

# Access to Justice and the Global Clinical Movement

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## INTRODUCTION

Access to justice is widely accepted as a central component of clinical legal education in the United States and in many other countries around the world.<sup>1</sup> Indeed, this is inherent in the clinical methodology, which seeks to prepare students for the practice of law as competent and professionally responsible lawyers while delivering legal services and promoting social justice.<sup>2</sup> Clinical programs worldwide place students face to face with what are often glaring inequalities in access to justice; in effect, legal systems lacking accessibility to justice provide the material around which a clinical curriculum for empowering future lawyers committed to full access for all can be built.

This Article takes up the question of clinical legal education's commitment to access to justice from a global perspective and argues

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1. In this context, I mean “access to justice” in the sense of equal access for all, and especially for those groups of persons for whom access is denied due to economic or other disadvantaged status. Cf. Maryellen Fullerton, *Introduction to Symposium on Enforcing Judgments Abroad: The Global Challenge*, 24 BROOK. J. INT'L L. 1, 5 (1998) (“As the global economy expands and increasingly renders international boundaries obsolete, there will be an increased desire for legal mechanisms that render international boundaries obsolete when they impede the access to justice for litigants.”). There is a rich literature documenting the important role that law schools can play in assuring greater access to law and the legal system through clinical programs. See, e.g., Stephen Wizner & Jane Aiken, *Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice*, 73 FORDHAM L. REV. 997 (2004). See also Peter A. Joy & Charles D. Weisselberg, *Access to Justice, Academic Freedom, Political Interference: A Clinical Program Under Siege*, 4 CLINICAL L. REV. 531 (1998).

2. As discussed *infra* Part II, there is no single global clinical methodology; incorporating the delivery of legal services and promoting social justice, however, goes to the heart of the clinical dimension of the global clinical movement.

that an emerging global clinical movement can strengthen that commitment and increase the level and quality of law-school-based access-to-justice activity worldwide. Clinical programs already increase access to justice around the world in the sense that they provide a wide range of otherwise unavailable legal services. Many also seek to improve access to justice with innovative schemes, through various types of law reform activities, and, most importantly, by instilling in future lawyers a greater sense of public responsibility. More needs to be done to address global access to justice, and a global clinical movement can provide the resources and leadership needed for clinicians to lead the way.

This Article consists of four main parts, the first three of which focus on the three key components of a global clinical movement: its global reach, its clinical base, and its status as a movement. Each of these three components is critical to the development of a global clinical movement and to its ultimate success—both generally and in its efforts to improve access to justice. Moreover, each must support and reinforce the others. Therefore, each of the next three parts of this Article first examines one of these key components in the context of the other two and then addresses the importance of that particular component to a global clinical movement that seeks to improve access to justice around the world. The last part of the Article suggests an approach for mobilizing the global clinical movement to improve access to justice around the world, drawing on the experience of the Global Alliance for Justice Education (“GAJE”).<sup>3</sup>

#### I. THE “GLOBAL” DIMENSION OF A GLOBAL CLINICAL MOVEMENT

“Global” is an important word today in that it serves to tag various conditions and problems that might otherwise be viewed and dealt with parochially as being not only important but also significant throughout the world. Moreover, it carries with it a sense of shared interest and responsibility; it qualifies a phenomenon not only as having worldwide effect, but also as being affected by actions the world over. To use its most visible current appearance as an example,

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3. For general background on GAJE, see GAJE, <http://www.gaje.org> (last visited Apr. 2, 2008).

the term “global warming” signals to the world that climate change no longer can be seen as a local, or even regional, matter. Instead, it must be understood and addressed by the world community—not because every person, every country, even every region, is under the same threat, but because what every person, country, and region does about it affects us all.<sup>4</sup> Other examples are global markets and, more recently, global health.<sup>5</sup>

This description also applies, at least to some degree, to the use of the term “global” in the context of global legal education. For the most part, legal education is almost exclusively a national—perhaps in some instances also regional—undertaking. Apart from the study of international law and despite international groupings of common conceptions of law and justice (for example, Roman, civil, and common law), legal education in any country focuses primarily on the law and legal institutions of that country. This made perfect sense in a world where law and lawyers in one country had little influence outside that country’s borders. It also matched the mission of legal education as professional education, where the profession for which it prepared its students was linked inevitably with its own national legal system. Much the same can be said about clinical legal education, perhaps even more so due to its special emphasis on training lawyers for the actual practice of law.

Today, legal education is going global. Global law programs are becoming common, as are academic law conferences with a global theme of one sort or another.<sup>6</sup> Although global legal education can mean many different things, for the most part it embraces one or both of two conceptions of the new global lawyer. One idea is to train

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4. See generally CLIMATE CHANGE: FIVE YEARS AFTER KYOTO (Velma I. Glover ed., 2004); WILLIAM D. NORDHAUS, MANAGING THE GLOBAL COMMONS: THE ECONOMICS OF CLIMATE CHANGE (1994).

5. See Maria Merritt, *Bioethics, Philosophy, and Global Health*, 7 YALE J. HEALTH POL’Y L. & ETHICS 273, 274 (2007) (“‘Global health’ is an expression used to talk about issues in health policy that reach beyond or across national boundaries.”). See also Theodore M. Brown, Marcos Cueto & Elizabeth Fee, *The World Health Organization and the Transition from “International” to “Global” Public Health*, 96 AM. J. PUB. HEALTH 62 (2006).

6. The Hauser Global Law School Program at New York University is a prominent example. Georgetown University Law Center is sponsoring a conference, “The Future of the Global Law Firm,” next year. See Georgetown Law, Symposium on the Future of the Global Law Firm, <http://www.law.georgetown.edu/legalprofession/sympGlobalFirm.html> (last visited Apr. 2, 2008).

local lawyers to function more effectively in an increasingly global legal marketplace. A global lawyer in this sense is able to practice in varied legal settings around the world. Another idea is to train lawyers to be global lawyers. A global lawyer in this sense thinks and functions globally. As Catherine Valcke has observed, “professionally oriented” global legal education aims to train lawyers in those skills most needed in a globalized market for legal services; “academically oriented” global legal education seeks to widen the profession’s intellectual and critical capacities in order to identify and challenge its traditionally narrow assumptions and conceptions.<sup>7</sup>

Global clinical legal education is more complicated. The structure and content of clinical legal education in any country is influenced not only by that country’s laws and legal system, as is the rest of legal education, but also by the on-the-ground operation of local law practice. Clinical settings that provide students experience central to clinical programs in one country might not be available in another because local practice rules and customs will not allow it. Differences in the type of lawyers and lawyering to which students are exposed in their clinical practice can have similarly important local practice effects on the educational program.<sup>8</sup> The types of communities with which law school clinical programs interact and the nature of the community issues they address are other important cross-national variables that distinguish the impact that local legal conditions can have on clinical legal education as compared to traditional legal education.

Another complication with global clinical legal education is the diversity of educational systems around the world. To be sure, basic differences in student preparation, teaching methods, scope of curriculum, and length of study distinguish legal education from one country (or group of countries) to another, as does the imposition of some form of post-law school apprenticeship. But these and other differences in the structure of legal education—alone or in

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7. Catherine Valcke, *Global Law Teaching*, 54 J. LEGAL EDUC. 160, 169 (2004) (footnotes omitted). *See also id.* at 170 (“The objectives of global law teaching hence are two. Instrumentally, it is designed to render students capable of thinking like better (or enlightened) domestic lawyers. Noninstrumentally, it aims at rendering them capable of thinking like global lawyers.”).

