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Lessons Learned from Teaching Clinical Legal Education in Thailand

Lisa Bliss

Introduction

All around the globe, legal educators, law students, consumers of legal services and others in the legal community are debating reforms to legal education, prompted¹ by external demands on the profession, the need for law graduates to be competent in rapidly developing areas of law, and changes in practice due to globalization and technology.² The drum beat for change is familiar by now in the United States, with a renewed interest in curricular reform that seeks to balance teaching students foundational legal knowledge with important lawyering skills and professional values.³ In Asia, in particular,

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I am grateful to Bruce Lasky and Wendy Morrish, co-directors of Bridges Across Borders Community Southeast Asia Legal Education Initiative, who invited me to serve as a clinician in residence in the summer of 2012, and inspired me with their unfailing dedication to the development of justice education in the region, and support of my work with partner university Mae Fah Luang School of Law. I am also indebted to Andi Curcio, Alex Scherr, Carolyn Kaas, Mary Lynch, Steven Rosenbaum, Catherine Klein, Leah Wortham, Doug Colbert and Ved Kumari, all of whom are talented, inspiring teachers who shared their encouragement and creative teaching ideas before and during my visit to Mae Fah Luang University. I also thank my Thai collaborators and colleagues, Dean Apirat Petchsiri, Sopit Cheevapanich, and Supamas Chinvinijkul.

1. Jane E. Schukoske, *Legal Education Reform in India: Dialogue Among Indian Law Teachers*, 1 *Jindal Global L. Rev.* 251, 251 (2009).
2. *Id.* at 253.
3. The Carnegie Foundation for the Advancement of Teaching published a critique of legal education in 2007. *See* William M. Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond & Lee S. Shulman, *Educating Lawyers: Preparation for the Profession of Law* (Jossey-Bass, 2007). In the same year, the Clinical Legal Education Association, under the direction of lead author Roy Stuckey, identified recommendations for organization of a balanced legal curriculum. *See* Roy Stuckey & Others, *Best Practices for Legal Education: A Vision and A Road Map* (Clinical Legal Education Association, 2007). Several sources have recently called to question the value of traditional legal education in the United States and whether it adequately serves students entering the profession. *See, e.g.*, Brian Z. Tamanaha, *Failing Law Schools* (Univ. of Chicago Press 2012); Charles Lane, *Book Review: "Failing Law Schools"* by Brian Z. Tamanaha, *Wash. Post*, Aug. 3, 2012, *available at* http://article.washingtonpost.com/2012-08-03/opinions/35493612_1_law-schools-law-grad-

globalization, economic growth and development, funding and structural changes to both governmental and legal education systems, and the influence of international aid organizations have all contributed to rapid changes in legal education.⁴ These changes have included increased attention to clinical legal education, which has long been recognized as a critical pedagogy that prepares students to serve clients.⁵ Clinics and other methods of experiential education can help students develop basic lawyering skills while also cultivating their appreciation for lawyers' responsibilities as citizens and their obligation to enhance the administration of justice, globally and locally.

As a clinical legal educator, my professional focus is to help students develop knowledge, skills and values so they can become competent, ethical lawyers. I do that through my work in an inter-professional medical-legal partnership clinic. In the summer of 2012, I went to Thailand at the invitation of a non-governmental organization based in Chiang Mai, Bridges Across Borders Southeast Asia Community Legal Education Initiative.⁶ I was assigned to work at Mae Fah Luang School of Law⁷ in Chiang Rai province to mentor law faculty in developing a clinical and social justice curriculum and to help incorporate experiential and interactive learning into the law classroom. My experience as a visiting clinical professor at Mae Fah Luang, and what I learned through my collaboration with the Bridges NGO and its efforts to transform legal education in the region, form the basis for the observations I share in this paper.

