

## **Report of GALA trip to WCL, 2005**

Six GALA members (Asha Bajpai, Nomita Aggarwal, Gangotri Chakravarty, Ruchira Goswami, Shalu Nigam, N Vasanthi and Sanober Keshwaar) visited the American University's Washington College Law in Washington D C from 16<sup>th</sup> to the 23<sup>rd</sup> of October, 2005. If there are two words that can aptly describe this trip, they would be 'sumptuous' and 'breathless'. From 9 in the morning to 9 at night, we were treated to a serial exposure of all kinds and all aspects of experiential learning at WCL. The discussions with students and faculty, the 'sitting-in" on classes, the visits to NGOs, the 'working lunches' were all planned and executed to give us an exhaustive exposure which left us breathless – such was the pace of it all; but we also felt sated at the end of this intellectual feast. The expressions of gratitude which are normally left for the end of any report of a trip we feel are more appropriate here. The meticulous planning and execution of the trip's schedule deserves our heartfelt appreciation. For that we have to thank April Fehling, Hadar Harris, Brenda Smith and Muneer Ahmad, who persuaded other members of the WCL Clinic Faculty to give us so much of their time and knowledge.

The trip was intended to examine the faculties for experiential learning that the law school had been working on for many years and see what models could be adapted in India. Experiential learning, though not completely new in India, is still in its nascent stage and there are exciting possibilities for growth. The programme in Washington was a week long and was structured to fit in as many models as possible. We were exposed to broadly four types of experiential learning for law students:

- 1) Clinical Legal Training
- 2) Externships
- 3) Student-led projects
- 4) The Marshall-Brennan Fellowship Program

### **1) Clinical Legal Training**

The concept of clinical legal education is rooted in the politically active 1970s which saw the swell of the civil rights movement in the US and the anti-Vietnam war movement. These movements helped develop the ethic of social justice, that law schools too should be accountable to the people and help in providing the poor with access to the courts. Professors who make up the clinical faculty wish to train a whole cadre of committed lawyers.

The clinical programme is designed in such a way that students get to represent their clients in court. Dealing with live clients benefits students in a big way and all cases are

taken very seriously. Three modes of teaching are resorted to in the clinic. One is the seminar that is a class where students meet to discuss the theoretical and practical aspects of advocacy. Here simulated exercises are the main teaching technique. A fictitious case is given to the students, the related statutes and case materials are discussed. Then the simulation exercise extends to a senior student posing as the client and narrating the facts of the case and the student has to counsel him/her as a client. This whole process is videotaped and later played back to the class to evaluate the particular student's performance in the client counselling session. In these seminars, the students also use the group to map out the steps of the case they are dealing with.

Apart from the seminar, the students attend Case Rounds where groups of them discuss the ethical, tactical, legal and institutional issues that arise in their respective case work. They analyse the issues that are common to their cases and examine questions that other students are confronting but which may not be present in their own cases.

Then there is the in-house field work supervision, when students meet at least once weekly with their faculty supervisors to discuss case preparation, review drafts, explore experiences and events in their representation of their clients. This is where they are urged to "look back" – where s/he discusses the result achieved (or denied, as the case may be) as compared to what had been predicted would happen, to help them to extract theory from experience. This process is meant to encourage "reflective lawyering". As Professor Elliot Milstein, "the oldest clinician alive" puts it, the clinic is like a "law school laboratory – a place where theory is derived from experience, tested in the real world, and revised in the harsh light of reality."

The WCL offers the following types of clinics : (1) the Women and Law Clinic (2) the Intellectual Property Law Clinic (3) the Domestic Violence Clinic (4) the International Human Rights Law Clinic (5) the Criminal Justice Clinic (6) the Civil Practice Clinic (7) the Federal Tax Clinic (8) Community and Economic Development Law Clinic. (Our team had the opportunity to be exposed to students and faculty of the Women and Law clinic, the Domestic Violence Clinic, the Human Rights Clinic and the Intellectual property law Clinic.) One very interesting thing is how these different clinical programs sometimes intersect, for e.g. the Intellectual Property clinic with human rights.

Only students who have successfully completed their first year at law school can apply for the clinical program. Selection for all the clinics is based upon a lottery, i.e. each clinic conducts a lottery of those applicants who listed that clinic as their first choice.

