

GAJE 2013

Session: The Law Reform and Access to Justice Clinical Model: Pretrial Criminal Justice and Civil Law

The handout that follows on the next page is part of the book: *CLINICAL LEGAL EDUCATION: CURRICULUM LESSONS AND MATERIALS* by Ernest Ojukwu, Sam Erugo and Charles Adekoya published by Network of University Legal Aid Institutions (NULAI Nigeria). See www.nulai.org for the online book. The parts of this handout are chapters 9 and 10 of the book respectively on Social Justice and Access to Justice; and Public Interest Lawyering.

Participants may also find the following books useful in relation to the topic of this session:

*Handbook on Prison Pre-trial Detainee Law Clinic; and
Manual on Prison Pre-trial Detainee Law Clinic.*

See www.nulai.org for free online versions.

CHAPTER 9

Social Justice and Access to Justice

OBJECTIVES

It is widely accepted that lawyers should be trained to be social engineers. The basic issues of social engineering lie in social justice and access to justice.

RSA- Action and Research Centre states that "The term 'social justice' implies fairness and mutual obligation in society: that we are responsible for one another, and that we should ensure that all have equal chances to succeed in life."¹ Dr. Matthew Robinson explains the term "social justice" thus:

Social justice is defined as "... promoting a just society by challenging injustice and valuing diversity." It exists when "all people share a common humanity and therefore have a right to equitable treatment, support for their human rights,

¹ See <http://www.thersa.org/action-research-centre/learning,-cognition-and-creativity/education/social-justice/what-social-justice-means> last accessed on 8th February 2013.

and a fair allocation of community resources." In conditions of social justice, people are "not be discriminated against, nor their welfare and well-being constrained or prejudiced on the basis of gender, sexuality, religion, political affiliations, age, race, belief, disability, location, social class, socioeconomic circumstances, or other characteristic of background or group membership" (Toowoomba Catholic Education, 2006).²

Clinical legal educators are "committed to achieving justice through education."³ Clinics ought to "expose students to the impact that the practice of law has on people"⁴ and so we agree with Prof. Margaret Barry that:

í clinical courses expose students to opportunities to use legal expertise to address issues of social

² See Department of Government and Justice Studies, Appalachian State University, <http://gjs.appstate.edu/social-justice-and-human-rights/what-social-justice>, last accessed on 9th February 2013.

³ See Global Alliance For Justice Education, <http://www.gaje.org/> last accessed on 6th January 2013; Bloch, F.S., ed. *The Global Clinic Movement: Educating Lawyers for Social Justice*, 2011, Oxford University Press; Giddings, J., *Promoting Justice through Clinical Legal Education*, 2013, Justice Press; Barry, M., et al, "Teaching Social Justice Lawyering: systematically including Community Legal Education in Clinical Legal Education," *18 Clinical L. Rev. 401 (2012)*, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1924393 last accessed on 10th February 2013.

⁴ Barry, M., "Clinical Legal Education in the Law University: Goals and Challenges," *International Journal of Legal Education*, pp.27-50 (July 2007), see <http://ssrn.com/abstract=1133551>, last accessed on 9th February 2013.

concern, particularly the needs of the poor. Regardless of whether students intend to work in public interest law, they need to be aware of their obligations to contribute to their communities and of the special role they are becoming equipped to play in addressing a range of social problems. While the classroom can raise theoretical issues about social justice, access to legal interventions and reform, understanding the problems in terms of access, application, and sufficiency comes from well-supervised work with poor people. Thus, these issues are best raised through direct service to disadvantaged clients, either through representation or some other opportunity to work closely with them in order to understand the problems and the attorney's special ability to provide effective assistance.⁵

Law students in the Law Clinic would be undertaking many community and social justice projects and would also be meeting clients from diverse backgrounds, particularly poor people and clients deprived of basic human rights. It is therefore imperative

⁵ Barry, M. M., "Clinical Legal Education in the Law University: Goals and Challenges," *International Journal of Legal Education*, p35 (July 2007), see <http://ssrn.com/abstract=1133551>, last accessed on 9th February 2013.

that the law student should understand social justice issues to be able to appreciate it and develop the character to address them not only while working as a student but also as a fully-fledged professional or citizen.

LESSON 1

TOPIC: Meaning, Scope and Importance of Social Justice and Access to Justice

CONTENTS

Meaning, Scope and Importance of Social Justice and Access to Justice

OUTCOME

At the end of this lesson, students would be able to:

Explain and discuss the meaning, scope and importance of social justice and access to justice.

