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Innovative courses explore legal issues

Northern exposure
International labor law course crosses the border for UB Law and Canadian students

Travel is broadening, it is said—even if that travel is only a couple of hours' drive up the Queen Elizabeth Way to Toronto. Americans and Canadians know so little of each other's cultures and mind-sets that even a few hours face-to-face can change people's thinking forever.

That has been the experience in a new course on international labor law taught by Professor James Atleson. The UB Law course, which covers such areas as international labor standards and workers' situation under NAFTA and other transnational trade agreements, parallels a course taught at Osgoode Hall Law School, York University, Toronto. And four times in the semester, the two classes meet—twice in Buffalo, twice in Toronto—to work on model problems and learn firsthand what it means to work with citizens of another country.

"Harry and I had talked about doing something like this on and off for 20 years," Atleson said of his counterpart in Toronto, Professor Harry Arthurs, an old friend who formerly served as dean of Osgoode Hall Law School and president of York University. "Both of us think that there is an artificial separation between domestic law and international law."

The UB Law course covers several facets of international labor law, including the North American Free Trade Agreement; the International Labor Organization, a United Nations agency that has almost 200 conventions governing labor practices around the world; the effects of labor laws on women, children and immigrants; the effort to create an international set of labor standards; voluntary corporate labor standards; and the role of unions in supporting workers internationally.

What takes the course of study beyond the classroom, though, are those trips across the border. Atleson rents a 15-seat van for the trip, and says ruefully, "Given the traffic to Toronto, I am sorry we did not do this 20 years ago."

In the fall semester's meetings, the U.S. and Canadian students played parts in a labor negotiation among automaker management, the United Auto Workers union and that union's Canadian counterpart.

"The question for the unions was, could they overcome their mutual suspicion and operate together? Would it be in their interest to bargain internationally?" Atleson said.

In the second problem, students acted as delegates to the International Labor Organization, representing government, management and labor of the three NAFTA countries (the United States, Canada and Mexico)—nine groups in all. At issue: whether the countries have enough in common to propose that the ILO establish a convention governing a code of conduct for transnational corporations. "What it highlights is the differences in these three countries, not just the differences among labor, management and state," Atleson said.

"The students are astounded every year to discover how differently Canadians think," he said. "They do not think much about Canada even though we are right next to the border. The interaction among the students has been wonderful. We do a lot through e-mail, but there is really no alternative to face-to-face meetings."

In the future: the possibility of joint class sessions through a television hookup.

Arthur's, the Toronto professor, agreed that the face-to-face meetings opened the students' eyes—less so, though, for the Canadians, he said, because Canadians are used to trying to understand what the superpower to the south is saying. "Mexico, though, is a bit of a mystery for both of us," he said.

"There seemed to be good spirit among students from the two schools," he said. "It is not a social event, it is a learning exercise. They are learning not simply that things are different elsewhere, but that we live in a big interconnected global system, and that raises important economic, social and legal questions. They are learning to cope with questions that crop up in the global economy."

"Even if you never leave your hometown, you are constantly exposed to the global economy."
Jailhouse Lawyering course examines constitutional law as it is applied in prisons

By Sue Wuetcher

Teresa Miller is well acquainted with the U.S. prison system, but not because she has spent time behind bars. The associate professor of law at the University at Buffalo has taught a course on international human rights to female inmates in Albion Correctional Facility, worked with prisoners at Attica, and served as a volunteer lawyer with a prison project in Miami.

Miller is intensely interested in prisoners’ rights and the accessibility of legal help within the system. The Harvard University law graduate is teaching courses at UB Law School on “jailhouse lawyering” and prisoner law, which looks at constitutional law as it is applied in prisons.

“A lot of inmates want help with appeals, assistance in writing writs of habeas corpus or assistance in challenging their living conditions,” says Miller, who is working with students in the jailhouse-lawyering course to rewrite a curriculum to teach research and writing to prisoners.

