

Advancing Human Rights through Experiential Learning

Ms Lindsay Ernst

The University of Hong Kong

It's great to be able to share our human rights and social justice clinics with you. As Michael said, I started the refugee law clinic here in November 2009. At that time, it was a very traditional clinic model. Students met with clients, they took testimonies and they wrote legal briefs, and then they attended hearings at UNHCR to represent asylum seekers. Now the UNHCR is no longer the decisionmaker making refugee status determinations as part of the Hong Kong system. Hence, the clinic has changed and the models have changed, but that was the start of how I got involved with human rights clinics here at HKU.

With the Refugee Law Clinic being the foundation for human rights clinics at HKU, I would like to look forward from this base to a conversation I had about four years ago, after the Refugee Law Clinic had been successfully running for many years. One of my colleagues said to me, "In the state of the world that we're in, I wonder if human rights has failed." You can maybe imagine this person was American, what time that was, and why that person made the comment. But it really stuck with me and it made me think, "All right, so I've put my career in the space of human rights, and if we've failed, then there's a lot of reflecting to do." So the theme of this conference of reflection really has hit home with me, and has been something that I've been thinking about now, with that comment of if human rights has failed, then what am I doing teaching my students about human rights.

So today what I want to talk to you about is first, our experiential learning programmes which are now all within the Human Rights Hub here at HKU. And then I want to use our new Disability Rights Clinic to walk you through the process of how I reflected, and changed my thoughts in terms of where we are with human rights, and what we're doing in experiential learning. For me, this also involved a process of thinking about how our clinics and our experiential learning opportunities embodied the subject matter that we were teaching. So that wasn't just that I was teaching the students knowledge, but we were also modelling and living and creating, making the Human Rights bodies living documents in the way that we structured the clinics.

Here at HKU, the first clinic is at the bottom of this slide, the Refugee Law Clinic which I just described to you. After that clinic, we developed the Human Rights in Practice course which is similar to Street Law, which I'll go into a little bit later on. In that class, most of the students are developing and teaching Community Legal Education. We also have Human Rights Investigation Lab, which I love that Kathleen and Tanya talked about collaborations. That lab, throughout of amazing collaborations that come from clinic networks like this. We partnered with Cambridge, Berkeley, Toronto, Essex and Pretoria, which Amnesty International brought all of us together, and something called the digital verification core. And with that, we were able to launch our Human Rights Investigation Lab, which does open source investigations. Then last year, we launched both the Disability Rights Clinic and the Global Migration Legal Clinic. And as Julienne says "inter-professional", I've always said inter-disciplinary, but I love this idea of inter-professional. The Global Migration Legal Clinic, I co-teach with a colleague in the Business Faculty who is a lawyer, but is in the Business Faculty. And it has changed how my students interact with the material, by having two of us with different professions able to work together. So I'm loving this idea of inter-professional.

So I'm going to go into a little bit more detail now with the Disability Rights Clinic and just walk you through how that evolved here. And how, to me, this really embodies something that I try to incorporate into everything that I teach, which is inclusive communities and modelling the clinics of human rights values and norms. So originally we had the "Human Rights in Practice" course. And you can see here what I've highlighted is very traditional for what you had in the clinic. We had the role of a lawyer, I wanted the programmes to be collaborative, students were going to learn theory and practice, they were going to meet unmet needs, and they were going to talk about the clients' place and the lawyers' role within the international legal system. And then at the bottom, we have "contribute to the promotion, progressive enforcement and internalization of international human rights." Now this is the key component here where I had to keep reflecting back, and saying "what are we trying to do with this experiential learning?" So at the very start of the Disability Rights Clinic, we had a "Client Relationship", an institutional client. But here in Hong Kong, we have PILnet which puts on the Legal Clearinghouse, where they say "here's the problem, does anybody want to work on this?" So when I read this, I thought this sounds perfect for students, we'll develop an informational leaflet for members of Chosen Power, which works with people with learning disabilities. So they can better understand their legal rights. We have pro bono lawyers who want to work with us, they'll help with some legal advice. And students can

create something that's useful, we'll give them purpose and they can take ownership over it, which was a big focus for me, as I wanted the students to be able to have ownership over whatever they were working on.