ACTIVITIES

IN-CLASS ACTIVITIES

- i. Students watch video clips on social justice issues like poverty, education, sanitation, environmental degradation, access to justice, housing, health, discrimination, domination, vulnerable groups, disability, trafficking in persons, modern day slavery,

- child abuse and neglect, domestic violence, inequality, promoting peace in communities, drug addiction, etc. ó 40 minutes
- ii. Group work/presentations and discussions on the meaning, scope and importance of social justice and access to justice- 1 hour
- iii. Assessment ó 20 minutes

LESSON 2

TOPIC: Challenges to Social Justice and Access to Justice

CONTENTS

Challenges to Social Justice and Access to Justice

OUTCOME

At the end of this lesson, students would be able to explain and discuss the challenges to social justice and access to justice.

ACTIVITIES

a. PRE-CLASS ACTIVITIES

Students should write a list of challenges and obstacles to social justice and access to justice. During the presentation in the class, students would be required to suggest possible solutions to the

challenges and obstacles and ways/strategies of enhancing social justice and access to justice in Nigeria.

b. IN-CLASS ACTIVITIES

- i. Focuser - A scripted short drama or video clip on any aspect of challenges to social justice and access to justice ó 20 minutes
- ii. Group work to harmonise the pre-class assignment ó 20 minutes
- iii. Group presentations/discussions ó 1 hour
- iv. Assessment: Questions and Answers ó 20 minutes

LESSON 3

TOPIC: Operation of Legal Aid in Nigeria

CONTENTS

Operation of Legal Aid in Nigeria

OUTCOMES

At the end of this lesson, students would be able to explain and discuss the operation of legal aid in Nigeria.

ACTIVITIES

a. **PRE-CLASS ACTIVITIES**

- b. Students should write a list of identified elements of the Legal Aid Act and the anticipated impact or set back on legal aid and access to justice if the provisions of the Act are implemented. This may be presented on a table or by mere listing. This assignment should be turned in before the lesson, possibly by electronic means.

b. **IN-CLASS ACTIVITIES**

- i. Presentation/discussion of the Pre-class assignment ó 45 minutes
- ii. Group work on the role and limitations of other persons, agencies and organisation in legal aid in Nigeria ó 30 minutes
- iii. Group presentation/discussions ó 35 minutes
- iv. Assessment ó 10 minutes

LESSON 4

TOPIC: Social Justice Project/Community Service Programme

CONTENTS

Social Justice Projects/Community Service Programme

OUTCOME

At the end of this lesson, students would be able to:

- i. Explain and discuss social justice projects and activities and community service programmes that may be undertaken by law students;
- ii. Discuss how to design a social justice project;
- iii. Plan a community service programme/project.

ACTIVITIES

a. PRE-CLASS ACTIVITIES

Each Student should identify one social justice project that has been carried out anywhere in the World and be in a position to make a presentation during the lesson of the project title, project goal, and project summary. The teacher should provide a platform (preferably electronically) where students' identified title will be posted on a first come- first served basis so that no two students would submit the same title. The platform would be open on a read only basis to the students.

b. IN-CLASS ACTIVITIES

- i. Students present the pre-class assignment/discussions ó 1 hour
- ii. Group work to discuss design a social justice project and plan a community service programme or project. The teacher should provide guidelines for designing such projects and programmes/Presentation of the group report/discussions ó 1 hour.

LESSON 4

TOPIC: Designing a Social Justice Project/Planning a Community Service Programme

ACTIVITIES

This lesson should be a free time for students to design social justice projects or plan community service programmes for presentation during lessons 5 and 6

LESSONS 5

TOPIC: Designing a Social Justice Project/Planning a Community Service Programme

CONTENTS

Designing a Social Justice Project/Planning a Community Service Programme

OUTCOMES

At the end of this lesson, students would be able to discuss their proposed social justice project or community service programme and fine-tune their designs and plan.

ACTIVITIES

Students present their designs and plans/feedback/discussions ó 2 hours

LESSONS 6

TOPIC: Designing a Social Justice Project/Planning a Community Service Programme

CONTENTS

Designing a Social Justice Project/Planning a Community Service Programme

OUTCOMES

At the end of this lesson, students would be able to discuss their proposed social justice project or community service programme and fine-tune their designs and plan.

ACTIVITIES

IN-CLASS ACTIVITIES

Students who did not present during lesson 5 will present their designs and plans./feedback/discussions ó 2 hours.