Reforming Legal Education in Thailand With Clinical Legal Education and Values

The Bridges NGO works throughout Southeast Asia to fulfill its mission of helping to develop clinical legal education in the region, strengthen the rule of law, and ultimately increase access to justice for marginalized populations. The organization has initiated and supported a multifaceted approach to achieving its goals, including forging partnerships with law

corporate-law; Ethan Bronner, Law Schools' Applications Fall as Costs Rise and Jobs are Cut, *N.Y. Times*, Jan. 30, 2013, available at http://www.nytimes.com/2013/01/31/education/law-schools-applicaton-fall-as-costs-rise-and-jobs-are-cut.html?_r=0; Robert Morse, Law Schools Taken to Task in New Book, *U.S. News & World Rep.*, July 26, 2012, available at <http://www.usnews.com/education/blogs/college-rankings-blog/2012/07/26/law-schools-taken-to-task-in-new-book>; The Two Year Itch: Could Law Schools Be Ready to Change Their Ways?, *The Economist*, Feb. 02, 2013, available at <http://www.economist.com/news/business/21571213-could-law-schools-be-ready-change-their-ways-two-year-itch>.

4. See *Legal Education in Asia: Globalization, Change and Contexts* 3-4 (Stacey Steele & Kathryn Taylor eds., Routledge 2010).
5. Clinics and service learning can help students enhance crucial skills including ethical analysis, problem-solving, leadership and responsiveness to social needs. See Deborah L. Rhode, *The Professional Ethics of Professors*, 56 *J. Legal Ed.* 70, 80-81 (March 2006).
6. See *BABSEA-CLE-Home*, available at <http://babseacle.org>.
7. See *School of Law Mae Fah Luang University*, available at <http://www.mfu.ac.th/school/law2008/eng/info01.php>.

schools throughout Southeast Asia.⁸ It hosts regular training workshops for law faculty on clinical teaching methods, has developed and shared a comprehensive teaching manual with lesson plans to teach clinical skills and provides other forms of mentoring to law school personnel. Its staff also conducts community teaching workshops, trains clinical legal education fellows and provides externships that help support the development of clinical legal education and pro bono efforts. Finally, the group encourages pro bono service and the development of such programs, which offer another avenue for access to justice for underserved populations.

With a presence in the region for over a decade, Bridges has consulted, organized workshops and conferences and developed and refined a teaching manual that contains detailed lesson plans for clinical legal education by its law school partners. These lesson plans provide a model for curriculum development that prioritizes interactive teaching techniques and encourages development of law school clinics.⁹ By 2012, few of the Thai partner institutions had sufficiently incorporated the model curriculum to offer clinical courses for credit. However, the concept of clinical education was gaining acceptance and some partner institutions developed clinical programming in the form of extracurricular student activities.¹⁰ Bridges has demonstrated that through its sustained efforts, clinical legal education will continue to grow in this region.¹¹

In Thailand, ideas about clinical education exist along a continuum, from interactive teaching at one end to some form of live client interaction at the other. In places only recently introduced to the concept, the initial understanding is that clinical legal education is a different method of teaching with a primary feature being the use of interactive methods and reflection

8. Because my work with Bridges focused on Mae Fah Luang University School of Law in Thailand, this article does not address the group's work in other countries. For a more detailed description of its goals, see <http://www.babseacle.org/articles/babsea-cle-in-southeast-asia>.
9. For a discussion of the strategic efforts of the Bridges NGO and the Open Society Justice Institute to establish clinical programs in Southeast Asia, see *The Global Clinical Movement: Educating Lawyers for Social Justice* 38-44 (Frank S. Bloch, ed., Oxford Univ. Press 2011).
10. Thammasat University in Bangkok and Chiang Mai University were among the leaders in instituting law school clinics. *See id.* at 38. The law school clinic at Chiang Mai University, which began as a volunteer opportunity for students and professors, offered its first accredited course in 2009. Through Bridges' efforts, accredited programs were developed in Malaysia at University Malaya; in Vietnam at Trade Union University, Hue University, Vinh University (expected to open 2014), University of Economics and Law (opening 2014); in Thailand, University of Phayao (opening 2014); in Cambodia at Pannasastra University of Cambodia; in Indonesia at many universities; in the Philippines at many universities; and in Singapore at the National University of Singapore. *See* e-mail from Bruce Lasky, co-director, Bridges Across Borders Southeast Asia Community Legal Education Initiative, Feb. 26, 2013 (on file with the author).
11. *See id.* There are some barriers to institutionalizing clinical legal education within Thai universities. Some of these include: Thai education's traditional reliance on lectures; the structure of the four-year undergraduate law degree; the lack of a student practice rule; legal educators who are unconnected to the practice of law; and the lack of a comprehensive legal aid system.

