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SERBIA RULE OF LAW PROJECT

**QUARTERLY REPORT
JANUARY 1 – MARCH 31, 2005**

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Quarterly Report
Serbia Rule of Law Project
Reporting period: January 1 – March 31, 2005
IQC Contract AEP 00-00-00011-00, Task Order No. 809

This is the fourth quarterly report for the Serbia Rule of Law Project, covering the period from January 1 to March 31, 2005. It is prepared in five sections: Progress Summary; Overall Project Development; Project Activities; Financial Status; and Obstacles Encountered.

A. PROGRESS SUMMARY

This quarter, the primary accomplishments include:

- One new local staff person was hired, a Staff Attorney for Legal Education;
- The assessment team continued its diagnostic with data collection from case files and follow-on interviews with judges, court staff, prosecutors, and attorneys;
- Four members of the assessment team, in addition to representatives from the Supreme Court and Ministry of Justice (MOJ), participated in a two-day advanced training on SPSS (Statistical Package for Social Sciences) on January 10-11;
- An Information Meeting for updating donors and stakeholders on project activities was held on February 2;
- New courses on Legal Research and Writing were implemented at the Business Law Faculty and Belgrade Law Faculty, with the assistance of Prof. James Moliterno of William and Mary Law School;
- Also with the assistance of Prof. James Moliterno, NCSC began development of new course on Legal Ethics, which will be introduced in law faculties in Fall 2005;
- Prof. Jan Winter worked with NCSC's local consultant, Ms. Ana Knežević, at the Novi Sad Law Faculty from February 14-19;
- The Serbia Rounds of the Jessup International Law Moot Court Competition were held on February 18, 2005, with three law faculties participating and one law faculty team attending as observers;
- A seminar on Teaching Methods was presented by Prof. Gail Hammer and Kevin Ruser to professors and teaching assistants from the Belgrade, Novi Sad, and Business Law Faculties on February 24-25;
- With funding from the project and the US Embassy, the winning team from the Serbia Rounds of the Jessup Competition, Novi Sad Law Faculty, traveled to Washington, DC on March 24 to compete in the International Rounds of the competition;
- Two caseload management seminars, "Case Management and Court Performance Standards" and "Case Management Action Planning," were held on February 3-4 and March 24-25 respectively for court representatives from Belgrade, Kragujevac, Novi Pazar, and the Supreme Court;
- The first project newsletter was released in March; and

- A number of meetings were held this reporting period for the purpose of coordinating and planning activities with the various courts, law faculties, USAID, local counterparts, implementing partners, and other donor agencies.

B. OVERALL PROJECT DEVELOPMENT

Project Planning and Management

A number of consultants were proposed and approved by USAID this quarter for activities relating to both court operations and law faculty improvements. These activities are described in detail throughout this report.

After advertising in two local newspapers and a series of interviews, NCSC hired Ines Cerovic as Staff Attorney for Legal Education effective March 21, 2005. Ms. Cerovic has passed the bar examination and her experience includes work as: Judge Associate at the Belgrade District Court; volunteer at the Belgrade Centre for Human Rights; Assistant to the Head of the Office of former Prime Minister Zoran Đindić; and, most recently, Legal Assistant for the Office for Security and Cooperation in Europe (OSCE).

C. PROJECT ACTIVITIES

Regular meetings with USAID, local counterparts, implementing partners, and other donor agencies continued this quarter as outlined below:

1. Initial Assessment of Caseloads and Backlogs

Court efficiency and backlog reduction

On January 10-11, NCSC organized a two-day advanced training on SPSS (Statistical Package for Social Sciences), as a follow-up to the earlier beginning training on SPSS held on December 20-21, 2004. Four members of the assessment team (three of whom are NCSC full-time staff) participated, along with Mirijana Vojvodic, Chief of the Supreme Court Registry Office, and Marija Popovic, from the MOJ's statistics office. This software has enabled the assessment team to analyze the substantial data collected during the diagnostic.

In January 2005, the assessment team continued with data collection from disposed case files in the District Courts in Belgrade, Kragujevac and Novi Pazar, as well as at the Supreme Court. The NCSC team encountered a number of obstacles to finding all of the disposed case files. These problems included: judges and staff on extended on vacation after the holidays; authorizations required from criminal judges to review their case files; case files locked away and inaccessible to other court staff; difficulties in finding other case files within the courts; uncertainties regarding the status of some case files transferred between District Courts and Supreme Courts; and scheduling conflicts.

Despite the difficulties in identifying the remaining data, the assessment team successfully collected the necessary data in time to prepare materials for the second of three seminars on caseload management, “Effective Court Performance: Learning from Experience,” which was held on February 3-4.

Seminar on February 3-4: “Case Management and Court Performance Standards”

In preparation for the February 3-4 seminar, materials were distributed to all seminar participants including translations of two Council of Europe reports: *CEPEJ Framework Programme: A New Objective for Judicial Systems: The Processing of Each Case Within an Optimum and Foreseeable Timeframe* and a Preliminary Draft Report by Marco Fabri and Philip M. Langbroek: *Delay in Judicial Proceedings: A Preliminary Inquiry Into the Relation Between the Demands of the Reasonable Time Requirements of Article 6, 1 ECHR, and Their Consequences for Judges and Judicial Administration in the Civil, Criminal and Administrative Justice Chains*. In addition to distributing them to participants, these materials were also posted on the project website at www.ncsc.org.yu.

The seminar on Case Management and Court Performance Standards was led by Kathryn Fahnestock and Dr. Barry Mahoney at the Palace Hotel in Belgrade. A total of 31 participants from the six project courts and Supreme Court attended, including: three court presidents, twelve judges, three court secretaries, and twelve court registry staff. The objectives of the seminar were to assist court leaders to be able to:

1. Apply basic principles of court performance standards and caseload management;
2. Set appropriate time standards for disposition of cases by case type;
3. Assess court performance against established time standards; and
4. Diagnose causes of delay from the court diagnostic data.

On the first day of the seminar NCSC consultants Kathryn Fahnestock and Dr. Barry Mahoney led sessions on court performance standards, caseload management, case processing time standards, and how these all tie into backlog and delay reduction efforts. At these sessions the participants were also introduced to key findings from the court diagnostic, including comparisons among the courts and areas where delay reduction efforts are most needed.

On the second day Dr. Mahoney discussed: the essential characteristics of caseload management; key questions about managing individual cases and pending caseloads; and key indicators of caseload management effectiveness. Ms. Fahnestock led a presentation on backlog, including possible definitions of backlog and the ways in which backlog may be calculated. This was followed by discussions in respect to the court data on: basic premises of effective caseload management; techniques for successful criminal and civil caseload management; and an introduction to differentiated case management (DCM) and how DCM could be adopted to assist in backlog reduction efforts.

After individual sessions on both days the participants worked on small group exercises addressing specific questions relating to the sessions. Reporters from each group

presented their responses in plenary. The second day concluded with assignment of tasks to be completed by the various court committees in advance of the next seminar, scheduled for March 24-25. The report on the February 3-4 caseflow management seminar is attached at Appendix 3.

Interviews

From February 7-17, the NCSC team developed questionnaires to conduct interviews with judges, court staff, attorneys, and prosecutors to clarify questions arising from the diagnostic and to validate conclusions drawn from analysis of the diagnostic data. Interviews began in the Belgrade courts during the last week of February. From March 2-4, the assessment team visited the Kragujevac Municipal and District Courts and District Prosecutor Office. From March 8-11, the assessment team and NCSC consultant Kathryn Fahnestock visited the Novi Pazar Municipal and District Courts a prosecutors offices. Interviews in the Belgrade Municipal and District Courts will be concluded in April 2005.

Seminar on March 24-25: “Caseflow Management Action Planning”

From March 11-23, the assessment team prepared materials and data for the third of the three caseflow management seminars: “Caseflow Management Action Planning”. New material: *Improving Caseflow Management: A Brief Guide*, was translated for distribution to the participants in advance of the seminar. The material was written by David Steelman, an NCSC consultant and court administration expert who joined the project as a consultant to assist with action planning at the third case management seminar and to assist with follow-up implementation of the courts’ action plans.

The seminar on Caseflow Management Action Planning was led by Kathryn Fahnestock, Dr. Barry Mahoney, and David Steelman at the Palace Hotel in Belgrade. A total of 34 participants representing judges and court staff from the six project courts and the Supreme Court attended, including: four court presidents, twelve judges, five court secretaries and thirteen court registry staff. The objectives of the seminar were to build on the earlier two seminars and assist court leaders to be able to:

1. Produce the first draft of a caseflow management improvement plan for a single case type by the various court committees.
2. Introduce the necessary steps for successful implementation of the caseflow management improvement plans.
3. Introduce the available NCSC’s technical assistance to support implementation of the courts’ improvement plans from April 2005 through April 2006.

On the first day, the participants reviewed caseflow management goals and definitions from the earlier seminars, and were then asked to work in their respective court committees to identify their own caseflow management definitions. These discussions were followed by peer consultations during which each court committee presented its goals and problem definition to the others of the same court level, e.g., municipal courts

in one group, district courts in another. All courts agreed on reducing backlog in their courts through differentiated case management and establishing time standards for various types of cases, e.g., routine versus complex. Based on responses from the courts, discussion ensued on technical assistance available from NCSC during the second year of the project.

Later sessions focused on: implementation of caseflow management plans; identification of key stakeholders; and strategies for governance, coordination, and collaboration. Participants were also asked to identify the impact of current statutes and rules on caseflow management. They concluded that some provisions of the codes and court rules should be changed. A list of recommendations was provided to NCSC by each court, which will be captured in the Year One Final Report.

Each court was asked to present its vision of obstacles and facilitating factors that would affect project efforts to improve caseflow management. Among the most important facilitating factors identified by the courts were: motivating staff for change; education of court staff; implementing good court management practices; a need for more professional and technical assistance; and a need for more judge assistants to assist with the work of the judges. Among the greatest hindrances identified by the courts were: working hours, working conditions, space in the courts, the media, influence of various interest groups, and some provisions of the codes.

On the second day of the seminar, a panel discussion was organized, including panelists: Žarko Stevanovic, President of the Kragujevac Municipal Court; Jasmina Vasovic, a judge in the Belgrade Municipal Court; Sladana Jeremic, Head of the Civil and Criminal Registry Offices in the Novi Pazar Municipal Court; Kathryn Fahnestock; Barry Mahoney, and David Steelman. The discussion focused on challenges to changing local judicial and legal culture and strategies for overcoming those challenges.

At the conclusion of the seminar, the participants received certificates for attendance. A report on the March 24-25 caseflow management seminar will be submitted with the next quarterly report.

Meetings this quarter relating to court operations

Regular meetings with USAID, local counterparts, implementing partners, and other donor agencies this quarter have continued to address consultant assessments to date, implementation of project tasks, timetables, and to ensure effective coordination among projects. Specific meetings are listed below under Donor Coordination and at Appendix 1.

Court Library Assessment

The Court Library Assessment Report is in the final stage of being revised and will be submitted to USAID in April.

