

# Reducing Bias in Human Rights Fact-Finding: The Potential of the Clinical Simulation Model to Overcome Ethical, Practical, and Cultural Tensions in “Foreign” Contexts

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## ABSTRACT

This article considers the ethical tensions inherent in international human rights field documentation and proposes intensive, simulation model, pre-fieldwork training as a means of reducing the risk of insensitive encounters. The article evaluates the social, educational, class, racial, and other power imbalances between parties in the ordinary fact-finding process. After mapping pitfalls and challenges, it assesses the simulation training method and its potential to respond to the volatile dynamics of fact-finding. We conclude that the rigorous, three-day or week-long exercise, carried out in a controlled, supervised setting, holds potential to train future advocates to navigate power dynamics, challenges in intercultural engagement, and other communications barriers.

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## I. INTRODUCTION

Ethical tensions are inherent in international human rights work. Fact-finding, investigations, and rights advocacy in “foreign” contexts<sup>1</sup> are core elements of the work of international human rights organizations. These are all potentially problematic endeavors, fraught with power hierarchies, linguistic barriers, and cultural differences that often lead to intense criticisms not only of individual actions and organizations, but also the very idea of cross-boundary engagement to promote social justice.

As this article discusses, human rights advocates and investigators have been individually and systematically criticized for inappropriate interventions into affected communities. These interventions can reinforce global and local power dynamics, lead to insensitive interactions with victims of trauma or rights violations, and result in disrespectful treatment of local communities. Human rights work may be fundamentally flawed: it is possible, at least in theory, that there is no ethical, culturally sensitive, and valuable way to engage in human rights fact-finding in communities directly affected or threatened by rights abuse. If we accept, however, that such engagement *is* possible, the need to identify and foster methods of reducing the likelihood of problematic engagement becomes paramount. In this regard, one vital yet underused intervention to improve cross-cultural human rights engagement is thoughtful, rigorous, self-critical, and systematic training of advocates *before* they enter the field, so that affected communities do not become unwilling human test subjects for untrained or insufficiently trained advocates.

In this article, we explore some of the challenges associated with human rights fieldwork and consider the role of legal clinics, particularly human rights clinics, as avenues through which future advocates can grapple with these challenges and be trained to handle them sensitively and ethically once in practice. In particular, we describe and assess the “simulation training” model developed by one of the authors at the Stanford Clinic and expanded by the University Network for Human Rights for use outside of the law school setting. We recommend the use of similar simulation models in law school and non-law school human rights clinics and other educational and professional spaces to prepare advocates for the challenges of the field before they work with affected communities. Indeed, the need to expand such training beyond the legal setting responds to the critique of the oversaturation of the human rights field by lawyers. We believe that ethical, simulation-based, hands-on training should be widely available in educational institutions to ensure that human rights advocates do not engage in problematic practices that have led to the legitimate critiques that we consider. This article recom-

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1. By “foreign,” we refer to contexts that are distant either geographically, culturally, or socially, including within the country of the researcher or organization involved in human rights work.

mends that human rights clinics, other educational centers, and human rights organizations adopt and employ the simulation model to train rights activists.

## II. WHAT ARE THE MAJOR ETHICAL CHALLENGES OF HUMAN RIGHTS FIELDWORK?

Once a situation of abuse or potential violation has been identified, human rights advocacy begins with engagement with the affected individual or community. The first steps are usually investigation, fact-finding, and fieldwork to document (and later expose) rights violations. Because this research involves interviewing and working with communities that have often experienced traumatic levels of harm and abuse, ethical, sensitive, and compassionate engagement with these communities must be the touchstone for human rights advocates in their fieldwork. Implicated in human rights fieldwork are complex issues of “power and consent, confidentiality and trust, risks to researchers and potential harm to participants, as well as the broader cross-cutting issues of gender, culture, human rights and social justice.”<sup>2</sup> Below, we briefly explain central issues in human rights investigation and fieldwork and the need for sensitive and ethical engagement in the field.

First, interacting with vulnerable populations can entail significant risks for these communities. Human rights researchers interviewing victims of rights abuse in a region affected by conflict or abuse face the dual risks of raising the hopes of victims by presenting false impressions of the power of the researchers, as well as endangering the population for speaking with human rights advocates and fact-finders (outsiders). Human rights researchers are often seen as having the power to make change at individual and society levels.<sup>3</sup> This impression may lead to false hope, shattered expectations, and feelings of mistrust and anxiety in affected communities. Even when researchers are careful in explaining that they are not likely to change the situation that the victim faces, visits by foreign researchers almost inevitably create expectations. As the UNHCR notes in its training manual on human rights monitoring, interviewing an affected community member on any topic—protection concerns, low standards of living, or rights abuse—might generate expectations that the field presence of human rights workers will assure protection, improve the standard of living, or address abuse.<sup>4</sup> This construct forms such a central concern in human rights work that the UN

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2. Eileen Pittaway, Linda Bartolomei & Richard Hugman, “*Stop Stealing Our Stories*”: *The Ethics of Research With Vulnerable Groups*, 2 J. HUM. RTS. PRAC. 229, 232 (2010).

3. *Id.*

4. See UN OFFICE OF THE HIGH COMM’R FOR HUM. RTS., MANUAL ON HUMAN RIGHTS MONITORING, ch. 11 (Interviewing) (2011), <https://www.ohchr.org/Documents/Publications/Chapter11-MHRM.pdf>. See also Chapter 17 (Engagement with National Authorities and Institutions).

Secretary General addressed it on a global scale in 2018, stating that “lives and credibility are being lost” due to unrealistic expectations fostered by United Nations peacekeeping missions.<sup>5</sup>

This dynamic of raised and dashed expectations is exacerbated by the real possibility that speaking with foreign researchers may result in retaliation. Frequently, individuals interviewed by human rights researchers do so at great personal risk. Instances of retaliation by repressive regimes are commonplace. Even authorities in refugee camps—in theory, safe spaces for victims of abuse—have been known to punish refugees who speak to human rights researchers after those researchers have left.<sup>6</sup> In one documented case in Bangladesh, refugees who talked to researchers were threatened by criminal elements in the camp; it was only the intervention of higher level authorities that spared their lives.<sup>7</sup> In another instance, a researcher had to cancel a project idea to investigate sexual violence perpetrated against men in Uganda for fear that those interviewed would be seen as engaging in homosexual activity and thus subject to criminal sanctions by the country’s stringent anti-homosexuality laws. In another instance involving one of the authors, the human rights fact-finder (Cavallaro) sought to reduce the risk that detainees in a prison in Brazil might be singled out for retaliation by interviewing those in every cell; the following day, prison authorities did indeed retaliate by abusing all detainees in the prison in an hours-long session of beatings and electric shocks.<sup>8</sup> These are but three examples; human rights researchers are painfully aware of the risk of retaliation that awaits anyone brave enough to speak with outside rights activists or journalists.

Yet, often those who have experienced significant rights abuse with no form of redress can be so desperate to have their stories heard that they share them with researchers without due consideration of the potentially dangerous implications to themselves and their communities.<sup>9</sup> The responsibility then falls clearly on the researcher to assess whether it is safe to interview victims of rights violations in a particular circumstance, to explain the researcher’s role without raising false expectations in community members, to explain to the person being interviewed the potential consequences of participating in an interview with human rights activists, and to mitigate collateral risks of the researcher’s process.

