

WORKSHOP 4C: GLOBAL PARTNERSHIPS FOR ACCESS TO JUSTICE

LAW SCHOOLS AND THE PROMOTION OF ACCESS TO JUSTICE: THE GAJE EXPERIENCE

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Abstract: *Do Australian law schools have a role to play in 'global partnerships for access to justice'? The answer is clearly 'yes'. From a practical perspective, most countries in the world have at least one law school, and therefore a potential global network of law schools exists. Law schools also share a desire to instill one of the fundamental values of the legal profession, namely the promotion of justice, fairness and morality for all, and in particular the poor, disadvantaged and marginalised members of society. A distinction does need to be made between the promotion of access to justice, and access itself. Australian law schools are in a position to achieve the former, but not as well equipped to achieve the latter. To increase access to justice, rather than simply promote the concept, it is therefore desirable to include more than just law schools in any global partnership. The Global Alliance for Justice Education (GAJE) provides an example of how this might be achieved.*

Introduction

Do Australian law schools have a role to play in 'global partnerships for access to justice'? The answer is clearly 'yes'. From a practical perspective, most countries in the world have at least one law school, and therefore a potential global network of law schools exists. Law schools also share a desire to instill one of the fundamental values of the legal profession, namely the promotion of justice, fairness and morality for all, and in particular the poor, disadvantaged and marginalised members of society.¹ Further, research indicates that "law school is as much a

¹ The promotion of justice, fairness and morality was identified by the authors of the MacCrate Report as one of the four fundamental values of the profession, the other three being 1) the provision of competent representation; 2) striving to improve the profession; and 3) professional self-development.

American Bar Association Section of Legal Education and Admissions to the Bar, *Legal Education and Professional Development – An Educational Continuum* (the MacCrate Report) Report of the Task Force on Law Schools and the Profession: Narrowing the Gap (Chicago: ABA, 1992) 213. This is discussed in greater detail in L McCrimmon, "Mandating a Culture of Service: Pro Bono in the Law School Curriculum" (2003) *Legal Ed Rev* (forthcoming). While the universality of this value is a generalisation, and exceptions may exist, my experience with one such 'global partnership' (discussed below) gives me confidence in the assertion.

professional socialization experience as it is a skills building exercise".² Therefore, the essential ingredients are present - potential partners dispersed globally, the ability to promote access to justice, and a desire to inculcate such a value.

A distinction does need to be made between the promotion of access to justice, and access itself. Australian law schools are in a position to achieve the former, but not as well equipped to achieve the latter. A significant number of Australian legal academics do not hold and are not, as a result of barriers to admission such as the completion of practical legal training, eligible to hold a practicing certificate. Further, due to funding constraints, the financial capacity to provide clinical opportunities that would manifest in greater access to justice is beyond the scope of a number of the nation's law schools.³ To increase access to justice, rather than simply promote the concept, it is therefore desirable to include more than just law schools into any global partnership. To provide an example of how this might be achieved, I will focus on one organisation with which I have been involved from its inception, the Global Alliance for Justice Education (GAJE).

What is GAJE?

GAJE can be described as a global partnership of legal educators, legal practitioners, jurists, social justice activists, members of NGOs and law students. What characterises GAJE as a global partnership, and in particular one committed to access to justice? Two features warrant mention.

GAJE, as the name suggests, is global and is not dominated by any one country or region. This is an overriding objective of the organisation, and is reflected in its mission statement:

"GAJE is GLOBAL, seeking to involve persons from as many countries in the world as possible, avoiding domination by any single country, and especially committed to

² J Baillie, & J Bernstein-Baker, In the Spirit of Public Service: Model Rule 6.1, The Profession and Legal Education 13 (1994) *Law and Inequality* 51, at 667. See also A Evans, Lawyer's Perceptions of Their Values: An Empirical Assessment of Monash University Graduates in Law, 1980-1998 (2001) 12 *Legal Ed Rev* 209.

³ I develop this in greater detail in L McCrimmon, "Mandating a Culture of Service: Pro Bono in the Law School Curriculum" (2003) *Legal Ed Rev* (forthcoming).

meaningful participation from less affluent countries, institutions, and organizations. GAJE is an ALLIANCE of persons committed to achieving JUSTICE through legal education. Clinical education of law students is a key component of justice education, but this organization also works to advance other forms of socially relevant legal education, which includes education of practicing lawyers, judges, non-governmental organisations and the lay public".⁴

To avoid domination by any single country or region, GAJE is divided into 8 regions.⁵ Each region is entitled to elect 2 representatives⁶ to the Steering Committee, which is the governing body of GAJE.