Any inmate who has the legal knowledge to assist other prisoners with their cases is considered a jailhouse lawyer. Often, paralegals or attorneys volunteer to teach those who want to provide legal assistance to other inmates, Miller says.

“There are great ‘attorneys’ in prison,” she says. “They have a lot of time to sharpen their knowledge of the law.” One of the goals of her course, she points out, is to include on her Web site http://www.ublaw.buffalo.edu/fas/miller/prisonlaw/ the updated curriculum so that any law student in the state can view it.

“The idea is to encourage more lawyers to volunteer to teach legal research and writing to inmates,” she says.

While Miller is interested in the legal aspects of the prison system, her work also delves deep into the social and economic ramifications of incarceration.

“One in every 155 (people) is in prison,” Miller says. “That’s a staggering statistic.”

Even more frightening to her are the numbers of African-Americans who are incarcerated.

“One in every three black men between the ages of 20 and 29 is in jail, prison, on probation or parole,” she says. “I’m interested in that (statistic) as an African-American. It’s very hard to find an African-American who doesn’t know someone in prison.”

The trend toward incarceration, Miller says, is deeply disturbing. “The response has not been, ‘How do we downsize the prison population?’ The response is, ‘How do we make it more cost-effective to incarcerate all these people?’ ” she says. “That, to me, is a very cynical response.”

Miller takes issue with the way prisons are “warehousing” violence within the system. “We throw (inmates) together into a very violent prison subculture, and we don’t protect them and we let them prey on each other,” she says, noting that this class of “undesirables” is up against the notion that they are a part of the country’s “waste management.”

“There is no longer a stated goal of rehabilitation,” Miller says. “The idea is just not popular. The warden and the corrections officers rely on the violence to keep prisoners in check.”

Drugs, contraband, gambling and the sex enslavement that pervade the prison system contribute to the violence, Miller adds.

Prisons today, she says, are “not about lofty goals, just how to deal with the undesirables.”

Miller spent a year working with inner-city youth at the Barnyard Community Center in Miami, where, she says, she witnessed the toll prison takes on struggling communities.

“That’s really when I began to see intergenerational costs of incarceration,” she says. “In some families, fathers had done time and were marginally employed. The older brother was doing a state bid, the next-younger brother had already been in the juvenile system. It goes down to the 6- or 7-year-old who has been caught shoplifting.”

Miller says that incarceration will be one of the biggest issues facing the country in the next century, particularly how to cope with the consequences of the system the country has created.

“Prisons create the reality that we live,” she says. “The division between inside and outside is completely fictitious.”

Prisons, she says, aren’t turning out better citizens, and families and friends of those doing time are sharing the consequences.

“They are not creating better communities, that’s for sure,” she says.
Miller uses Web site to teach

As colleges and universities nationwide explore the possibilities of the Internet, they could look to Professor Teresa Miller's Web site for inspiration.

Her students already do. The site, www.ublaw.buffalo.edu/fas/miller/prisonlaw, serves a double purpose: as a repository for student materials such as reading texts, images, sound files, editorials, exercises and Internet links; and as a resource for people wishing to join Miller's Jailhouse Lawyering Project, which seeks to teach legal research and writing to prison inmates.

"You don't have to be an Internet nerd to get a lot out of using the Web," the professor insisted. "It's a style of teaching that I have adopted. The Web site expresses the way I have chosen to interact with my classes by pulling in a lot of mass-media sources. The syllabus comes up, with the topic of each lecture and sound bites that I have drawn from Pacifica Radio and National Public Radio — sound bites that start discussions. Some of the lectures have images attached, because there are concepts I want my students to grasp that defy description. And there are links to different agencies, so you can find tons of information."

The site's striking opening page depicts a shirtless prisoner grasping the bars of his cell, staring out at the viewer. Click further into the site and you will find syllabi, course descriptions, discussion boards and assignment lists for Miller's prisoner law and jailhouse lawyering courses, along with driving directions to the county and state prisons her students visit as part of the course, and guidelines on how to act and what to expect in those institutions. One piece of advice: "Avoid wearing clothes that are in poor taste (Property of Alcatraz T-shirts, for example) or that draw attention to the female anatomy."