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5. *UN Secretary-General, Secretary-General Calls for Feasible Mandates, Political Solutions, Warning Unrealistic Expectations Costing Lives*, UN Press Release 049–2018, SG/SM18960 (28 Mar. 2018), <http://www.un.org.in/pressrooms/secretary-general-calls-for-feasible-mandates-political-solutions-warning-unrealistic-expectations-costing-lives/>.
  6. Pittaway et al., *supra* note 2, at 232.
  7. *Id.*
  8. Ulrike Krause, *Researching Forced Migration: Critical Reflections on Research Ethics During Fieldwork* 3 (University of Oxford Refugee Studies Center, Working Paper No. 123, 2017).
  9. Pittaway et al., *supra* note 2, at 233.

Second, victims of human rights abuse have often undergone extremely traumatic experiences, such as physical and sexual violence, the torture and death of close family, material and financial deprivation, physical displacement, threats and discrimination, verbal abuse, and intense insecurity. Some studies estimate that about 50 percent of rights abuse victims are psychologically traumatized and suffer from mental health issues.<sup>10</sup> As Ulrike Krause, a researcher who works with vulnerable refugee communities, notes, “exposing [these community members] to a set of questions without considering and determining the most sensitive and appropriate way of doing so may cause (further) harm and put participants in difficult situations.”<sup>11</sup> If sensitive issues are not handled with care, there is a significant risk of retraumatizing already-traumatized individuals.<sup>12</sup> Further, trauma victims who open up in the course of an interview and feel better after sharing may soon return to harsh or unsympathetic environments, ill-equipped to deal with the after-effects of offloading a traumatic experience and reliving it as a result.<sup>13</sup>

Related to this, of course, is the question of how to interview, in an ethical manner, anyone involved in a situation of human rights abuse. In particular, how does one balance the desire to uncover and document critical information with the ethical imperative to respect what the interviewee wants to share and how she wants to share it rather than lead the interviewee, put words in the interviewee’s mouth, or distort or influence the interviewee’s responses?<sup>14</sup> The researcher must strike a balance between believing those who share traumatic experiences and recognizing the plasticity of memory and the possibility of distortion—whether due to personal or social incentives, pressure, fear, money, or other influences.<sup>15</sup> Gathering information from any witness, victim, or interviewee involves simultaneously balancing all these considerations while also engaging sensitively to elicit the most information and most honest narrative possible. The researcher ultimately seeks to document injustices fairly and to promote redress.

Third, engaging with human subjects in any sort of fact-finding, research, or journalistic or investigative operation must involve informed, active, and ongoing consent from the subjects. It is critical that a human rights researcher—for the reasons above and to respect the dignity of interviewees—conduct interviews only after having informed individuals of exactly what the researcher is doing, the broader goals, and the specific purpose or purposes for which the prospective interviewee’s words and stories might be

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10. Krause, *supra* note 8, at 4.

11. *Id.*

12. Pittaway et al., *supra* note 2, at 234–35.

13. Janine Natalya Clark, *Fieldwork and its Ethical Challenges: Reflections from Research in Bosnia*, 34 *HUM. RTS. Q.* 823, 834 (2012).

14. Geoffrey Robertson QC, *Human Rights Fact Finding: Some Legal and Ethical Dilemmas*, *INT’L BAR ASSOC. HUM. RTS. INST.* 1 (2010).

15. *Id.*

used. Learning the practice of obtaining informed consent is a key part of human rights fieldwork and an important issue in the field. The fact-finder must also learn how to respect consent in a community as an ongoing process rather than as a one-time hurdle to be cleared at the outset.<sup>16</sup> As Janine Natalya Clark says, from her own experiences interviewing victims of the Bosnian genocide,

During the interview process, and particularly if the researcher is conducting more than one interview with each participant, new developments may occur, circumstances may change, and interviewees may suddenly feel uncomfortable taking part. It is, therefore, important to revisit regularly the issue of informed consent and to reconfirm that the interviewee is happy to proceed.<sup>17</sup>

Achieving informed consent can be especially fraught given the power researchers can hold over interviewees. Achieving “a mutual understanding of voluntary and informed consent is a considerable challenge” in these situations, especially when people in desperate situations see researchers as their only hope and agree to almost anything in exchange for any form of assistance or perceived assistance.<sup>18</sup>

Fourth, the positionality of human rights organizations as predominantly elites from the Global North creates a problematic power dynamic that may result in the entrenchment of inequality by researchers who seek to combat injustice. Fact-finding is “part of a set of complex institutional and global power dynamics with the ability to reify hierarchies in both thought and action.”<sup>19</sup> Human rights researcher Dustin Sharp writes critically of the composition of international human rights organizations, staffed largely with graduates of Ivy League institutions with material and societal privilege.<sup>20</sup> The positionality of these human rights practitioners may lead them to misunderstand and misidentify structural causes of the injustices they seek to address and impose the agendas of international human rights organizations rather than prioritize issues of concern to affected communities. In part as a result of this, the work of human rights organizations has focused disproportionately on civil and political rights, often minimizing harms wrought by economic and social injustice and ignoring or downplaying issues that challenge researchers’ own positionality, complicity, or privilege in societal power dynamics.<sup>21</sup>

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16. Clark, *supra* note 13, at 835.

17. *Id.*

18. Pittaway et al., *supra* note 2, at 234.

19. Dustin N. Sharp, *Human Rights Fact-Finding and the Reproduction of Hierarchies*, in *THE TRANSFORMATION OF HUMAN RIGHTS FACT-FINDING* 69,70 (Philip Alston & Sarah Knuckey eds., 2015).

20. *Id.*

21. *Id.* at 70–73. See also SAMUEL MOYN, *NOT ENOUGH: HUMAN RIGHTS IN AN UNEQUAL WORLD* (2018) (arguing that major Western human rights organizations failed to prioritize economic and social rights through several decades of stark and growing inequality).

This dynamic is made even more problematic by the fact that most international human rights researchers hail from former colonial or neocolonial powers, leading many to critique their work as its own form of western imperialism. Makau wa Mutua, for example, offers a scathing critique of the role of human rights practitioners, describing them as white saviors “trying to rescue victims, redeem (or punish) third world aggressors and recreate both as clones of Western civilization.”<sup>22</sup> Mutua similarly contends that human rights activists simplify and essentialize complex political issues into frames in which the characters are simple, occupying the roles of “Savages/Victims/Saviors,” often along racial and ethnic lines.<sup>23</sup> Dina Haynes offers an illustration of this in the human rights focus on female genital mutilation, in which perpetrators are often characterized as barbaric savages, victims as helpless and without agency, and human rights activists as white knight saviors who must intervene on behalf of the “civilized” Global North.<sup>24</sup>

This form of advocacy can be “shallow and misguided” and can “[fail] to accurately represent the will or needs of the people affected.”<sup>25</sup> Thus, a critical part of a fact-finder’s approach to research must involve understanding one’s own positionality and complicity in rights abuse, as well as how to leverage that advantage to challenge rather than reinforce existing power dynamics.