GAJE also adopts an inclusive approach to membership. Membership is free, and, as has been noted above, includes individuals from a wide ranging cross-section of the legal profession, and from NGO's engaged in the fight for social justice. This facilitates the sharing of ideas from a variety of perspectives. Further, active participation in the organisation by delegates from all regions of the world - both affluent and less affluent, common law and civil law - increases the scope for the organisation's involvement in a range of justice related issues. While socially relevant legal education remains a core activity of GAJE, as the following discussion will illustrate, in the Australasian region its activities have expanded to include access to justice projects.

Moving Global Partnership from Aspiration to Reality

Our experience in the formation of GAJE provides a concrete example of how a global partnership, in this case of legal academics, law students, legal practitioners, jurists, and social

⁴ <http://www.gaje.org>.

⁵ Africa, Australasia (which includes the Pacific Islands), East Asia, Eastern Europe (including Russia), South America (including Central America), South and Central Asia (including the Mideast), North America and Western Europe.

⁶ The GAJE Constitution provides, in article 5(b)(4) that the Nominating Committee tasked to nominate positions on the Steering Committee should "endeavor to have gender balance among the candidates from each region and also make special efforts to nominate candidates from indigenous peoples and other groups in special need of social justice".

activists, can grow from an idea to a dynamic global organisation. Valuable lessons can be learned from an analysis of the formation and ongoing activities of GAJE.⁷

In 1996 a meeting, organised by Professor Clark Cunningham⁸ and myself, was held in Sydney, Australia. The meeting was scheduled to coincide with an Australasian Professional Legal Education Council (APLEC) conference, which had attracted a number of international delegates. The Sydney meeting was the culmination of a number of informal discussions held at a number of previous international clinical conferences, the most important being the 1996 Association of American Law Schools Clinical Conference held in Miami, Florida, and the 1995 Workshop on Clinical Teaching Methods held at the National Law School of India. The participants at the Sydney meeting came from 11 countries: Argentina, Australia, Bangladesh, Canada, China, Fiji, India, Nigeria, The Republic of South Africa, the United Kingdom, and the United States. Support for the organisational meeting was provided by the Law Foundation of New South Wales, the Bar Association of New South Wales, the Centre for Legal Education (Australia), the Ford Foundation, and a number of law schools.

The discussions in Sydney resulted in the birth of an idea, namely an international organisation dedicated to the promotion of socially relevant legal education. To move the idea from aspiration to reality, four organisational goals were identified:

- 1 establish and maintain an international e-mail listserve, with designated persons to redistribute messages to persons without e-mail access;
- 2 convene a global conference at a low cost location to ensure participation of delegates from less affluent countries;
- 3 solicit, receive and administer funds to support the development of innovative justice education, especially in less affluent countries; and
- 4 serve as a clearinghouse of teaching materials and methods.

⁷ Much of the following is taken from L McCrimmon, *Transforming Legal Education into Justice Education: GAJE* (2000) 76 *Reform* 48, at 48-49.

⁸ At the time, Professor Cunningham was a Professor of Law at Washington University in St Louis, Missouri. He is currently the W. Lee Burge Professor of Law & Ethics at Georgia State University College of Law.

A temporary steering committee was established⁹ to coordinate the realisation of the organisational goals. Following extensive consultation, the name 'Global Alliance for Justice Education' was chosen,¹⁰ and the Southern Indian State of Kerala was chosen as the conference venue for the launch of the organisation.

On 8-17 December 1999, the Inaugural Conference of GAJE, was held in Thiruvananthapuram, Kerala, India.¹¹ The conference was attended by 125 delegates from 19 countries.¹² Delegates included law teachers, judges, practitioners, and activists. Students from law schools in the Kerala region also attended. Over 10 days, delegates had the opportunity to participate in a:

- 1 day pre-conference workshop which addressed the theoretical and practical issues facing those who wish to inculcate a justice dimension¹³ into legal education;
- 3 day conference which addressed a variety of issues in plenary and break-out sessions. Topics included: a global perspective on justice education; community based justice education, advancing women's rights, integrating gender into justice education, working with non-governmental organisations, teaching legal skills and social justice through street law, law clinics in developing countries, collaborations between law teachers and activists, using technology for cross-national collaboration, and collaborative research and justice education;
- 6 day workshop devoted to training trainers for justice education.

The success of the Inaugural GAJE Conference was due to four main factors:

- 1 a well run and dedicated local organising committee;

⁹ The members of the temporary steering committee were: Martin Bohmer (Argentina), Marlene Le Brun and Les McCrimmon (Australia), Neil Gold (Canada), NR Madhava Menon (India), Robin Palmer (and subsequently David McQuoid-Mason) (Republic of South Africa), Nigel Duncan, Richard Grimes and Avrom Sherr (United Kingdom), Clark Cunningham and Frank Bloch (United States).

¹⁰ In fact, the 'working title' for the organisation was, 'International Council for Socially Relevant Legal Education'. ICSRLE is not a memorable acronym, and the name Global Alliance for Justice Education was chosen.

