



International Rule of Law Work

PRO BONO AND TEACHING - FROM
CLINICAL TEACHING TO ESTABLISHING
A LARGE FIRM PRO BONO PROGRAM

*By Marc Kadish**

I was a clinical professor at IIT – Chicago Kent College of Law from 1979 through the spring of 1999. I taught in Kent’s fee generating criminal defense clinic. I also taught one of the regular sections of Evidence. In June 1999, I joined Mayer Brown LLP to establish the firm wide Pro Bono Program. My position was designed to combine pro bono and litigation training. I was the Director of Pro Bono Activities until the end of 2015. My title is now Pro Bono Advisor. I have no administrative responsibilities for the operation of the pro bono program. My current practice is entirely pro bono and is primarily in criminal defense, immigrant and inmate civil right matters.

RULE OF LAW PROGRAMS

Shortly after joining the Firm, one of the senior corporate partners asked for my assistance in opening several pro bono matters. He was active with a program established by the American Bar Association called CEELI (Central and Eastern European Law Initiative). He was involved in drafting corporate statutes in several Eastern European Counties. I knew nothing about CEELI or formal rule of law programs. But since Mayer Brown had offices in Europe, I thought that this might provide me with the opportunity to establish pro bono projects for those offices. My first visit to the London office was in conjunction with an invitation to give a speech at one of the first pro bono conferences to be held in England.

Continued on page 43

**Mr. Kadish graduated from Rutgers Law School in 1968. He spent a year in Detroit as a VISTA lawyer. In 1969 he received a Reginald Heber Smith Poverty Law Fellowship and moved to Chicago. While a Clinical Professor at Chicago-Kent he taught ethics classes to commodity traders at the Chicago Mercantile Exchange and the Chicago Board of Trade. He established and taught a course at Northwestern Law School called “Large Firms and Pro Bono.” He has spoken at many law schools and conferences about pro bono work. He is currently a member of the Board of Directors at the Lawndale Christian Legal Center, a member of the Advisory Board at the National Immigrant Justice Center and is active with the Center for Practice Engagement and Innovation at Northwestern Law School.*

He established Mayer Brown’s “Seventh Circuit Project” which has accepted over 170 pro bono appeals in the Court. Together with retired Magistrate Judge, Morton Denlow, they established the Settlement Assistance Project, a limited representation program, to assist pro se litigants in resolving their legal claims.

International Rule of Law Work

Continued from page 42

Later that year I was introduced to Steve Austermiller, a former Chicago lawyer, who was heading the ABA ROLI (CEELI had evolved into Rule of Law Initiative) office in Zagreb, the capital of Croatia. While in Croatia on a family vacation we met Steve in Zagreb. Steve and I traveled to the firm's office in Frankfurt where we put on a program on pro bono and rule of law initiatives. Steve and his family eventually moved to Phnom Penh, the capital of Cambodia, to continue his rule of law work. In 2009, he invited me to participate in a trial advocacy program for undergraduate law students. The program continued annually until the grant ended in 2014 and the Cambodian government ceased cooperation with law reform programs.

In 2011, after the Cambodian program ended, I was invited to visit the Asian University for Women in Chittagong, Bangladesh. That was also the year that I later returned to SE Asia to participate in a two week ABA-ROLI sponsored trip to Vietnam. In 2015, Kent Law School asked me to teach a two week course on international human rights law to judges and bar leaders in Bangkok.

In 2015, I was invited to speak about clinical legal education and pro bono at a new law school in Paris. It had been organized by Jean Philippe Lambert, Managing Partner of the Paris office. He wanted to encourage the use of the Socratic Method and the development of clinical education and pro bono in the French University system. During that same trip I traveled to Brussels to speak at a class in a Belgium University. The class was taught by a partner from our Brussels office. Again both teaching opportunities allowed me to speak at our Paris and Brussel offices.