and an emphasis on social justice.¹² In Southeast Asia, and in Thailand in particular, clinical legal education is known as CLE.¹³ While in the United States and elsewhere clinical legal education takes many different forms, in Thailand and some other places in Southeast Asia, especially where clinical education is developing, this term can mean live client representation, it may refer to community teaching workshops or simply may serve as a shorthand description of such classroom methods as small group exercises, role plays and simulations. This interactive style of teaching is new because Thai legal education traditionally developed using a lecture-based format.

The support for clinical legal education by the Bridges NGO is one example of how external influences can shape reform in this region. Other external factors that may influence curricular reform include political and governmental initiatives; changes in response to developing economic conditions in Asia; and the influence of other nongovernmental organizations in the region.¹⁴ Academic exchanges, in which international educators share ideas about legal education and law reform, also have the power to influence the future of legal education.¹⁵

There can be tensions among these disparate influences. For example, NGOs may have human rights or social justice missions, while political and economic forces may place a higher priority on development that supports different goals. Differing value systems may affect the kind of training that law students ultimately receive, the allocation of resources in law schools, and the demand for the kind of training lawyers in this region need to have in order to address contemporary legal issues.

The Mae Fah Luang University Experience

Mae Fah Luang University is located near Chiang Rai City, in northern Thailand, close to an area known as the “Golden Triangle,” where the borders of Myanmar, Laos and Thailand meet. The 2,000 acre campus houses a university of more than 7,000 students. All courses at the school, except law and nursing, are taught in English. The university is isolated, with the nearest town a 30-minute drive in any direction.

12. It should be noted that there is not necessarily agreement within the United States or elsewhere on a definition of clinical legal education. *See* Richard J. Wilson, Training for Justice: The Global Reach of Clinical Legal Education, 22 Penn. St. Int'l L. Rev. 421, 422-24 (2004).
13. The BABSEA CLE organization's definition of clinical legal education can be found at <http://www.babseacle.org/articles/babsea-cle-in-southeast-asia>.
14. International economic and political actors, as well as NGOs with human rights agendas, United Nations agencies, and religious institutions in Thailand have been highly influential in advocating for rule of law reforms. *See* Frank Munger, Globalization, Investing in Law, and the Careers of Lawyers For Social Causes: Taking on Rights in Thailand, 53 N.Y.L. Sch. L. Rev. 745 (2008/2009).
15. *See generally* Peggy Maisel, The Role of U.S. Law Faculty in Developing Countries: Striving for Effective Cross-Cultural Collaboration, 14 Clinical L. Rev. 465 (2008).

The Bridges organization's goal in sending me to MFU School of Law was to provide a lengthy visiting professor placement to help deepen the law faculty's understanding of clinical methods and support the development of clinical education initiatives at the school. The ultimate goal was to aid in establishing a clinical program of some type. Apirat Petchsiri, the MFU law school dean, was keen to introduce and support clinical legal education there. He received his S.J.D. and LL.M. at New York University School of Law. During his time there, he grew familiar with clinical pedagogy and the work of Professor Anthony Amsterdam. Petchsiri was convinced of the efficacy of clinical education as a model and its success in preparing students for the practice of law. He was keen to introduce clinical methodology to his faculty and supported his faculty's participation in workshops organized by the Bridges NGO.