¹¹ A detailed conference report can be found on the GAJE website: www.gaje.org.

¹² Argentina, Armenia, Australia, Bangladesh, Canada, Chile, China, Ghana, Hungary, India, Kenya, Poland, Russia, Slovak Republic, Republic of South Africa, Sri Lanka, Uganda, United Kingdom, United States.

¹³ This included a wide-ranging discussion, which progressed throughout the remaining 9 days of the conference and post-conference workshop, of what is meant by a 'justice dimension'.

- 2 a broadly representative international steering committee;
- 3 allocation of a substantial portion of registration fee income to subsidise the cost of those attending from less affluent countries;
- 4 access to funding through established foundations - such as the Ford Foundation and the Siros Foundation.

Funding was critical, exacerbated by the fact that GAJE was an organisation which had not yet come into existence, and had no 'track record' with funding bodies. Without such funding, it would not have been possible for such a large percentage of delegates from less affluent regions of the world to attend the conference. The result would have been a 'global' conference where only the affluent regions of the world were represented - not an uncommon phenomenon. Fortunately, through the participation of individuals (most, but not all, of which were from the United States) with links to the major American foundations, this obstacle was overcome. The result was a conference where over half of the delegates were from developing countries.

Moving Forward - the Second World Conference of GAJE and the GAJE Australasian Regional Conference

Second World Conference of GAJE

On 5-14 December 2001, the second world conference of GAJE was held in Durban, South Africa.¹⁴ Over 150 participants from 27 countries¹⁵ attended. The conference was structured around the themes of 'Reconciliation, Transformation and Justice', and a format similar to that used at the Inaugural Conference was adopted. Participants focused on three substantive areas of importance to people around the world, and of particular importance to those living in Sub-saharan Africa; access to land, access to justice for people living with HIV/AIDS, and environmental justice.

¹⁴ A detailed conference report can be found on the GAJE website: www.gaje.org.

¹⁵ Countries represented included: Armenia, Australia, Belarus, Bulgaria, Cameroon, China, Ghana, Gambia, Georgia, Hungary, India, Kenya, Krgyzstan, Moldova, Mongolia, Nigeria, Pakistan, Poland, Republic of Guinea, Republic of South Africa, Romania, Russia, Slovakia, Sweden, Uganda, United Kingdom, United States, Zimbabwe.

The role of legal education was not neglected. A fourth topic, focusing on mainstreaming justice education in the law curriculum, was also included as a conference stream. Further, the pre-conference workshop, which addressed pervasive justice education in law schools and non-governmental organisations, and the post-conference 'Train the Trainer' workshops,¹⁶ focused on legal education and skills training.

The Second World Conference, while similar in format, differed from the Inaugural Conference in three important respects. Whereas the Inaugural Conference emphasised the role of justice, including access to justice, in legal education, the Second World Conference, through the choice of conference theme and streams, widened the scope of the inquiry. As a consequence, legal and non-legal activists working in the areas discussed were invited to participate. Further, whereas at the Inaugural conference law students were involved in the planning, at the Second World Conference, law students assumed an active role as participants and speakers. For example, five students attended from the University of Sydney Law School, and made a very valuable contribution. Finally, the adoption of a constitution for GAJE at the Second World Conference marked the transformation of GAJE from a network of individuals committed to social justice for all regions of the world, to a formal organisation embodying these ideals.

GAJE Australasian Regional Conference

On 9-11 December 2002, the University of Sydney Faculty of Law hosted the first GAJE Australasian Regional Conference.¹⁷ The conference brought together 200 legal academics, law students, community activists, jurists, public interest advocates and legal practitioners from throughout the Asia-Pacific Region. The Conference was organised around three streams: refugees, HIV/AIDS and access to justice in developing countries, and justice for Indigenous people. The conference was organised by members of GAJE, in partnership with the

¹⁶ The 'Train the Trainer' workshops included: Street Law, Trial Advocacy, and Legal Ethics.

¹⁷ The description of the proceedings of the GAJE Australasian Regional Conference is taken from the Conference Report, which can be found on the GAJE Australasian Region website: www.gaje.net.au. Ms Mehera San Roque, a lecturer at the University of New South Wales, was the primary author of the report.

Kingsford Legal Centre, staff and students at the law faculties of the University of Sydney, the University of New South Wales, and the Jumbunna Indigenous House of Learning at the University of Technology, Sydney.

Over 45 speakers from throughout the region addressed the conference. Over the 3 days of the conference participants, in plenary and stream workshop sessions, discussed ways to achieve justice through education in social, economic, political and human rights issues, and devised ongoing projects to address justice issues for refugees, Indigenous people, and people living with HIV/AIDS. Some of these projects are discussed below.