8. These lawyers might be their clinical teachers, but not necessarily so.

combination—can lead to vastly different conceptions of clinical legal education. A clinical curriculum designed to instill professional values at a post-graduate law school is unlikely to be suited to eighteen- or nineteen-year-olds at undergraduate law colleges. Clinical courses designed to engage future lawyers in social justice law practice will look quite different if included in a lecture-based, code-dominated curriculum than in an interactive and advocacy-oriented course of study.<sup>9</sup>

#### *A. The Global Reach of a Clinical Movement*

As discussed in Part II of this Article, there is a wide variety of approaches to clinical legal education around the world, with many different goals—far more so than with legal education in general. This variety of approaches and goals results from clinical education’s connection to the “real world” of law practice and its community-oriented social justice mission. It is a natural byproduct of the diversity of the legal settings in which clinical programs operate around the world. Moreover, the resulting diversity of clinical programs, both within and among countries, contributes to its richness worldwide. Thus, the term “global” in the context of a clinical movement must be understood in a way that embraces this diversity. Clinical legal education worldwide cannot be synthesized into a single, uniform global approach. At the same time, there must be some criteria that serve to justify linking together clinicians and clinical programs from around the world.

What makes clinical legal education a global phenomenon is the worldwide importance of its ultimate goal: preparing future lawyers for high-quality, ethical law practice grounded in a legal profession dedicated to social justice. In doing so, clinical legal educators engage themselves and their students with the world in which they live and, along with that, connect their professional lives to the lives

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9. See, e.g., Pamela N. Phan, *Clinical Legal Education in China: In Pursuit of a Culture of Law and a Mission of Social Justice*, 8 YALE HUM. RTS. & DEV. L.J. 117, 140 (2005) (noting the importance of recognizing the differences between civil and common law systems when attempting to adapt the U.S. clinical model to meet China’s needs).

of their fellow citizens.<sup>10</sup> In other words, clinical legal educators around the world are transforming legal education and the legal profession by emphasizing the importance of what lawyers do. That will, in turn, affect what they do and how they do it. An active clinical program has a direct impact not only on local society and the local law school, but also on the local legal profession. The global reach of clinical legal education thus extends to all aspects of its educational and professional mission.

Confirmation that clinical legal education has gone global can be found in the long list of cross-national and truly international collaborations among clinicians over the past fifteen or twenty years.<sup>11</sup> The most complete example of global clinical legal education is in the field of international human rights. Students and faculty working together in international human rights clinics serve individual clients and the causes of many others in a global justice context.<sup>12</sup> In some of these clinics, students collaborate with human rights lawyers abroad, and in some programs they have the opportunity to work on-site in other countries where they can observe firsthand the conditions giving rise to international human rights legal claims.<sup>13</sup> More generally, clinical education reaches out globally

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10. Thus, in recommending the incorporation of legal aid-based clinical programs into the law curriculum, an Indian expert committee observed:

Having seen slums and rural squalor in their draining impact, the law student, when he becomes a full lawyer, will no longer see clients as mere facts of the case, but living neighbours and friends in trouble. . . . He will be a trained hand in legal aid service who will give a necessary social ideology to the profession.

MINISTRY OF LAW, JUSTICE, AND COMPANY AFFAIRS, PROCESSUAL JUSTICE TO THE PEOPLE: REPORT OF THE EXPERT COMMITTEE ON LEGAL AID 26–27 (1973) (India).

11. See generally Elizabeth B. Cooper, *Global Collaboration in Law Schools: Lessons to Learn*, 30 FORDHAM INT'L L.J. 346 (2007) (introducing articles from a symposium on “International Collaboration in Teaching, Learning, Lawyering and Scholarship” that discuss clinical collaborations among law teachers in China, South Africa, Nicaragua, and the United States).

12. See Deena R. Hurwitz, *Lawyering for Justice and the Inevitability of International Human Rights Clinics*, 28 YALE J. INT'L L. 505, 548 (2003) (noting that international human rights clinics “strengthen the mechanisms of global justice. This is, after all, where clinical legal education has its roots.”).

13. See *Teaching International Law—“The Visible College of International Law Clinicians: Making a Real Difference in Law School and in the World,”* 95 AM. SOC'Y INT'L L. PROC. 188, 192–93 (2001) (remarks by Diane Edelman describing project of Georgetown University Law School's International Women's Human Rights Clinic in which students

through a wide variety of clinical collaborations that take place regularly across all regions of the world, sharing cross-national experience in both teaching methods and subject areas of shared interest.<sup>14</sup> Consistent with this experience, clinical collaboration is prominent in GAJE's mission.<sup>15</sup>

### *B. The Global Dimension of Access to Justice*

The global dimension of access to justice operates at two different levels: conceptual and practical. At the conceptual level, there is a broadly understood principle that any country's system of justice must be accessible to all of its citizens. In some countries, this principle is supplemented with constitutional and legislative directives.<sup>16</sup> At this level, one could say that there is a global commitment to access to justice.<sup>17</sup>

For a variety of reasons, including differences in the way in which legal systems operate, the extent to which lower income and other disfavored groups of citizens have access to justice—and the quality of that justice—varies considerably from one country and region to

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collaborate with human rights lawyers in Ghana and Uganda); Johanna Bond, *The Global Classroom: International Human Rights Fact-Finding as Clinical Method*, 28 WM. MITCHELL L. REV. 317, 325–27 (2001) (describing a project of the same clinic in which students conducted fact-finding in Poland).

14. See, e.g., Peggy Maisel, *Expanding and Sustaining Clinical Education in Developing Countries: What We Can Learn from South Africa*, 30 FORDHAM INT'L L.J. 374 (2007).

15. See GAJE, *supra* note 3. GAJE is discussed later in this Article. See *infra* Part V.B.

16. See S. AFR. CONST. 1996 § 35(2); INDIA CONST. pt. IV; The Legal Services Authorities Act, Acts of Parliament, 1987 (India); Legal Aid Act 22 of 1969 (S. Afr.).

17. A manifestation of this global commitment is the following statement adopted in 2005 by approximately one hundred bar presidents from around the world:

The legal profession throughout the world, in the interest of the public, is committed to these core principles:

- (1) An impartial, and independent, judiciary, without which there is no rule of law.
- (2) An independent legal profession, without which there is no rule of law or freedom for the people.
- (3) Access to justice for all people throughout the world, which is only possible with an independent legal profession and an impartial, and independent, judiciary.

And that, these core principles shall not yield to any emergency of the moment.

American Bar Association, Statement of Core Principles of the Legal Profession, at 3, available at <http://www.abanet.org/intlaw/policy/ruleoflaw/coreprinciples.pdf>.

another.<sup>18</sup> At the practical level, therefore, the global dimension of access to justice is, in effect, the challenge of meeting the global commitment, a challenge that must be addressed globally, for injustices resulting from a lack of access to justice anywhere in the world impact the entire world community.

The global extent of the access-to-justice challenge is evident. In every country of the world, persons deprived of basic rights and needs are unable to benefit from relief that might be available through their local legal systems. In some countries, lack of access is primarily a question of financial means. If everyone had enough money to hire lawyers (or other competent legal professionals) when they were needed, or if a sufficient number of lawyers were available to provide free services to persons unable to pay, the problem would be solved. The most common approach in this situation is to provide free legal representation. This is done regularly in criminal cases, often as a matter of constitutional entitlement.<sup>19</sup> Many countries also have legal aid schemes that provide representation in non-criminal matters, although only in rare instances at a level that meets the need.<sup>20</sup> There are many such efforts around the world, some of which combine the efforts of legal aid offices, non-governmental organizations, and law school legal aid clinics.<sup>21</sup> If one of these

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18. See generally Symposium, *Partnerships Across Borders: A Global Forum on Access to Justice*, 24 *FORDHAM INT'L L.J.* S1 (2000) (articles discussing access to justice reforms in France, Australia, China, South Africa, the United Kingdom, Lithuania, Chile, Canada, Belgium, Argentina, Nigeria, Japan, and the United States). See also Marc Galanter & Jayanth K. Krishnan, "Bread for the Poor": *Access to Justice and the Rights of the Needy in India*, 55 *HASTINGS L.J.* 789 (2004); Richard J. Wilson, *Growth of the Access to Justice Movement in Latin America: The Chilean Example*, JUSTICE INITIATIVE (Newsletter of the Open Society Institute), Feb. 2004, available at [http://www.justiceinitiative.org/db/resource2?res\\_id=102064](http://www.justiceinitiative.org/db/resource2?res_id=102064).