Fifth, and related to the entrenchment of skewed power dynamics, human rights researchers who seek to represent community narratives accurately and correct harms done to the communities in which they work may actually fail both goals by engaging only with elites in a vulnerable community, thereby reinforcing harmful internal power dynamics and failing to advance the positions of the most vulnerable. As Eileen Pittaway, Linda Bartolomei, and Richard Hugman note, “[c]ommunity leaders and those familiar with the language, social systems, and culture in these settings may exert tight control through their ability to offer patronage to some researchers.”<sup>26</sup> Thus, researchers may register a distorted and uneven perspective of the community despite a desire to engage authentically. Affected communities have criticized such uneven and distorted sampling. For example, Catriona Mackenzie, Christopher McDowell, and Eileen Pittaway report the complaints of a refugee in Thailand, who said that researchers who entered refugee camps spoke only with camp leaders and their wives, never witnessing the actual

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22. Dina Francesca Haynes, *Client-Centered Human Rights Advocacy* 11 (NYLS Clinical Research Institute, Paper No. 05/06–4), <http://traffickingroundtable.org/wp-content/uploads/2013/07/Client-Centered-Human-Rights-Advocacy.pdf>, citing Makau Mutua, *Savages, Victims, and Saviors: The Metaphor of Human Rights*, 42 HARV. INT’L L. J. 201 (2001).

23. *Id.* at 12.

24. *Id.* at 13–14.

25. *Id.* at 14.

26. Pittaway et al., *supra* note 2, at 233.

conditions of the camps.<sup>27</sup> Researchers tend to beeline for elites and leaders in the community, rarely questioning their own subconscious or conscious intentions and positionality. Community members are often left silenced by the interviewing experience as a result.<sup>28</sup> This silencing tends to follow fault lines of gender, age, race, and other axes of marginalization.<sup>29</sup>

Finally, the safety of the advocates involved in research is a practical and important consideration when doing human rights fieldwork. Human rights fieldwork often involves navigating risk in unfamiliar terrains. These risks can range from environmental and medical hazards in isolated or deprived areas to political and physical risks of reporting on a conflict region where there are hostile actors eager to undermine human rights researchers. A human rights researcher must learn how to reduce the risks to her person while simultaneously doing the best she can with her mission and research.

The six listed points of tension or difficulty in ethical human rights fieldwork may not fully encompass the myriad and intersecting issues implicated in the field. As Pittway et al. have documented from speaking to refugee women and girls in Thailand who have exhibited a “deep fear of exploitation by researchers,” vulnerable populations have a range of concerns related to foreign fact-finders.<sup>30</sup> These include “unauthorized publication of names and photos,” “false expectations of assistance,” “lack of feedback from [interviews and] research,” fear of reprisal, and “mistrust of white researchers.” Other concerns involve “class and ethnic distrust,” “inability of many researchers to cope” with trauma and horror, “potential for retraumatization,” and lack of grassroots community consultation.<sup>31</sup>

The discussion above is intended to frame the need for proper pre-fieldwork training for human rights students and advocates as well as the issues students and advocates must address and prepare for *before* immersing themselves in human rights research and fact-finding.

### III. WHAT ARE SOME OF THE BARRIERS TO EFFECTIVELY TRAINING HUMAN RIGHTS ADVOCATES TO MEET THESE CHALLENGES?

As is clear from above, human rights advocacy requires a high degree of training to ensure ethical, sensitive, and effective engagement. However, structured training for human rights advocates undertaking international fieldwork is relatively scarce. Human rights organizations range in funding

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27. Catriona Mackenzie, Christopher McDowell & Eileen Pittaway, *Beyond “Do No Harm”: The Challenge of Constructing Ethical Relationships in Refugee Research*, 20 J. REFUGEE STUD. 299, 304 (2007).

28. Krause, *supra* note 8, at 9.

29. *Id.*

30. Pittaway et al., *supra* note 2, at 236.

31. *Id.*

structure, resources, and scope, from large and well-funded international organizations with internal training programs to smaller, domestically-focused nonprofits that rely largely on pre-trained and experienced employees to guide fieldwork operations. Sometimes larger organizations, too, fail to ensure systematic training of staff prior to deploying them on fact-finding trips.<sup>32</sup>

An extensive 2010 study by Michael O'Flaherty and George Ulrich considered the history, development, extent, and quality of human rights training for intergovernmental organizations (mostly United Nations and OSCE field officers).<sup>33</sup> The O'Flaherty–Ulrich article considered surveys conducted of intergovernmental human rights field officers (HRFOs) in 2004 and 2008. In the 2008 follow-up survey, while most HRFOs indicated they had sufficient academic preparation (in terms of courses of study), “a significant number of respondents expressed a need for further human rights training of a distinctly *practical* nature (they defined this as ‘contextualized,’ ‘advanced,’ ‘pragmatic’ and ‘practical’).” O'Flaherty and Ulrich noted that “[r]espondents who had not received substantive professional training in their current or past employment situations in several cases indicated that this would have been beneficial.”<sup>34</sup> Based on their review of two decades of experience of HRFOs, the authors conclude that “findings demonstrate the urgent need to augment the delivery to future and current HRFOs of applied education and training.”<sup>35</sup>

The conclusions of O'Flaherty and Ulrich regarding intergovernmental human rights field officers likely apply as well to their civil society counterparts, given the substantial overlap in objectives and practices between intergovernmental and non-governmental human rights researchers, as well as the regular rotation of individuals between these two sectors. Over the past few decades, as human rights work has professionalized, leading civil society organizations have taken measures to provide more robust training for new researchers. To be fair, apart from formal training, new researchers in human rights organizations often work with, and learn from more experienced fellow staff. Those with more experience are encouraged to share their experience and lessons with their younger colleagues.

More structured training has grown, to some extent. Human Rights Watch (HRW), for instance, has developed a detailed “Interview Manual,” which provides guidelines on topics that include security, pre-interview preparation, informed consent, techniques to minimize retraumatization, and methods

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32. Jonathan Horowitz, *OHCHR Pre-Deployment Human Rights Training: Adapting to the Evolving Roles, Responsibilities, and Influence of UN Human Rights Officers*, 2 J. HUM. RTS. PRAC. 28, 28 (2010).

33. Michael O'Flaherty & George Ulrich, *The Professionalization of Human Rights Field Work*, 2 J. HUM. RTS. PRAC. 1 (2010).

34. *Id.* at 20.

35. *Id.* at 22.

tailored to specific populations.<sup>36</sup> During a half-day session held in one of HRW's offices, new staff engage in a model interview and receive collective feedback. While this onboard training constitutes an important advance, the relatively brief in-office interview differs significantly in terms of context and intensity from the pace of engagement and the range of challenges that researchers face when they undertake human rights fact-finding in practice. As we explain below, the simulation model seeks to replicate, to the extent possible, the range and intensity of experiences that fact-finders are likely to encounter, in a controlled setting, with multiple interviews over several days and with structured feedback.

Human rights advocates are a diverse group from a variety of backgrounds, including law, journalism, academia, and grassroots organizing. Despite this diversity, however, traditional human rights organizations continue to be saturated with employees of Western and elite educated, often legal, backgrounds.<sup>37</sup> Studies indicate that even within local human rights communities in the Global South, participation in "human rights activity" remains largely the domain of elites.<sup>38</sup> This composition can be problematic. Indeed, the human rights "profession" has been criticized for disproportionately hiring those with privileged backgrounds and narrow legalistic mindsets.<sup>39</sup> The privilege, education, and positionality of an elite, Ivy League-trained lawyer working in human rights may exacerbate the challenges in fieldwork indicated above.

