

The First All-African Law Clinicians Training Workshop

*Report on a workshop held at the Institute for Professional
Legal Training (IPLT) Innovation Centre, University of
KwaZulu-Natal, Durban, October 4-9, 2004*

October 2004

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A. INTRODUCTION

The First All African Training Workshop was held at the Institute for Professional Legal Training (IPLT) at the University of KwaZulu-Natal, Durban from 4 to 9 October 2004. The Workshop was attended by five law teachers from Nigeria (Ernest Ojukwu, Isa Chiroma, Moses Unegbu, Olugbenga Oke-Samuel and Yemi Akinseye-George), two from Kenya (Joy Asiema and Kiture Kindiki), two from Malawi (James Masumbu and Lewis Bande), one from Uganda (Theodora Bitature) and a law student from Sierra Leone (Nancy Sesay). The Workshop Organising Committee and core instructors were David McQuoid-Mason, Robin Palmer, Munirah Osman and Thuli Mhlungu from the University of KwaZulu-Natal. The core instructors were assisted by Elsabe Steenhuisen (Rand Afrikaans University), Frans Haupt (University of Pretoria), Jonathan Campbell (Rhodes University), Shaheeda Mahomed (University of the Witwatersrand) and TP Pillay (University of KwaZulu-Natal). The Conference Administrator was Carla Pettit of the IPLT.

B. PROGRAM

The participants were subjected to an intensive five day program of training and evaluation (see Program attached).

1. DAY ONE: 4 OCTOBER 2004

The participants were welcomed by David McQuoid-Mason and Thuli Mhlungu. The outcomes for the Workshop were then explained by Munirah Osman who mentioned that by the end of the Workshop the participants would be able to:

1. Identify the necessary lawyering skills required to work in a law clinic.
2. Understand and use appropriate interactive teaching methods for transferring the lawyering skills necessary in the clinic environment.
3. Understand and use appropriate methods of assessment and supervision techniques for supervising law students in the clinic environment.
4. Understand and develop effective administration and management systems.

1.1 LAWYERING SKILLS, TEACHING METHODS, ASSESSMENT METHODS AND SUPERVISION TECHNIQUES

David McQuoid-Mason introduced the session and Elsabe Steenhuisen then made a presentation on clinical teaching methods. David McQuoid-Mason then explained the

significance of the 'Learning Pyramid' to participants and brainstormed a list of 22 teaching methods with them.

Elsabe Steenhuisen made another presentation on lawyering skills whereafter David McQuoid-Mason generated a list of lawyering skills with the participants. Finally, Elsabe Steenhuisen made a presentation on assessment methods which was followed by a brainstorming session with participants by David McQuoid-Mason.

1.2 INTRODUCTION TO THE PROGRAM

Munirah Osman reminded participants about the outcomes of the Program. David McQuoid-Mason then introduced the participants to the Program and explained how different aspect of clinical teaching would be demonstrated for three days and that on the fourth day the participants would be required to present lessons. He gave the participants guidelines for the elements of a good clinical law lesson as well as for the contents of the lesson plan that they were expected to use when preparing for the lessons to be delivered on the fourth day. The students were told that they would be working with two case studies throughout the Workshop. The first was a domestic violence case study (*The Case of Annie Achebe*) that would be used by the instructors in each part of the clinical law lesson demonstrations. The second was a refugee case study (*The Case of Abel Nkomo*) that would be used by the participants to demonstrate different parts of clinical law teaching when they presented their lessons on the fourth day. The participants would have to prepare lessons for all sections of the course covered in the Program but would only have to present one lesson at the end.

The participants were divided into five groups with one Nigerian in each group teamed with people from other countries. There were four groups of two and one of three. Each group was required to prepare lesson plans in accordance with the guidelines after each demonstration. The teams had to be prepared to present any of the lessons on the fourth day. After each lesson presentation David McQuoid-Mason would lead the participants in a double-debriefing of the lessons – first as 'students' then as 'instructors'.