2. Law Faculty Activities

Moot Court

Preparations for the Serbia Rounds of the Jessup International Law Moot Court Competition progressed with meetings between the COP and each law faculty team this quarter. On January 28, the COP visited the Novi Sad Law Faculty team, and on January 31, and February 10, met with the Business Law Faculty team to practice oral arguments. On February 1 and 14, he practiced with the Moot Court team from Belgrade Faculty of Law. The Kragujevac Law Faculty team decided in January not to participate.

The Serbia Rounds of the Philip C. Jessup International Law Moot Court Competition were held on February 18 at the Metropol Hotel in Belgrade. The Belgrade, Novi Sad, and Business Law Faculties participated, and the Niš Law Faculty attended as an observer. Judges for the moot court competition represented expatriate attorneys from various international organizations, local judges, and local attorneys. The competition was opened with a speech by the US Ambassador, Michael Polt. At the conclusion, awards were presented by Mission Director Keith Simmons. The Champion Team and Best Memorial Award were presented to the Novi Sad Law Faculty.

NCSC purchased airline tickets for the Novi Sad team and paid the per diem for one Bosnian team member to travel to Washington, DC to compete in the International Rounds on March 24. The US Embassy in Belgrade issued a grant to the remainder of the team to cover the costs of per diem and visas. The Novi Sad team placed 36th out of 105 teams at the International Rounds.

European Union Law

Professor Jan Winter worked with the Novi Sad Law Faculty from February 14-19. He was assisted by a local consultant, Ms. Ana Knežević from the Institute for Comparative Law and who will assist in teaching the first EU Law course at the Business Law Faculty next year. While in Novi Sad, Prof. Winter led three lectures and, with the assistance of Ms. Knežević, met with Dean Olga Cvejic-Jancic; Vice-Dean Rodoljub Etinski; International Relations Director, Bojan Stefanovic; and Prof. Maja Stanivukovic. Discussions focused on future implementation of the EU Law course, in addition to necessary administrative and policy reforms for bringing the faculty in line with EU standards and aspirations. Follow-up activities through the Summer of 2005 will involve development of a week-by-week syllabus of reading materials and assignments for the law students and professors in Serbian, as well as guidelines for professors on teaching plans, weekly assignments, and grading.

The EU Law course will require substantial translations to make essential course materials available in Serbian, and will be under development throughout 2005.

Legal Research and Writing

Throughout this quarter, a series of meetings were held among members of the NCSC team and Prof. Radmila Vasic, of the Belgrade Law Faculty; Zorana Kostic, of the Business Law Faculty, and Judge Radmila Dacic Dragicevic to complete development of the course materials that began last quarter. On February 18, Professor James Moliterno arrived in Belgrade to assist Professors Vasic and Kostic to prepare for the first classes, as well as to answer questions and offer constructive feedback. The course began at the Belgrade Law Faculty on February 21, and at the Business Law Faculty on February 23. NCSC team prepared and bound the materials, which are being provided free of charge to the students at both faculties.

The course at Belgrade is being offered this year as an elective course for credit. Approximately 100 students signed up for the course at the Belgrade Law Faculty. Although two teaching assistants were appointed to assist with the course, it was agreed that 100 students was unmanageable. As a result, the 40 best students were allowed to remain in the course. The faculty is currently contemplating adding more sessions next year.

The Business Law Faculty is offering the first course as an optional pilot course without credit. This semester's enrollment is approximately 20 students.

For Year Two, both the Belgrade and Business Law Faculties plan to make better use of teaching assistants and to consider using the best students from this semester's course to help teach and grade written assignments.

In late February, the COP and Prof. James Moliterno visited the Novi Sad Law Faculty to discuss implementation of the Legal Research and Writing course at that faculty next year. On March 28-29, the COP visited the Nis and Kragujevac Law Faculties with Prof. Moliterno and other NCSC staff to meet with the law faculties' representatives regarding implementation of the Legal Research and Writing course in Year Two at those law faculties. Negotiations and planning with Novi Sad, Nis, and Kragujevac will continue through next quarter.

At the urging of Dr. Craig Dicker of the US State Department's Office of English Language Programs for Southeast and Central Europe, Professors Moliterno, Vasic and Kostic have been invited to speak at a conference on Developing Legal Skills in Prague in May. At this conference they will present the course to representatives of law faculties from other countries throughout Central and Eastern Europe. This conference is being organized in cooperation with The Legal Writing Institute, the Association of Legal Writing Directors, The CEELI Institute, and the US State Department's Regional English Language Office in Budapest. The Serbia Rule of Law Project will provide funds for the two Serbian law professors and one NCSC staff person who helped to develop the course

to attend and to lead the first day presentations on how the project's Legal Research and Writing course was developed and implemented.

Legal Ethics

A new course on Legal Ethics is scheduled to commence in the Winter Semester 2005. Based on the Legal Research and Writing course and a similar course already underway at the Novi Sad Law Faculty, Prof. James Moliterno worked this quarter with representatives from ABA/CEELI and Novi Sad Law Faculty, which has an existing course on Legal Ethics at Novi Sad that NCSC plans to help develop.

The course will examine ethical standards of Serbia, the European Union, various individual European countries, and to some extent the US and other countries from the perspectives of judges, attorneys, prosecutors, and court staff. Like Legal Research and Writing, the Legal Ethics course will be designed to provide the students with a week-by-week course syllabus with reading and writing assignments, along with interactive learning exercises based on real-life scenarios likely to be encountered by them as future lawyers, judges, prosecutors, and/or court staff.

During meetings with the Belgrade, Nis, Kragujevac, and Business Law Faculties this quarter, the COP and Prof. Moliterno discussed implementation of the Legal Ethics course at those faculties in Year Two. Negotiations and planning will continue through next quarter.

Teaching Methods Seminar

On February 1, the Chief of Party met with Prof. Nebojša Šarkic, Vice-Dean at the private Business Law Faculty to plan the Teaching Methods Seminar for professors and teaching assistants. The seminar was subsequently held over the course of two evenings at the Hotel M in Belgrade. Due to a limited number of professors from the Business Law Faculty that agreed to attend, NCSC also invited teachers from the Belgrade and Novi Sad Law Faculties. The Teaching Methods Seminar was led by Professor Gail Hammer, Co-Director of the Institute for Law Teaching at Gonzaga University School of Law, and Prof. Kevin Ruser, from the University of Nebraska Law School on February 24-25. Materials from this seminar are attached at Appendix 4.

Following the workshop, on February 28, Professors Hammer and Ruser visited the Novi Sad Law Faculty to meet with professors and teaching assistants who attended the Teaching Methods Seminar to discuss ways of implementing new methods in teaching discussed at the seminar. Follow-on meetings and activities continued into early March at the Novi Sad Law Faculty, Belgrade Law Faculty and Business Law Faculty, including meetings with deans, teaching staff, and students.

On March 28-29, the COP and NCSC staff met with the Nis and Kragujevac Law Faculties respectively to plan Teaching Methods Seminars at their faculties in May. The

seminar in Nis will be held on May 26, and the seminar in Kragujevac will be held on May 24.

As an example of good teaching methods, NCSC recorded a lecture of Prof. Dragoljub Popovic from the Business Law Faculty. NCSC plans to record more examples of effective law teaching in Serbia over the course of the next quarter for use in future trainings.

Law Faculty Library Resources

Lesley Dingle's law faculty library assessment report and recommendations will be completed in April.

Administration and Curriculum Development

NCSC began negotiations with the Business, Novi Sad, and Kragujevac Law Faculties this quarter for a law professor to work in their faculties during the Fall 2005 semester. This professor will assist with administrative and curriculum reform, and teach up to one course. Discussions will continue throughout next quarter and a Memorandum of Understanding drafted between NCSC and the one to two faculties who agree to participate in this activity.

3. Other Project Activities

Project website

The project website is being updated on a regular basis, both in English and Serbian. The address for the website is: www.ncsc.org.yu. This quarter additional study resources were added, including: project updates; the first newsletter; the Legal Research and Writing course materials; caseload management reading materials; and EU Law resources. An index of relevant Serbian laws in English and Serbian will be added next quarter.

Newsletter

Members of the NCSC team met with Chris Farmer at the Executive Group on a few occasions during this quarter period to discuss design and publishing of the project newsletter. The first project newsletter was issued this quarter, on March 25. The next issue is scheduled for early June 2005. The English and Serbian versions of the newsletter are available on the project website at www.ncsc.org.yu.

4. Donor Coordination

Donor and stakeholder coordination

On February 2, NCSC organized an Informational Meeting at the Metropol Hotel to provide information about ongoing project activities and objectives. Most donors and implementing partners were present including: USAID, CIDA, GTZ, DFID, OSCE, EAR, the Council of Europe, and USAID's Commercial Court Project implementer, Booz-Allen Hamilton. Also in attendance were representatives from the USAID court reform project in Montenegro.

On February 16, a meeting was organized at NCSC's offices with representatives from the EAR's project on mediation, including Mr. Paolo Nicosia, Alex Schwartz, and Monika Nikolic from the Belgrade Law Faculty, to discuss the EAR's plans for mediation. Their work is intended to include the Belgrade 1st Municipal Court.

On March 1, the COP met with representatives from the Serbia Judges Association to discuss future collaboration. The representatives included: Zoran Markovic, President of the Judges Association; Omer Hažiomeric; and Dragana Boljevic. The representatives expressed interest in working with NCSC on a strategy for the judiciary, with a focus on: improving the courts' and MOJ's statistical system; evaluating judges; unburdening judges from administrative work; developing a new role for judicial assistants; and implementing differentiated case management. It was agreed that NCSC and the Judges Association should meet again next quarter.

On March 7, the COP met with Biserka Jevtimijevic Drinjakovic, at IFC-SEED to discuss her work on a public events campaign to educate the public, mediation trainings, and implementation of mediation in the Belgrade 2nd Municipal Court, as well as potential expansion of mediation to other courts.

D. FINANCIAL STATUS

Project accruals for the end of this quarter, as reported in mid-March 2005, are as follows:

CATEGORY	Budget	Projected Cumulative Total	Projected Balance
U.S. NATIONALS	1,246,704	488,576	758,128
TCNs & CCNs	823,379	201,361	622,018
MATERIALS (Other Direct Costs)			
Travel & Per Diem	380,065	169,532	210,533
Differential & Allowances	117,485	39,735	77,750
Equipment	226,400	84,190	142,210
Other Costs	630,268	130,961	499,307
Material Burden	62,294	19,523	42,771
Total Materials (ODCs)	1,416,512	443,942	972,570
TOTAL USN, TCN/CCN & MATERIALS (ODCs)	\$ 3,486,595	1,133,879	2,352,716

E. OBSTACLES ENCOUNTERED AND EFFORTS UNDERTAKEN TO OVERCOME THEM

In January 2005, NCSC encountered minor problems with purchasing supplies, equipment, and some services this month due to the new Serbian law on Value Added Tax (VAT), which came into force at the beginning of the year. All purchases had to be delayed until the VAT exemption issues were resolved, and in some limited cases – such as hotels and cell phone bills – some VAT had to be paid. The Chief of Party and Office Manager, Tanja Stojkovic, attended a meeting at the US Embassy with representatives from the Ministry of Finance on the new VAT rules and procedure. Many issues were resolved at that meeting, although a serious, unresolved issue remains whether procurement for donees, i.e., the courts and law libraries, will be subject to the VAT.