19. That does not necessarily achieve equal justice, but it does assure access. See generally Anne Bowen Poulin, *Strengthening the Criminal Defendant's Right to Counsel*, 28 *CARDOZO L. REV.* 1213 (2006).

20. In the United States, for example, lawyers are provided to virtually all criminal defendants but to only a small percentage of low-income persons needing legal services in other matters.

21. In South Africa, for example, the Constitution guarantees legal aid to the indigent litigant, especially in criminal cases, which is provided primarily through Legal Aid Boards. These Boards encourage university legal aid clinics to become active participants in the access-to-justice scheme, and they support non-governmental initiatives as well. See David McQuoid-Mason, *Access to Justice in South Africa*, 17 *WINDSOR Y.B. ACCESS JUST.* 230, 236, 241-45 (1999). On the other hand, legal aid is available in Kenya only in homicide cases, and the

institutions is not available, the others can step in and provide the services.<sup>22</sup> Often the capacity to provide full access exists; missing is the political will to commit the resources necessary to meet the clearly demonstrated need.

In many poorer countries, justice is inaccessible to a large number of people simply because they are unaware of laws and legal institutions, not to mention specific legal rights. In such situations, it is not just a question of having access to legal representation; access-to-justice initiatives must first address this lack of knowledge by bringing basic legal awareness or legal literacy to the general population.<sup>23</sup> Some countries embrace this approach; for example, in India a massive five-year legal literacy campaign is underway.<sup>24</sup> Another example of such an approach is that followed in Chile, where the concept of access to justice, reinforced by constitutional and legal guarantees, is not limited to legal representation but also is taken to mean legal literacy and awareness of the indigent.<sup>25</sup> In a similar vein, “justice centers” in South Africa include in their missions educating the public with respect to their rights and

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overall state of access to justice in Africa remains “incomplete” due largely to the lack of government-sponsored legal aid schemes. See COMBINING LEARNING AND LEGAL AID: CLINICS IN AFRICA, REPORT ON THE FIRST ALL-AFRICA COLLOQUIUM ON CLINICAL LEGAL EDUCATION, 23–28 JUNE 2003 2, available at [http://www.justiceinitiative.org/activities/lcd/cle/durban2003/Durban\\_report.PDF](http://www.justiceinitiative.org/activities/lcd/cle/durban2003/Durban_report.PDF) [hereinafter COMBINING LEARNING]. See also Alfredo Fuentes-Hernández, *Globalization and Legal Education in Latin America: Issues for Law and Development in the 21st Century*, 21 PENN ST. INT’L L. REV. 39, 56 (2002) (describing legal services for the poor provided in Latin America by university legal aid clinics together with government, NGOs, and community-based paralegals).

22. This has happened in Colombia and Argentina, where law school clinics have had to take up the slack in the face of government refusal to fund independent access-to-justice initiatives. See Richard Wilson, *The New Legal Education in North and South America*, 25 STAN. J. INT’L L. 375, 385 (1989); Martin Bohmer, Dean of Univ. of Palermo Law School, Access to Justice and Judicial Reform in Argentina, Presented at the Fifth Annual Colloquium on Clinical Legal Education in Warsaw, Poland (Nov. 15, 2002), available at [http://www.gaje.org/History/Bohmer\(2002\).pdf](http://www.gaje.org/History/Bohmer(2002).pdf).

23. See Maru Vivek, *Between Law and Society: Paralegals and the Provision of Justice Services in Sierra Leone and Worldwide*, 31 YALE J. INT’L L. 427, 428 (2006). See generally Ratna Kapur, *From Theory to Practice: Reflections on Legal Literacy Work with Women in India*, in LEGAL LITERACY: A TOOL FOR WOMEN’S EMPOWERMENT (Margaret Schuler & Sakuntala Kadirgamar-Raajasingham eds., 1992).

24. See Dr. Manmohan Singh, Prime Minister of India, Address Inaugurating the Mission (Mar. 6, 2005), available at <http://pib.nic.in/release/release.asp?relid=7566>.

25. See Michael A. Samway, *Access to Justice: A Study of Legal Assistance Programs for the Poor in Santiago, Chile*, 6 DUKE J. COMP. & INT’L L. 347, 360–62 (1996).

privileges in the existing legal regime.<sup>26</sup> In other countries, however, legal awareness campaigns are marginalized as outside the scope of traditional legal aid work.<sup>27</sup>

There might also be a sort of inherent denial of access to justice where the only available legal regime does not allow for access to its institutions or provide effective remedies. Access-to-justice initiatives then must seek to reform the law and the legal system itself, which of course also requires access to legal talent. This kind of access-to-justice work challenges the legal status quo (as opposed to providing representation in the existing system or education about existing legal rights) and therefore must rely on outside support. Various Rule of Law projects currently underway in China and the countries of the former Soviet Union are examples of this sort of initiative.<sup>28</sup> Projects aimed at developing more accessible procedures and procedural mechanisms, including alternative dispute resolution techniques, fall into this category as well.<sup>29</sup>

Thus, global access to justice is an aspiration—a global commitment—with diverse goals that require multifaceted measures of progress toward implementation.<sup>30</sup> Its global reach transcends many significant national differences; it also highlights the importance of meeting the global commitment in two important

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26. See COMBINING LEARNING, *supra* note 21. See also Jeremy Perelman, *The Way Ahead? Access-to-Justice, Public Interest Lawyering, and the Right to Legal Aid in South Africa: The Nkuzi Case*, 41 STAN. J. INT'L L. 357, 362–63 (2005) (describing Justice Centers). In Sierra Leone and Kenya, NGOs have similar educational and literacy missions. See Maru Vivek, *supra* note 23, at 428; Joy K. Asiema, Clinical Programme Co-Director, The Clinical Programme of the Faculty of Law, University of Nairobi: A Hybrid Model, Paper Presented at the First All-Africa Clinical Legal Education Colloquium (June 28, 2003), available at [http://www.justiceinitiative.org/db/resource2?res\\_id=101183](http://www.justiceinitiative.org/db/resource2?res_id=101183).

27. See Vivek, *supra* note 23, at 429.

28. See generally Note, *Adopting and Adapting: Clinical Legal Education and Access to Justice in China*, 120 HARV. L. REV. 2134, 2140 (2007). See also Haider Ala Hamoudi, *Toward a Rule of Law Society in Iraq: Introducing Clinical Legal Education into Iraqi Law Schools*, 23 BERKELEY J. INT'L L. 112 (2005).

29. See, e.g., Don C. Peters, *To Sue Is Human; To Settle Divine: Intercultural Collaborations to Expand the Use of Mediation in Costa Rica*, 17 FLA. J. INT'L L. 9 (2005); Elena Nosyreva, *Alternative Dispute Resolution as a Means of Access to Justice in the Russian Federation*, 12 PAC. RIM L. & POL'Y J. 709 (2003).

30. See Maggi Carfield, *Enhancing Poor People's Capabilities Through the Rule of Law: Creating an Access to Justice Index*, 83 WASH. U. L.Q. 339 (2005) (proposing the use of Amartya Sen's capabilities approach as a framework for measuring the effectiveness of legal systems at providing access to justice for the world's most vulnerable populations).

ways. Inaccessible justice anywhere in the world compromises the status of justice throughout the world, particularly when it results from an inherent failure of national legal regimes.<sup>31</sup> On a more basic level, it contributes to social and political instability that reverberates far beyond national and regional boundaries.