Professionalization and legal gatekeeping of the human rights profession are serious issues that warrant critical engagement. Our exploration of clinics, and particularly the use of the simulation training model in clinics, is at best a partial response to the challenges caused by the outsized influence of the legal academy in human rights organizations. Our goal is to advance structured, ethical training for rights advocates prior to their engagement with communities suffering rights abuse. While we discuss this training in the law school clinical setting, we believe the simulation model would be an effective tool to train non-law students in human rights advocacy as well. Indeed, we believe human rights clinics should be interdisciplinary and ac-

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36. Human Rights Watch, *Human Rights Watch Interview Manual* (February 2019).

37. See, e.g., Yves Dezalay & Bryant G. Garth, *Constructing Law Out of Power: Investing in Human Rights as an Alternative Political Strategy*, in *CAUSE LAWYERING AND THE STATE IN A GLOBAL ERA* 354, 357 (Austin Sarat & Stuart Scheingold eds., 2001); KIRAN KAUR GREWAL, *THE SOCIO-POLITICAL PRACTICE OF HUMAN RIGHTS: BETWEEN THE UNIVERSAL AND THE PARTICULAR* 104–06 (2017); Molly K. Land, *Democratizing Human Rights Fact-Finding*, in *THE TRANSFORMATION OF HUMAN RIGHTS FACT-FINDING*, *supra* note 19, at 399, 402.

38. James Ron, David Crow & Shannon Golden, *The Struggle for a Truly Grassroots Human Rights Movement*, OPENGLOBALRIGHTS (18 June 2013), <https://www.openglobalrights.org/struggle-for-truly-grassroots-human-rights-move/>.

39. David Kennedy, *International Human Rights Movement: Part of the Problem?*, 15 HARV. HUM. RTS. J. 101, 119–20 (2002).

cessible to non-lawyers so as to mirror the diverse, multi-pronged nature of effective human rights advocacy.<sup>40</sup>

In December 2019, the University Network for Human Rights (founded by one of the two authors), organized its first simulation exercise in Puerto Rico, with participants from Wesleyan University and the Universidad Interamericana de Puerto Rico. The simulation engaged non-law students who had spent the fall 2019 semester preparing by studying human rights advocacy. In addition, beyond the university, the simulation model may be adopted and adapted by any institution or organization that undertakes human rights fact-finding and documentation. The model may also be useful for anyone (whether student, trainee, or professional) who engages with individuals and/or communities in settings that differ from their own. Thus, journalists, legal and other investigators, community organizers, Peace Corps volunteers, public health and global health professionals, and many others might stand to learn useful skills and cultural sensitivity of value in their work.

#### IV. WHAT ARE LEGAL CLINICS, AND HOW DO THEY HELP TRAIN FUTURE ADVOCATES?

Clinics are a critical part of legal training, especially in the nonprofit world. Clinics fill the gap in traditional law school education between law on the books and law as it operates in the real world, giving students the chance to “learn[ing] law through application, practice and reflection.”<sup>41</sup> Students “learn from clinics lessons that they will not get from a regular academic course,” including how to develop their skills in tackling “real situations impacting real people, and to use the legal system to seek social change.”<sup>42</sup> The experiential learning that clinics seek to impart has been deemed “critical to training effective lawyers.”<sup>43</sup>

40. One of the authors (Cavallaro) and several colleagues recently established a non-profit organization called the University Network for Human Rights, which is dedicated to providing non-law students at universities across the United States and beyond with opportunities to engage in closely supervised and community-centered human rights fact-finding, documentation, and advocacy. See *Mission & History*, UNIVERSITY NETWORK FOR HUMAN RIGHTS, [humanrightsnetwork.org/about/](http://humanrightsnetwork.org/about/), where the organization’s mission statement reads:

The University Network for Human Rights facilitates supervised undergraduate engagement in the practice of human rights at colleges and universities in the United States and across the globe. The University Network partners with advocacy organizations and communities affected or threatened by abusive state, corporate, or private conduct to advance human rights at home and abroad; trains undergraduate students in interdisciplinary human rights protection and advocacy; and collaborates with academics and human rights practitioners in other parts of the world to foster the creation of practical, interdisciplinary programs in human rights.

41. Jayadev Pati & Madhubrata Mohanty, *Clinical Legal Education—A Bare Necessity in the Scientific Era*, 3 *ASIAN J. LEGAL EDUC.* 117, 122 (2016).

42. Deena R. Hurwitz, *Lawyering for Justice and the Inevitability of International Human Rights Clinics*, 28 *YALE J. INT’L LAW.* 505, 529 (2003).

43. *Id.* at 527.

Clinics thus expose students to the challenges of responding to unstructured and unexpected situations. Students learn about obligations to those whose interests they seek to serve, reflect on their own privilege and positionality, and are exposed to a more comprehensive understanding of the law.<sup>44</sup> Clinics can also introduce students to their role in social justice movements and the potential of lawyering for justice. They may be “the primary place in law school where students can learn to be competent, ethical, socially responsible lawyers.”<sup>45</sup> Finally, clinics can train students to think outside the narrow framework of the law imparted by doctrinal courses. Clinics assist students in understanding the impact of law in people’s lived experiences, consuming and using knowledge from outside the legal arena, appreciating the limits of litigation and the formal legal system, and developing a set of ethical and moral values grounded in the ethos of social justice work.<sup>46</sup>

Clinics have gained widespread traction as an important mode of legal training across the United States:<sup>47</sup> nearly all law schools in the country include clinics as an integral component of their curriculum.<sup>48</sup> Indeed, the American Bar Association, reflecting the centrality of clinical education, has specific standards for the availability of clinical courses and treatment of clinical professors in its accreditation requirements for law schools.<sup>49</sup> Clinics have begun to play an important role in common law legal education and training outside the United States as well. The pedagogical model, initially developed in the United Kingdom,<sup>50</sup> is now accepted in Australia, Canada, India, Malaysia, South Africa, and the South Pacific.<sup>51</sup> Clinical education has also grown significantly in Latin America<sup>52</sup> and Africa.<sup>53</sup> A wide and ever-growing range of funding sources have become available to private and public law schools around the world that seek to develop and expand clinical training, indicating a global emphasis on educating students using experiential and hands-on training.<sup>54</sup>

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44. *Id.*

45. Stephen Wizner, *The Law School Clinic: Legal Education in the Interests of Justice*, 70 *FORDHAM L. REV.* 1929, 1930 (2002).

46. Pati & Mohanty, *supra* note 41, at 120.

47. Suellyn Scarnecchia, *The Role of Clinical Programs in Legal Education*, 77 *MICH. B. J.* 674, 674 (1998).

48. Richard J. Wilson, *Training for Justice: The Global Reach of Clinical Legal Education*, 22 *PENN ST. INT’L L. REV.* 421, 421 (2004).

49. Scarnecchia, *supra* note 47.

50. Pati & Mohanty, *supra* note 41, at 119.

51. *Id.* at 119–20.