A US policy issue that affected project planning and management this quarter was the decision of the US Government not to cooperate with Serbia's central government until certain individuals still at large were turned over to The Hague for trial. NCSC was asked by USAID not to communicate with representatives from the ministries, including at meetings and seminars, until further notice. Invitations had earlier been sent to the Ministry of Justice (MOJ) and the Ministry of Education and Sport (MOE) inviting representatives to upcoming meetings. As a result, the Chief of Party met with the MOJ

Deputy Minister, Branislav Bjelica, to inform him of the decision. Efforts were also made to inform the Ministry of Education and Sport directly but, not receiving a response, the ministry was advised by letter. Following the meeting with the MOJ Deputy Minister, the Chief of Party appointed a Supreme Court judge to communicate with the MOJ regarding NCSC's meetings and to provide copies of meeting materials.

The Belgrade Law Faculty has announced that it is organizing a large conference on implementation of the Bologna Declaration in Serbia, which will be held in April. NCSC originally proposed in the Year One Workplan to host a seminar on implementation of the Bologna Declaration. However, in light of the Belgrade Law Faculty's plans and because NCSC has not been permitted to meet with representatives of the MOE, it would be more productive to avoid duplication and to support the conference being organized by the Belgrade Law Faculty.

The Chief of Party has been unable to schedule meetings with two law faculties for the purpose of agreeing on a Scope of Work for a law professor to work in Serbia during the Fall semester 2005. NCSC will continue to make efforts to meet and to agree on a Memorandum of Understanding between the project and the law faculties.

APPENDICES

- Appendix 1. Visits relating to court activities.
- Appendix 2. Visits relating to law faculty activities.
- Appendix 3. Report on the February 3-4 Seminar: Case Management and Court Performance Standards
- Appendix 4. Teaching Methods Seminar Materials

APPENDIX 1.

Visits this quarter relating to court activities included:

- On January 11, the COP and Dijana Jelovac visited the First Municipal Court in Belgrade;
- On January 18, the Chief of Party and both Staff Attorneys met with the president of the District Court in Belgrade;
- On February 2, the COP assisted the USAID's project team from Montenegro on a special visit to the division of the Belgrade District Court for Organized Crimes and War Crimes;
- On February 11, the Chief of Party met with President Sinisa Vasic at the Belgrade District Court;
- On February 22 and 25, the assessment team had interviews with judges from First Municipal and District Courts from Belgrade;
- On March 1, the COP met with Judges Zoran Markovic, Dragana Boljevic, and Omer Hadžiomeric, from the Serbian Judges Association;
- From March 2-4, the assessment team had a series of interviews with judges and court staff in both Municipal and District Courts in Kragujevac;
- On March 4, the Chief of Party and assessment team met with the First Municipal Public Prosecutor Mr. Goran Ilic;
- On March 7, the COP met with Biserka Jevtimijevic Drinjakovic at IFC-SEED; From March 8-10, Ms. Kathryn Fahnestock along with assessment team went to Novi Pazar to interview judges and other court staff in Municipal and in District Courts;
- On March 11, members of the assessment team interviewed the Deputy of the 1st Municipal Court Public Prosecutor's Office, Ms. Sofija Radak;
- On March 15, the COP, Kathryn Fahnestock and the assessment team met with the Deputy of the President of the Magistrate Court, Ms. Ivana Vlaovic to discuss future potential activities in the Magistrate Courts;
- Also on March 15, the COP met with Robert Lochary and Ellen Kelly at ABA/CEELI;
- On March 17, a meeting was held with USAID and stakeholders to discuss planning and needs for the justice sector in Serbia;
- On March 24-25, the third in a series of three caseload management seminars was held at the Palace Hotel in Belgrade;

APPENDIX 2.

Visits this quarter relating to law faculty activities included:

- On January 20, 27, February 9, 16, and 22, the COP and Dijana Jelovac had a series of meetings with Prof. Zorana Kostic, Prof. Radmila Vasic and Judge Radmila Dragicevic Dacic in order to prepare materials for the Legal Research and Writing course;
- On January 28, the COP met with Moot Court Team from Novi Sad;
- On January 31, Chief of Party met with the Dean of the Business Law Faculty, Mr. Nebojša Šarkic, as well as with Moot Court Team from Business Law Faculty;
- On February 10, Chief of Party had a meeting with Moot Court Team from Business Law Faculty;
- On February 11, Chief of Party had a meeting with Moot Court Team from Novi Sad Law Faculty;
- On February 14, the COP met with the Moot Court Team from Belgrade Law Faculty;
- On February 18, the Serbia Rounds of the Jessup International Law Moot Court Competition were held at the Metropol Hotel;
- On February 21, the COP, Prof. James Moliterno and Dijana Jelovac attended the opening ceremony of the Legal Research and Writing Course at the Belgrade Law Faculty;
- On February 23, the COP, Prof. James Moliterno and Dijana Jelovac attended the opening ceremony of the Legal Research and Writing Course at the Belgrade Business Law Faculty; later this day the COP and Prof. Moliterno visited Law Faculty in Novi Sad;
- The Teaching Methods Seminar was held on February 24-25, at Hotel M in Belgrade for representatives from the Belgrade, Novi Sad, and Business Law Faculties;
- On February 28, Prof. Gail Hammer, Prof. Kevin Ruser and Milena Piosijan visited Law Faculty in Novi Sad, and had meetings with the Dean, Prof. Olga Cvejic Jancic, vice-dean Prof. Rodoljub Etinski, teaching Assistants Ms. Tanja Lukic and Mr. Bojan Tubic;
- On March 1, Prof. Gail Hammer, Prof. Kevin Ruser and Milena Piosijan visited Business Law Faculty in Belgrade and met Dean Šarkic; later same day, Prof. Gail Hammer, Prof. Kevin Ruser and Dijana Jelovac had a meeting at Belgrade Law Faculty with Prof. Radmila Vasic;
- On March 2, Prof. Gail Hammer, Prof. Kevin Ruser and Milena Piosijan visited one lecture of Prof. Zorana Kostic on Legal Research and Writing and had discussion with her. Afterwards, they had a meeting with Prof. Dragoljub Popovic, and attended his lectures on Constitutional Rights;
- On March 3, Prof. Gail Hammer, Prof. Kevin Ruser and Milena Piosijan visited Novi Sad Law Faculty once more, to attend one lecture, led by the dean, and further on to discuss the teaching methods with both teaching assistants and students.

- On March 4, Prof. Gail Hammer, Prof. Kevin Ruser and Milena Piosijan visited the lectures of Željko Stevanovic at the Business Law Faculty;
- On March 8, the COP held a conference call with Prof. Jan Winter to discuss future development of the EU Law course;
- On March 14, the COP met with Dr. Craig Dicker to discuss NCSC's first-day presentation and role in the Legal Skills Conference to be held in Prague in mid-May 2005;
- On March 18, NCSC organized the video recording of the Prof. Dragoljub Popovic's lectures at the Business Law Faculty;
- On March 21, the COP met with Lynn Malley, who is working on new education programs at the Belgrade Law Faculty;
- On March 23, Ines Cerovic and Dijana Jelovac had a meeting with Prof. Radmila Vasic at the Belgrade Law Faculty;
- On March 28, the COP, Prof. James Moliterno, Dijana Jelovac and Ines Cerovic visited the Law Faculty in Niš, to discuss the possibility of Teaching Methods Seminar organizing and introducing of Legal Research and Writing Course at the faculty;
- On March 29, the COP, Prof. James Moliterno, Dijana Jelovac and Ines Cerovic visited the Law Faculty in Kragujevac to discuss the possibility of Teaching Methods Seminar organizing and introducing of Legal Research and Writing Course at the faculty;
- On March 30, the COP, Prof. James Moliterno, and Ines Cerovic met with the Vice-Dean the Belgrade Law Faculty, Miodrag Jovanovic to discuss future activities at that faculty;
- Also on March 30, the COP, Prof. James Moliterno, and Ines Cerovic met with Prof. Zorana Kostic to discuss future development of the Legal Research and Writing course at the private Business Law Faculty; and
- On March 31, the COP, Prof. James Moliterno, and Ines Cerovic met with Prof. Radmila Vazic to discuss future development of the Legal Research and Writing course at the Belgrade Law Faculty.

APPENDIX 3.

Report on Caseflow Management and Court Performance Standards Seminar Belgrade, Hotel Palace, February 3 and 4 Serbia and Montenegro

This report summarizes the seminar on “Caseflow Management and Court Performance Standards” on February 3 and 4, which was organized by the National Center for State Courts (NCSC) on the USAID-funded Serbia Rule of Law Project. The objectives of the seminar were to ensure that court leaders could:

1. Know and be able to apply basic principles of caseflow management;
2. Be able to set appropriate standards for case disposition times and for the age of the pending caseload;
3. Be able to assess court performance against these standards;
4. Be able to diagnose causes of delay from court diagnostic data;

There were 31 participants from seven courts in attendance, including: three court presidents, twelve judges, four court secretaries, and twelve court registry staff. The participants were divided among seven tables, one table for each court.

FEBRUARY 3, 2005.

Introduction

At the first morning session Kathryn Fahnestock, Senior Consultant to the Serbia Rule of Law Project, led an initial discussion during which the participants were asked to work in small groups to answer the question: “How do you, as a court professional, know if you are doing a good job, i.e., what is one of the things you would see if:

- Your court were working as well as it should; and
- You were able to do your job as well as you would like?”

The answers from the participants were as follows:

Kragujevac Municipal Court

Efficiency can be seen through the reaction of the citizens. If they are happy and satisfied, then we know that we are doing a good job. However, in our opinion, the court is doing a good job if it is able to solve “easy” criminal cases at the first or second hearing and more complex cases within one year. If there are no complaints toward our work, then we are sure that we are really doing a good job.

Novi Pazar Municipal Court

The best confirmation that we are doing a good job is to have an equal number of hard and easy cases in work, and if we are resolving all of the cases in a reasonable period of time. That means resolving cases at the first or second hearing, or if we have complex cases, then within one year maximum. If we have lots of complaints regarding our work we know that we are making mistakes somewhere. Therefore, that can be an indicator of our efficiency.

Novi Pazar District Court

The first indication of good work, especially for parties, is whether we are resolving cases chronologically, in order of receiving them. In such case, parties feel that the court takes care of their rights. Otherwise, parties think that they are not important to the court and society, and they claim that the court is corrupt.

Kragujevac District Court

It is very important to be critical of your own work. The basic criterion is to work according to the law. Also, it is very important to solve cases chronologically.

Belgrade District Court

I will be satisfied with my work if I can resolve cases as I am planning. It is not important only that we resolve the cases in some reasonable period of time, because we should take care about legality and quality of process.

Supreme Court

The only criteria that I am using, as a judge from the Supreme Court, is the ratio between received and disposed cases. If that number is similar I know that I am doing my job correctly.

Belgrade First Municipal Court

The only criteria of our efficiency are statistical reports, from which we can see if we achieved our goals, as well as the lack of complaints toward our work.