## II. THE “CLINICAL” DIMENSION OF A GLOBAL CLINICAL MOVEMENT

The term “clinical” is used here as shorthand for clinical legal education, which in turn serves to identify the substance of the global clinical movement. It would not be worth spending much time on this if the term clinical legal education were understood to mean the same thing around the world. This is, however, far from the case. Even within a country or region, there are very different conceptions as to what constitutes clinical legal education. Moreover, the range of what might be considered clinical legal education widens considerably when differences in educational systems—not to mention differences in culture, politics, and social structure—enter in as well. Moreover, the term itself is not used everywhere, in part because it is not fully descriptive of what it is generally meant to convey.<sup>32</sup> At the same time, some commonly understood idea as to what clinical legal education means is indispensable if one is to talk about a global clinical movement. Without a definable clinical dimension, there is no global clinical movement.

How, then, can this clinical dimension be defined? To begin, three elements stand out as constituting the most important commonly conceived notions of clinical legal education around the world: professional skills training, experiential learning, and instilling professional values of public responsibility and social justice. These three elements interact, with varying degrees of emphasis, to form the core of a global conception of clinical legal education. Although they can be described separately, they often are interdependent, and each can influence how the others are conceived and implemented.

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31. *See, e.g.*, Hurwitz, *supra* note 12, at 548 (noting that “protecting the rights of those with limited or no access to justice . . . strengthen[s] the mechanisms of global justice”).

32. This comes from the fact that the term “clinical” was borrowed from medical education, which uses the term differently in different contexts.

The first of these shared goals for clinical education is to train future lawyers in professional skills.<sup>33</sup> In many countries, clinical skills training is seen as a mission to improve the quality of the practicing bar. Clinical legal education has taken up this task in some instances to fill a void;<sup>34</sup> in other situations, it operates in conjunction with pre-existing professional skills regimes.<sup>35</sup> Although skills training is a key component of global clinical legal education, there is a distinct lack of uniformity in the level and type of skills training undertaken. Some clinical programs amount to little more than “real world” observations of the current state of local law practice while others seek to go beyond sharpening traditional skills to introducing entirely new approaches to law practice.<sup>36</sup>

Another widely shared component of clinical legal education is experiential learning. Most legal education takes place in the classroom. In many countries, particularly those where legal education is an undergraduate course, law students learn through lectures. The other dominant method of law teaching, used in the United States for well more than a century and introduced in some other countries during the past few decades as educational reform, is case-law-based Socratic question-and-answer dialogue.<sup>37</sup>

Clinical legal education brings a more realistic, from-the-ground-up perspective on law practice to students through the use of actual or simulated experiences as the primary teaching tool. Often these first two elements combine to form a clinical curriculum consisting of experiential training in various lawyer skills. Increasingly around the world one sees a common set of “clinical courses” on interviewing,

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33. See generally Peter Toll Hoffman, *Clinical Scholarship and Skills Training*, 1 CLINICAL L. REV. 93 (1994). In India, the term “practical training” often is used interchangeably with clinical legal education. 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, 171 (2006).

34. This is the case, for example, in the United States, where professional skills training had been all but abandoned since the move to university-based legal education in the 19th century.

35. In England and Australia, clinical courses sometimes bridge the gap between law school and practice.

36. Examples include modern approaches to interviewing and counseling, as well as alternative dispute resolution techniques.

37. In India and some South American countries, the case method is considered legal education reform.

negotiation, counseling, trial and appellate advocacy, and so on.<sup>38</sup> When actual experience forms the basis of clinical teaching, the complexities of the “real world” and its influence on all of the actors in the legal system greatly enrich the students’ learning.

Experiential learning links with a third common component of clinical legal education—instilling professional values of public responsibility and social justice—that represents both its most powerful shared goal and its greatest variety in implementation. In many countries around the world, clinical legal education began as an offshoot of legal aid projects—what became known as “legal aid clinics.”<sup>39</sup> These legal aid clinics exist in many different forms, depending on local social and political circumstances and sometimes the available sources of funding. Most importantly, they bring legal education face to face with real people from the community who have real problems, thus offering law students uniquely profound learning experiences that can deepen their understanding of the role of law in society and also help shape their personal professional identity. This type of experiential learning about professional values and the role of law and lawyers captures the essence of clinical legal education in its many forms around the world. It can be effective when introduced as part of a skills-focused clinical course on negotiation or trial advocacy; it is particularly powerful when presented while investigating child labor conditions for a claim handled by a human rights clinic.

There are other more or less common forms of clinical legal education found around the world. Many clinical programs are organized around “Street Law” projects, in which law students teach law-related subjects to younger students, typically in high schools.<sup>40</sup> Supervised externships are a sometimes very substantial part of

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38. For the most part, these courses were first developed in the United States. Similar courses are now taught in other countries as well.

39. See Frank S. Bloch & Iqbal S. Ishaq, *Legal Aid, Public Service and Clinical Legal Education: Future Directions from India and the United States*, 12 MICH. J. INT’L L. 92 (1990) (on the United States and India); Pamela N. Phan, *supra* note 9, at 135–39 (on China); Richard J. Wilson, *Three Law School Clinics in Chile, 1970–2000: Innovation, Resistance and Conformity in the Global South*, 8 CLINICAL L. REV. 515, 536 (2002) (on Chile).

40. See generally Kamina A. Pinder, *Street Law: Twenty-Five Years and Counting*, 27 J.L. & EDUC. 211 (1998) (describing program at Georgetown University Law Center).

clinical programs in many countries, operating often in close cooperation with government agencies and NGOs.<sup>41</sup> Sometimes what are designated as “clinical programs” are little more than field trips to local legal institutions.<sup>42</sup> In one way or another, however, they all involve some sort of experience-based learning aimed at developing professional skills and values.

#### *A. The Clinical Base of a Global Movement*

It is clear, therefore, that the clinical base of a global clinical movement cannot be limited to the understanding and experience of clinicians from any one country or region. But the essence of that clinical base—what makes a global *clinical* movement, as opposed to any other global movement—can be found in the first three of the commonly shared fundamental qualities of clinical legal education discussed above: skills training, experiential learning, and instillation of professional values and public responsibility.

Taken separately, each of the three contributes to the global scope of clinical legal education and, more specifically, to its status as a global movement. The skills training component of clinical legal education is designed to improve the lawyering skills of the practicing bar; by preparing future lawyers for the practice of law through a structured skills curriculum, clinical legal education addresses a worldwide need for more competent lawyers.<sup>43</sup> Experiential learning, or learning by doing, lies at the heart of the clinical methodology; by bringing real-world experience to law teaching and expanding the curriculum to include serious study of what lawyers do, clinical legal education has begun to fill a gap felt

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41. In Argentina, for example, law students can work in collaboration with licensed attorneys and NGOs. *See* Bohmer, *supra* note 22.

42. This was the case in the early years of clinical legal education at the University of Nairobi, where students observed and reported on court proceedings. Asiema, *supra* note 26, at 5. “Court visits” are also common in less-developed clinical programs in India. *See* Bloch & Prasad, *supra* note 33, at 176.

43. For early commentary on the need and clinical legal education’s role in filling the need in the United States, see E. Gordon Gee & Donald Jackson, *Bridging The Gap: Legal Education and Lawyer Competency*, 4 BYU L. REV. 695 (1977), and Kenneth R. Kreiling, *Clinical Education and Lawyer Competency: The Process of Learning to Learn from Experience through Properly Structured Clinical Supervision*, 40 MD. L. REV. 284 (1981).

by lawyers around the world between what they were taught and what they do in practice.<sup>44</sup> Instilling professional values and public responsibility is sometimes referred to as clinical education's "social justice mission"; by drawing law students' attention not only to the ethical obligations and responsibilities of the profession but also to the powerful influence that law and lawyers have in society, clinical legal education inspires new generations of lawyers to engage in social action and empowers them to make a difference in the world.

This formulation of the clinical base of a global clinical movement encompasses the most common shared elements of clinical programs around the world, yet also includes enough unique specified features so that the "clinical" qualification is both useful and coherent. Moreover, it carries additional strength when the three aspects are expressed together as what might be called experience-based socially relevant professional training.<sup>45</sup> Defining the clinical base of a global clinical movement is not complete without taking into account how experience-based socially relevant professional training comes together to redefine how future lawyers should be educated. At the long-range core of clinical legal education is an overriding fourth common element that plays a critical role in the clinical base of a global clinical movement: legal education reform.

