonstrate a need for increased access to essential medicines.³⁶ However, between 2001 and 2007, essential medicines were only available in 38 percent of all public and private health facilities in Africa.³⁷ Moreover, in most African countries, access to essential medicines has not been adequately researched or articulated as a fundamental aspect of human rights.

Placing these issues in a human rights framework provides a powerful but underutilized opportunity for the advancement of access to essential medicines through international and regional norms and mechanisms. A favorable decision from a human rights institution can be a valuable resource for a local movement for change, lending legitimacy and the language of legal obligation and accountability to its call for action. In its General Comment on the right to the highest attainable standard of health, the UN Committee on Economic, Social and Cultural Rights³⁸ opened new avenues for advocacy when it defined access to essential medicines as part of the minimum core requirement of the right to health.³⁹ Most recently, in an October 2009 resolution the UN Human Rights Council called on states to include measures taken to increase access to essential medicines in their national reports submitted for universal periodic review.⁴⁰

PREPARATION

The program began by developing a one-week course on access to medicines and human rights, aimed at providing students with necessary background knowledge. The short course was piloted in 2008 to a class of forty participants, including eight NGO practitioners; two Members of Parliament; and thirty Master's of Law students from the Human Rights and Democratization program, from countries throughout Africa. Two of the Master's of Law students — one from Somaliland and one from Malawi — stayed on for an additional six-month semester to work on the clinical project. They were later joined by two students from American University's Human Rights Clinic, a Fellow from American University Washington College of Law's Program for Information Justice and Intellectual Property (PIJIP), and supervisors from both institutions.

To ensure a strong submission to the African Commission, the Clinic divided its research and preparatory work amongst the group. The University of Pretoria team researched African jurisprudence and the African human rights system and surveyed relevant African NGOs. The American University Human Rights Clinic researched comparative human rights jurisprudence, and the PIJIP Fellow researched United Nations and World Trade Organization intellectual property jurisprudence. Together, the group developed the following materials:

- A background paper, *Access to Medicines in Africa: Exploring the Potential Role of the African Commission On Human and Peoples' Rights*;
- A guidance paper, *Obtaining and the Benefits of Observer Status with the African Commission on Human and Peoples' Rights*;
- A memorandum summarizing comparative access to medicines and human rights jurisprudence;
- A bibliography of access to medicines background materials, including international and regional treaties, African intellectual property legislation, published papers and books, government and multilateral agency reports, and regional case law; and
- A CD collection of hundreds of background documents on access to medicines and human rights.⁴¹

IMPLEMENTATION

Based on this research, the clinical group drafted a submission to the African Commission asking for a resolution that would (1) recognize access to medicines as an essential component of the right to health; (2) outline governing standards; and (3) form a workgroup to ensure implementation at the national level. They circulated this draft to both African and international NGOs, and set up a public blog as a forum for feedback. This feedback was later incorporated into the Clinic's submission materials. The group then successfully advocated for the resolution's passage at the NGO Forum prior to the African Commission session.

On November 24, 2008, the African Commission adopted the Resolution on Access to Health and Needed Medicines in Africa.⁴² The Resolution recognizes "that access to needed medicines is a fundamental component of the right to health and that States Parties to the African Charter have an obligation to provide where appropriate needed medicines, or facilitate access to them."⁴³ The African Commission also called upon states to promote, protect, and fulfill access to essential medicines and mandated the Working Group on Economic, Social and Cultural Rights to further define state obligations and "to develop model monitoring and assessment guidelines."⁴⁴

The Clinic plans to follow this promising start by partnering with the Working Group on Economic, Social and Cultural Rights and by undertaking projects in individual African countries. Students are currently drafting submissions to the Working Group that address the development of monitoring and assessment guidelines on access to medicines. They also hope to work with NGOs to prepare shadow reports to the African Commission that address a state's compliance with their access

Human rights cannot be adequately taught through classroom lectures [S]tudents need to “feel the problem marginalized communities face by working directly with them. They can then understand, appreciate, and personalize these problems. They become real, not classroom theories.”

to medicines obligations⁴⁵ and to respond to specific requests for support.⁴⁶

As this experience shows, human rights norms and mechanisms offer an important yet underused vehicle for the protection of public health. Clinical legal education programs also have the potential to leverage university time, resources, and research capacity⁴⁷ to support the work of civil society advocates.