Elsewhere on the site is a schedule and capsule summaries of a related film forum, and a grab bag of features including a glossary of prisoner terms, prison trivia, news articles and prison-related links.

Still in development is an ambitious goal for the Jailhouse Lawyering Project: an online manual to be used in teaching legal research and writing to prisoners. Miller noted that the state Department of Corrections is required to allow inmates access to the courts, and research and writing programs help satisfy that requirement.

When it is complete, Miller said, this section of the site will include lists of all New York State prisons and their key personnel, a sample letter to send to initiate a teaching program, and the teaching manual and course materials necessary for such a project. Currently, she says, only UB Law and New York University Law School send students into the prisons to teach research and writing; the hope is that more law schools will get involved if the materials are made readily available to them.

"We are trying to make it easier for students who want to teach research and writing to prisoners to do so," Miller said. "You do not have to be a prisoners' rights advocate to want to see an improvement in what prisoners put before the courts."
Watching out for you

The new State Counsel Clinic, a different take on public service

It is no secret that UB Law School is widely known as a place that trains public-interest lawyers. Public interest, however, can be defined in ways other than working for Greenpeace and the public defender’s office.

A new UB Law endeavor, the State Counsel Clinic, is trying to get the word out that public service can be defined in an exciting and interesting area of practice: government law. The clinic is headed by Barbra A. Kavanaugh, a former member of the Buffalo Common Council who is now assistant attorney general-in-charge of the Buffalo regional office of state Attorney General Eliot Spitzer.

It’s a small effort — it started in the fall 1999 semester with four students — but it exposes participants to the enormous and complex world of government practice. Whether it is the case of a person making a claim against the state, or a prisoner suing over an issue of his treatment, the local office of the attorney general seeks to protect the interests of New Yorkers.

In the clinic, students work exclusively on civil cases, though the office does handle some criminal matters. They work closely with staff attorneys on their cases, sometimes several at once. Because “student practice orders” are issued, they can appear in court, with a staff attorney, to represent clients.

It is a real-world education with some very practical academic benefits as well. “I think it gives the students the best research and writing experience they could have,” Kavanaugh said. “Their academic experience is better for having been here.”

In addition, she said, “the Law School and the students there are a tremendous resource for our practice. They inject enthusiasm and energy that sometimes lawyers who have been doing the same thing for 15 years lack. The students we have this year are a particularly talented and effective group. They all have two or three assignments at a time. These are substantial assignments, not ‘Go to the library’ or ‘File this.’ I review and receive their written assignments, and we meet for one hour a week in my office, almost like a seminar.

“In addition, our calendars are up on the board and our students are encouraged to go over to court and watch trials.”

One student who has found the State Counsel Clinic to be a valuable experience is second-year student Rose McMorrow, a Syracuse native.

“I’ve mostly done writing, such as a motion for summary judgment,” she said. “The argument can address specific issues or the claim as a whole. The attorney general’s office is representing the defendant, trying to get that case stopped from going on to court.”

McMorrow worked on two inmate claims during her tenure with the clinic: one in which a man claimed he had been imprisoned for too long because of a bureaucratic oversight, and another in which an inmate claimed negligence and medical malpractice.

“It was very interesting,” she said. “Working in this area is something I would definitely consider. The attorneys I have worked with have been terrific.”

For Kavanaugh, whose professional career has included stints with Neighborhood Legal Services and the Homeless Task Force, this new aspect of her current position is an energizing one. “I love the process of taking my head and putting it on the students’ shoulders,” she said — “and vice versa.”
Left to right: Amadeo (Joe) I. Cruz '00, Barbra Kavanaugh, Roseanne Mc Morrow '01 and Vincent S. Gregory '01