Steve Austermiller and I kept in touch. Eventually he and his family returned to the United States. He is now the Deputy Director of the Rule of Law Collaborative at the University of

South Carolina. He asked me to participate in a rule of law program in Yerevan, the capital of Armenia. Vance Eaton, an Assistant United States Attorney in Puerto Rico, Nick Mansfield, Director of Legal Programs from the East-West Management Institute, Steve and I worked with several Armenian law professors to produce written materials and lectures on three modules: 1) the presumption of innocence and the concept of guilt beyond a reasonable doubt; 2) electronic evidence; and 3) cybercrimes. In addition I led a workshop on judicial management of media involvement in covering trials. The participants were Armenian judges, prosecutors and investigators. The program took place at the Armenian Academy of Justice from October 3rd through 9th.



THE PROGRAMS - WHAT YOU TEACH AND WHAT YOU LEARN

Cambodia

Each overseas experience enabled me to learn something about the host countries history and culture. In Cambodia I learned about the Khmer Rouge genocide. I visited one of the Killing Fields where human skulls were heaped in a pyramid. Exposed bones were scattered all around. I spent an entire afternoon in the Tuol Sleng

Genocide Museum where torture devices were still present along with photos of the torture victims.

After the 2009 program, Steve and I invited Matt Rooney, a now retired Mayer Brown litigation partner, to participate in the program. One year, students and a professor from Northwestern Law School's International Travel Program were in Phnom Penh at the same time as our program. They helped us run the program. We introduced them to Steve's assistant, a Cambodian lawyer. The connection led to her receiving a scholarship to attend the LLM program in international human rights at the school.

The trial advocacy program was designed to introduce the university students to the adversarial system of justice. We used the famous film, "To Kill a Mockingbird" as a teaching device. We showed portions of the film to demonstrate how directs and cross examinations and closing arguments take place. The students participated in a short mock trial involving an arrest for drunk driving. We asked them to vote on whether the prosecution had proven their case.

Continued on page 44

International Rule of Law Work

Continued from page 43

We also asked them to act as jurors to determine whether Tom Robinson, the defendant, was guilty or innocent. They found him not guilty. They were very disappointed to learn that the jury in the movie found him guilty. They were concerned that if Tom could not find justice in the United States how could the system lead to justice in Cambodia. The subsequent discussion permitted an examination of sexual assault charges, changes in the jury system so that twelve white male farmers could no longer constitute a jury. It also permitted us to explain that Atticus Finch represented the defendant pro bono and that he was willing to represent a poor defendant in a controversial case in the south during the Depression. We asked them to note that the black citizens who were relegated to the balcony stood in respect to Atticus as he left the courtroom.

Bangladesh

One of Mayer Brown's long standing pro bono projects has been transactional work on behalf of the Asian University for Women. The school is an independent regional institution dedicated to women's education and leadership development. To reach the University, I flew from Phnom Penh to Bangkok and then to Dhaka. From Dhaka I flew to Chittagong. Flying into the airport I noticed a large number of old oil tankers sitting off shore. I remembered a story from the CBS show "Sixty Minutes" which explained how these ships constituted the basis of the country's steel industry. The ships were run aground and dismantled by acetylene torches by workers with no protective clothing – not even work boots. There were frequent casualties because of the oil residue at the bottom of the ships. The story brought unwanted publicity but no changes. The workers did not receive work uniforms, nor were their survivors provided any compensation. The response was to put up large walls to hide the industry from the public.

I spent three days at the University sitting in on classes and

meeting with administrators. I made a presentation on pro bono and international human rights. I even met one of the students who had participated in one of the Cambodian trial advocacy programs. I returned to Dhaka to meet with judges, bar leaders and law professors. The time spent in Chittagong and Dhaka exposed me to the extreme poverty and class differences that existed in both cities.

Vietnam

This was an educational program designed to observe the development of legal aid programs in Hanoi and the countryside. We spent six days in Hanoi, and two days in Ho Chi Minh City. We met with leaders of the Vietnamese Bar Foundation, faculty

members from two law schools and members of the Judicial Academy, a government agency in charge of educating lawyers and judges. We also visited a clinical law program at one of the law schools in Hanoi.

Opposition to the war had helped forge my political identity. I had no idea how I would react to daily life in Hanoi and Ho Chi Minh City. Meeting with Vietnamese lawyers my own age in some of our informal dinners, I was curious about their experiences during the war. They did not want to dwell on the subject. A few of them had fought in the war and had been wounded. While the war remains a topic of concern to me, it was the past to them.