1.3 INTERVIEWING AND COUNSELING

Munirah Osman, assisted by T P Pillay, introduced the participants to the concept of client-centred interviewing and counseling. Due to time constraints not all the interactive components of teaching interviewing and counseling were able to be demonstrated. Consequently some of the interactive teaching methods were explained and some were actually demonstrated.

The participants were advised that this module is normally introduced through the screening of a video demonstrating a legal interview. Students are then taken through a series of questions designed to elicit the skills and techniques required for interviewing and counseling. The participants were required to answer such questions.

The 'blockages' exercise was demonstrated. The participants were given 3 case scenarios and had to develop a strategy on how they were going to deal with each blockage. A debriefing session followed whereby the participants debated the various strategies. A

simulated interview based on the *Annie Achebe* case was planned for the participants, however the time constraints did not permit it. This aspect was explained to the participants.

The methods used to teach the counseling module were explained. The concept of 'removing' power from the attorney and empowering the client to make decisions regarding their case was new to most participants and some experience difficulty with this idea. However, at the end of the session the goal was achieved.

T P Pillay from the Westville campus of UKZN explained that they taught the 'theory' of interviewing in the classroom through the lecture method and students then applied the theory through interviewing live clients calling at the clinic. During the interviews students consult their lecturers for advice and guidance, and at the end of the clinic day they have a round table conference with the students to de-brief the cases received.

The lesson was de-briefed by Munirah Osman. During the de-briefing assessment methods were discussed and the concept of developing "reflective skills" was mooted.

1.3 GROUP WORK ON INTERVIEWING AND COUNSELING

The participants met in their teaching teams to prepare a lesson on interviewing and counseling using the refugee case study. They were instructed to follow the lesson plan and to make sure that they included the outcomes, teaching methods and assessment methods. The participants were required to prepare a lesson on interviewing and counseling to be presented on the fourth day.

1.4 WRAP UP FOR THE DAY

David McQuoid-Mason conducted a wrap up session with the participants. There was unanimous agreement that the day had been very enlightening and productive and the participants felt that they had learnt a great deal in a very short time.

2. DAY TWO: 5 OCTOBER 2004

2.1 GENERAL WRITING SKILLS

Robin Palmer, introduced the participants to general writing skills and the importance of language – particularly in the context of the law. He did an interactive exercise with them to illustrate the different meaning of words. Based on the components of writing he isolated six rules to apply to develop effective writing skills. He also introduced participants to basic logical reasoning skills. The participants were then divided into pairs and required to draft a letter of demand on behalf of Annie Achebe in the domestic violence case study. The letters produced by the participants were debriefed in a plenary session.

2.2 SPECIFIC DRAFTING AND WRITING SKILLS

The session on specific drafting and writing skills was facilitated by Frans Haupt and Jonathan Campbell. The participants were asked to identify the documents used to initiate proceedings. In South Africa they are referred to as 'Particulars of Claim'. In most of the other African countries they are referred to as 'Statements of Claim'. Participants were then asked to identify the allegations needed to be made in a Particulars of Claim or Statement of Claim. Thereafter they had to determine the order in which these allegations need to appear.

Frans Haupt conducted an exercise whereby the participants had to discover the mistakes in one paragraph of a Statement of Claim. This exercise proved interesting in that it linked drafting with principles of civil procedure. An exercise covering writing skills to compile an affidavit was planned, but was not implemented due to time constraints.

2.3 GROUP WORK ON SPECIFIC DRAFTING AND WRITING SKILLS

The participants met in their teaching teams to prepare a lesson on specific drafting and writing skills using the refugee case study. They were instructed to follow the lesson plan and to make sure that they included the outcomes, teaching methods and assessment methods. The participants were required to prepare a lesson on the subject to be presented on the fourth day.

2.4 WRAP UP FOR THE DAY

David McQuoid-Mason conducted a wrap up session with the participants. They felt that the day had been very useful and that they had learned a lot. They particularly enjoyed the issues raised in the session on general legal writing.