REFLECTIONS

While these clinical legal education initiatives benefit both individual clients and public health at the community level, most striking is their impact on the students themselves. By exposing students to challenges beyond their daily experience, clinical legal education broadens their knowledge, perspective, and skill sets. Students are taught how to function in a variety of forums outside the traditional courtroom, facilitate community dialogues, and advocate before regional human rights bodies. They learn to communicate empathetically with vulnerable groups such as prisoners and palliative care patients, particularly by encouraging open group discussions. They also learn to challenge and question legal norms, such as the punitive treatment of drug use and whether it is counterproductive to public health goals. Faculty at the Donetsk Medical Law Clinic have further found that working on cases puts ethical questions before students, causing them to consider their role as lawyers and advocates and to form their own views about the legal profession.

This kind of practical experience is critical to developing an understanding of health and human rights challenges such as unequal access to medicines and the impact of social conditions on HIV/AIDS. Human rights cannot be adequately taught through classroom lectures. According to University of Pretoria faculty, students need to “feel the problem marginalized communities face by working directly with them. They can then understand, appreciate, and personalize these problems. They become real, not classroom theories.”⁴⁸ Moreover, “access to medicines is a practical issue. You must be on the ground to understand the problem and provide viable solutions/alternatives.”⁴⁹ Faculty at the CMU Legal Clinic in Thailand have likewise found that clinical legal education exposes students to marginalized com-

munities who have intentionally been left out of the system: “Through this exposure, students begin to understand and learn that they have the ability to make a positive societal difference through their skills as advocates and educators. Furthermore, students come to realize that law is not an abstract theory, simply to be studied and memorized, but in fact has pragmatic and hopefully beneficial effects on society if applied properly, and disastrous consequences if not.”⁵⁰

In this way, clinical legal education functions as an important entry-point for engaging law students in issues of global importance, such as the HIV pandemic. Clinics serve as a way to create leaders in the legal community on issues that are generally ignored and stigmatized. For example, multiple graduates of the CMU Legal Clinic are now working with NGOs on health and human rights issues. After their clinic experience, students may also become policymakers who are sensitized to the health and human rights challenges faced by underprivileged communities. The public health arena is thereby enriched with a new set of professionals who bring the skills and tools of their discipline to resolve some of society’s toughest problems.

Interestingly, of the four clinical legal education programs presented in this paper, only the Thailand and Ukrainian programs consciously aimed to impact students and develop a new generation of young lawyers. In contrast, both South African programs were established by advocates who found law clinics to be an effective tool for advancing public health and social justice goals. The impetus for setting up the palliative care program in South Africa, in fact, came from the community outside the academic institution. In facilitating this project, HPCA found itself having to backtrack to pay more attention to pedagogy so that students could gain skills to effectively facilitate workshops and meet community needs. HPCA initially focused on the delivery of services and only later perceived the potential to develop new leadership on palliative care issues.

However, the quick success of both South African programs owes a lot to the clinics’ close relationships with NGOs with a deep understanding of the issues. HPCA is a leader in palliative care in South Africa with close links to the community; it brought legitimacy, contacts, and understanding of patient needs to its collaboration with the University of Cape Town law stu-

dents. University of Pretoria's faculty similarly put law students in contact with a network of NGOs working on access to medicines issues. This link enabled students to support the work of longtime advocates with the resources and research capacity of an academic institution and with their own energy and creativity. According to faculty, it was this "mix of both the theoretical and practical" that added momentum to the access to medicines movement and led to successful advocacy.⁵¹

Clinical legal education initiatives may have a particularly important role to play in countries where there are not enough experienced lawyers to meet community needs, such as in South Africa and Thailand. Even in Ukraine where lawyers are abundant, part of the Clinic's mission is to increase access to the legal system. Students are a resource that can provide free legal services to the poor and marginalized who might otherwise never gain access to justice. As graduates, they will also help shape the legal profession and its potential for public service. However, as HPCA's experience demonstrates, clinical legal education programs can most effectively meet community needs when linked with other legal resources, such as paralegals and pro bono networks, to enable a continuum of services.