52. See, e.g., Erika Castro-Buitrago et al., *Clinical Legal Education in Latin America: Toward Public Interest*, in *THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE* 69 (Frank S. Bloch ed., 2010); see generally Wilson, *supra* note 48.

53. See, e.g., REPORT ON THE FIRST ALL-AFRICA COLLOQUIUM ON CLINICAL LEGAL EDUCATION, COMBINING LEARNING AND LEGAL AID: CLINICS IN AFRICA (28 June 2003), <https://www.justiceinitiative.org/publications/combining-learning-and-legal-aid-clinical-legal-education-africa>; see generally Wilson, *supra* note 48.

54. See generally Wilson, *supra* note 48.

## V. THE RISE OF THE INTERNATIONAL HUMAN RIGHTS CLINIC

While law school clinics were initially limited in scope to domestic lawyering and litigation-related training, in the past several decades, US law schools have increasingly developed international human rights clinics (“IHR clinics”) to train future advocates for global justice. International human rights clinics first emerged in the early 1980s, though only three law schools—Yale University, the American University Washington College of Law, and Queens College, CUNY—established clinical programs in international human rights through the first half of the 1990s.<sup>55</sup> Since then, the popularity of these international clinics has risen exponentially, with over forty law schools establishing international human rights clinics, most with international fieldwork opportunities incorporated into their offerings by 2011.<sup>56</sup>

While there is no specific definition of what constitutes a human rights clinic, it is generally understood as a law school clinic that either employs international human rights law, and possibly humanitarian law, as its primary reference or focuses on issues of global justice, employing non-litigation approaches to advance the rights of marginalized communities or groups rather than focusing on the needs of a “client.”<sup>57</sup> IHR clinics generally have as their primary goal the “modeling and teaching of good, reflective human rights advocacy to their students.”<sup>58</sup> Like other clinics, they rely on experiential learning and personal interaction to supplement a student’s doctrinal education and teach her how to apply classroom skills in the real world. Clinical professors and practitioners emphasize that “exposing students to . . . critiques of human rights advocacy while they learn to represent a real client with real human rights concerns is crucial.”<sup>59</sup> The IHR clinic offers “enormous potential, for students to experience the integration of law and policy, the dynamic nature of international law, and the possibilities for participating in its development and enforcement.”<sup>60</sup> But like domestic clinics, the focus of IHR clinics is not simply to offer an alternate mode of teaching the substance of the law, but also to foster students’ development into sensitive, ethical professionals with a commitment to doing good in the world. IHR clinics, like their domestic counterparts, focus on “giv[ing] students an opportunity to help protect the rights of those with limited or no access to justice, and to strengthen the mechanisms of global justice.”<sup>61</sup>

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55. Kathleen Kelly Janus & Dee Smythe, *Navigating Culture in the Field: Cultural Competency Training Lessons From the International Human Rights Clinic*, 56 N.Y. L. Sch. L. Rev. 445, 450 (2012).

56. *Id.*

57. See, e.g., Deena Hurwitz, *Engaging Law School Students Through Human Rights Clinics: A Perspective From the United States*, 11 AUSTRALIAN J. HUM. RTS. 37, 38 (2005).

58. Haynes, *supra* note 22, at 17.

59. *Id.* at 18.

60. Hurwitz, *supra* note 42, at 548.

61. *Id.*

All of this is to say that human rights clinics have been useful spaces for preparing future global human rights advocates for the rigors, ethical challenges, and complexities of international fact-finding and fieldwork. Just as domestic legal clinics are now seen as the foundation for training future lawyers in direct services and cause lawyering, human rights clinics should be and are increasingly seen as the space where future human rights advocates receive training in the rigors and challenges of international fieldwork.<sup>62</sup> A separate question not addressed in detail in this article is whether law school itself is or should be part of the academic training required for human rights activists. We believe the answer to this question is no; we contend that the kind of training in interviewing skills, ethical fact-finding, and cultural competence that characterizes the simulation, described below, should be a required element of training for current and future advocates across the board, whether they are already in practice or in school pursuing legal studies, other graduate studies, or undergraduate studies. This conviction has led us to create the University Network for Human Rights to provide and expand this training to students outside law, enabling greater participation by them in the field of human rights.

## VI. THE SIMULATION TRAINING MODEL

During the time that the authors were at Stanford Law School, its IHR Clinic (“Stanford Clinic”) sought to train and prepare future human rights and social justice practitioners for international fieldwork and human rights advocacy. When one author (Cavallaro) arrived at Stanford, the law school’s engagement in human rights involved an externship program, which sent students to work in South Africa. To be clear, externships are substantively and pedagogically quite different from clinics: the former do not integrate in class learning and experience, nor do they engage in reflective practice. The Stanford Clinic launched by Cavallaro and colleague Stephan Sonnenberg centered the experience of fieldwork as a critical component in human rights advocacy and as a means of fostering students’ appreciation of their place in a global community, promoting concern with issues of domestic and international justice, and developing critical and well-trained future human rights advocates.

One issue we considered at the outset was criticism not just of Western human rights advocacy generally, but also of international human rights clinical students specifically.<sup>63</sup> While human rights clinics can be a highly effec-

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62. Haynes, *supra* note 22, at 4.

63. See, e.g., Moe Ali Nayel, *Palestinian Refugees are not at Your Service*, THE ELECTRONIC INTIFADA (17 May 2013), <https://electronicintifada.net/content/palestinian-refugees-are-not-your-service/12464>.

tive method of training students for human rights advocacy and introducing students to meaningful global justice work, communities may be negatively affected when students “parachute” in for brief periods of time without sustained, mindful engagement with the local population. The potential for adverse impact from such “parachuting” is exacerbated when students act in ways that are insensitive or that retraumatize community members affected by rights abuse. Clinics work largely with inexperienced and untrained students. As a result, the risk of negatively affecting communities is high, given students’ lack of experience with individuals and communities who have experienced rights abuse and trauma.

To mitigate the ethical and other challenges that emerge from training “green” human rights advocates by taking them to sites of rights abuse and facilitating their direct interaction with affected communities, the Stanford Clinic developed a “simulation training model” in 2011. The model was based on the experience of co-author Cavallaro when he directed the Harvard Law School Human Rights Clinic. At Harvard Law School, Cavallaro and colleagues had developed a one-day simulation that involved fact-finding and advocacy exercises. At Stanford, given the full-time nature of all clinics, Cavallaro and colleague Sonnenberg expanded the simulation to a three-day exercise. At the University Network for Human Rights, Cavallaro and staff have expanded the simulation to a week-long exercise for students outside law.

Below, we describe and assess the simulation as a method of clinical training and as a potential avenue through which advocates can prepare more rigorously for ethical issues implicated in international human rights fieldwork.<sup>64</sup>

## A. The Stanford Clinical Simulation

The Stanford Clinic’s simulation training model consisted of a three-day mandatory training simulation for all students participating in the full-time clinic program. The simulation took place after students had undergone a two-week long classroom seminar discussing various issues in human rights advocacy and fieldwork but before they began work on clinical projects. Students would spend three days at a camp in the redwoods near the town of Pescadero, an hour from Stanford Law School, where they had limited

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64. We are familiar with relatively few extended (multi-day) simulation exercises in human rights practice in the university setting. See, e.g., *Role Plays & Simulations*, HUMAN RIGHTS@ HARVARD LAW, <http://hrp.law.harvard.edu/clinic/role-plays-and-simulations/>. In addition, in the related field of peace negotiations, see Professor Rex Brynen, “Peacebuilding and Post-Conflict Reconstruction,” McGill University, Department of Political Science, Winter Term 2019, [https://paxsims.files.wordpress.com/2019/03/poli\\_450-brynen-winter\\_2019.pdf](https://paxsims.files.wordpress.com/2019/03/poli_450-brynen-winter_2019.pdf).

access to phone and internet services. This relatively remote location encouraged full immersion into the world created by the simulation.