One could say that experience-based socially relevant professional training is legal education reform, and it is. But when seeking to understand how clinical legal education defines a global clinical movement, its commitment to legal education reform goes beyond the fact of its existence. Thus, developments in clinical legal education are cited regularly with reference to legal education reform around the world.<sup>46</sup> More importantly, clinical legal educators

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44. The classic early statement of this observation in the United States is found in Jerome Frank, *Why Not a Clinical Lawyer-School?*, 81 U. PA. L. REV. 907 (1933).

45. The words "socially relevant" are taken from the phrase "socially relevant legal education" used by Professor N.R. Madhava Menon and others to describe the essence of clinical legal education in India. The phrase seems to have originated at a series of workshops on the modernization of legal education in the mid-1970s. See UNIVERSITY GRANTS COMMISSION, TOWARDS A SOCIALLY RELEVANT LEGAL EDUCATION (1975-77) (report based on a working paper prepared by Prof. Upendra Baxi) (on file with author). See generally N.R. MADHAVA MENON, IN DEFENSE OF SOCIALLY RELEVANT LEGAL EDUCATION (1996), available at <http://www.gaje.org/History/Menon-DefenseOfSociallyRelevantLegalEducation.htm>.

46. See, e.g., Mao Ling, *Clinical Legal Education and the Reform of the Higher Legal*

continue to seek out international collaborations in an effort to expand and improve their own clinical programs and those of their clinical colleagues in other parts of the world.<sup>47</sup>

### *B. The Clinical Dimension and Access to Justice*

As discussed in the previous part of this Article, access to justice is approached differently in different countries and regions depending on local needs and capacities. At one level, the clinical dimension of access to justice is simply that often clinical programs are a major resource for those schemes.<sup>48</sup> Indeed, in many countries the original aim of clinical legal education was to provide free legal services to the low income population, often coupled with an education mission linked to the students' exposure to social issues and the role that the legal system can play in solving social problems.<sup>49</sup> Although clinical legal education has expanded its scope over time to include specific instruction in professional skills and other aspects of the lawyering process, providing access to justice and instilling in future lawyers a sense of professional obligation to do so remain at the center of most clinical programs today.<sup>50</sup> There are differing views among clinical educators as to the proper balance between "service" and "teaching" in a clinical curriculum, but even those who argue for primarily teaching-oriented clinical programs recognize the import and unique

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*Education System in China*, 30 FORDHAM INT'L L.J. 421, 432 (2007) (describing the expansion of clinical legal education in China as a possible "breakthrough" in reforming China's legal education system); Grady Jessup, *Symbiotic Relations: Clinical Methodology—Fostering New Paradigms in African Legal Education*, 8 CLINICAL L. REV. 377 (2002).

47. Encouraging and facilitating such collaborations are among the major goals of GAJE. See *infra* text accompanying notes 78 and 87.

48. Although not part of a clinical program, recent law school graduates in Chile are required to work (unpaid) for six months in legal aid offices. Many fulfill this requirement by collaborating with social activists and lawyers through the main national legal aid organization, the Corporation for Judicial Assistance. See Samway, *supra* note 25, at 357–59.

49. This was the case, for example, in the United States and India. See Bloch & Ishar, *supra* note 39. See also Wilson, *supra* note 39, at 515, 544 (Chile).

50. See, e.g., Lauren Carasik, *Justice in the Balance: An Evaluation of One Clinic's Ability to Harmonize Teaching Practical Skills, Ethics, and Professionalism with a Social Justice Mission*, 16 S. CAL. REV. L. & SOC. JUST. 23 (2006); Rose Voyvodic & Mary Medcalf, *Advancing Social Justice Through an Interdisciplinary Approach to Clinical Legal Education: The Case of Legal Assistance of Windsor*, 14 WASH. U. J.L. & POL'Y 101 (2004).

value of incorporating access-to-justice work into students' clinical experience.<sup>51</sup>

Law students are involved in access-to-justice work in every region of the world. In South America, for example, law schools in Chile, Argentina, Peru, and Colombia formed the Inter-University Program on Public Interest Clinics to support access-to-justice initiatives through law school legal aid clinics.<sup>52</sup> In Columbia, law school legal clinics are the principal provider of legal services to the poor.<sup>53</sup> In the United States and Canada, clinical programs provide significant amounts of free legal services that supplement the national legal aid programs.<sup>54</sup> Law school legal aid clinics are among a number of different institutions that provide legal assistance to the poor in South Africa,<sup>55</sup> in recent years, legal aid clinics have been established at some law schools in East Africa as well.<sup>56</sup> Improving access to justice is among the central aims of clinical legal education in China.<sup>57</sup> Sometimes students provide legal aid as voluntary activity outside a formal clinical curriculum.<sup>58</sup> Often, the law school clinic-legal aid connection was established, at least initially, by funding organizations. This was the case with the American Bar Association's

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51. See, e.g., Leah Wortham, *Aiding Clinical Education Abroad: What Can Be Gained and the Learning Curve on How to Do So Effectively*, 12 CLINICAL L. REV. 615, 661 (2006) ("While growing access to justice movements around the world may be valuable partners and allies for clinics, clinical programs should be careful where volume of service ranks in clinic priorities.").

52. Wilson, *supra* note 39, at 555–56.

53. See Richard J. Wilson, *The New Legal Education in North and South America*, 25 STAN. J. INT'L L. 375, 384 (1989); Bohmer, *supra* note 22.

54. In the United States, clinical programs often take cases that federally funded legal aid programs are prohibited from handling under federal law.

55. David J. McQuoid-Mason, *The Delivery of Civil Legal Aid Services in South Africa*, 24 FORDHAM INT'L L.J. S111, S123–25, S129–32 (2000) (describing state-funded and independent university legal aid clinics).

56. COMBINING LEARNING, *supra* note 22.

57. Note, *Adopting and Adapting: Clinical Legal Education and Access to Justice in China*, *supra* note 28, at 2140 ("[C]linical educators identify as primary goals for their programs, in addition to building practical skills, instilling in students commitment to the public interest and assisting with China's legal aid needs.").

58. For example, students at the University of Nairobi run the Students' Association for Legal Aid and Research ("SALAR"), a voluntary non-profit organization that provides free legal aid services in collaboration with various NGOs, including the International Federation of Women Lawyers ("FIDA") (Kenya Chapter), the International Commission of Jurists (Kenya Chapter), the Kangemi Women's Empowerment Centre, the Children's Legal Aid network ("CLAN"), and the Refugee Consortium of Kenya. Asiema, *supra* note 26.

funding of clinical programs in Eastern Europe and the former Soviet Union, and the Ford Foundation's funding of legal aid clinics in both South and East Asia.<sup>59</sup> The Open Society Institute also provides funding for law school-based legal aid projects.<sup>60</sup>

This work is not uniform, however, and access to justice is served in different ways by different types of clinical projects around the world. As mentioned earlier, access-to-justice initiatives can include providing otherwise unavailable legal representation, outreach in the form of legal awareness and legal literacy campaigns, and law reform aimed at making legal systems and laws more responsive to the needs of society.<sup>61</sup> Clinical programs cover these different approaches with activities that range from direct representation of clients to legal literacy and awareness and other forms of law-related community education. Some clinical programs provide these services in specialized areas, such as immigration law, women's rights, criminal law, and juvenile justice, while others seek to serve community needs more generally.<sup>62</sup>

The ways in which clinical legal education contributes to improving access to justice depends to some degree on what role law students can play. Clinical programs in which students can represent individual clients function much like a traditional legal aid office. This may not be possible, however, as law students can provide the full range of legal services only in those countries where local rules allow students to practice as lawyers.<sup>63</sup> In those countries where

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59. See generally FORD FOUNDATION, *MANY ROADS TO JUSTICE: THE LAW-RELATED WORK OF FORD FOUNDATION GRANTEEES AROUND THE WORLD* (Mary McClymont & Stephen Golub eds., 2000) [hereinafter *MANY ROADS TO JUSTICE*].