Court Performance Standards

The morning session analysis of the purpose of the courts:

1. To do individual justice in individual cases;
2. To appear to do justice—i.e., demonstrate the workings of a fair and responsible judiciary;
3. To provide an impartial forum for the resolution of legal disputes;
4. To protect against the arbitrary use of governmental power; and
5. To establish a formal record of legal status.

This was followed by a presentation on court performance standards, i.e.: “How can courts know if they are meeting their obligations to society and the law?” Court Performance Standards were described as standards that:

- Define court performance, not individual judicial performance.
- “Articulate core values of the court... (and) define excellence.”¹
- “Are intended for purposes of internal evaluation.”²
- Are neither statutes nor rules; they are an administrative tool that any court can use to:
 - Articulate its own vision;
 - Guide its own policies and operations; and
 - Evaluate its own performance.
- Focus on the actual, daily work of the court
- Focus on court users rather than “court insiders.”
- May be established for a single aspect of court performance - such as disposition times for child custody cases - or for the entire range of court activities.

Five Court Performance Areas

- access to justice;
- expedition and timeliness
- equality, fairness and integrity;
- independence and accountability; and
- public trust and confidence.

The participants were then asked to participate in small group discussions to: review the court performance standards in respect to lengthy times to disposition in Serbia; consider whether they are relevant to the Serbian judiciary in respect to the following questions; and to suggest additional standards that could be implemented in the Serbian court system:

1. How do lengthy disposition times affect your court’s ability to perform well in other areas:
 - Access to Justice;
 - Equality, Fairness and Integrity;
 - Independence and Accountability;
 - Public Trust and Confidence?

2. Your team will be assigned one of the Court Standard Performance areas. Please:
 - Review the standards and decide whether they are relevant to the Serbian judiciary.

¹ Dr. Pamela Casey, National Center for State Courts

² Dr. Pamela Casey

- Delete those standards that are not appropriate.
- If there are standards that should be included for the Serbian courts in that area, please add them.

Kragujevac Municipal Court

If the process takes too long the parties get the impression of unfairness. On the other side, we are under pressure from the public to make well-informed decisions. Therefore we have a doubt about court performance.

Novi Pazar Municipal Court

Lengthy disposition times decrease the quality of fairness and public trust. If we resolve the cases within some reasonable period of time, then we can have independent judges not under pressure of the public.

Regarding standards, we don't have anything to add.

Novi Pazar District Court

There is physical safety and access for persons with different disabilities.

The language that is used in the process should be comprehensible to the common people.

If the process takes too long, that does not mean that the judge is not independent or irresponsible, but if we have a long process we lose public trust. The media should be more correct in reporting on the processes.

Belgrade First Municipal Court

A lengthy process has a negative effect on access to justice. Also, a long duration affects responsibility, but not independence. But it does have a negative influence on public trust.

On independence and responsibility, there is a strong influence exerted from the executive branch. That is not good.

Regarding cooperation with other institutions, cooperation with the law faculties is on a low level. This is true of relations with the bar association too. We don't employ the best students from the law faculty; unfortunately we use some other criteria.

Regarding an additional standard, the evaluation of judges' work shouldn't be based only on statistical report. We need to establish a special monitoring body.

Belgrade District Court

A lengthy process has a negative effect on perceptions of justice, meaning that people have doubts about equality, fairness and independence in the courts. The group had nothing to add on additional standards.

Supreme Court

The long duration of cases has a bad influence on access to justice and on court integrity as well. However, from the Supreme Court's perspective, citizens expect a lawful decision. The cases are complex and the parties perceive that those cases need more time. Therefore, the long duration doesn't have as great an influence on public trust.

Court fees should be raised to prevent unnecessary disputes.

Kragujevac District Court

If the process takes too long it doesn't necessarily mean that there is no access to justice. However, it is much better if we prevent long duration of process. Different durations of cases can make an impression that citizens are not equal before the court.

Public trust is also impacted when the Executive talks about cases and possible decision. This can be very dangerous.

Case Flow Management

Following this discussion, Dr. Barry Mahoney, Senior Consultant to the Serbia Rule of Law Project, began a presentation on case flow management:

“Caseflow management is the coordination of court processes and resources to ensure that cases move from filing to resolution in a timely manner.

- It involves the entire set of actions that a court takes to monitor and supervise the progress of cases, from initiation to conclusion.
- It has both micro and macro aspects
 - Organization and management of daily dockets
 - Management of individual cases
 - Management of the court's overall pending caseload
 - Visioning and strategic planning
 - Budgeting and resource utilization
 - Court and justice system leadership
- It requires collaborative and effective actions by both judges and court staff

The core purpose of caseload management is to enable justice to be done promptly and fairly in all cases.”

The participants considered European standards for case flow management such as the *Framework Program* from the European Commission for the Efficiency of Justice (June 2004): “The excessive length of judicial proceedings is a central concern of the Council of Europe.” The participants then reviewed the goals of caseload management, which are common to all courts:

1. Fair treatment of all litigants
 - Similar cases treated similarly
 - Fair processes
2. Timely disposition of cases
 - Time frames can vary, depending on case complexity and other circumstances
3. Adequate time and opportunity for
 - Case preparation
 - Negotiation concerning resolution
 - Consideration of difficult issues
4. Predictability/certainty in case scheduling
5. High quality litigation process
6. Effective use of limited resources
7. Public confidence in the court

Case Processing Time Standards

During the afternoon session Dr. Barry Mahoney led a presentation on “case processing time standards.” Examples of court performance standards from the American Bar Association, one state in the US and one European country were presented for purposes of comparison.

After his presentation participants were asked to divide criminal and civil cases into two large categories: routine cases and complex cases. They were then asked: “If the court has sufficient and appropriate resources and delay and backlog do not exist, how long should the court take to resolve each case type?” If there was disagreement within one group, the participants were encouraged to reach mutual agreement on what ought to be an appropriate standard in each type of case.

Results

Caseflow Standards: Criminal Cases

1. Range of suggested times for routine criminal cases:

	I Municipal Court Belgrade	District Court Belgrade	Municipal Court Kragujevac	District Court Kragujevac	Municipal Court Novi Pazar	District Court Novi Pazar	Supreme Court
Shortest:	30	30	30	30	30	30	30
Longest:	180	90	90	60	60	60	90

2. Consensus standard for routine cases:

I Municipal Court Belgrade	District Court Belgrade	Municipal Court Kragujevac	District Court Kragujevac	Municipal Court Novi Pazar	District Court Novi Pazar	Supreme Court
90	60	45	45	40	30	-

3. Range of suggested times for complex criminal cases:

	I Municipal Court Belgrade	District Court Belgrade	Municipal Court Kragujevac	District Court Kragujevac	Municipal Court Novi Pazar	District Court Novi Pazar	Supreme Court
Shortest:	365	180	180	120	90	120	60
Longest:	545	365	550	365	180	180	120

4. Consensus standard for complex cases:

I Municipal Court Belgrade	District Court Belgrade	Municipal Court Kragujevac	District Court Kragujevac	Municipal Court Novi Pazar	District Court Novi Pazar	Supreme Court
450	270	365	270	120	120	-

Caseflow Standards: Civil Cases

1. Range of suggested times for routine civil cases:

	I Municipal Court Belgrade	District Court Belgrade	Municipal Court Kragujevac	District Court Kragujevac	Municipal Court Novi Pazar	District Court Novi Pazar	Supreme Court
Shortest:	60	30	30	60	30	30	30
Longest:	180	90	90	90	60	60	90

2. Consensus standard for routine cases:

I Municipal Court Belgrade	District Court Belgrade	Municipal Court Kragujevac	District Court Kragujevac	Municipal Court Novi Pazar	District Court Novi Pazar	Supreme Court
90	60	30	75	45	45	-

3. Range of suggested times for complex civil cases:

	I Municipal Court Belgrade	District Court Belgrade	Municipal Court Kragujevac	District Court Kragujevac	Municipal Court Novi Pazar	District Court Novi Pazar	Supreme Court
Shortest:	215	180	180	180	180	60	90
Longest:	930	365	730	360	360	90	180

4. Consensus standard for complex cases:

I Municipal Court Belgrade	District Court Belgrade	Municipal Court Kragujevac	District Court Kragujevac	Municipal Court Novi Pazar	District Court Novi Pazar	Supreme Court
500	270	365	240	240	90	-

At the next session Kathryn Fahnestock informed participants about the preliminary diagnostic data reflecting on current court performance. The data is available in the materials provided at the seminar.

Key Findings About Delay Reduction

At the final session on the first day Dr. Mahoney informed participants on key findings about delay reduction:

1. Case processing times (inception to disposition) vary widely across courts.
2. Statutes, rules, and case law do not explain the differences
Wide variations often exist within the same state
3. Caseload size, complexity and “seriousness” do not explain the differences.
4. Approaches based on adding resources or adopting formal rules and procedures are *NOT SUFFICIENT* to reduce delays.
Need judicial commitment to active management of the caseload *and* other basic elements of effective caseflow management
5. “Local legal culture” is an important variable.
Informal attitudes and traditions
Long established practices and expectations of practitioners concerning acceptable time frames
6. Where trials and case processing times are too lengthy, improvements can be made.
Court delay is not inevitable
Trials can be conducted expeditiously and fairly; and
7. There is no “one best way” to reduce backlogs and delays.
BUT: There are common elements

Dr. Mahoney then focused on common elements of all successful court programs to reduce backlogs and delays:

Leadership;
Goals;
Information;
Communications;
Caseflow Management Procedures;
Judicial Commitment;
Staff Involvement;
Education and Training;

Mechanisms for Accountability; and Backlog Reduction/Inventory Control.

After Dr. Mahoney's presentation, the participants were asked to identify how to improve efficiency of hearings and how to improve notice of parties, witnesses and defendants. The participants were asked to identify reforms that could be realized without changes in the codes. The answers from small group discussions were as follows:

Kragujevac Municipal Court

To increase the process of summoning and serving notice on parties, defendants, and witnesses, it is necessary to increase the level of cooperation between different state organs. It is also necessary to inform the MUP and PTT about which documents must be delivered personally to the parties. It would be good if there were a possibility to deliver documents after working hours, if there were some motivation to improve delivery of service, and to give the possibility for trials in absentia for more serious crimes when parties fail to appear.

Novi Pazar Municipal Court

It would be good if there were more persons working on delivery service, and if they had more technical equipment. Delivery should be done after working hours and possibly using some media outlets. Education on delivery service would also be a good thing. Perhaps increasing the number of persons who may receive a notice, such as members of the family, etc., would also help.

Novi Pazar District Court

It would be good to control delivery service and to be able to implement sanctions when necessary. Summoning parties should also be permissible by telephone. In addition, it is necessary to increase the number of delivery officers and their technical equipment.

Supreme Court

To increase the efficiency of hearings it should be necessary to propose all evidence in the complaint, and the answer to the complaint should be obligatory. New evidence in the appeal should be allowed only if it could not be used previously. Also, delivery should be improved.

Belgrade First Municipal Court

We need a lesser number of cases, more judge associates, and education on delivery service with some kind of exam. The latter is absolutely necessary. There should be punishments more often for parties and attorneys that try to delay any kind of process.

Kragujevac District Court

Scheduling hearings on time is something that will increase efficiency. Delivery after working hours should be considered, as well as establishing a special delivery service, which we don't have currently.