Prior to the start of the exercise, instructors provided students with an information packet that informed them of the situation (locale, country, etc.) in which the simulation was set, relevant historical context, and news articles (some real, some produced for the simulation) informing them of the human rights crisis they would be investigating. Instructors divided students into small teams of two or three, and each team was assigned to a human rights organization (in 2017: Human Rights Watch, the International Crisis Group, and EarthRights International) to (fictionally) represent. While the clinic ran the simulation for seven years with variations in country, setting, actors, and smaller plot details, the overarching framework of the simulation remained roughly the same.

The 2017 Stanford simulation was set in Honduras and based loosely on the deadly geopolitical, environmental, and human rights conflicts that plagued Honduras since 2009.<sup>65</sup> Instructors told students that they were located in the fictional nineteenth Honduran department of “Lelandia” and were tasked with investigating a human rights crisis at a fictional location called “Indian Point,” set by the bank of Pescadero Creek. Students were first informed of the (actual) geopolitical and historical context of Honduras, including the conflicted relationship between the United States and Honduras since the 1970s; the 2009 military coup that created political instability and widespread rights violations; and the increasing social and environmental conflicts that have haunted the region, including the assassination of indigenous environmental rights activist Berta Cáceres in 2016. Students were also told specifically about the private hydroelectric dam projects emerging along Honduran rivers that had attracted widespread protests from indigenous populations and environmental groups, including the Agua Zarca Dam project on the Gualcarque River, a project Cáceres was personally involved in opposing.

Instructors then presented students with the fictional situation that now confronted them at Indian Point. Desarrollos Energéticos S.A., the company behind the Agua Zarca Dam, had instituted a new hydroelectric project at Indian Point, in collaboration with a fictional international developer, “Raftdons,” to the displeasure and protest of the indigenous community around the area. Responding to this, a leftist guerrilla group—the fictional “CARDINAL”—had emerged in the area and announced its presence by setting off several bombs at various locations in Honduras, including by the Congress building, near an international hotel, and by the Raftdons headquarters in San Pedro Sula. The four explosions caused significant property

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65. See, e.g., GLOBAL WITNESS, HONDURAS: THE DEADLIEST COUNTRY IN THE WORLD FOR ENVIRONMENTAL ACTIVISM (31 Jan. 2017), <https://www.globalwitness.org/en/campaigns/environmental-activists/honduras-deadliest-country-world-environmental-activism/>.

damage but took no lives. After these explosions, CARDINAL members issued two communiqués claiming responsibility for the acts and condemning private development, US neo-imperialism, and government oppression of indigenous communities and laborers, setting forth the ideological commitments of the organization.

Students were alerted that the Honduran government condemned CARDINAL as an internal security threat and a criminal organization, similar to, and working with, the major gangs operating in that area, including MS-13 and Barrio 18. Students were then apprised of a second event that followed the explosions around the area: the murder of seven individuals at Indian Point, including four CARDINAL activists and an indigenous family of three, including a small baby. Instructors provided students with fictional local and international media reports from the New York Times, the BBC, and the domestic Honduran press, claiming the lives were lost in a confrontation between MS-13 and the police, with the family caught in the crossfire. News reports informed students that to the extent CARDINAL members were injured in the incident, it was only those who were actively involved in narco-trafficking and criminal activities.

Instructors assigned students their central task over the first two days of the simulation: to interview as many actors as possible who were involved in the killing of the seven individuals and to use their investigative and fact-finding skills to determine: what happened at Indian Point?

To answer this question, students were given the opportunity to interview a number of actors placed in different locales on the simulation site. Students' task was to try to piece together a coherent narrative of the incident that they could report through the international human rights organizations they represented. Stakeholders with whom the students were tasked to speak included some three dozen people on all sides of the conflict, witnesses, victims, activists, guerilla group leaders, government officials, private security officials, police and military officers, civilians, gang leaders, and confidential informants divulging inside information at great risk to their personal safety. Each person the students interviewed had a particular set of beliefs, motivations, and biases that required the student to understand him or her as an individual as well as discern how to interact with that person to set her or him at ease, gain confidence, and obtain critical and *truthful* information. In addition, individuals interviewed by the students had varying degrees of emotional attachment and trauma associated with the human rights abuses investigated. This gave students the opportunity to practice sensitive engagement with victims of trauma and underscored the need to avoid retraumatizing or negatively affecting the interviewees.

Students were also given the opportunity to conduct these information-gathering interviews in many different settings, including chance encounters, informal dinner-time encounters, formal, arranged interviews, on-sight run-

ins, and secret encounters to obtain sensitive and confidential information. This range of settings led students to adapt their interviewing styles not only to the individual interviewed, but also to the particular place, time, and surroundings. In addition, some of the simulation actors were instructed to speak in a foreign language, with others acting as their interpreters. Students thus practiced working with interpretation and navigating the challenges that come with that practice.

By the end of the second day, instructors asked the students to use all the information collected in their interviews and investigation to develop a narrative of the incident at Indian Point. Each team of students developed this narrative and embedded it in their organizational stance on the incidents documented, referencing the mission statement and vision of the organization to which they had been assigned. Students were expected to come as close as possible to the “true” version of events at Indian Point, supported and countered at various points by the official press and government narratives. Piecing together an accurate version of events required students to grapple with possible state, dissident, and private incentives to distort and cover up incidents of human rights abuse. Students were also expected to understand their positionality as neutral and nuanced human rights observers seeking to document the truth and not act in the service of any side, even when they felt personally moved and sympathetic to a particular narrative.

On the third and final day of the simulation, students worked on institutional and media advocacy, another critical component of human rights work. Armed with the information documented in their reports, students were tasked with speaking to various institutional and media actors. They advocated before intergovernmental human rights agents (United Nations Special Mechanisms, for instance), foreign ministers from influential states, and a host of media actors. These media actors included print, radio, and television interviewers that were sympathetic or unsympathetic to human rights narratives and framing. Here, students were expected to develop a coherent and persuasive advocacy strategy, understand how to divulge or refrain from divulging sensitive information and its sources, respond to counter narratives from hostile parties, and advance their organization’s human rights agenda.

After the simulation, the final component of the training exercise involved a day-long debrief session. Students were first informed of the “truth” of the situation that they were investigating at Indian Point, so they could understand how close or far from the official narrative their own conclusions were. Then students received feedback from actors, directly or indirectly. Every actor who participated in the simulation was given a feedback form to guide assessment of students’ interview styles and techniques, the extent to which students put the actor at ease (or not), student effectiveness at eliciting information from the actor’s character, and student judgment of the

character's motivations, biases, and beliefs. This feedback was collected and collated by the clinical instructors, who then discussed with students—both collectively and individually—their strengths and weaknesses in interviewing, investigating, and fact-finding. Students were then encouraged to lean on their strengths and work actively on their weaknesses before conducting real human rights fact-finding on a domestic or international fieldwork trip with the Clinic.