Upon my arrival, he asked me to develop a large-enrollment class to serve as a "pre-clinic" course. The dean hoped that a core group of students who were successful in this introductory course might go on to work in a storefront clinic that could be established in a neighboring town. I was paired with two young lecturers who were each assigned to teach a 150-student section of an English for Lawyers course. Our task was to redesign that course as an introduction to clinical education, social justice, and lawyering skills. With me there, they decided to combine the two sections into one 300-student class. That is more than ten times the student enrollment of the clinic that I teach in Atlanta; and was the largest number of people I had ever addressed in any context. This situation forced me to let go completely of my usual way of doing things. I had to imagine how to create an interactive environment for an overwhelming number of students. To add to my challenge, the students were unaccustomed to interaction and class participation. I worked with my Thai colleagues to develop interactive exercises to teach specific knowledge, skills and values, reflective learning, and to incorporate social justice concepts. The course we created was based both on my own teaching experience as well as comprehensive lesson plans and exercises from a curriculum developed by the Bridges NGO for use in clinical legal education and community teaching programs.¹⁶ The students, although slow to warm to the techniques, became more confident in their skills and abilities as the course went on. They also expressed that although they felt reluctant to participate, they liked the interactive methods.

My takeaway from my MFU teaching is that it is possible to scale up some classroom components of clinic courses; those ideas may be relevant in other places, especially where law classes have very high enrollment. In large classes, teachers cannot go as deep but they can create exercises to help students begin to inhabit the role of a lawyer; consider issues of access to justice and the

16. For a complete description of how I worked with my Thai faculty colleagues to design an interactive law course on social justice for 300 students, see Lisa Radtke Bliss & Supamas Chinvinijkul, *Preparing Law Students for Global Practice: An Innovative Model for Teaching Lawyering Skills and Social Justice in a Large Enrollment Law Course* (forthcoming in *Asian Journal of Legal Education* 2014).

application of law; and start to learn needed skills so they are more prepared to engage with clients.

While at the law school, I also helped scout locations for a possible clinic in nearby towns and helped develop a working plan to establish a legal services clinic for MFU students. Despite my enthusiasm and wish to see the project to fruition as soon as possible, I was and am mindful that much of the work I did really just planted seeds for a clinic, which, ultimately, will be designed by and for the faculty and students and their community. I tried to be sensitive to local conditions and to provide information, resources and models for my collaborators which could be tailored to their interests and needs.¹⁷

External Forces That May Shape Clinical Legal Education

Besides the Bridges NGO's push to develop clinical legal education at MFU and at other Thai schools, other external forces may play roles in shaping its delivery and content in Thailand. By comparison, forces outside of academia have influenced the development and expansion of clinical legal education in countries such as India and the United States. The American movement, for example, was greatly aided by external forces including the government's war on poverty, increasing funding for legal services for the poor through legal aid, and foundation support.¹⁸ In India, increasing access to legal aid by the poor similarly propelled clinical legal education, as law schools were called on to help develop legal aid programs.¹⁹ While pressing for social justice often has provided the impetus for legal education reform through clinical education, India recognized that establishing clinics with law schools would help their students gain lawyering skills that make them more marketable.²⁰ Thus, clinical legal education may serve to instill knowledge, skills and values important to students who will practice for gain while also advancing social justice goals.²¹