Belgrade District Court

Better preparation of judges before hearings is something that should be obligatory. Scheduling hearings for an uncertain period of time should be abolished.

FEBRUARY 4, 2005

Case Flow Management

At the first session on the second day of the seminar, Dr. Mahoney presented a lecture on caseflow management, including:

- The essential characteristics of caseflow management;
- Key questions about individual cases;
- Key questions about pending caseloads; and
- Key indicators of caseflow management effectiveness.

Backlog

Kathryn Fahnestock followed with a presentation on “backlog” including definitions of backlog and how backlog may be calculated:

Backlog is the number of pending cases that are older than the agreed time standard for disposing of a particular kind of case in a particular court. There is no single time standard applicable to all cases everywhere. Backlog is determined by time standards set in a given court for a given case type.

Participants were invited to explain differences in diagnostic results among the courts. The general opinion of the participants was that there are a number of reasons, including:

- Different number of case filed in different courts;
- Different number of judges in them;
- Different complexity of certain cases;
- Cases vary by number of defendants and types of crimes or actions;
- Changes in the codes and judges are occurring too often; and
- The territory in the competence of the district courts is too large.

The participants noted that the statistical reports should be changed because they don't provide accurate pictures of actual caseloads because they are based on the number of cases instead of the number of parties, and they don't take into consideration the complexity of the cases.

Effective Case flow Management

At the next session Dr. Mahoney began his presentation on “Effective Caseflow Management” focusing on the following topics:

- Basic premises of effective caseflow management;
- Techniques for successful criminal caseflow management;
- Techniques for successful civil caseflow management; and
- Characteristics of traditional case processing.

Differentiated Case Management

Dr. Barry Mahoney continued with a session on Differentiated Case Management (DCM). DCM is an approach to organizing caseloads that seeks to:

- Take account of the varying degrees of complexity of the different cases in a court's caseload;
- Enable completion of work on simple cases rapidly and allowing more time for completion of work on complex cases; and
- Allocate court resources (including judge time, staff time, and courtroom time) to reflect the relative complexity of different cases.

Dr. Mahoney focused his presentation on:

- Operational components of Differentiated Case Management
- Benefits of Differentiated Case Management

The participants were then asked to answer the following questions:

1. What type of cases could ordinarily be resolved quickly with no more than one Hearing?
2. What type of cases are typically, more complex, involving large amounts of evidence and requiring more than three hearing days?

The courts had the following responses regarding the types of cases that they should normally be able to resolve at one hearing, i.e., **the Main Hearing**:

Belgrade First Municipal Court

Criminal Cases

- Forgery;
- Wound;
- Illegal trade.

Civil Cases

1. Small value disputes;
2. Divorce;
3. Disturbing of property.

Belgrade District Court

Criminal Cases

- Illegal possession of weapons;
- Forgery;
- Illegal possession of drugs.

Civil Cases

1. Debt to the public services;

2. Small value disputes;
3. Divorce.

Novi Pazar District Court

Criminal Cases

1. Illegal possession of drugs;
2. Illegal possession of weapons;
3. Forgery.

Civil Cases

1. Intellectual property disputes;
2. Small value cases;
3. Divorce.

Kragujevac Municipal Court

Criminal Cases

1. Reckless driving;
2. Slander;
3. Forgery.

Civil Cases

1. Divorce;
2. Child support;
3. Debt.

Novi Pazar District Court

Criminal Cases

1. Illegal trade;
2. Illegal possession of weapons;
3. Obstructing police officer.

Civil Cases

1. Labor disputes;
2. Divorce;
3. Debt.

Kragujevac District Court

Criminal Cases

1. Illegal possession of drugs;
2. Illegal possession of weapons;
3. Robbery.

Civil Cases

1. Withdrawal of complaint;
2. Small value disputes;
3. Decisions because lack of prosecutor.

Supreme Court

Civil Cases

1. Small value disputes;
2. Resolution of legal questions;
2. "Typical" cases.

Regarding cases that normally require **More than One Hearing** to resolve, the courts identified the following:

Belgarde First Municipal Court

Criminal Cases

- Hard crime against traffic safety;
- Abuse of authority;
- Abuse of authority in business;

Civil Cases

- Compensation for damages;
- Establishing of property;
- Labor disputes.

Belgrade District Court

Criminal Cases

1. Reckless driving;
2. Abuse of authority;
3. Burglary.

Civil Cases

1. Family disputes;
2. Establishing of property;
3. Joint venture disputes.

Novi Pazar District Court

Criminal Cases

1. Murder;
2. Burglary;
3. Abuse of authority.

Civil Cases

1. Family disputes;
2. Establishing of property;
3. Commercial disputes.

Kragujevac Municipal Court

Criminal Cases

1. Hard crime against traffic;
2. Abuse of authority;
3. Robbery.

Civil Cases

1. Establishing of property;
2. Compensation of damages;
3. Disturbing of property.

Novi Pazar Municipal Court

Criminal Cases

1. Robbery;
2. Abuse of authority;
3. Reckless driving.

Civil Cases

1. Family cases;
2. Compensation of damages;
3. Disturbing of property.

Kragujevac District Court

Criminal Cases

1. Commercial disputes;
2. Reckless driving;
3. Murder.

Civil Cases

1. Compensation of damages;
2. Establishing of disputes;
3. Easement.

Supreme Court

Civil cases

1. Commercial disputes;
2. Family disputes;
3. Cases in which you have to use expert witnesses.

Old Case Backlog Reduction

Following the small group discussion and reports, Dr. Mahoney lectured on “Old Case Backlog Reduction”:

- Techniques for successful civil caseload management;
- Techniques for successful criminal caseload management;
- Basic premises for effective caseload management;

The participants were next asked to give their opinion and suggestions on reducing Backlog. The suggestions were as follows:

Belgrade District Court

We make the list of old cases, and then we analyze the causes because of which they take to long. We then make proposal for their solution, and plan in what period of time they ought to be disposed. Beside substantial law and practice, the advice from judges from higher courts should be asked.

Kragujevac District Court

The information from old cases should be gathered in order to identify differentiated cases. The working hour is used improperly as well as work of other court services.

The new judges should be employed and current system of scheduling hearings ought to be changed. The oldest and the most complicated cases should be given to the best judges in work.

Novi Pazar District Court

We have agreement to work more complex cases first, but in practice we all do easier cases first. We need to have monthly and weekly reports about old cases. We also have to set short time periods for their disposition.

Supreme Court

Reorganization of work will be useful in that way those cases should be distributed to the judges who have fewer cases in their work. However the right motivation of judges should be find in that case.

Belgrade First Municipal Court

The special body consists from judges and court staff should established, which goal would be only to deal with old cases. The shorter time periods for scheduling, and mediation in civil procedure could be a good solution for old cases. In criminal procedure the summary process should be allowed from all crimes in which the sentence of up to 5 years in jail can be establish.

Novi Pazar Municipal Court

The panels consist from older and more experience panels should be formed in order to resolve old cases.

Kragujevac Municipal Court

The temporary employment of new staff can be a good thing. The separate bodies of more experience judges which goal is to give help to other judges can be a good thing in order to resolve old cases.

Conclusion

At the conclusion of the seminar Kathryn Fahnestock informed the participants about the schedule for the next meeting in March. The participants were asked to complete several questionnaires. These questionnaires will assist the NCSC team to think about issues and needs to be discussed at the next case management seminar in March.

APPENDIX 4.

See attached.

Seminar Materials by

THE INSTITUTE FOR LAW SCHOOL TEACHING

**GONZAGA UNIVERSITY SCHOOL OF LAW
Spokane, Washington, USA**

www.law.gonzaga.edu/ilst

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2001

Teaching Methods Seminar

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I. DEVELOPMENT OF THE PRINCIPLES FOR ENHANCING LEGAL EDUCATION

The principles for enhancing legal education are modeled on a set of principles of good practice in undergraduate education. The undergraduate principles were derived from decades of research on teaching and learning in college. This video applies the principles to legal education, explores their implications, and describes practical methods to implement them in the law school classroom. The principles, which are not ranked in order of importance, establish that effective learning environments:

- ❖ Promote student-faculty contact;
- ❖ Articulate clear, high expectations;
- ❖ Use time effectively;
- ❖ Respect differences among students;
- ❖ Foster cooperation;
- ❖ Provide prompt feedback; and
- ❖ Encourage active learning.

Development of Seven Principles for Good Practice in Undergraduate Education.¹

During the early 1980s, concern about the quality of instruction in colleges and universities gave rise to a series of events that culminated in the development of seven principles for good practice in undergraduate education. In the mid-1980s, the American Association of Higher Education (AAHE) published several reports and sponsored a series of conferences on the improvement of undergraduate education. A task force of scholars who had contributed much of the research on college teaching and learning developed a statement of principles to guide the quest for quality undergraduate education.

¹ Two books address the Seven Principles of Good Practice in Undergraduate Education. These monographs describe the development of the principles and they describe research that forms the basis for the principles. Both books contain the Faculty Inventory and Institutional Inventory. ARTHUR W. CHICKERING & ZELDA F. GAMSON EDS, APPLYING THE SEVEN PRINCIPLES FOR GOOD PRACTICE IN UNDERGRADUATE EDUCATION (1991). SUSAN R. HATFIELD ED., THE SEVEN PRINCIPLES IN ACTION (1995).

The final version of the Seven Principles for Good Practice in Undergraduate Education was published as the lead article in the March 1987 issue of the AAHE Bulletin.² During the next eighteen months, over 150,000 copies of the Seven Principles were ordered. Subsequently, a group of educators developed the Faculty Inventory, Student Inventory, and Institutional Inventory, instruments to provide teachers, students, and administrators the means to assess how their courses and campuses reflect the Seven Principles. Tens of thousands of copies of the Inventories have been distributed during the last decade. Numerous conferences and faculty development programs have addressed the implementation of the Seven Principles in undergraduate classrooms. Books and journal articles review the research behind the Seven Principles and their practical application in college. In short, the Seven Principles have set an agenda and established a path for the improvement of teaching and learning in college.

Why Apply the Principles to Legal Education?

The Seven Principles were developed in the context of undergraduate, not graduate or legal, education. Why should legal educators apply the Principles in the law school setting? For a simple, but powerful, reason -law teachers who understand and implement the Principles and law schools that reflect the Principles can significantly improve the quality of teaching and learning in legal education and the personal satisfaction of faculty and students as well.

The Principles are student-and learning-centered. Much of the research that forms the basis for the Principles is concerned with questions such as: How do students learn concepts and skills? What motivates students to work hard in their courses? What relationships and experiences have the greatest impact on students? Based on the results of empirical research directed at those and similar questions, the Principles set out basic precepts of effective learning. For example:

- Frequent student-faculty contact, both in and out of class, is a critical factor in student motivation.
- Good learning, like good work, is collaborative and social, not competitive and isolated.
- There are many roads to learning -students bring different talents, perspectives, and styles of learning to school.

² Symposium, *Seven Principles of Good Practice for Legal Education*, 49J. Legal Educ. 367 (1999).

- Clear, high expectations are important for everyone -for the poorly prepared, for those unwilling to exert themselves, and for the bright and motivated.