Just as importantly, the actors provided feedback on their experiences as interviewees. In this way, they served as stand-ins for witnesses, victims, and other stakeholders with whom the clinic would engage. To the extent they felt they were not being heard or were subjected to inappropriate treatment, the actors provided an early warning mechanism that allowed individual students and the Clinic to take measures to ensure that encounters with actual stakeholders would not trigger such feelings.

## **B. What Does the Simulation Aim to Achieve?**

As documented above, the human rights clinical simulation was carefully designed with consideration of the ethical pitfalls that human rights researchers, especially from the West, encounter in international fieldwork. For two weeks in the intensive classroom seminar component of the clinic, students considered the ethical issues that form central debates within the field of human rights work. At Wesleyan, students addressed these issues during the semester immediately preceding the December 2019 simulation exercise. These topics include: the cultural arrogance of the Global North; white guilt and saviorism; structural and systemic imbalances of privileged Westerners interviewing victims of abuse from the Global South; tensions in interactions with victims of trauma and conflict; the preference for “native informants” and reinforcing domestic power dynamics; means of obtaining informed consent and the risk of placing victims of rights abuse in danger through documentation of sensitive information; as well as other, related issues. Students debated the best way to undertake human rights work despite these challenges and discussed methods of ethical fieldwork practice and engagement in human rights advocacy.

Then, in the simulation, students were given the opportunity to put these ideas into practice in a serious and immersive environment that aimed to recreate international fieldwork as closely as possible, but without the risk of individual and community harm that can come with incompetent or unethically conducted human rights fieldwork. In other words, the simulation sought to serve as the key pedagogical tool to give students real world, practical, and hands-on fieldwork experience in a controlled setting with minimal consequences, so that traumatized communities and real individuals

who have experienced human rights abuse would not be treated as guinea pigs for first-time student advocates.

In particular, the simulation sought to tackle the most contested and problematic issues of human rights fieldwork. Emphasis was placed on developing students' ability to interact with individuals competently, effectively, and empathetically. Efforts were made to ensure that all clinical students interacted with a victim of trauma, a witness of a traumatic incident, and individuals with high personal, moral, or social stakes in the implicated issues so that students could begin to understand their work as community-centered, sensitive, compassionate, and driven by the need to serve. In addition, strong emphasis was placed on understanding and navigating social and cultural differences and developing cultural competence. Alongside teaching students to navigate conflict, the simulation was designed to involve a broad range of actors and contacts. We encouraged students to build skills essential to fact-finding in general. These include: best practices to create conditions for interviewing witnesses (establishing a safe environment, developing rapport, appreciating how and when to follow up, ensuring anonymity, challenging official narratives in meetings with authorities); working with competing community groups; and working with interpreters and learning to corroborate witness accounts. In addition, students were encouraged to use the simulation to build their skills in communicating with foreign communities, using translators effectively, understanding different social and cultural codes and assumptions, and asking questions in respectful and nuanced ways. The Clinic intentionally employed actors from a variety of backgrounds. Many were involved in human rights work and brought a high degree of realism to the simulation as a result. The simulation model aims to target and weed out behaviors that might hurt individuals and communities affected by rights abuse at the inception of students' training in human rights fieldwork, so that later these issues are less likely to emerge in the field and create problematic situations.

### **C. How Effective is the Stanford Clinical Simulation Training Model?**

Students evaluating the Stanford Clinic at the end of their quarter at the Clinic generally described the Clinic as a positive and enriching experience. Many alumni of the Clinic saw their appetite whetted for human rights advocacy and went on to work at international human rights organizations including Human Rights Watch, Reprieve, the European Roma Rights Centre, and the Center for Constitutional Rights. Many others work in social justice and civil rights organizations in the United States.

To assess the effectiveness of the *simulation*, as distinct from the experience of the Clinic overall and as a clinical training exercise, the authors

sent a survey to alumni of the Clinic. Sixteen students from the past seven Stanford Law School class years (Class of 2012 to Class of 2018) responded to the survey. While the group may be self-selecting and thus not fully representative of the overall experience of Clinic alumni, the responses are still useful in exploring the relevance of the simulation for students' future work in human rights and social justice.

At the outset, when asked how well the simulation trained them for subsequent clinical fieldwork, 40 percent of survey respondents selected a "4" on a 1–5 scale (1 being the least helpful) and 47 percent of respondents selected a "5," the highest possible score. Alumni who responded indicated that they conducted their clinical fieldwork in the United States, Pakistan, Cambodia, Canada, Peru, Guatemala, Malaysia, Panama, India, Costa Rica, Bolivia, Honduras, Guatemala, the Dominican Republic, Palestine, Greece, and Indonesia.

When alumni were asked how well the simulation trained them for fieldwork post-Clinic, positive responses dropped somewhat but were still high: 33 percent of respondents selected "4" and 42 percent of respondents selected "5," the highest score. Respondents indicated that they had undertaken post-Clinic human rights work at varied organizations including Reprieve, the European Roma Rights Centre, the Refugee Law Project, the DC Public Defender's Office, Human Rights Watch, Centro Prodh in Mexico, the Clemency Project, and at law firms with pro bono projects.

Alumni of the Clinic were also asked to evaluate the effectiveness of the simulation in developing certain skills: 87 percent of survey respondents indicated that the simulation provided particularly effective training in "interaction with witnesses" and "investigation and information gathering;" 47 percent of respondents indicated that the simulation prepared them well for interacting sensitively with victims of human rights abuse; and 33 percent of survey respondents felt the simulation was particularly effective at fostering cultural competence. The simulation's other areas of strength included training students to interact with private and government actors. Over half (54 percent) of survey respondents found the simulation to be especially effective in training them to work with authorities. Another 40 percent found particular value in learning to communicate with the media through the simulation.

Finally, clinical alumni were asked about fieldwork situations for which the simulation did *not* adequately prepare them and how the experience might be improved. Target areas for improvement included increased training in managing hostile actors such as confrontational individuals and state actors actively seeking to undermine human rights missions; personal safety training for the field; pre-fieldwork research on social and cultural norms; and appropriate management of difficult personal situations or ethical dilemmas when in a foreign space. Suggestions included providing even more

detailed feedback for simulation participants during the debrief; securing more highly-skilled actors; incorporating email correspondence; and increasing the presence of foreign language speakers and translators.

Overall, feedback on the simulation model was largely positive. Most suggestions focused on developing the simulation with even more complexity and nuance to replicate the in-field experience as realistically as possible. One survey respondent who now works for an international human rights organization indicated that they found it “a really valuable experience” and thought it “should be a core part of any clinical training in this field,” while another said that they enjoyed it and found it to be “very similar to some of the issues and concerns I had in Peruvian prisons.” Interestingly, students who went on to non-human rights endeavors found the interpersonal and intercultural skills useful in other lines of work. One corporate lawyer noted, “post law school, I did corporate investigations with my law firm’s white collar crime group, which involved interviewing low-level to high-level employees of a retail chain and financial institution. The training in the [Clinic] prepared me well for this work.” This observation reinforces our belief that the simulation exercise prepares participants to engage in interviews and other forms of interpersonal exchanges in contexts well beyond the human rights fact-finding setting.