Our team had the privilege of watching students from the Howard University Law School appear in the criminal courts in DC. The faculty supervisor stood behind the student lawyer as she appeared before the judge. The student lawyer was confident and appeared to enjoy the confidence of her client too.

Our team had the honour of meeting three judges of the federal court over lunch in their canteen – Judge Henry Kennedy, Judge Emmett Sullivan and Judge Kessel. All of them thought the clinical program in an essential part of legal education and thought that all the

student lawyers who have appeared before them have fared very well. They felt that such a program not only hones their lawyering skills but also sensitises them to the plight of the poor and the underprivileged.

Our team also had lunch one day ( a superb Indian meal at that) with alumni of the clinic faculty at WCL who are now practising as lawyers. They all said that their stint in the clinics had prepared them for their work in the courts like nothing else had. One of them, Layli Miller-Muro narrated a well-publicised asylum case she was involved in as a student lawyer. This was the case of Fauziya Kassindja, a young African woman who fled Togo in fear of a forced polygamous marriage and a tribal practice known as female genital mutilation. After arriving in the USA, she was thrown into detention being an illegal immigrant, but was finally granted asylum on appeal and her case revolutionised the asylum law in the USA, opening the door to those seeking protection from gender-based persecution. The story of Kassindja's struggle for asylum is contained in a book entitled "Do they hear when you cry?" which she wrote jointly with Layli. Our team also met another WCL clinic faculty alumnus who was doing pro bono work for Afghan women treated badly in simulation camps to familiarise American soldiers with the conditions in Afghanistan before they are sent them on duty. We found that almost all the alumni we met with were doing some kind of socially relevant lawyering.

The WCL offers clinical legal education which offers students the opportunity to represent real clients with real legal problems, to handle litigation from beginning to end, to take full responsibility for clients' cases, and to learn lawyering skills at both a practical and theoretical level. The WCL clinics encompass nine fields but the team had

## **2) Externships**

Another mode of experiential learning for the students of WCL is the Supervised Externship Program. The closest thing to these externships in India is what we call "placements" or doing an internship with a law firm or NGO. The major differences are that the externship done by the WCL students is closely supervised by his professors and she is given credit (marks) for doing it. This program is geared not only to get students to "learn on the job", but also to get them to reflect more critically about the work of a lawyer – and about themselves as lawyers- in a structured educational setting.

WCL students doing externships are placed in field placements throughout the academic year. They are placed at local, state and federal government agencies, in non-profit making organisations (mostly NGOs), courts and law firms engaged in pro bono matters. Since 300 students from WCL every year take part in the Externship program, WCL holds an Externship Fair every year where hundreds of government, judicial and public interest employers interact with the students to give them an idea of what is on offer if they opt to do their externship with them. The kind of work they do at these placements include researching and briefing legal issues, drafting, conducting client interviews, preparing witnesses and assisting in preparation for trials. At the field placement, the student is supervised by a lawyer belonging to that firm/department, who should be in regular contact with the student in order to offer constructive and timely feedback on the

assignments and work done by the student for that organisation. The students are expected to work at their workplace between 10 to 20 hours during the academic year and fulltime during the summer vacation. Simultaneously with their work at their workplace, students taken part in externship seminars taught by faculty members. Students meet every week at externship seminars to share perspectives on the work experience and to discuss assigned readings selected to promote reflection. (Our team sat in on a discussion at such an externship seminar chaired by Avis Sanders where an essay of Duncan Kennedy's on legal education was discussed.) In all these seminars, the instructional emphasis is to be on the lawyering experience rather than on substantive legal doctrine.

Since students doing externships have to be awarded marks for their work, they received some form of faculty supervision. Students are required to maintain reflective journals throughout their field placements, entries in which are the starting point for discussions held by faculty with small groups of such students where the students' personal experiences of work are explored in greater detail. Professor Andy Popper gave us a good idea about what goes on in these sessions, and informed us how issues like how to deal with hierarchies in actual work environment and even how to tackle sexual harassment at their workplace is thoroughly discussed here.