As these projects reveal, the law can play a critical role in protecting public health by addressing the impact of human rights violations on health and through interdisciplinary programs that respond holistically to people's needs. Law and health clinics can be effective in providing legal empowerment, direct services, and policy advocacy. Such clinics also have the capacity to impact individual clients, communities, and national/regional/international norms. Clinical legal education programs are an important vehicle for piloting new initiatives, such as the use of human rights mechanisms to advance access to medicines

[T]he law can play a critical role in protecting public health by addressing the impact of human rights violations on health and through interdisciplinary programs that respond holistically to people's needs.

or the formation of partnerships between palliative care and legal professionals to help meet patient needs. Most importantly, they can help develop a cadre of future lawyers with the sensitivity and expertise to play a leading role in addressing complex health and human rights issues. **HRB**

ENDNOTES: Promoting Public Health through Clinical Legal Education: Initiatives in South Africa, Thailand, and Ukraine

¹ Paul Farmer, *Rethinking Health and Human Rights: Time for a Paradigm Shift*, in *PATHOLOGIES OF POWER: HEALTH, HUMAN RIGHTS, AND THE NEW WAR ON THE POOR* 213-46 (Univ. of Cal. Press 2003); Sofia Gruskin, et al., *History, Principles, and Practice of Health and Human Rights*, 370 *THE LANCET* 449 (2007).

² Ellen Lawton et al., *Disparities in Health, Disparities in Law: The Global Potential of Individual Advocacy*, in *HEALTH CAPITAL AND SUSTAINABLE SOCIOECONOMIC DEVELOPMENT* 419-440 (Patricia Cholewka & Mitra M. Motlagh eds., Taylor & Francis, Inc. 2008).

³ Scott Burris, *Law as a Structural Factor in the Spread of Communicable Disease*, 36 *HOUS. L. REV.* 1755, 1775 (1999).

⁴ Stacy L. Brustin, *Legal Services Provision through Multidisciplinary Practice — Encouraging Holistic Advocacy While Protecting Ethical Interests*, 73 *U. COLO. L. REV.* 787, 792 (2002).

⁵ The World Health Organization [WHO] defines palliative care as "an approach that improves the quality of life of patients and their families facing the problem[s] associated with life-threatening illness, through the prevention and relief of suffering by means of early identification and impeccable assessment and treatment of pain and other problems, physical, psychosocial and spiritual." World Health Organization, *WHO Definition of Palliative Care*, available at <http://www.who.int/cancer/palliative/definition/en/print.html>.

⁶ For additional information, see Open Society Institute, Law and Health Initiative Public Health Program, <http://www.soros.org/initiatives/health/focus/law> (last visited Feb. 22, 2010).

⁷ OSI's Law and Health Initiative and Southeast Asia Initiative jointly supported this project.

⁸ The Law and Health Initiative and International Palliative Care Initiative of OSI's Public Health Program jointly supported this project with the Open Society Foundation for South Africa.

⁹ The Law and Health Initiative and Access to Essential Medicines Initiative of OSI's Public Health Program jointly supported this project.

¹⁰ Bridges Across Borders Southeast Asia is an international not-for-profit organization which focuses on the development of university based clinical legal education programs as well as grassroots community legal education programs. Bridges Across Borders Southeast Asia, <http://www.babsea.org> (last visited Mar. 22, 2010).

¹¹ For more information on these statistics, see Thailand Ministry of Public Health, <http://eng.moph.go.th/> (last visited Mar. 22, 2010).

¹² Chris Beyrer et al., *Drug Use, Increasing Incarceration Rates, and Prison-Associated HIV Risks in Thailand*, 7 *AIDS & BEHAVIOR* 153 (2003).

Endnotes continued on page 83