## VII. EXTEND THE MODEL BEYOND THE HUMAN RIGHTS CONTEXT?

The need for training models that impart skills parallel to those developed in the simulation exercise exist in a range of professions. For example, physicians who are likely to encounter patients from a broad range of social and cultural contexts would no doubt benefit from cultural sensitivity training.<sup>66</sup> Still, a survey of medical school programs in the early 1990s demonstrated high levels of recognition of the need for cultural sensitivity education and training, but relatively low levels of courses and training opportunities in US medical schools.<sup>67</sup> In the intervening decades, medical education has increasingly included cultural sensitivity classes and trainings, although there has been more focus on the classroom than intense simulation exercises.

A recent study (published in 2017) of cultural competence (CC) among medical professionals in eleven countries emphasized the importance of CC and encouraged medical schools to develop classes and programs to respond to the observed need. The study noted that despite the need for cultural competence training “many physicians are insufficiently prepared

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66. Catherine Kay Lum & Stanley G. Korenman, *Cultural-Sensitivity Training in U.S. Medical Schools*, 69 *ACAD. MED.: J. ASS’N AM. MED. C.* 239 (1994), <https://europepmc.org/abstract/med/8135983>.

67. *Id.*

to meet the needs of increasingly diverse populations."<sup>68</sup> The authors concluded, "Research shows that medical school teachers should be culturally competent to educate culturally competent physicians. . . . We suggest that medical schools offer mandatory CC training for all teachers to enhance and strengthen teachers' cultural competencies."<sup>69</sup>

One training method used with medical professionals is "a program that consists of exposure to different cultures by simulating various culturally unfamiliar and unexpected situations."<sup>70</sup> Research has shown, at least using qualitative indicators, that simulation-based cultural sensitivity training is more effective than similar classroom-based instruction. So too is cultural sensitivity training essential to community health workers. These workers should have "intimate knowledge of, as well as relationships with, the community receiving services" and thus training to facilitate that understanding.<sup>71</sup> This need is as great or greater in the field of global health care, where programs that foster cultural sensitivity training have developed over recent years.

Social work is among the most engaged professions in the development of structured training to foment cultural sensitivity. In Canada, for example, "among the teaching techniques recommended are simulated culturally appropriate role plays and engaging students in value clarification exercises."<sup>72</sup> Archeologists have also called for fieldwork comprised of "group and semi-independent activities that enable students to develop analytical and reasoning skills."<sup>73</sup> Anthropologists are often unprepared for the ethical challenges of conducting interviews with communities. Students reflecting on the errors they committed during fieldwork lamented that their "training was too theoretical, and not practical enough."<sup>74</sup>

By no means does this brief reflection on the need for cultural sensitivity in other professions purport to assess the training methodologies employed in

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68. Janne Sorensen et al., *Enhancing Cultural Competence in Medical Education*, 8 INT'L J. MED. EDUC. 28, 28 (2017), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5275746/>.

69. *Id.*

70. Frederick T. L. Leong & Helen H. W. Kim, *Going Beyond Cultural Sensitivity on the Road to Multiculturalism: Using the Intercultural Sensitizer as a Counselor Training Tool*, 70 J. COUNSELING & DEV. 112 (1991).

71. Shafika Abrahams-Gessel et al., *The Training and Fieldwork Experiences of Community Health Workers Conducting Population-Based, Noninvasive Screening for CVD in LMIC*, 10 GLOBAL HEART 45, 52 (2015), <https://www.sciencedirect.com/science/article/pii/S2211816014027355?via%3Dihub>.

72. Paul Sachdev, *Cultural Sensitivity Training Through Experiential Learning: A Participatory Demonstration Field Education Project*, 40 INT'L SOC. WORK 7, 9 (1997), <https://journals.sagepub.com/doi/10.1177/002087289704000102>.

73. Stuart Brookes, *Archaeology in the Field: Enhancing the Role of Fieldwork Training and Teaching*, 1 ARCHAEOLOGICAL EDUC. J. 1, 7 (2008), [https://www.academia.edu/1903985/Archaeology\\_in\\_the\\_field\\_Enhancing\\_the\\_role\\_of\\_fieldwork\\_training\\_and\\_teaching\\_Research\\_in\\_Archaeological\\_Education\\_1\\_2008\\_](https://www.academia.edu/1903985/Archaeology_in_the_field_Enhancing_the_role_of_fieldwork_training_and_teaching_Research_in_Archaeological_Education_1_2008_).

74. Amy Pollard, *Field of Screams: Difficulty and Ethnographic Fieldwork*, 11 ANTHROPOLOGY MATTERS J. 1, 18 (2009), [https://www.wcaanet.org/downloads/dejalu/may\\_2013/pollard.pdf](https://www.wcaanet.org/downloads/dejalu/may_2013/pollard.pdf).

diverse professional contexts in which those educated or trained are expected to interact with a range of individuals and groups in difficult, emotionally charged circumstances. Our point here is far more limited. To the extent that professionals are expected to interact with people from diverse backgrounds in complex contexts—be they patients, witnesses, community partners, or others—they should be trained, in advance, to engage in those interactions in the most thoughtful, culturally sensitive, and effective fashion possible. A brief survey of the teaching and training in other disciplines suggests that immersive simulation-based training might enhance cultural sensitivity and effectiveness in those areas.

### VIII. CONCLUDING NOTES AND MOVING FORWARD

Our experiences with the human rights clinical simulation at Stanford and our feedback survey of Stanford Clinic alumni indicate to us that the simulation training model can be a highly useful tool to train future human rights advocates to be ethical, critical, and sensitive when tackling contested and thorny issues that arise in human rights fieldwork. While theoretical seminars prior to fieldwork can introduce students to issues of which they must be aware before entering the field—including criticisms of human rights workers and the mainstream human rights community—such classroom seminars do not allow students to apply lessons learned in practice. Yet, allowing students to interact with directly affected communities without prior training risks the exploitation of these communities as mere pedagogical assets or test subjects. The clinical simulation model seeks to fill this gap by training students in a highly realistic simulation that incorporates a majority of the issues that students are likely to encounter and should be able to navigate in the field. The simulation may be adapted to different contexts and thus may be universally adoptable. At relatively low cost, it holds potential to help train a future generation of critical and effective human rights advocates in a systematized manner.

We recommend that the simulation model be available to both law and non-law students. We are mindful of legitimate criticisms of the legalization and professionalization of human rights and the relationship of those critiques with many of the ethical issues we wish to rectify through better training. As a partial response to these critiques, we recommend not just that law school human rights clinics use the simulation training model, but that these clinics expand to accommodate non-lawyers and a diverse, interdisciplinary range of students. By expanding clinical and simulation training beyond the law school, we might reach a wider range of future advocates and create a well-trained, ethical, culturally competent, and interdisciplinary future human rights workforce. The authors of this article are currently working

with the University Network for Human Rights, to expand opportunities for undergraduates and other non-law students to engage in practical, supervised human rights work. Given its demonstrated capacity to impart vital skills necessary for ethical and effective human rights advocacy, the simulation is a key component of the training sessions that the University Network is designing for non-law students in the United States and abroad.