3. DAY THREE: 6 OCTOBER 2004

3.1. ALTERNATIVE DISPUTE RESOLUTION: NEGOTIATION SKILLS

David McQuoid-Mason and Shaheeda Mahomed facilitated the session. David McQuoid-Mason did an interactive focuser on perceptions of issues in negotiations, and Shaheeda Mahomed made a presentation on the principles of negotiation. David McQuoid-Mason provided the participants with negotiation guidelines then required them to negotiate in pairs either as the lawyer for Annie Achebe or her husband Ben Achebe. After the negotiations the participants reported back to the plenary session on the settlements and process. The results of the negotiation exercise were debriefed by David McQuoid-Mason.

3.2 ALTERNATIVE DISPUTE RESOLUTION: MEDIATION SKILLS

David McQuoid-Mason and Shaheeda Mahomed facilitated the session. As a focuser David McQuoid-Mason arranged for three volunteers to play the roles of a lawyer, a mediator and a client. The roleplay was debriefed to show the difference between how

lawyers and mediators ask questions. David McQuoid-Mason made a presentation on what mediators do and Shaheeda Mahomed described the steps in a mediation. David McQuoid-Mason provided the participants with mediation guidelines and then divided them into triads (groups of three) involving the clients Annie Achebe and Ben Achebe, and the mediator. While the clients were preparing their scenarios David McQuoid-Mason took the mediators outside and ‘walked them’ through the steps in a mediation. The mediators then joined up with their clients and conducted their mediations. After the mediations the participants reported back to the plenary session on the settlements and process. The results of the mediation were then debriefed by David McQuoid-Mason.

3.3 GROUP WORK ON NEGOTIATION AND MEDICATION SKILLS

The participants chose whether to prepare a lesson on mediation or negotiation. Two teams decided to deal with negotiation and three with mediation. The teams met to prepare their lessons on either negotiation or mediation using the refugee case study. They were instructed to follow the lesson plan and to make sure that they included the outcomes, teaching methods and assessment methods. The participants were required to prepare a lesson on the subject to be presented on the fourth day.

3.4 CASE ANALYSIS AND TRIAL PLANNING

Robin Palmer trained the participants in how to analyze court documents and pleadings in order to isolate the specific issues that have to be proved at trial. In the second half of the session the participants were shown how to develop a trial plan based on the above issues. Participants then developed their own trial plans based on the refugee case study.

3.5 WRAP UP FOR THE DAY

Munirah Osman and David McQuoid-Mason conducted a wrap up session with the participants. The participants really enjoyed the negotiation and mediation session, and some of them said that they had not realized before how lawyers could use it. They also found the case analysis and trial planning session very practical and useful. The participants were asked to choose their topic for the lesson presentations the next day. Theodora Bitature and Olugbenga Oke-Samuel chose teaching interviewing and counseling skills; Ernest Ojukwu and Kiture Kindiki chose teaching specific drafting and writing skills; Nancy Sesay, James Masumbu and Yemi Akinseye-George chose teaching negotiation skills; Joy Asiema and Moses Unegbu chose teaching mediation; and Lewis Bande and Isa Chiroma chose case analysis and trial planning.

DAY FOUR: 7 OCTOBER 2004

4.1 GROUP WORK ON CASE ANALYSIS AND TRIAL PLANNING

The participants had to prepare a lesson on case analysis and trial planning using the refugee case study. They were instructed to follow the lesson plan and to make sure that they included the outcomes, teaching methods and assessment methods. The participants were required to prepare a lesson on the subject to be presented at 10h30 that morning.

4.2 GROUP WORK ON FINAL PREPARATIONS FOR LESSON PRESENTATIONS

Participants were given time to make their final preparations for their lesson presentations.

4.3 TEACHING INTERVIEWING AND COUNSELING SKILLS

Theodora Bitature and Olugbenga Oke-Samuel presented a lesson on interviewing and counseling skills. They began with a roleplay as a focuser that involved a client telephoning for advice about domestic violence and then debriefed it with a question and answer session. They then divided the participants into pairs and required them to conduct an interview based on the refugee case study – one party played Abel Nkomo and the other a lawyer. The presenters then debriefed the lesson to check what the participants had learned about interviewing and counseling. The participants responded positively to the lesson both as learners and educators.