60. See Wilson, *supra* note 53, at 424–25.

61. See *supra* text accompanying notes 18–19.

62. Ford-funded clinics have worked in the areas of “police brutality, freedom of movement, freedom of residence, detention without trial, racial and ethnic discrimination and breaches of fundamental human rights.” *MANY ROADS TO JUSTICE*, *supra* note 59, at 273. See also Stephen Loffredo, *Poverty Law and Community Activism: Notes from a Law School Clinic*, 150 U. PA. L. REV. 173 (2002) (discussing collaboration between a grassroots welfare rights organization and a law school clinic as “a purposefully structured, mutually reinforcing interaction between legal advocacy, law reform, and grassroots activism in the poverty context”). For a discussion of the latter approach, see Robert Greenwald, *The Role of Community-Based Clinical Legal Education in Supporting Public Interest Lawyering*, 42 HARV. C.R.-C.L. L. REV. 569 (2007).

63. Law students in the United States and a few other countries are eligible for special licenses while working in law school legal aid clinics. This can pose problems, however.

students cannot be licensed specially to practice, often they can represent clients before administrative agencies, local boards, and other types of less formal governmental institutions.<sup>64</sup> They also can engage in a broad array of other effective legal services for which a law license is not required.<sup>65</sup> For example, law students have proved to be very effective in various types of legal awareness settings, especially when the target audience is young people. Thus, “Street Law” projects are common features of law school clinical programs in the developing world.<sup>66</sup> Legal clinics also are active in providing alternative dispute resolution (“ADR”) services.<sup>67</sup>

### III. THE “MOVEMENT” DIMENSION OF A GLOBAL CLINICAL MOVEMENT

A “movement” connotes something more than a group or network of persons or institutions with a common goal. There also must be the ambition to carry out that goal by developing an agenda, and the capacity to pursue that agenda to foster change.<sup>68</sup> Movements also typically take aim at existing institutional norms, seeking transformation of those norms through either incremental or, more often, radical change.<sup>69</sup> In the context of global clinical legal

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Although senior law students in Chile can appear for a client in court, direct supervision is not required, and students sometimes appear on their own. *See* Wilson, *supra* note 39, at 536.

64. The lack of special student licensing often is seen as an obstacle to effective client service-based clinical legal education. *See, e.g.,* Maisel, *supra* note 14, at 416 (noting that in the absence of student practice rules in South Africa, clinical teachers must step in and law students “cannot provide full representation to their clients”).

65. In India, where law students are not allowed to appear in court, law school clinics participate in client counseling, mediation, legal literacy projects, and empirical research aimed at law reform. *MANY ROADS TO JUSTICE*, *supra* note 59, at 269. *See also* Bloch & Prasad, *supra* note 33, at 203–06.

66. *See* Pinder, *supra* note 40.

67. *See, e.g.,* James H. Stark, *Preliminary Reflections on the Establishment of a Mediation Clinic*, 2 *CLINICAL L. REV.* 457 (1996).

68. *See* William N. Eskridge, Jr., *Some Effects of Identity-Based Social Movements on Constitutional Law in the Twentieth Century*, 100 *MICH. L. REV.* 2062, 2164–65 (2002) (describing civil rights, feminist, and gay rights movements as efforts to change positive law and social norms).

69. *See* Robert Hockett, *Institutional Fixes Versus Fixed Institutions*, 39 *CORNELL INT’L L.J.* 537, 540 (2006) (arguing that movements must be understood in relation to institutions; “[M]ovements often move either to become institutions or to oppose institutions, perhaps even to become institutions in order to oppose institutions.”).

education, the process of developing a global clinical movement must begin with what has existed already for some time and is, in and of itself, quite powerful: a network of law teachers around the world bringing experience-based socially relevant professional training to their respective legal education institutions. The process must also incorporate an agenda for change, which is implicit in clinical legal education's historic and continuing self-reference to legal education reform.

A movement is also inspirational. In the case of the global clinical movement, inspiration lies at the very heart of the educational enterprise. Teachers teach because they want to empower their students at whatever level the instruction takes place. Thus, law teachers—at least clinical law teachers—want to prepare their students for the practice of law. The clinical movement is inspired, from the law teacher perspective, by its capacity not only to empower new generations of lawyers while they are students, but also to inspire them to practice in a professionally and socially responsible way.<sup>70</sup> Viewed from the perspective of empathetic clinical teachers,<sup>71</sup> the clinical movement is thus double-inspired by clinical education's capacity to inspire clinical teachers' students.

Finally, a “movement” in the global clinical context must include some sort of institutional framework that can support coherent strategic planning aimed at achieving the movement's goals.<sup>72</sup> The process of formulating a global clinical movement's goals will be informed not by the interests of its individual members, but rather by their collective perspectives on global clinical education.

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70. See COMBINING LEARNING, *supra* note 22 (noting that by exposing students to the underprivileged and impoverished members of their own society, clinical work stimulates in students a “sense of ethics and professional responsibility”).

71. See Peter Margulies, *Re-Framing Empathy in Clinical Legal Education*, 5 CLINICAL L. REV. 605 (1999).

72. See Hockett, *supra* note 69, at 540 (stating that movements progress on an “institutional continuum,” for they are “proto-institutions in the process of an evolution into full-blown institutions”).

*A. The Movement Aspect of Global Clinical Education*

The movement aspect of global clinical education is a work in progress. There is a movement underway, but its agenda and the means by which that agenda will be carried out have not yet been fully developed. This must be the case given the variety of approaches to clinical education in place around the world, even those that fit fully within the common goal of promoting experience-based, socially relevant professional training. Moreover, there is good reason for some caution here, for the global clinical movement must not head toward some sort of “clinical imperialism” by championing one national model, or even a globally modified national model, over all others.<sup>73</sup>

The most visible manifestation of the movement aspect of global clinical education is the Global Alliance for Justice Education. A group of clinical law teachers, judges, and activists formed GAJE with the idea of creating a place where persons from around the world interested in advancing the cause of justice through legal education could organize around matters of common interest and concern.<sup>74</sup> Although its mission statement provides that it is an alliance of persons “committed to achieving JUSTICE through legal education” and that “[c]linical education of law students is a key component of justice education,”<sup>75</sup> its approach is to advance other

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73. The logical culprit would seem to be the United States. As Richard J. Wilson has observed, “Perhaps the greatest overall concern in the development of clinical legal education outside the United States is the one that arose at the time of the last great effort to export American legal pedagogy during the 1960s and ‘70s, in what came to be called the Law and Development Movement.” Richard J. Wilson, *Training for Justice: The Global Reach of Clinical Legal Education*, 22 PENN ST. INT’L L. REV. 421, 428 (2004). Wilson asks if exporting clinical education to developing and transitional countries is “another form of what was then called ‘legal imperialism’ [and then] emphatically reject[s] that characterization of this work in virtually all respects.” *Id.* at 428–29.

74. See generally Clark D. Cunningham, *Clinical Education Changing the World and the World Changing Clinical Education: The Global Alliance for Justice Education*, Presented at a Conference Co-sponsored by The Australian Clinical Education Association and The International Journal of Clinical Legal Education (July 14, 2005), available at <http://gaje.org/History/Cunningham-AusClinicConf05.htm> (setting out brief history of GAJE); GAJE, *supra* note 3.

75. GAJE Mission Statement, <http://gaje.org> (last visited Aug. 30, 2008) (follow “About GAJE”).

forms of “socially relevant legal education” as well.<sup>76</sup> The statement does not specify what these other forms might be, but it includes educating practicing lawyers and judges, non-governmental organizations, and the lay public within the scope of socially relevant legal education.<sup>77</sup> Its central goal of achieving justice through legal education succeeds in incorporating both the wide range of clinical activity taking place around the world and the focus on social justice and social action that unites clinical law teachers worldwide.