During the Summer Vacation, students disperse to externship placements with NGOs and legal assistance centres all around the world where they normally work fulltime for 8 to 10 weeks. Before they disperse, they attend a 3-day intensive seminar. During the period they are away abroad, students and WCL faculty are linked via an Internet "virtual classroom" : Students submit their assignments via email and meet regularly on-line to discuss the progress of their externships. After they return from their placements abroad, the students gather again for a 3-day intensive debriefing of their summer experiences.

### **Visits to NGOs which are field placements for law students**

Our team visited three of the NGOs which are field placements for WCL students and the Public Defenders Office. The NGO called **Ayuda** serves the lower income group immigrant population, mostly Hispanics, in the Washington DC metropolitan area. The legal issues dealt with by Ayuda relate to domestic violence and immigration difficulties mostly. The other NGO whose office we visited was **WEAVE** (Women Empowered Against Violence). Apart from providing counselling and advice on economic support to victims of domestic violence and dating violence, WEAVE also provides legal counselling and support, both for emergency orders and long term cases. The **DC Employment Justice Centre** inter alia provides free and low cost legal services to low-income workers on employment law matters such as unpaid wages, discrimination, workplace injuries, unsafe working conditions and unemployment compensation. These services are mainly provided by paralegal workers and law students doing externships there and their work is supervised by two fulltime lawyers employed by the centre.

Our team also visited the offices of the **Public Defender Service** which is a government funded independent organisation governed by a Board of Trustees which provides legal services in and out of court for people charged with criminal offences who cannot afford

their own legal counsel. The PDS was created more than 30 years ago by a statute after the US Supreme Court delivered its landmark ruling in the case of *Gideon v. Wainwright* that upheld the constitutional right to a lawyer for poor people facing criminal charges. Students intern as law clerks in this office and the public defenders who met us were very pleased with the students' work. (Our legal aid services authority differs from these Public Defenders in that the defenders work fulltime in the PDS work and legal aid is not offered in civil matters.

### **3) Student-led projects**

One afternoon, the team had a session with three students who explained the various student-led projects that they were undertaking whilst at law school. This kind of work is termed as "complementary education" since it complements the formal curriculum. In this kind of experiential learning process, students, guided by a Student Advisory Board, undertake projects which involve volunteering for all kinds of legal work which does not earn them any marks but counts towards the 70 hours of 'pro bono' work they have to do before they qualify as lawyers.

One of these type of projects was the Genocide teaching Project which involved propagating through classroom lessons against the genocide in Rwanda and in Sudan in high schools in Washington DC. The law students are first trained in the subject and then sent to various local high schools. The students also discuss with the schoolchildren what they can do in their own way to stop genocide and this has led to the formation of student activist groups like the one started at Georgetown University.

The other student-led project we were told about is the Immigrant Rights Coalition whereby law students volunteer their services to the Refugee Asylum Committee and the Detention Committee to give legal aid to immigrants.

Another project we learnt about was students volunteering to investigate the increasing occurrence of "femicides" (killing of women) on the USD/Mexico border.

Skills seminars are also held once a month to develop activist skills like public speaking, media management and grant proposal writing in the students.

### **5) The Marshall- Brennan Fellowship Program**

Operating in the spirit of the late great judges of the U S Supreme Court, Thurgood Marshall and William Brennan, whose widows helped to launch this project, this program send gifted upper-level law students into public high schools a few days a week to teach high school students a new course in constitutional and civic literacy. The literacy course, which is centred in a textbook entitled "We the Students", is filled with moot court exercises, discussion problems, community service ideas and role-playing scenarios. The textbook is full of cases of the Supreme court decisions on compulsory flag salutes, locker searches, censorship of student newspapers, school desegregation, student-on-student sexual harassment, prayer in the classroom and on the football field, the teaching of evolution and creationism, and numerous other issues of concern to young Americans.

The schools where the Marshall-Brennan fellows teach are those where the overwhelming majority of students are African-American, Hispanic or Asian-American.

### **Conclusion**

For all of us in the team, our understanding of legal pedagogy has been enriched by what we witnessed at WCL. We will supply to all GALA members some of the documents and papers given to us at WCL which could prove useful in our respective courses. What we all should discuss at our Pune meet is in what ways we could adapt some of the pedagogical techniques in our courses.