David McQuoid-Mason debriefed the lesson and mentioned that the lesson had been well-presented and that its only weaknesses were its vague use of handouts on listening skills and the classroom management regarding the formation of pairs – not checking everyone had partners, not checking that everyone understood the instructions, not moving around sufficiently to check progress in the pairs.

4.4 TEACHING SPECIFIC WRITING SKILLS

Ernest Ojukwu and Kiture Kindiki presented a lesson on drafting a Statement of Claim. Ernest Ojukwu began by asking the participants what a Statement of Claim was called in their particular countries. Kiture Kindiki then explained and wrote on the blackboard the different elements of a Statement of Claim. Afterwards students were divided into groups and required to draft a Statement of Claim for Abel Nkomo in the refugee case study. The groups then gave feedback on what they included in their Statements of Claim and the lesson was debriefed. During the general double-debrief the participants responded positively to the lesson as learners and educators.

David McQuoid-Mason debriefed the lesson and mentioned that although the lesson was well presented it could have been improved if the participants had been asked to write up their Statements of Claim on an overhead projector transparency and if the presenters had moved around the groups checking on their progress. He also mentioned that in a real case the presenters would have had to have information about the international conventions and laws on refugees as well as the relevant local laws.

4.5 TEACHING NEGOTIATION SKILLS

Nancy Sesay, James Masumbu and Yemi Akinseye-George presented a lesson on negotiation skills. Nancy Sesay was the main presenter and involved the participants in a question and answer session by asking who had ever taken part in a negotiation. Yemi Akinseye-George then gave a short lecture, using the blackboard, on the elements of negotiation including the need for preparation, the process during negotiation and how and agreement is reached. A roleplay of Abel Nkomo approaching the Department of

Home Affairs was then conducted and debriefed. The participants were not prepared before the roleplay and as a result the Home Affairs official focused on hinting at a bribe. The roleplay was debriefed and because the participants had not been prepared beforehand it was difficult for the presenters to extract the elements. However in the general double-debrief the participants responded positively to the lesson as learners and educators.

David McQuoid-Mason debriefed the lesson and mentioned that the lesson had been well presented, but that because the participants had not properly prepared for the roleplay the elements of a good negotiation were not emphasized: There was no proper preparation beforehand, no options generated, no mutual interests identified and no attempt by the parties to move towards a settlement. He suggested that the lesson would have been improved if the lesson had ended with a re-run of the roleplay that showed a proper negotiation so that participants did not get the wrong impression.

4.6 TEACHING MEDIATION SKILLS

Joy Asiema and Moses Unegbu presented a lesson on mediation. Joy Asiema used a quiz as a focuser which showed the importance of establishing the whole picture before making a decision. She then presented a 15 minute lecture on different aspects of the characteristics of mediation, including when it is and is not appropriate to use mediation. The steps in a mediation were not explained but left to the students to read in the *Clinical Legal Education* book. Three participants were then called on to conduct a mediation roleplay involving Abel Nkomo and Ella Phathudi in the refugee case study. The rest of the participants were told to act as observers. The participants were not given time to prepare for the roleplay or briefed on their role as observers. Afterwards the roleplay was debriefed. The presenters then debriefed the lesson by explaining the steps in a mediation. During the general double-debrief the participants responded positively to the lesson as both learners and educators.

David McQuoid-Mason debriefed the lesson and mentioned that although it was a good lesson the presenters had not linked the theoretical content of the lesson to the interactive exercise. The core of the lesson was the conducting of a mediation not theories about when to use and not use mediation. Participants were never told how to conduct a mediation until the summary at the end of the lesson. The participants also did not know what to do as clients, mediators or observers because they had not been properly prepared for their roles. The exercise would have worked better if the participants had been given time to prepare and then divided into triads so that everyone played the role of either a client or a mediator.