GAJE also is structured to avoid falling into “clinical imperialism”; from its inception, it has sought to be as broadly inclusive as possible. GAJE does not seek to present a single vision of clinical legal education, let alone justice education. Instead, it enables clinical teachers around the world to identify commonalities and seek opportunities for cooperation and communication, mostly through its global and regional conferences. As set out in its mission statement, GAJE “seek[s] to involve persons from as many countries in the world as possible, avoiding domination by any single country, and [is] especially committed to meaningful participation from less affluent countries, institutions, and organizations.”<sup>78</sup>

Consistent with its status as an alliance, GAJE has partnered with or otherwise drawn on the resources of other internationally minded organizations that support clinical legal education. Chief among these have been the Ford Foundation, the Open Society Justice Initiative (“OSJI”), the Public Interest Law Initiative (“PILI”), and the American Bar Association’s Central and East European Law Initiative (“CEELI”). Each of these organizations has contributed to the growth of clinical legal education in various parts of the world.<sup>79</sup>

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76. *Id.*

77. *Id.*

78. *Id.* This approach is followed in its organizational structure as well, which includes a steering committee consisting of two members (one male, one female) from each of eight regions of the world. See GAJE Constitution, <http://gaje.org/Constitution.htm> (last visited Aug. 30, 2008).

79. Thus, the Ford Foundation has, at various times during the past forty years, been the major funding source for clinical education programs all over the world, including the United States, India, Argentina, South Africa, and China. OSJI sponsors clinical projects in a number of developing countries, most notably in Eastern Europe, Asia, and Africa. PILI focuses mainly on programs in Central and Eastern Europe. Richard Wilson includes the Ford Foundation, the Open Society Institute, ABA-CEELI, and PILI among those promoting clinical legal education in the global South. See Wilson, *supra* note 39, at 518 n.8. See also Peggy Maisel, *The Role of*

The combined effort of these organizations to support and further develop clinical education around the world, including paired sponsorships of particular projects, has served to enhance clinical education's global movement status.<sup>80</sup> Another indication of the global clinical movement's momentum is the fact that national and regional clinical organizations are themselves reaching out to the global clinical community as they seek to develop their local clinical programs.<sup>81</sup>

### *B. The Movement Dimension and Access to Justice*

The access-to-justice movement and its status as a movement are both well recognized. Drawing on the work of Mauro Cappelletti, most scholars agree that the access-to-justice movement has developed in three "waves": the first wave focused on legal services for the poor, the second on representing collective or group interests other than those of the poor, and the third on institutions and procedures for processing (or preventing) disputes in the context of modern society.<sup>82</sup> It is true that an equal-access movement implicates a wide range of issues;<sup>83</sup> however, the effort to secure legal services

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*U.S. Law Faculty in Developing Countries: Striving for Effective Cross-Cultural Collaboration*, 14 CLINICAL L. REV. 465, 477–88 (2008) (discussing impact of Ford Foundation, ABA-CEELI, OSJI, PILI, and USAID, and others on clinical legal education in China and Russia).

80. For example, OSJI co-organized the first All-Africa Colloquium on Clinical Legal Education together with the South African Association of University Legal Aid Institutions and the University of Kwa-Zulu Natal. The colloquium, which received additional support from the Ford Foundation, was aimed at introducing the concept of clinical legal education to law faculty and NGOs from more than twenty African countries. See Open Society Justice Initiative, Africa, [http://www.justiceinitiative.org/activities/lcd/cle/cle\\_africa](http://www.justiceinitiative.org/activities/lcd/cle/cle_africa) (last visited Aug. 30, 2008).

81. Thus, the Committee of Chinese Clinical Legal Educators ("CCCLE") has, within the past few years, hosted an international clinical conference and sponsored travel for Chinese clinicians to attend international clinical conferences abroad. See Zhen Zhen, *The Present Situation and Prosperous Future of China Clinical Legal Education*, Presented at UCLA-University of London International Clinical Conference (Oct. 7, 2005), available at [http://www.law.ucla.edu/docs/zhen\\_zhen\\_prosperous\\_future\\_of\\_chinese\\_clinical\\_educatio\\_.pdf](http://www.law.ucla.edu/docs/zhen_zhen_prosperous_future_of_chinese_clinical_educatio_.pdf) (last visited Mar. 28, 2008).

82. See Mauro Cappelletti & Bryant Garth, *Access to Justice: The Worldwide Movement to Make Rights Effective: A General Report*, in ACCESS TO JUSTICE: VOL. I: A WORLD SURVEY (Mauro Cappelletti & Bryant Garth eds., 1978). On the third wave, see Mauro Cappelletti, *Alternative Dispute Resolution Process Within the Framework of the World-Wide Access-to-Justice Movement*, 56 MOD. L. REV. 282 (1993).

83. See, e.g., David Dominguez, *Getting Beyond Yes to Collaborative Justice: The Role of Negotiation in Community Lawyering*, 12 GEO. J. ON POVERTY L. & POL'Y 55, 69 (2005)

for the poor still carries special weight within the movement. This is certainly the case in the United States. In the past few years, statewide bodies consisting of representatives of the judiciary, legal service providers, the organized bar, and other stakeholders have convened in most of the states of the United States in efforts to improve the delivery of legal services to the low-income community.<sup>84</sup> And in 2006, the House of Delegates of the American Bar Association approved a resolution offered by the Task Force on Access to Civil Justice that urged federal and state governments “to provide legal counsel as a matter of right at public expense to low income persons in . . . proceedings where basic human needs are at stake.”<sup>85</sup> Similarly, while clinical programs around the world have touched on each of the three waves of the access-to-justice movement, the greatest emphasis has been placed on access to justice for the poor.<sup>86</sup>

The fact remains, however, that, notwithstanding a global commitment to access to justice and the undeniable existence of an access-to-justice movement, justice—let alone equal justice—remains unavailable to an unacceptably large number of persons in need around the world. Progress has been made in some areas of access in some countries and regions of the world, due in part to the work of law school clinical programs. The global clinical movement is now in a position to play a major role in propelling the access-to-justice movement toward realizing its goal of global access to justice.

#### IV. A GLOBAL CLINICAL MOVEMENT FOR ACCESS TO JUSTICE

As noted at the beginning of this Article, access to justice is a central component of clinical legal education around the world. In

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(“While it has always been a problem for the poor to access lawyers and the legal system, it is now the case that even the middle class cannot afford the financial cost of retaining legal counsel. The effort to address this public controversy is called the Equal Access to Justice Movement.”).

84. Judith L. Maute, *Reflections on “Public Service in a Time of Crisis,”* 32 FORDHAM URB. L.J. 291, 302–03 (2005).

85. TASK FORCE ON ACCESS TO CIVIL JUSTICE, AM. BAR ASS’N, REPORT TO THE HOUSE OF DELEGATES NO. 112A, at 1 (2006), available at <http://www.abanet.org/legalservices/sclaid/downloads/06A112A.pdf>.

86. See *supra* text accompanying note 83.

addition, it plays a special role in defining the global clinical movement. Although the agenda of the global clinical movement still is evolving and its capacity to move a worldwide agenda forward remains to be seen, access to justice not only is a natural candidate for a place on the movement's agenda, but also represents the type of activity in which the global clinical movement can have a significant effect. This part first examines how the experience of GAJE might inform such an effort and then suggests a model approach for carrying out a global clinical movement for access to justice.