The Principles offer faculty a conceptual and practical framework for improving the quality of their teaching. Consider the following:

- Students must talk about what they are learning, write about it, relate it to past experiences, and apply it to their daily lives.
- Students need frequent opportunities to perform and receive suggestions for improvement.
- By sharing their own ideas and responding to other's thoughts, students improve their thinking skill and deepen their understanding.
- Students need the opportunity to show their talents, share their perspectives, and learn in ways that work for them.

An effective teaching and learning environment can increase personal satisfaction for students and teachers. The Principles address a number of negative characteristics that contribute to student and faculty frustration in and out of the classroom. The characteristics of unsatisfying education include distant, impersonal connections between teachers and students; competitive and isolated relationships among students; passive teaching/learning methods; lack of ongoing feedback on teachers' and students' performance; and low expectations. The Principles can help teachers and students create an environment of mutual respect and fulfillment. When students succeed in that environment, faculty share in that success because they help create the conditions that allow both students and teachers to reach their goals.

Adapting the Principles to Legal Education

Although the Seven Principles were developed in the mid-1980s and enjoyed wide distribution in undergraduate departments at colleges and universities during the 1990s, most law teachers remained unaware of the Principles and Inventories. To bring the Principles to the attention of legal educators, the Institute for Law School Teaching sponsored a conference in the summer of 1998, entitled "Seven Principles for Good Practice in Legal Education." The conference participants explored four topics:

- The research basis for each of the principles,

- The adaptation of each principle to the environment of legal education,
- Barriers to implementing the principles in law school, and
- Strategies to overcome those barriers.

In 1999, the *Journal of Legal Education* devoted most of an issue to a symposium on the Seven Principles for Good Practice in Legal Education³. The issue contains nine articles, one for each principle, as well as a brief history of the principles and a conclusion. The authors of those articles have done traditional and innovative classroom teaching, developed and directed legal writing and academic support programs, taught in clinical settings, and served as law school administrators. It is an excellent resource for those who want to learn more about the Principles and their application in law school.

Other Principles of Good Practice for Legal Education

The principles of good practice for legal education illustrated in the video are not the only important principles for legal educators. Different faculty, teaching diverse courses, to various groups of students, at schools with distinctive cultures, may decide that other principles are more relevant in their educational context. Productive faculty effort could be devoted to generating and discussing other principles of good practice for legal education. This videotape is intended, in part, to provide a starting point for that discussion.

³ Symposium, *Seven Principles of Good Practice for Legal Education*, 49 J. Legal Educ. 367 (1999)

II. DESCRIPTIONS AND PEDAGOGICAL IMPLICATIONS OF THE PRINCIPLES

This section contains a one-page description for each of the Principles for Enhancing Legal Education. Each Principle is adapted for application in law. The importance of each principle is explained with practical ways to implement it.

Promote Student Faculty Contact. Frequent student-faculty contact in and out of class is the most important factor in student motivation and involvement. Faculty concern helps students get through rough times and keep on working. Knowing a few faculty members well enhances students' intellectual commitment and encourages them to think about their own values.

Importance of Principle.

Why is student-faculty contact important? Research suggests that quality student-faculty contact in and out of the classroom has significant benefits for students:

- Establish the basis for a teaching/learning environment built on mutual respect;
- Influence students' educational aspirations and career choices;
- Improve students' satisfaction with their educational experience; and
- Increase students' commitment to their education.

Methods of Implementation.

How can faculty enhance the quality of student-faculty contact?

- Learn students' names.
- Learn about students' experiences, perspectives, and professional aspirations.
- Attend student events.
- Be willing to act as a mentor for students.
- Create a classroom environment that welcomes students' ideas and perspectives.

Articulate Clear, High Expectations. Expect more and you will get it. Clear, high expectations are important for students and teachers -for the poorly prepared, for those unwilling to exert themselves, and for the bright and motivated.

Importance of Principle.

Why are clear, high expectations important?

- Clear, realistic, high expectations motivate most students.
- Clear, realistic, high expectations for all students help create a respectful teaching/learning environment.
- Low or unrealistic expectations decrease students' motivation and achievement.

Methods of Implementation.

How can faculty demonstrate clear, high expectations?

- Be a model for students by setting and achieving high expectations for the teacher's own performance.
- Clearly articulate expectations to students for each class and the course as a whole.
- Involve students in setting expectations.
- Make student learning a priority.
- Provide feedback on students' performance so they understand the expectations.
- Celebrate student success in the classroom.

Use Time Effectively. Time plus energy equals learning. Allocating realistic amounts of time means effective learning for students and effective teaching for faculty. How an institution defines time expectations for students, faculty, administrators, and staff can establish the basis for high performance for all.

Importance of Principle.

Why is effective use of time important?

- Students, faculty, administrators, and staff face time pressure in legal academia.
- Student learning takes place both inside and outside the classroom; students need to use time well in both settings.
- Effective time management is a critical skill for legal professionals.

Methods of Implementation.

How can faculty manage time effectively and help students use their time well?

- Exemplary teaching takes significant faculty time; other faculty and administrators need to encourage and reward good teaching.
- Effective use of time in class depends in part on student preparation; teachers facilitate student preparation and effective use of time outside class through realistic assignments and clear directions.
- Faculty should model time management by starting and ending class on time, keeping office hours and appointments with students, and promptly reviewing and grading student performance.
- Faculty can maximize the effectiveness of class time by articulating clear goals for the class and choosing methods to achieve those goals.

Respect Differences Among Students. There are many roads to learning. People bring different experiences, perspectives, talents, and styles of learning to law school. Students need opportunities to share their perspectives and learn in ways that work for them.

Importance of Principle.

Why is respecting difference important?

- Students come to law school with a variety of personal and educational backgrounds that affect their goals and experiences in legal education.
- The encouragement of difference is part of a safe, effective learning environment. Students learn best in different ways (reading, listening, speaking, writing, doing, working alone, working with others).
- Effective legal professionals deal successfully with diverse clients, lawyers, and judges.

Methods of Implementation.

How can faculty teach effectively to students with diverse backgrounds and goals?

- Include material and assignments that reflect diverse perspectives on the law.
- Create opportunities for students to share their perspectives.
- Build on students' prior knowledge and experience to learn new content and skills.
- Use a variety of teaching/learning methods (Socratic dialog, lecture, discussion, writing, simulation, experiential).
- Assess student achievement with a variety of evaluation tools (essay tests, objective tests, papers, performance of skills).

Foster Cooperation. Learning is enhanced when it is collaborative and social, not competitive and isolated. Working with others often increases involvement in learning. Sharing one's own ideas and responding to others' reactions improve thinking and deepen understanding.

Importance of Principle.

Why is cooperation among students important? Why should students work collaboratively?

- Many students achieve deeper understanding of concepts when working with other students.
- Collaborative learning is effective to help students acquire professional skills, such as interviewing, counseling, negotiating, advocating, and mediating.
- Small group work is an effective means for students to encounter and understand others' perspectives.
- Effective legal professionals work well alone and as part of a team.

Methods of Implementation.

How can faculty facilitate cooperative, collaborative learning?

- Have students work together on exercises in class (brief discussions in small groups, short writing exercises with pairs of students).
- Structure out-of-class team projects (drafting a statute, making an oral argument, preparing a panel to lead a discussion).
- Create opportunities for teams of students to engage in *pro bono* work.

Provide Prompt Feedback. Knowing what you know and don't know focuses learning. Students need frequent opportunities to perform and receive suggestions for improvement. At various points during law school, students need chances to reflect on what they have learned, what they still need to know, and how to assess themselves.

Importance of Principle.

Why is prompt feedback important?

- As students encounter new content, they need to be able to measure the depth of their understanding and see what they are missing.
- To acquire lawyering skills (analysis, problem solving, negotiation, advocacy, etc.) students need to practice, get feedback, and shape their behavior.
- Effective students and legal professionals assess their own learning and performance and grow from their experience.

Methods of Implementation.

How can faculty provide prompt feedback to students in large classes?

- Essay questions (mock or graded) -model answer, sample student responses, score sheets, discuss answers in class.
- Objective questions (mock or graded) -post answers and reasoning on course Web site, discuss responses in class.
- Short writing exercises in class -discuss responses and reasoning in class.
- Out-of-class writing assignments -clear grading criteria and score sheet so students can assess their own performance, peer edits.
- Clear positive feedback in class when students demonstrate analytical skills (synthesis of a line of cases, articulating policy underlying judicial opinions, statutory analysis).

Encourage Active Learning. Students do not learn much just sitting in classes and listening. They must talk about what they are learning, write about it, relate it to past experiences, and apply it to their daily lives. They must make what they learn part of themselves.

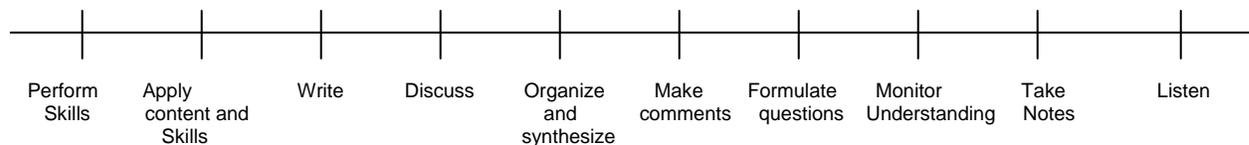
Importance of Principle.

What is active learning and why is it important?

Learning methods can be placed on a continuum from passive to active. Effective teachers choose methods appropriate to achieve class and course goals.

ACTIVE

PASSIVE



Active learning promotes:

- Higher level thinking (analysis, synthesis, criticism).
- Professional skills acquisition.
- Content mastery.
- Student motivation.
- Appreciation of other perspectives.

Methods of Implementation.

What active learning methods are appropriate for law school?

- Questioning (Socratic dialog)
- Discussion (large and small group)
- Problem solving (short hypotheticals, mock exams)
- Simulation (role-playing that lasts a few minutes, exercises that take several classes)
- Writing (short written responses in class, reflection essays, journals, research papers)
- Experiential learning (documents in class, field trips, externships, clinics)

III. REFLECTION QUESTIONS

The Reflection Questions are designed to enhance understanding and application of the issues raised in the videotape. In this section, there are General Questions first and then specific questions relating to each Principle.

General Questions

1. Identify two principles of good teaching.
 - Define the principles.
 - List some examples.
 - Why is each principle important?

2. Compare your principles with those articulated in the videotape. In what ways are they similar and how do they differ?

3. With which Principles do you feel most comfortable and why?
 - Define the Principles.
 - List some examples.

4. With which Principles do you feel least comfortable and why?
 - Define the Principles.
 - List some examples.

5. Select one (or more) of the Principles.
 - What does this Principle mean to you?
 - Why is it important?
 - Describe ways to implement the Principle.
 - Describe obstacles to implementation.
 - Identify ways to overcome the barriers.

6. What did you learn from the videotape/during this session that will help you be a better teacher?

7. What are two things you plan to do as a result of the videotape/this session?

Promote Student-Faculty Contact.