NOTES

The Clinic will decide how and what social justice and public interest lawyering projects to engage the students (or some of them) with during the remainder 6 weeks of the 500 Level first semester course and the 12 weeks second semester 500 level course on clinic/community service. Students that engage in social justice, public interest projects and community service should have the opportunity during the course period to present their final reports (or interim reports) (and reflections) before the entire class.

REFERENCES

Barry, M., et al, "Teaching Social Justice Lawyering: systematically including Community Legal Education in Clinical Legal Education," *18 Clinical L. Rev.* 401 (2012), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1924393.

Barry, M. M., "Clinical Legal Education in the Law University: Goals and Challenges," *International Journal of Legal Education*, p. 35 (July 2007); <http://ssrn.com/abstract=1133551>.

Bloch, F.S., ed. *The Global Clinic Movement: Educating Lawyers for Social Justice*, 2011, Oxford University Press.

Giddings, J., *Promoting Justice through Clinical Legal Education*, 2013, Justice Press.

Grey, R. J. (2004), *Access to the Courts: Equal Justice For All*: Anita Green (ed.) Washington D C. U. S. Dept. of State

Mcquoid-Mason, D.J. (1982) *An Outline of Legal Aid in South Africa*, Durban/Pretoria Butterworths.

Ojukwu, E., et al, "Access to Justice", *Handbook on Prison Pre-trial Detainee Law Clinic*, chapter 5, pp. 121-152, Abuja, Network of University Legal Aid Institutions (NULAI Nigeria), 2012.

National Service-Learning Clearinghouse:
www.servicelearning.org

CHAPTER 10

Public Interest Lawyering

OBJECTIVES

The objectives for presenting to our clinic students the lessons on Public Interest Lawyering are the same objectives stated for teaching Social Justice and Access to Justice. See Chapter 8 (infra). In addition, we hope that the students would be able to reflect critically on the nature of lawyers' ethical and professional responsibilities in public interest law practice; evaluate critically theories and models of legal service delivery; Identify and develop strategies to respond to and to address legal issues in a public interest context; and advocate effectively in the public interest⁶.

LESSON 1

TOPIC: Nature and Core Values of Public Interest Issues

⁶ For these objectives see, <https://handbook.unimelb.edu.au/view/2012/LAWS40065?output=PDF>, last accessed on 3rd January 2013.

CONTENTS

Nature, types and Core values of public interest issues; importance of and goal for engaging in public interest lawyering.

OUTCOME

At the end of the lesson, students would be able to:

- i. Explain and discuss the nature, types and core values of public interest issues;
- ii. Explain and discuss the importance of and goal in engaging in public interest lawyering.

ACTIVITIES

a. PRE-CLASS ACTIVITIES

Students should write a list of public interest issues with examples and stating the core values for each. The list should be produced in a table format as shown below:

S/n	Public Interest Issues	Examples	Values
1	Pollution	Sachet- bagged water menace	Public health
2	Consumer	Fuel pricing	Consumer protection
3	Human Right	Prison Reform	Access to Justice

b. **IN-CLASS ACTIVITIES**

- i. Focuser: Video clips/drama/slides on public interest issues ó 10 minutes
- ii. Teacherø overview ó 10 minutes
- iii. Group work by students to discuss the nature, types and core values of public interest issues; importance of and goal for engaging in public interest lawyering. The groups should also harmonise the tables of public interest issues prepared by each student ó 40 minutes
- iv. Groups Report/discussions- 50 minutes
- v. Assessment ó 10 minutes

LESSON 2

TOPIC:

- i. Ethical and Professional Responsibilities of Public Interest Lawyers;**
- ii. Public Interest Law Organizations**

CONTENTS

- i. Ethical and Professional Responsibilities of Public Interest Lawyers;
- ii. Public Interest Law Organizations

OUTCOME

At the end of this lesson, students would be able to:

- i. Explain and discuss the ethical and professional responsibilities of public interest lawyers;
- ii. Identify public interest law organisations and discuss their functions and challenges.

ACTIVITIES**a. PRE-CLASS ACTIVITIES**

- i. Students should make a list of Public Interest Law Organizations and their functions.
- ii. Students should identify and study at least one public interest organization and its work and challenges.

b. IN-CLASS ACTIVITIES

- i. Brainstorm/discussions on the ethical and professional responsibilities of public interest lawyers ó 20 minutes
- ii. Group work on Case studies on ethical and professional responsibilities of public interest lawyers/presentation/discussions ó 50 minutes
- iii. Students present the pre-class assignment/discussions ó 40 minutes
- iv. Assessment ó 10 minutes

LESSON 3

TOPIC: Public Interest Lawyering Strategies

CONTENTS

Public Interest Lawyering Strategies

OUTCOMES

At the end of the lesson, the students would be able to:

- i. Identify and list public interest lawyering strategies;
- ii. Explain and discuss the use, importance, advantages and disadvantages/limitations of the strategies.