First, the students met with the members of Chosen Power: these initial meetings allow us to find out what the need is, what is Chosen Power interested in. At that point, Chosen Power pointed us to these articles which we had already read, and said this is what we're concerned about, and this is what we're trying to address. So students learn to identify the need, we thought about the need. Then, as we do in clinics, students went on to say what is the international standard, what does that look like in Hong Kong Law, what does that look like in the practice, and how can I best use the international standard framework, but also make this practical and real in the Chosen Power members' lives. And that was where we started to think about more than just what the client needed, and telling the client what the law was. And that was when we turned to looking at the international standards. We looked at the Convention on the Rights of Persons with Disabilities, the CRPD, we started reading more about the CRPD. We read that the founders said the convention will have an impact on national laws that will transform how people with disabilities can live their lives. And we started to think is just answering this one question for Chosen Power really transformative? Are we really embodying the international norms that we're talking about?

We created this manual. It was great, Chosen Power was happy, we had to refine it a little bit to be easier to read and not have so much text. But this didn't feel like enough, it didn't feel transformative. The students finished a semester, they made a connection with Chosen Power, but they delivered their product and now where was our relationship going? This is the question brought up earlier, "what do you do when you have a client that keeps on going for years and years, but your students leave?" In this case, the students said "What more can we do?" This doesn't feel like we've actually answered their question, and they wanted to stay involved. So we met with Chosen Power and their members, and they said "let's do more, why created this manual and put it on a shelf and be done with it?"

So luckily at that time, I was at a clinic conference and I already knew about Street Law, but was reminded of Street Law. Just in case, I think most people here know what Street Law is, but it's not just giving advice to people on the street, it is not teaching about street signs and the traffic in the street, which I do get these questions. Street Law is community legal education, and this to us made sense. We were going to make

this pamphlet, this legal guide real. So we thought of these terms, empowerment, community, learner-centered and participatory. And then at that point, when we were thinking about Street Law, we also went and said if we're talking about UN documents, we're talking about the Convention on the Rights of People with Disabilities, let's also look and see what the UN says on teaching Human Rights. And this is when we got to the UN Declaration on Human Rights Education and Training. And I bring this up here because it wasn't just to say "make sure everybody knows what the UN conventions are", because that gets us back to the same question that my colleague asked me – "Hasn't Human Rights failed if they're just documents sitting in Geneva? Then what's the point?" And here in this document was when my students and I thought "Maybe this is the key to what we're trying to do - education about human rights." So you can see here, Jen, who's now a pro bono lawyer who provides us with a lot of pro bono assistance from her law firm. She was teaching about human rights. She was teaching about what Chosen Power had asked us to teach about, which was how to participate in clinical and public life. They wanted to be able to vote, and they knew they could, but they kept getting turned away when they went to vote. So we developed, we talked, we did Street Law classes with them about their right to vote, but that wasn't enough. Because according to the UN Declaration on Human Rights Education and Training, we also wanted to talk about education through human rights, which you see here, includes learning and teaching in a way that respects the rights of both educators and learners. I'm not quite sure if you guys can tell from that picture, who the educators are and who the learners are. And again, not just about or through, but we needed to teach about human rights for human rights. So what was the way that we were going to teach human rights? We needed to include empowering persons to enjoy and exercise their rights, and to respect and uphold the rights of others.

So here we have one of the members of Chosen Power, he's now teaching. We no longer have the traditional teacher standing in front of the classroom. We have one of the members engaging in the teaching. Our teaching has come full circle and the clinic has come full circle. So here again, participatory: everyone's engaged. We have another circle, where we can't see who is the teacher, who is the student, everyone's talking about what they want their community to be. We're no longer just looking at words on a piece of paper that says you should be able to live independently and be included in the community, we're involving everyone and discussing what do I want my community to look like, how am I going to advocate for what I want my community to look like, what am I going to do if I'm arrested. A manual

might be fine, but if I don't know how to use manual, and I don't know what to do, that's not okay. So here we are, engaging again, learning how to advocate.