1. List the various roles you assume by being a teacher. Why is each important?
2. Why is learning about your students' backgrounds and experiences helpful for creating an effective learning environment?
 - List ways you can obtain this information.
 - How can you use this information to improve your students' learning?
3. What can you do that will convey respect to your students? What can your students do that will convey respect to you?
4. How can you solicit questions and insights from students who do not speak in class?
5. List four fun teaching methods you can use with students.
6. Describe all the reasons students might want to interact with you outside class.
7. What are the advantages and disadvantages of relating to students outside class?
8. List ways to connect with your students outside class.
 - What are some obstacles to interacting with students outside class?
 - How can you overcome some or all of the obstacles?

Articulate Clear, High Expectations.

1. What knowledge, analytical skills, and non-analytical skills are needed to succeed:

- as a lawyer?
- as a student in your law school?
- as a student in you class?

2. At the end of your class, what are the three things you most want your students to:

- have learned?
- remember?

3. What are your expectations about the students based on? Describe.

4. List ways to evaluate whether your expectations regarding your course content, assignments, and grading are:

- effective.
- clear.

Use Time Effectively.

1. Define what effective use of time means:

- during class.
- outside class.

2. To assist in effectively using time during class, what can be done beforehand by:

- the students?
- the professor?
- the law school?

3. Describe the relation between clear, high expectations and effective use of time.

4. List ways to evaluate whether time was used effectively during and outside class.

5. What is a lesson plan?

- Why is it important?
- Describe all the things you would include in a lesson plan.

Respect Differences Among Students.

1. Who are your students? What are their backgrounds?
2. Identify all the reasons students are attending your law school.
 - What are their goals and aspirations?
 - Why are these reasons, goals, and aspirations important to your teaching?
3. List all the traditional and non-traditional ways students at your institution can distinguish themselves.
 - What knowledge, analytical skills, and non-analytical skills are needed for students to distinguish themselves in the ways you listed?
 - Do you have biases in favor of or against students based on how they have distinguished themselves?
 - Do you have biases in favor of or against students who have not appeared to distinguish themselves?
4. To what extent are issues relating to age, ethnicity, gender, learning styles, physical disabilities, learning disabilities, race, religion, sexual orientation, and socioeconomic status addressed in your teaching or content of your course?
 - What are the advantages of doing so?
 - What are the obstacles to doing so?
 - List ways to overcome some or all of the obstacles.
5. How can you include students with different backgrounds and experience to assist in teaching your course?

Foster Cooperation.

1. Describe a group setting in which you participated where the leader or participants were disrespectful to each other.

- How did that make you feel?
- What did the leader do to contribute to the environment?
- What did the participants do to contribute to the environment?
- What could have been done to improve the situation?

2. Describe a group setting in which you participated where the leader and participants respected one another and worked well together.

- How did that make you feel?
- What did the leader do to contribute to the environment?
- What did the participants do to contribute to the environment?

3. How can you create a professional, respectful classroom environment?

4. What can be done when students are disrespectful to:

- the professor?
- other students?
- content included in the course?

5. List all the work performed by lawyers in pairs or in small groups.

6. What knowledge, analytical skills, and non-analytical skills are necessary to be successful in pairs or in small groups?

Provide Prompt Feedback.

1. Why provide feedback in a timely way?
2. Describe different forms of feedback.
 - What are the advantages and disadvantages of each type?
 - What are the obstacles to providing feedback?
 - How can some or all of the obstacles be overcome?
3. List different ways to provide feedback by involving:
 - other students.
 - the professor.
 - the individual him/herself.
 - other resources in the law school, university, or community
4. At what point in the semester should feedback be given and in what form?
5. How can you elicit feedback about the course and your teaching?

Encourage Active Learning.

1. List all the tangible examples you can bring to illustrate ideas covered in class.
2. Ask students to bring tangible examples to illustrate ideas covered in class.
3. List various teaching methods you would like to use in your course and why.
 - What are the advantages of each of the methods?
 - What are obstacles that might interfere with implementing each method?
 - What are ways to overcome some or all of the obstacles?
4. Consider how you would incorporate the following teaching methods into one or more of your courses.
 - role-playing
 - presentation (individual or group)
 - writing exercises and assignments
 - small group discussion
 - field trip
 - short problems
 - guest speaker or movie
5. Who in your law school, larger university, alumni base, and community could help improve legal education at your law school?
 - What can s/he do to help?
 - How can these individuals become involved in improving legal education at your school?

IV. LECTURE NOTES

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LEARNING CONCEPTS

The primary goal of this session is to help legal educators improve the learning of all of their students. An essential first step in achieving that goal is personal for each teacher – the teacher must commit to helping all students perform in law school to the best of their ability. Once the teacher makes that commitment, a tremendous body of research and literature on teaching and learning can inform and assist the educator in teaching to the whole class.

Legal educators can improve their teaching and their students' learning by understanding basic principles involved in adult education. This particular session focuses on only four elements that affect adult learning: respect, inclusion, context, and methods. These elements are derived from higher education research and literature, law journal articles related to pedagogy, law students' perceptions of barriers and pathways to learning, and the authors' combined 30+ years of experience teaching law students.

RESPECT

Mutual respect for the self-worth of teacher and students alike underlies an effective teaching/learning environment. Good teachers make the participants feel that they are valued and respected as individuals (or students learn best from teachers who make them feel valued and respected as individuals). However, for learners to grow they must develop powers of critical reflection and accept challenges from teachers and other students to consider alternative ways of thinking and behaving. Therefore, a difficult but essential task for the teacher is to establish a classroom climate in which students feel and show respect and are willing to challenge and be challenged. Conversely, intimidation and humiliation in the classroom shut down most adult learners.

Learning all of your students' names shows respect for students and increases their motivation and participation. Building students' self-esteem in class, rather than humiliating them, shows respect and encourages other students to engage. Having high expectations of all students shows respect and motivates students. Demonstrating enthusiasm for teaching shows respect and motivates students.

- See Overhead/Handout: "Respect Principles"

INCLUSIVE

Adults pursue education voluntarily because they want to develop new skills, sharpen existing skills, acquire new knowledge, and gain new insights. Adults' motivation to learn is usually high, and participatory learning methods such as discussion, simulation, and small group activities are particularly helpful to their learning. However, adult learners can quickly withdraw their participation if they feel that the education is not meeting their needs, does not connect with their past experiences, or is conducted in a way to exclude their views. On the other hand, learning is enhanced when teachers include: (1) subject matter that is relevant and of interest to students; (2) perspectives that resonate with students' ideas, values, and beliefs; and (3) views of all students who want in some way to participate in the discussion.

Students' feelings of alienation and stigmatization are reduced when the curriculum includes content relevant to the students' lives. Students' feelings of knowing are strengthened when they have an opportunity to develop and express their opinions. Students learn to appreciate and tolerate different perspectives when teachers include a variety of viewpoints in the discussion. Students feel validated when they are included.

- See Overhead/Handout: "Inclusion Principles"

CONTEXT

Learning involves the exploration of ideas, skills, knowledge, and attitudes. But exploration does not take place in a vacuum. Adults learn new concepts, skills, and attitudes by assigning meaning to them and evaluating them in the context of their previous experience. The learning process is a cycle in which the learner becomes acquainted with new ideas and skills, applies them in real-life settings or simulations, reflects on the experience with these new skills and concepts, redefines how they might apply in other settings, reapplies them, and so on.

Context Point 1:

Students' learning is enhanced when they are motivated and they are more motivated when what they are learning is relevant and important to their lives. When teachers use examples from real life, they help students stay motivated to learn.

Context Point 2:

Students process information by grafting the new information onto existing structures (schemata) that they have created from prior experiences. When teachers bridge the gap between the students' context and the context they will need as experts, they help students create appropriate schemata.

Context Point 3:

Student learning is enhanced when teachers model different ways students can learn the information. Students' psychological stress is reduced when teachers provide guide posts. When teachers give honest and objective feedback, they help students accurately assess their learning.

- See Overhead/Handout: "Context Principles"

METHODS

Learning is an individual process; people have different learning styles. Some teachers and students are more visual learners, some are more auditory, and some are more kinesthetic. Some students learn best through writing, others through speaking. Some students are abstract, conceptual thinkers, while others are concrete and practical. Good teachers use a variety of teaching methods to allow all of their students to maximize their learning.

Students understand and retain concepts and skills better when they are active rather than passive learners. Active learning requires students to individually manipulate and process concepts in their own way to fully understand them. Because legal reasoning involves more than merely reciting the laws, students can not survive by memorizing the law or reasoning in a particular case. Instead, students must be given the opportunity to use concepts and skills in different ways in varying situations.

- See Overhead/Handout: "Methods Principles"

V. EXERCISES

Throughout this section you will see references to *Barriers to Learning* and *Pathways to Learning*, as well as references to Part 1 and Part 2 at a videotape. We have elected not to show these videotapes at this seminar. However, these exercises remain relevant and the videotapes are available to you for your future use at www.law.gonzaga.edu/ilst

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FREE-WRITE FOR INTRODUCTION
(2 Minutes)

Why are you attending this session? Please write what you hope to learn, do, or accomplish in this session today.

WARM-UP WRITING EXERCISE FOR BARRIERS TO LEARNING

***Note to the facilitator(s):** This writing exercise should be used before showing Part I of the videotape. From these questions, select those that would be appropriate given your purpose and audience.*

1. Picture the students in your classes.

- A. Describe their differences/similarities.
Why do these matter?
How can knowing this make you a more effective teacher (help students to learn more effectively)?
- B. What hobbies/interests might they have?
Why do these matter?
How can knowing this, make you a more effective teacher (help students to learn more effectively)?
What are the students' backgrounds and aspirations?
How can you find out what they are?
- C. Describe their different learning styles.
Why do these matter?
How can knowing this make you a more effective teacher (help students to learn more effectively)?

2. Think back on your worst learning experience in school or a time when you did not "get it."

- A. How did you feel?
- B. Describe what happened.
- C. What could have been done to have made it a more positive experience?

3. Think back on your best learning experience or a time when you "got it."

- A. How did you feel?
- B. Describe what happened.
- C. Describe, specifically, what caused it to be a positive learning experience.

DEBRIEF EXERCISE FOR BARRIERS TO LEARNING

(Use After Videotape Part I)

Note to facilitator(s): *In editing this section, we walked a fine line between including segments that demonstrated extreme and highly offensive situations that most teachers would dismiss (because they believe they would never do such blatant things) and including segments that demonstrated how subtle behaviors affect student learning. Including subtle examples runs the risk of teachers viewing these students as whining over little things, as taking things too personally, or simply not being tough enough. In facilitating a discussion of this part of the videotape, it is important to emphasize that, most often, it is the subtle and mostly unintended action that causes the greatest distress. Students respond to the teacher's actions/inaction regardless of the teacher's undisclosed reasons or motivation. Thus, to enhance learning, it is important to focus on the impact of the teachers' action/inaction, and not on what the teacher may have intended.*

The challenge in this section will be to address a number of issues raised in a short time period. You may want to start with some general questions and then add a few of the more specific questions depending on the participants' receptivity to these issues.

GENERAL QUESTIONS:

- In what ways is learning affected by a perceived lack of respect?
- In what ways is learning affected by a lack of inclusiveness?
- In what ways is learning affected by a perceived lack of context?
- To what extent do the issues raised by one student affect all students?