Mayer Brown has offices in Hanoi and Ho Chi Minh City. We visited the office in Hanoi. After the program ended I remained in Ho Chi Minh City to make a presentation at our office which is a ten minute walk from the location of

the former Presidential Palace.

Bangkok

This was the trip sponsored by Chicago - Kent Law School. The professor who normally taught the class was unavailable. Teaching a formal class on international human rights was more intensive than any previous programs I had participated in. I had to develop a syllabus and materials for a two week class. I had to give a final exam and grade the papers before I left.

My most memorable classes were the two where we discussed genocide. For the first class we watched parts of the movie





International Rule of Law Work

Continued from page 44

“Judgment at Nuremberg” and discussed the definition of genocide and the Holocaust. For the second class we discussed the Armenian Genocide which took place during WWI. The class was divided into three sections: the “Armenian diplomats” argued that the actions of Turkey fit the definition of genocide; the “Turkish Diplomats” argued that it was not genocide; the representatives of the non-governmental human rights organizations had to take a position – was it genocide or the product of the resettlement of Armenians during WWI.

Armenia

I knew little about Armenia, save for the Genocide and the dispute with Azerbaijan about the disputed territory of Nagorno-Karabakh. It is a young country, which was established after the dissolution of the Soviet Union in 1991. While it is a young country, it is built on the foundations of an ancient culture. It is landlocked and wedged between Azerbaijan, Turkey, Iran and Georgia. It is close to Russia, Iraq and Syria. Its total population is about the same as Chicago. I knew even less about the capital, Yerevan. It is a modern city with a population of about a million residents.

The program took place at the Academy of Justice, which was funded by the U.S. government. There is a large fairly new American embassy in the city. The embassy was involved in the program. The Armenian law professors who had participated in the drafting of the materials were also present. Of all the programs I have participated in this was the most interactive and sophisticated despite the necessity of using a translator. I was very impressed with the participants – especially some of the female judges.

Armenia follows the civil law system of justice. Judges play an active role in the investigation of cases. I still find the division of labor between a judge and a prosecutor to be confusing. But of course that stems from practicing for over 54 years in the American adversarial system. There are no juries. The Armenian constitution and code of criminal procedure contain clauses on

the presumption of innocence and the burden of persuasion in criminal cases. But it was initially unclear to me whether the burden was guilt beyond a reasonable doubt. After Zoom discussions with the Armenian professors I learned the burden was the same as in the United States.

Since the presumption and burden were assigned topics, I wondered how they would be applied to real cases in the country. During the Summer I tried a two witness commercial burglary case at 26th street. The evidence was such that if there had been a guilty verdict I would have surrendered my license. But it proved to be an interesting way to see how the Armenian judges and prosecutors would rule. We discussed the case without revealing the judge’s

decision. We had the transcript translated into Armenian. The judges voted. Their verdict was the same as the judge at 26th Street.

Conclusion

Overseas rule of law programs and pro bono work are an excellent way to visit interesting places in the world. My role at Mayer Brown provided me with these opportunities. Even family vacations involved some interactions with my interests and my work. On a safari vacation in Africa we spent an afternoon meeting with a lawyer working for the Rwanda Tribunal. That did not

lead to a pro bono project but it provided a connection so I was able to help a Summer Associate take a sabbatical from school to work at the Tribunal. In return he wrote an article for our magazine, “Pro Bono Update,” on his experience in investigating a massacre at a church. The opportunity to speak at the law school in Paris provided an opportunity for my wife and I to visit the D Day sites in Normandy. A trip to Bangkok involved a visit to the Bridge on the River Kwai and to see the military cemetery where the soldiers who built the bridge were buried.

You will not become wealthy by teaching at the rule of law programs. You will receive a modest stipend and reasonable reimbursement for hotel rooms and meals. But you meet interesting people who are sincerely interested in developing the rule of law in their countries. You develop a lasting interest in events in the countries you have visited and some lifelong friendships.