So it got to the end of the semester, and I read my students reflections. And they said, "I took this class because I didn't believe this could be achieved. I had no idea what to expect and I thought it would be absolutely ridiculous or impossible for people with intellectual differences to know and talk about their rights, but now I know that I'm wrong." Another student said, "I don't see the differences the way I used to." And another student said, "I now feel comfortable speaking with people who others classify as disabled." And another student said, "I had fun" or "I know now that people with intellectual disabilities have opinions and can voice them." These same comments were also said by the parents and supporters of the people with disabilities who came to the Street Law class. And so in my own reflection, which I'd like to say, I think, I see, I wonder, or I see, I think, I wonder. In my own reflection, I was thinking I'm hearing the comments from the parents and the supporters, I'm hearing the comments from my students. There has to be something more and that was where the transformative part came. That was my "ah-ha moment". We're not just creating manuals, we're not just interviewing a client, finding out their need, doing a legal research and responding to them. We're getting to know these clients as they started out, as part of our community. And this was when I started to read articles about mutual learning and I also revisited Convention on the Rights of Persons with Disabilities Article 8, which said "States Parties need to promote awareness of the capabilities and contributions of persons with disabilities." My students were no longer looking at this community of people as others, as clients that they were there to serve. They were seeing them as collaborators, as partners, as I might be teaching about the law, but I am learning from this community about their lived and real experience.

At the time, I was reading an article that really made me think, where it says "People need to think a little more about working 'with community.' This means lawyers have to learn how, with all of their skills, to journey with the community." This journey has to involve the community really getting a sense of who they are, in the sense of beginning to understand their own power. So my students saw themselves as part of this community, and the community started to see my students as part of them. So to me, as I was thinking through what the value in the human rights face was of experiential learning, it was hitting home each time we met with Chosen Power that this was the opportunity for my students to feel empowered for the people they were working with to feel empowered, and for everybody to start to feel part of the same

community. In working with the community, the wisdom or the knowledge of the lawyer does not outweigh the wisdom and knowledge of the community, about itself especially. In this slide we can see one of the very first classes we now do every semester with Chosen Power, where the law students are the students of Chosen Power. They go to Chosen Power's weekly meeting and they learn something from Chosen Power. So we flip it on its head and say you are a law student, you are in a clinic, you are providing legal services, but you're not yet, because I don't care how much law you know. If you don't know the community, then you don't necessarily know how the law is going to impact and affect that community, and what that law actually means when you play it out. So just you can see here, those are the students learning from the community members. Again, a mix of students and community members, lots of smiles and lots of happiness as they're working through it.

So in the end, when I thought back on my colleagues saying where we have gone wrong with human rights, I think we forgot about the people, and we forgot that it's not just law and it's not just rights, we're part of a community. And I really think the Convention on the Rights of Persons with Disabilities is transformative, and this is what it took for my students and I to remember that we are part of a community, and our community has a voice that can teach us just as much as we can teach them about the law, and working together we're going to be a lot stronger. So that was my "ah-ha moment" with my students. I'd like to say to them "Where did you feel most uncomfortable?" "Where did you feel that you couldn't get through this?" Because that's the point where we're learning, that's the transformation. And I love that you also use the word transformation, because to me, as a law student, the reason why I love clinics is because they're transformational. You're put into a situation that is so hard, you don't think you can get through it, and you do with the support of the people around you. So the other part for me when I think about next steps is I look at this interdisciplinary element, which now I'm going to call inter-professional. And I think how do we continue to build this community, how does our clinic community continue to work together, how do we involve students in that, and how do we involve all the clients that we work with, whether it's through tech, whether it's through different platforms. We're also doing an online client service right now with migrant domestic workers, and it terrifies me because there's hundreds of questions that come in every day, and it feels not so much like a community when you're just talking to people online. But I'm working with my students, I am keeping in our minds the notion that this community might have different platforms, it might change, but how do we continue to keep that an essential element of how we grow our experiential learning. But that being said, there are the members of Chosen Power from the first time they

did it, participated in Street Law. They've been coming back now for Street Law for five years. And because of doing street law with them, we've developed into our own standalone Disability Rights Clinic, which now has a lot of input and initiative from Chosen Power driving where we go, which I love to keep them in my mind, and bear in mind that they are just as much our teachers as we are theirs. Thank you.

HKU Faculty of Law