SPECIFIC QUESTIONS:

- Lack of Respect

Have you been in a situation where you felt disrespected? How did you feel?
What made you feel disrespected? How did that affect your motivation?

Do you respect your students? Why or why not? How do you communicate that?
What are ways that teachers' actions/inaction communicate to students that they are not seen as persons or individuals?

How might that student feel and how might this perception affect the student's learning?

What are ways to communicate to students that they are seen as individuals?

Why is it important to learn students' names and learn how to pronounce them?

What are techniques to help teachers learn and remember names?

What are ways a teacher's demeanor manifests disrespect for students?

- Teacher's Assumptions About Students' Prior Knowledge:

What courses, areas of study, courses and skills are necessary for understanding your material?

What courses and areas of study do you assume your students have learned and retain?

What skills do you expect them to have developed?

How is learning negatively affected when a teacher assumes a knowledge base that the student does not have?

What are ways teachers can assess students' knowledge base?

What are ways teachers can provide the necessary knowledge base?

- Teacher's Assumptions About Students

What expectations do you or other teachers have about the ability of a student based on that student's:

- age
- ethnicity
- gender
- learning styles
- physical or learning disabilities
- race
- religion
- sexual orientation
- socioeconomic status
- year in school (i.e., first year)
- class rank
- other?

EXERCISE C

(Page 3 of 4)

What expectations do you have about the ability of a student if English is not his/her first language? Describe how such expectations can be communicated.

In what ways can these expectations affect students?

List some ways to identify and change assumptions you may have about your students.

- Teacher's Assumptions About General Knowledge or Background of Students

Think of the examples you use in class. What do you assume about your students or their backgrounds in order for them to understand and relate to those examples? Think about the students you described in your classes. Who would and who would not understand or relate to the examples. Why?

How are our assumptions about students guided by their physical appearances?

What are ways that teachers can gain information about their students?

- Teacher's Sensitivity Toward Students

Although it is true that when they are practicing attorneys, students will need to be able to withstand biased, demeaning, emotionally charged words and behaviors from clients and judges, why is it important for law teachers to be aware of how their words, jokes, and hypotheticals affect all students?

EXCLUDING CONTENT, PERSPECTIVES, VOICES

What is the effect on student learning when issues related to age, ethnicity, gender, learning styles, physical and learning disabilities, race, religion, sexual orientation, and socioeconomic status are not included in the course materials or discussion?

Bringing up issues relating age, ethnicity, gender, learning styles, physical and learning disabilities, race, religion, sexual orientation, and socioeconomic in the discussions presents risks for both the teacher and students. What are some of those risks?

Think about one or more of the topics in your class that have economic, feminist, historical, political, racial, or religious dimensions in addition to legal significance. What are they? Do you address these issues? If so, why? If not, why not?

- Perspectives: Calling on Students

How do you decide on whom to call in a given class? How can you become more conscious of whom you look at and/or call on in class and when?

Besides raising their hands, what are ways students communicate that they want to participate in class discussion?

How can you include students in a class discussion without "spotlighting" them (only calling on them when the issue is related to their specific age, ethnicity, gender, learning styles, physical and learning disabilities, race, religion, sexual orientation, or socioeconomic status)?

How do you effectively include students whom you perceive as being potentially emotionally charged about a given issue?

LACK OF CONTEXT

Think of a time when you felt out of the loop or could not figure out what was going on. How did you feel? Describe the circumstances.

What is context?

How does a lack of context affect student learning?

What are different ways to provide context for your subjects? For the subtopics in your subject?

What are different ways to provide context for the skills you expect your students to develop?

Think of practical, real-life examples relating to your subjects that can provide context for your students. Can you think of ways for your students to learn about these examples other than you telling them or having them read about the examples in the text/supplement?

WARM-UP EXERCISE FOR PATHWAYS TO LEARNING

(Use Before Videotape Part II - 4 Minutes)

Think about a time when you observed your students connect with the point of the lesson - when they got an "Aha!"

How did you know they got it? Describe what happened.

How did you feel?

How do you think they felt?

How can you create more teaching moments like that in the future?

WARM-UP EXERCISE FOR PATHWAYS TO LEARNING
(4 minutes)

Note to facilitator(s): Have each of the participants respond to one of the paragraphs below.

1. What does mutual respect mean in the classroom? Think of an example when you were either the teacher or student where you experienced mutual respect in a learning experience. Describe what happened. How did it make you feel? How was that respect conveyed by the teacher to the student? How was it conveyed by the student to the teacher and to other students? List other ways in which teachers can convey respect for their students.

2. Think of an example when you were either the teacher or student where various perspectives, voices, and people were effectively included into the learning experience. Describe what happened. How did it make you feel? How did the teacher provide such inclusion? How did the students contribute? List other ways in which teachers can ensure inclusion of perspectives, voices, and people into their lessons.

3. What does providing context mean to you? Think of an example when you were either the teacher or student where the teacher provided adequate context to enhance the learning experience. Describe what happened. How did it make you feel? What type of context did the teacher provide? How did the teacher provide such context? How did the students contribute? List other ways in which teachers can provide more context for their students.

4. Think of an example when you were either the teacher or student where the teacher used a variety of teaching methods. What methods were used? How did it make you feel? What methods worked best for you as a teacher? What methods worked best for you as a learner? List other examples of teaching methods.

DEBRIEF EXERCISE FOR PATHWAYS TO LEARNING
(Use After Videotape Part II)

Note to facilitator(s): Here is a list of questions to stimulate a large-group debrief or to use in small groups or pairs.

What are the characteristics of a good teacher?

Identify practical, real-life examples relating to your subjects that can provide context for your students. Can you think of ways for your students to learn about these examples other than you telling them or having them read about the examples in the text/supplement?

Describe the advantages of using writing in your courses. What are ways you can do this in your courses?

Describe the advantages of using one or more of the following in your teaching:

- Practical Exercises
- Explicit Organization
- Feedback
- Problems and Hypotheticals
- Experiential/Role Play
- Visual Tools
- Including Students, Perspectives, and Content
- Respecting Students

Select a teaching method you have not used but would consider trying. Describe the advantages and disadvantages of using this method.

What are the two most important skills that you want your students to learn from your course? What are ways help the students develop these skills?

What are the two most important concepts that you want your students to learn from your course? Describe two different teaching methods you can use to help your students learn them.

List two ways to get to know your students better.

List two ways to include your students' experiences in each class.

DEBRIEF EXERCISE FOR PATHWAYS TO LEARNING

On the chart below, first list strategies with which you can show students respect, be more inclusive, provide more context, and use a variety of methods in your teaching. Then, identify potential problems for each strategy. Finally, identify solutions to those problems. (See *Overhead/Handout on p. 51.*)

STRATEGIES	POTENTIAL PROBLEMS	SOLUTIONS
To demonstrate respect:		
To be inclusive:		
To provide context:		
To use variety of methods:		

DEBRIEF EXERCISE FOR CONCLUSION

Note to facilitator(s): *You may want to include the following discussion questions and summary at the close of the session.*

Discussion Questions:

To what extent do the issues raised by the students in the film affect all students' learning?

To what extent do the issues raised by the students in the film affect some students more than others? Why?

To what extent does the impact of these issues raised by the students in the film relate to the particular student's age, ethnicity, gender, learning style, physical and learning disabilities, race, religion, sexual orientation, socioeconomic status, year in school, and class rank?

FREE-WRITE FOR CONCLUSION
(2 minutes)

What did I learn today to assist all students to learn?

What two things will I do in my teaching based on the discussion today?

VI. OVERHEADS AND HANDOUTS

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GOALS

- ❖ **Increase the effectiveness of law teaching.**
- ❖ **Enhance student learning**
- ❖ **Provide suggestion on effective teaching methods.**

LEARNING CONCEPTS

- ❖ **Respect**
- ❖ **Inclusion**
- ❖ **Context**
- ❖ **Methods**

RESPECT PRINCIPLES

- ❖ Learn students' names**
- ❖ Build students up**
- ❖ Have high expectations**
- ❖ Demonstrate enthusiasm**

INCLUSIVE PRINCIPLES

Learning is enhanced when teachers include:

- ❖ Content relevant to students**
- ❖ Variety of perspectives**
- ❖ All students' voices**

CONTEXT PRINCIPLES

- ❖ Students need to relate new information to their own lives.

- use examples from real life
- have students write hypotheticals

- ❖ Students need a context for the legal system and doctrine.

- review the structure of the system
- explain how doctrine is created
- discuss policy

- ❖ Students need to know ways to learn.

- model different ways of learning
- provide opportunities for evaluation
- give honest and objective feedback

- ❖ Students need to know how to use new information on the exam and in practice.

- provide practice exams
- have students role-play

METHODS PRINCIPLES

❖ Learning Styles

- Different students learn best in different (reading, listening, observing, performing).
- Using a variety of methods will help each student learn best.

❖ Active Learning

- Active learning (discussion, problem solving, simulation, writing) promotes higher level (analysis, synthesis, evaluation) and acquisition of skills.
- Many students' preferred learning style is best served by active learning.
- Active learning is independent learning.

DEBRIEF EXERCISE FOR PATHWAYS TO LEARNING

STRATEGIES	POTENTIAL PROBLEMS	SOLUTIONS
To demonstrate respect: <i>Learn students' names</i>	<i>Too many students; poor memory</i>	<i>Put photos on seating chart</i>
To be inclusive:		
To provide context:		
To use variety of methods:		

VII. BIBLIOGRAPHY

TEACHING AND LEARNING BIBLIOGRAPHY

I. DIVERSITY

A. Articles

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11. Susan P. Sturm, *From Gladiators to Problem-Solvers: Connecting Conversations About Women, the Academy, and the Legal Profession*, 4 Duke J. Gender L. Pol'y 118 (1997). The author urges law schools to build themselves around the concept of lawyer as problem solver to prepare student for a team-oriented, interdisciplinary practice which includes the strengths and skills of women and people of color.
12. Bonnie Poitras Tucker, *Application of the Americans with Disabilities Act (ADA) and Section 504 to Colleges and Universities: An Overview and Discussion of Special Issues Relating to Students*, 23 J.C. U. L. 1 (1996). The author provides an overview of the obligations that colleges and

universities owe to students with disabilities under the ADA. The article addresses issues related to admissions, accommodation, and safety.

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8. Richard A. and Rosemary Shiels, *Electronic Law Students: Repercussions on Legal Education*, 29 *Valparaiso Univ. L. Rev.* 909-33. The authors describe use of electronic casebooks and other computer teaching tools at Chicago-Kent College of Law.
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C. Newsletters

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2. THE LAW TEACHER; Gerald Hess and Leland G. Fellows, Editors; Institute for Law School Teaching, Gonzaga University School of Law, Box 3528, Spokane, WA 99220-3528, ilst@lawschool.gonzaga.edu. Teaching tips from legal educators.
3. THE NATIONAL TEACHING AND LEARNING FORUM; James Rhem, Editor; 4041 North Central #700, Phoenix, AZ 85012. College teaching tips and literature reviews.
4. THE TEACHING PROFESSOR; Maryellen Weimer, Editor; Pennsylvania State University -Berks Campus, P.O. Box 7009, Reading, PA 7009, grg@psu.edu. College teaching tips and literature reviews.