ACTIVITIES

a. PRE-CLASS ACTIVITIES

Students should list and write notes on public interest lawyering strategies, their use, importance, advantages and disadvantages or limitations.

b. IN-CLASS ACTIVITIES

- i. Group work to harmonise the list of public interest lawyering strategies, their use, importance, advantages and disadvantages or limitations/Group report/discussions ó 50 minutes

- ii. Group work on case study on public interest lawyering strategies/presentations/discussions ó 1 hour
- iii. Assessment ó 10 minutes

LESSON 4

TOPIC: Public Interest Lawyering Strategies: Litigation

CONTENTS

Public Interest Lawyering Strategies: Litigation

OUTCOME

At the end of this lesson, students would be able to:

- i. Explain the nature and types of public interest litigation
- ii. Explain the use, efficacy and importance of impact litigation as a public interest strategy
- iii. Discuss the process of impact litigation as a public interest strategy.

ACTIVITIES

a. PRE-CLASS ACTIVITIES

Students should (i) identify, summarize the facts/report any case of impact litigation in Nigeria or any other jurisdiction; and (ii)

provide a list of sources of direct service litigation or free legal representation in Nigeria.

b. IN-CLASS ACTIVITIES

- i. Brainstorming/discussion on the nature and types of public interest litigation-15 minutes
- ii. Presentation of pre-class assignment/General class discussion of the cases and sources of direct services -35 minutes
- iii. Group work, presentation and discussion of the use, efficacy, importance, challenges of impact litigation as a public interest strategy and the proposed strategy of the Clinic in using public interest litigation strategy ó 1 hour
- iv. Assessment ó 10 minutes

LESSON 5

At the end of Lesson 4, Students should be grouped to use some of the social justice projects identified in the Social Justice lessons as public interest lawyering project. Students will use Lesson 5 period to complete their group proposal. The groups will be required to present their plans and strategies for executing these projects as public interest projects in Lesson 6.

LESSON 6**TOPICS: Public Interest Lawyering Proposals****CONTENTS**

Public Interest Lawyering Proposals

OUTCOMES

At the end of this lesson, students would be able to explain and discuss proposals to engage in public interest projects.

ACTIVITIES**IN-CLASS ACTIVITIES**

Groups present their proposed public interest projects and discussions follow 6 2 hours.

NOTES

The Clinic will decide how and what social justice and public interest lawyering projects to engage the students (or some of them) with during the remainder 6 weeks of the 500 Level first semester course and the 12 weeks second semester 500 level course on clinic/community service. Students that engage in social justice, public interest projects and community service should have the opportunity during the course period to present their final reports (or interim reports) (and reflections) before the entire class.

REFERENCES

Carothers, T., (1998) "The Rule of Law Revival," *Foreign Affairs*: Mar/Apr. 1988 Columbia Law School, Public Interest Law Initiative in *Transitional Societies*

Chen, A.K., & Cummings, S., *Public Interest Lawyering: A Contemporary Perspective*, Aspen Publishers, 2012.

Dimitrina, P., (1996). "The development of public interest law in Post-communist States: Political and legal limitations," *Helsinki Monitor*, Volume 7, No. 4

Ogletree, C.J, Jr., (2001) "Access to justice: the social responsibility of lawyers: The Challenge of Providing "Legal Representation" in the United States, South Africa, and China" *Washington University Journal of Law & Policy*, 47.

PILnet (The Global Network for Public Interest Law)
<http://www.pilnet.org/public-interest-law-programs/public-interest-lawyering.html>

Rekosh, E., et al, (2001), *Pursuing the public interest: A Handbook for Legal Professionals and Activists*, www.pili.org/org/publications; New York.

Rekosh, E., Buchko, K.A, Manning, D and Terzieva, V., "Access to Justice: Legal Aid for the underrepresented", in *Access to Justice in Central and Eastern Europe: Source Book*, at www.pili.org/publications.

Rekosh, E., et al, *Pursuing the Public Interest: A Handbook for Legal Professionals and Activists*, Public Interest Law Initiative in Transitional Societies.

Sarat, A., and Scheingold, S., (2001) "State Transformations, Globalization, and the possibilities of Cause Lawyering: An introduction", in *Cause Lawyering and the State in a global era*, Oxford Univ. Press.