4.7 TEACHING CASE ANALYSIS AND TRIAL PLANNING

Lewis Bande and Isa Chiroma presented a lesson on case analysis and trial planning. The focuser was Isa Chiroma pretending to be a Columbia University law professor boasting about his sophisticated website and his use of multimedia equipment when presenting lectures. Lewis Bande then presented an 11 minute lecture on how a case analysis is done. Participants were then asked, on an individual basis, to work on the Abel Nkomo scenario and to identify the factual and legal issues. Instead the participants divided

themselves into groups to carry out the task. The participants gave feedback on the issues identified by them, and afterwards the exercise was debriefed by Lewis Bande. During the double-debrief the participants said that there was too much lecturing and the instructions issued to them for the exercise were confusing.

David McQuoid-Mason debriefed the lesson and mentioned that the boasting of the law professor in the focuser did not seem to be relevant to the lesson and that the purpose of a focuser was to focus on the lesson. He also said that the lectures might have been more effective if they were done on a question and answer basis and that instructors should be careful to give clear instructions when requiring participants to engage in individual or group work. They should also check that their instructions are understood and properly carried out.

5.DAY FIVE: 8 OCTOBER 2004

5.1 WRAP UP OF DAY FOUR

A wrap up of the previous day had not been done because David McQuoid-Mason had to leave to teach an LLM course in HIV/AIDS, Human Rights and the Law.

The participants said that the teaching practicals were very useful and they learned a great deal by having to teach themselves and from participating in the lessons of their colleagues. They also found the debriefings by themselves, their colleagues, and David McQuoid-Mason very helpful and had gained some good ideas which they could use in their own teaching programs.

5.2 ADMINISTRATION OF LAW CLINICS: THE SOUTH AFRICAN EXPERIENCE

Munirah Osman (Campus Law Clinic, UKZN, Howard College), TP Pillay (Campus Law Clinic, UKZN, Westville) and Shaheeda Mahomed (Witwatersrand Law Clinic) described how their law clinics were established and their experiences regarding faculty relationships, human resources, filing, file management, diarising, supervision, student records, rosters, finance and marketing. All three programs run properly structured courses for academic credit in the LLB degree and in all three law clinics students are supervised by candidate attorneys and qualified principals. Students are required to attend lectures, seminars, tutorials and file consultations, and to work in the law clinic. Students are assessed not only on their academic work but also the manner in which they carry out their written and oral duties in the clinic.

Munirah Osman mentioned that the Howard College Campus Law Clinic specializes in land, access to housing, legal support to small and medium business enterprises, children's rights and child justice, family law and gender issues, legal services for people living with HIV/AIDS, and some general practice. TP Pillay described the operation of the Westville Campus Law Clinic which specializes in labour law and does some general practice. Shaheeda Mahomed mentioned that the Witwatersrand Law Clinic specializes in labour law, land law, the law affecting refugees and immigrants, delict, family law, contract and consumer law and some general practice.

5.3 ADMINISTRATION OF LAW CLINICS: EXPERIENCES FROM SIERRA LEONE, NIGERIA, KENYA, UGANDA AND MALAWI

Nancy Sesay described the Fourah Bay Law Clinic at the University of Sierra Leone. She mentioned that the clinic was a student-run operation with premises on the University campus. The clinic runs a number of projects, including legal aid and assistance in the Human Rights Centre; schools education through Human Rights Clubs; a newsletter entitled *Human Rights Watch*; human rights on the campus, through panel discussions, mock trials, symposiums and public lectures; and internship programs whereby students do a 14 day placement.

Ernest Ojukwu gave the background to the establishment of law clinics in Nigeria. He mentioned that the latest initiative for clinical legal education had arisen as a result of the British-Nigeria Law Week where Asha Ramgobin had spoken about law clinics in South Africa. He had later visited South Africa and was involved in the First All African Clinical Legal Education Conference in Durban in June 2003. A Nigerian Law Clinicians Conference was held in Abuja in February 2004, and the Nigerian Association of University Legal Aid Institutions (NAULI) was established. The Council of Legal Education has recognized Clinical Legal Education as part of the law curriculum. There are law clinics operating at five universities where students work on a voluntary basis without academic credit. Isa Chiroma, Olugbenga Oke-Samuel and Yemi Akinseye-George (who now works at the Attorney-General's Office) briefly mentioned developments at their universities.