#### *A. The Experience of the Global Alliance for Justice Education*

As noted earlier, a group of clinical law teachers, judges, and activists committed to achieving justice through legal education formed GAJE in 1997.<sup>87</sup> GAJE has operated as an informal and essentially volunteer organization ever since, with remarkable success.<sup>88</sup> The founders established four primary objectives as an organization: (1) to facilitate international information sharing and collaboration on justice education; (2) to convene global conferences on justice education at locations accessible and affordable to persons from developing countries; (3) to receive and administer funds to support the development of innovative justice education, especially in developing countries; and (4) to serve as a clearinghouse of teaching methods and materials.<sup>89</sup> The first two of these goals have been met in the sense that they are now firmly anchored in GAJE's institutional culture. GAJE facilitates communication and collaboration most directly through its web site, bimonthly newsletter, and e-mail listserv. It has hosted four major international clinical conferences

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87. As set out in its constitution, "The purpose of GAJE is to promote justice through education by bringing together persons from many countries and every inhabited continent in the world, who exchange perspectives and work collaboratively from a variety of legal, educational and organizational settings." GAJE Constitution, *supra* note 78. *See also supra* text accompanying notes 78–79.

88. Although it operates under a constitution adopted at its second international meeting in Durban in 2001, to date GAJE has chosen not to incorporate or set up any organization in any legal form. Except for a part-time General Secretary appointed on a trial basis in late 2007, all administration has been done by member volunteers.

89. *See* Goals of GAJE, <http://gaje.org> (last visited Mar. 28, 2008) (follow "Organization").

held in four different regions of the world, with a fifth scheduled in December 2008.<sup>90</sup> These conferences, as well as various regional and co-sponsored conferences, also have served to facilitate communication and collaboration.<sup>91</sup> A prominent example of GAJE-facilitated collaboration was the publication in 2004 of a book on global perspectives on child advocacy that developed out of a session at the inaugural conference in India.<sup>92</sup> The last goal, sharing teaching methods and disseminating teaching materials, has been met to some extent as a byproduct of GAJE's communication activities and conferences. Future plans include web site upgrades to facilitate the sharing and distribution of materials. On the other hand, GAJE never has sought to implement the third goal of receiving funds that could be used to support outside projects, nor has it yet sought to obtain funds for its own general use.

Through its conferences and various communication activities, GAJE has served the global clinical movement by creating the opportunity for the global clinical community to coalesce around worldwide issues of shared concern, such as access to justice. Clinical work in this area is innovative and plentiful, and it takes place all over the world. As noted earlier, clinical teachers and their students enter into local communities seeking to improve access to justice in many ways other than direct client representation. These projects, which include different forms of community education and collaboration with various non-lawyer professionals,<sup>93</sup> can have

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90. The four conferences were held in Tiruvananthapuram, India (1999), Durban, South Africa (2001), Krakow, Poland (2004), and Cordoba, Argentina (2006). The fifth conference will be held in Manila, the Philippines. For information about each conference, including reports on the first four conferences, see GAJE, *supra* note 3. Although some of these locations were more affordable than others, by moving the location across regions they were reasonably accessible each time to persons from developing countries in a different region.

91. Thus, Leah Wortham credits GAJE with regional cooperation networks and with making clinical education outside the United States more visible. Wortham, *supra* note 51, at 622–23. Regional conferences have been held in Australia and the United States. Most recently, GAJE cosponsored an international conference on the future of legal education at Georgia State University in Atlanta. See Georgia State Law, International Conference on the Future of Legal Education, <http://law.gsu.edu/FutureOfLegalEducationConference> (last visited Aug. 30, 2008).

92. See CREATIVE CHILD ADVOCACY: GLOBAL PERSPECTIVES (Ved Kumari & Susan Brooks eds., 2004).

93. See, e.g., Bloch & Prasad, *supra* note 33, at 200 (describing plays performed by clinic students in India designed to promote “legal literacy” on issues such as untouchability, gender discrimination, domestic violence, and children’s rights); Jessica Feierman, *Creative Prison*

direct and wide-ranging influence on access-to-justice efforts around the world. As one of the most important worldwide issues about which GAJE members share strong and immediate concerns, access to justice has appeared regularly on the agenda of GAJE conferences.<sup>94</sup> As a result, not only are new ideas and initiatives on access to justice shared by a community of law teachers and others committed to justice education, but also the ideas and initiatives shared by GAJE members and their associates and students can then shape an agenda for worldwide access to justice.

There are other areas in which GAJE has supported and can continue to support the global clinical movement and that movement's quest for worldwide access to justice. These include sponsoring more regionally focused activities, which could allow for more concentrated exploration of regional access concerns. Although it is unlikely that GAJE itself will be in a position to fund access-to-justice activities or even clinical projects that touch on access to justice issues, it can assist clinicians and others engaged in this work to obtain funding by highlighting particularly effective initiatives. More broadly, GAJE and its members can promote a clinical/justice education curriculum that places access to justice at the center of its teaching and service mission.

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*Lawyering: From Silence to Democracy*, 11 GEO. J. ON POVERTY L. & POL'Y 249, 278 (2004) (describing Georgetown University Law Center's D.C. Street Law Clinic, where students teach weekly classes on law-related issues in correctional facilities); Peggy Maisel, *supra* note 14, at 383 (noting that South African university clinics provide legal advice and representation for paralegal advice centers).

94. Thus, a full session in the inaugural conference was devoted to "Legal Services and Access to Justice," during which speakers (representing Slovakia, China, India, South Africa, the United States, Poland, and Bangladesh) and delegates discussed educating law students and the community through Street Law projects, delivering legal services at law school clinics, and strategies for "doing more with less" in developing countries, and shared regional perspectives on the issues. 1999 GAJE Conference Agenda, <http://gaje.org/> (last visited Mar. 28, 2008) (follow "Inaugural World Conference"). Access to justice was on the agenda of the other conferences as well, including "Access to Justice for People Living with HIV/AIDS" (2001), "Involving Students in the Promotion of Access to Justice Education" (2004), and "Addressing Unmet Legal Need and Legal Service Alongside Legal Education" (2006). See GAJE, *supra* note 3.

*B. A Global Clinical Movement for Access to Justice: A Model Approach*

What, then, might a global clinical movement for access to justice look like? To begin with, it should play to the strength of clinical legal education relative to access to justice. Following the lead of GAJE, a global clinical movement for access to justice could offer clinicians and others working in the field the opportunity to come together and develop creative and effective approaches to promoting access to justice through education. It would do so by featuring that work at major clinical conferences, facilitating collaborations among clinicians and activists involved in similar or complementary projects, and promoting successful outcomes using its status as a global professional movement. At the same time, the global movement should seek to increase the level and quality of legal services made available to the poor and other disfavored groups by directing clinical resources around the world toward access to justice.

A global clinical movement for access to justice should not seek to become *the* access-to-justice movement. Instead, it should align itself with the many existing organizations and individuals already deeply involved with access to justice around the world. A global clinical movement for access to justice would promote an agenda identified uniquely and specifically with access to justice; it would do this, however, as part of the general global clinical movement by working through organizations such as GAJE. To maximize the impact of clinical legal education on access to justice worldwide, a global clinical movement for access to justice would join the global alliance for justice education.

A global clinical movement for access to justice must rally those members of the global clinical community most committed to that issue to focus the attention of GAJE and other clinical organizations on their work. While access to justice is much of what drives GAJE and lies at the heart of what many of its members care most deeply about, promoting a clinical movement dedicated to access to justice will require a dedicated access-to-justice clinical agenda. A global clinical movement for access to justice must, therefore, make the case for concentrating the full power of experience-based socially relevant professional training on moving toward new and more effective

solutions to the problem. Following the clinical model, these efforts to enhance access to justice will look not only at new ways to provide effective legal services for the poor, but also at opportunities to raise the public responsibility of the profession. Some existing clinical programs and methodologies would no doubt contribute to that effort, along with new approaches that would certainly be developed in the context of new access-to-justice-oriented clinical work.

To be sure, full and equal access to justice is not just a global clinical movement away; even with all reasonably possible success, justice will remain inaccessible for some. The unique position of a global clinical movement for access to justice is that it can chart a plan for the future as part of its mission to train lawyers for social justice. As a result, a global clinical movement for access to justice will not only create new approaches to providing greater access to justice but also will assure that the responsibility for providing access to justice in the future will be in the hands of new generations of clinically trained lawyers.