Promoting Access to Justice

From the above discussion, one might be excused for thinking that GAJE is nothing more than a network of individuals who attend conferences. While conferences, both on a global and regional basis, are critical to the ongoing success of GAJE, they are only one aspect of the organisation's activities. Conferences do provide a forum for individuals from disparate parts of the world to come together and share ideas. This fosters the development of mutually beneficial networks which advance the cause of social justice.

Ongoing GAJE Activities in our Region

GAJE has been actively involved in the Australasian region. In 2002, the Inaugural GAJE Lecture was delivered at the University of Sydney. The speaker was Brendon Christian, an HIV/AIDS activist and lawyer from South Africa. The topic, 'HIV/AIDS in Sub-saharan Africa, was inspired by the HIV/AIDS stream at the Second World Conference. Brendon Christian's lecture, and guest appearances in classes and the media, was designed to raise awareness of the issues facing those living with HIV/AIDS in Africa. In particular, the legal impediments to access to anti-retroviral treatment was emphasised. Mr Christian also spoke to law students at Monash University in Melbourne.

GAJE has been actively involved in the fight against HIV/AIDS in developing countries in other ways. Following the Second World Conference, a partnership was established between GAJE members in Australia and McCord Hospital, a public hospital in Durban, RSA. Beaded AIDS badges made by HIV/AIDS patients at McCord Hospital are sold in Australia for \$5.00/badge, and all of the profits from the sale are donated to McCord. To date the project has raised thousands of Rand on behalf of McCord Hospital. In addition, the GAJE Australasia Regional Conference was the impetus for the establishment of the GAJE Asia-Pacific HIV/AIDS Stream Regional Advocacy Project. The project, which is student-lead and student-run, has organised a number of workshops in various faculties in the University of Sydney, to raise student and staff awareness of the issues facing those living with HIV/AIDS in developing countries.

In 2003, the GAJE Lecture was delivered by Dora Byamukama MP, a GAJE member and Member of Parliament from Uganda. Ms Byamukama spoke on 'Globalisation from an African Perspective'. She also addressed law students at La Trobe University in Victoria, and the delegates attending the 2003 Commonwealth Legal Conference in Melbourne.

A significant outcome of the GAJE Australasian Regional Conference has been the establishment of a Refugee Casework Group. The group was established by University of Sydney law students, and now consists of over 170 volunteers. The majority of volunteers are University of Sydney law students, but law students from the University of New South Wales, the University of Technology, Sydney, students from non-law disciplines and a small number of professionals are also involved. Cases are referred to the group by refugee advocates and refugee organisations. The work of the group is multifaceted, and includes:

- initial case assessment;
- research, case preparation and processing under the supervision of a registered migration agent;
- refugee case observation and summary for lawyers and NGO's working with refugees;

- assistance to refugees incarcerated at the Villawood Detention Centre;
- public for a designed to raise awareness of issues relating to refugees.

Conclusion

At the meeting in Sydney in 1996 to discuss the formation of a global partnership, the focus was on an organisation which would promote socially relevant legal education. While this remains a core activity of GAJE, the organisation, as the discussion above illustrates, has become much more than a partnership of legal academics. An organisation is simply a manifestation of its members, and our experience has been that the promotion of social justice through legal education is not enough. Promoting access to justice in tangible ways has become a core activity of the organisation.

In 2000 I wrote,

GAJE is in a very early stage of development and, like all newborns, its survival is a key concern to those present at its inception, gestation and birth. It faces many challenges, but those attending the inaugural conference left feeling confident that it will continue to grow and mature.¹⁸

GAJE certainly has grown and matured. In 2004 GAJE members will gather in Krakow, Poland, for the Third Global Conference. The world has changed drastically since the launch of GAJE in 1999. Sadly, those changes have not been for the better, particularly for those living in less affluent regions of the world.

I have learned from my involvement in GAJE that global partnerships to promote access to justice are possible. The advent of the internet and electronic mail has facilitated communication

¹⁸ L McCrimmon, Transforming Legal Education into Justice Education: GAJE" (2000) 76 *Reform* 48 at 106.

to an unprecedented degree.¹⁹ The harnessing of the enthusiasm and energy of people who have not succumbed to the impotence engendered by cynicism, makes what appears to be insurmountable, possible. Interaction with dedicated individuals from different cultures, ethnic backgrounds, religious affiliation, and economic status, makes it clear that we are characterised more by our similarities than by our differences. At the risk of ending on a cliché, when people come together in the cause of social justice, good things happen. Global partnerships to promote access to justice are not just worthwhile, they are essential in this global climate characterised by fear and uncertainty.

¹⁹ The facility of e-mail and Listserves is not without its drawbacks. Computers owned by those in developing countries are particularly susceptible to computer viruses, which can cause many headaches for Listserve members.