Joy Asiema mentioned that her clinic program in Nairobi, Kenya had not changed much since her presentation at the First All African Clinical Legal Education Conference. Like the program in Sierra Leone, her clinic was run by students who network with NGOs that deal with children's rights, violence against women and land matters. Students consult with members of the Faculty of Law and work with live clients in the NGOs. Where necessary the NGOs refer matters to lawyers who do *pro bono* work.

Theodora Bitature mentioned that her Law School in Kampala, Uganda, required her to deal with about 400 students in her clinical program. Not only had all the students to attend a one week clinical course they also had to be placed for a two or three week period in a legal environment such as the prisons, the courts etc. The numbers of staff have not been increased and she has to rely on practitioners and other lecturers to assist. Students are divided into firms of 20 to 30 each and this is difficult to manage and monitor. She would like some assistance on how to deal with large numbers of students without compromising standards.

James Masumbu and Lewis Bande said that they had nothing to report on the law clinic. Although the Faculty of Law at the University in Malawi had a Department of Practical Legal Education it was still setting up a clinic. Offices and space had been allocated for the clinic in a court building about 10 kilometres from the University but it needed to be refurbished.

5.4 DISTRIBUTION OF MATERIALS

In addition to the handouts on Client Interviewing and Counseling and Teaching Alternative Dispute Resolution, the participants also received the following books: Pat Stillwell (ed) *Clinical Legal Education in South Africa* (2004), Robin Palmer and David McQuoid-Mason *Basic Trial Advocacy* (2000), Robin Palmer, Angela Crocker and Michael Kidd *Becoming a Lawyer: Fundamental Skills for Law Students* (2003); David McQuoid-Mason (ed) *Street Law South Africa: Practical Law for South Africans* 2 ed (2004) together with some samples of *Teacher's Manuals*, DJ McQuoid-Mason & MA Dada *Guide to Forensic Medicine and Medical Law* (2000), and David McQuoid-Mason, Bess Pillimer, Carol Friedman and Mahomed Dada *Crimes against Women and Children* (2002).

5.5 RECOMMENDATIONS FOR THE FUTURE

David McQuoid-Mason conducted a question and answer session with the participants to elicit some recommendations for the future. Participants were encouraged to suggest how they could use what was learnt during the Workshop in their own countries. The following recommendations were made:

1. Theodora would like resource persons to visit her in Uganda to help the Law School deal with large numbers of students. She thought that the experiences of the Street Law model, such as that used in England and South Africa, would be a useful.
2. All the participants would like resource persons to visit them to demonstrate to their local law faculties and law schools how clinical methods and programs work.
3. All the participants would like resource persons to visit their institutions to demonstrate how clinical legal education can be properly incorporated into the law curriculum.
4. Regional clinical law training courses similar to the present All African Clinical Law Training Course should be held in different parts of the African continent. One suggestion was to arrange a Regional Training Course for West Africa immediately before or after the Second All African Clinical Legal Education Conference to be held in Abuja, Nigeria early in 2005.
5. There was a need for regional and continental networking between law clinicians to be established for the African continent. An African Clinical Legal Education website could be established.
6. There was an urgent need to provide Materials Development Workshops to help African clinicians develop suitable teaching materials.

5.6 COURSE EVALUATION

The participants were requested to complete a course evaluation. Ten out of eleven participants handed in their questionnaires. A summary of the evaluations together with the original forms is annexed to this Report.

5.7 ANNEXURES

Course Program
Course Evaluation

PROFESSOR DAVID McQUOID-MASON
Course Coordinator

21 October 2004

Course Organising Committee:
DAVID McQUOID-MASON
THULI MHLUNGU
MUNIRAH OSMAN
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OPEN SOCIETY
JUSTICE INITIATIVE

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