17. I was guided in my efforts by the insightful article by Peggy Maisel, *The Role of U.S. Law Faculty in Developing Countries: Striving for Effective Cross-Cultural Collaboration*, 14 *Clinical L. Rev.* 465 (2008). Maisel noted the importance of preparation and sensitivity to cultural differences and the impact of the amount of time spent in the host country as factors contributing to the sustainability of collaborative projects with visiting faculty. I was at MFU for seven weeks and returned in 2013.
18. See Frank S. Bloch & M.R.K. Prasad, *Institutionalizing a Social Justice Mission for Clinical Legal Education: Cross-National Currents from India and the United States*, 13 *Clinical L. Rev.* 165, 168-70 (2006).
19. *Id.* at 169-70.
20. *Id.* at 175.
21. Clinical pedagogy has long had social justice as a goal. See e.g. Stephen Wizner, *Is Social Justice Still Relevant?*, 32 *B.C.J.L. & Soc. Just.* 345 (2012); Fran Quigley, *Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics*, 2 *Clinical L. Rev.* 37 (1995); and Christopher Walsh, Bruce Lasky, Wendy Morrish & Nada Chaiyajit, *Strengthening Access to Justice Through Clinical Legal Education (CLE)*, 6 *Transforming Gov't: People, Process and Pol'y* 380-91 (2012).

In Thailand and other developing countries, law schools training the next generation of lawyers must be responsive to both global and local needs. MFU's location near major border crossings is significant because of the legal needs in surrounding communities: the most common reasons for incarceration in Chiang Rai province are drug- and human-trafficking. A new bridge over the Mekong River links Laos to Thailand and provides a direct route into Thailand from China. The area is experiencing rapid development which is likely to fuel an ongoing need for legal help relating to cross-border trade and investment, as well as other issues.²²

While demand for legal services is increasing, the number of lawyers in Thailand also is booming.²³ MFU is responding to Thailand's economic development by emphasizing curricular offerings such as international law, public law, and business law. Local governments in the surrounding communities are focused on understanding laws on trade, development and formation of the Asian Economic Community by 2015.

The Thai Ministry of Education also may play a part. In 2009, it issued the National Qualifications Framework for Higher Education as guidelines to serve the goal of education reform²⁴—and these may foster the growth of clinical education. The guidelines set minimum competency outcomes in higher education, including in knowledge and skills domains. At least one Thai legal scholar has argued that expanding the clinical curriculum is a means to achieve those outcomes.²⁵

The influence of NGOs, government, and especially the rapid economic development in the region will significantly impact the laws, the legal system,

22. Rapid changes brought about by globalization are causing legal educators everywhere to consider law schools' roles in training lawyers. See Schukoske, *supra* note 1, at 255 ("Legal educators are grappling with the implications of reframing the understanding of law practice from state and/or national to cross-border, regional, and global"). Tithiphan Chuerboonchai & Pareena Srivanit, Challenges to Legal Education in a Changing Landscape: The Case of Thailand 1, available at http://www.aseanlawassociation.org/docs/w3_thai.pdf ("The impact of globalization in the regional and international arena has forced many countries, including Thailand, to constantly review and adjust the system of its legal education.").
23. The number of lawyers in Thailand has increased more than 25 fold since the mid-20th century. See Munger, *supra* note 14, at 751.
24. See National Qualifications Framework for Higher Education in Thailand, Implementation Handbook (2006), available at <http://www.mua.go.th/users/tqf-hed/news/FilesNews/FilesNews8/NQF-Hed.pdf>.
25. Panarairat Srichaiyarat, Clinical Legal Education: An Option for the Thai Legal Education Reform 6-8 (2012). Dr. Srichaiyarat's research includes a study of law clinics at three Chinese law schools to determine the opportunities and skills the students acquired. She asserts that clinical legal education aligns with the framework of Thai education reform and recommends including clinical legal education as a compulsory comprehensive course. Dr. Srichaiyarat's report was sent to the dean of every Thai law school (e-mail and attachments from Dr. Panarairat Srichaiyarat, Faculty of Law, Chiang Mai University, Mar. 1, 2013, on file with the author).

and legal education in the coming years.²⁶ Clinical education, as it takes root there, will positively contribute to that evolution, including by inculcating social justice values. Incorporating clinical education into Thai law schools will shape the development of the legal profession and impact the future of Thai law, its application and enforcement.

26. Thailand's political and economic revolution, economic growth, and the NGO movement have influenced the careers of social justice lawyers in the country. *See, e.g.,* Munger, *supra* note 14.