

Chapter 4

Teaching Law Undercover



Stewart Manley

Abstract This chapter describes my experience from 2006 to 2012 teaching law surreptitiously to refugees and young activists on the Thailand-Myanmar border. Education was a way for my colleagues and students to escape—if not physically, at least in their minds—the danger, powerlessness and living conditions of the border. Education was a secret gate in the barbed wire fence. It kindled their hopes for a brighter future. Without romanticizing their situation, I attempt to capture their resilience, courage and good cheer. I then place the experience in the context of my more recent teaching positions in Malaysia, explaining how teaching helps me maintain perspective and prompts me to view legal education as ultimately a social human enterprise.

Keywords Legal education · Refugees · Human rights practice · Human rights perspective · Myanmar and Malaysia education compared

4.1 Undercover

The swish-swishing breeze found its way through the maze of bamboo stalks. I looked up the slippery, muddy incline. Another 30 m and I would arrive. I looked down. One foot was stuck deep in the mud, the other precariously close to sinking. Laughing and chatter made me turn. With dismay, I saw my students in their bright shirts and dresses—hand-woven in striped and chequered patterns from deep purple, aqua blue, glowing pink, and cherry red yarns—nimble hopping on rubber slippers from dry spot to rock and back again up the hill. ‘I still have a lot to learn,’ I thought, as a cheerful student mercifully reached out to extricate me.

It was the rainy season again in Mae La Refugee Camp—the largest of Thailand’s refugee settlements, nestled among misty granite cliffs along the country’s remote

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border with Myanmar.¹ The camp served—and continues to serve—as a repository for what had been until a few years ago, a regular flow of civilians fleeing the decades-long armed conflict between the Myanmar government and ethnic rebel groups. Undocumented and with few to no belongings, refugees do not pass through immigration checkpoints with passports and visas. Instead, they cross over rivers and through remote jungle valleys. Some of these were my law students.

The school where I taught, called the Leadership and Management Course (though it was called a course, it was a school), was located in a relatively isolated area of what is called ‘Zone B’ of the camp.² Public transportation from the nearest city—a pickup truck with two benches in the back called a *songthaew* (literally, ‘two rows’)—let me off at the side of the main road after passing through several police and military checkpoints. I would give a brief smile to the Thai soldier at the camp gate that was confident enough to show that I knew where I was going, but subtle enough not to alert him to the fact that I was not officially permitted to enter.

Down a hill, through the grounds of a high school, and I was passing by a hand-operated water pump on my right that was constantly in use, as young men and women filled buckets with fresh well water to carry home for cooking and washing. On my left up a slight slope was a barbershop populated with men with little to do but smoke cigarettes and chew betel quids—packets of areca nut and tobacco wrapped in betel leaf, a mild stimulant, and lined with slaked lime to help absorption. I tried it once and it reminded me of the moments after the dentist injected novocaine into my gums. The path then took me by a primary school on my left where bamboo huts were packed with children repeating over and over in English, ‘Hello, how are you? Hello, how are you?’ These three scenes that I passed every morning on my way to class—camp residents struggling through the daily difficulties of living in primitive conditions, men sitting idly without jobs and a new generation striving to become better-educated—embodied life in the camp and reflected the frustrations and hopes of the camp residents.

My school was a product of those aspirations. Most young adults in the camp had two options: stay home or go to school. Many chose, or perhaps were forced by their parents, to attend one of the several post-secondary institutions scattered throughout the camp. Rampant unemployment largely resulted from the lack of businesses in the camp that were large enough to hire anyone other than family members. The marketplace had a number of vendors selling vegetables, meats, clothes and wares, but there was no industry to employ the thousands of adults who needed jobs. The barbed wire surrounding the camp ensured that. The United Nations and a host of nongovernmental organizations provided rice, salt, other staples and basic healthcare, obviating in part the need for money to buy basic necessities.³ These organizations

¹George Kent, ‘The Nutrition of Refugees’, in Doreen Elliott and Uma A. Segal (eds), *Refugees Worldwide: Volume 1: Global Perspectives* (Praeger 2012) 113, 118.

²For an overview of camp governance, see Suwattana Thadaniti and Supang Chantavanich (eds), *The Impact of Displaced People’s Temporary Shelters on Their Surrounding Environment* (Springer 2014) 169.

³Mac McClelland, *For Us Surrender Is Out of the Question: A Story from Burma’s Never-Ending War* (Soft Skull Press 2010) 204.

for the most part hired foreigners and Thai nationals, although exceptions were made for some of the manual labour positions.

Lecturing to a class that included students who had difficulty sometimes holding basic conversations in English taught me about how to teach law. I had to be able to articulate the ‘macro’ aspects of law. For instance, if I was discussing criminal law, I had to be able to explain how the people of a country, through their government, determined that certain acts endangered the security and well-being of their society, and that criminal law establishes what aspires to be a fair and transparent way of deterring those who would commit, and punishing those who have committed, those acts. In contract law, I needed to be able to convey to my students that, unfortunately, people do not always fulfil their promises, and that contract law helps hold people to those promises and provides remedies when a contract is breached. These concepts are obvious to lawyers and students schooled in law, but are not so evident to young adults who have spent much of their lives farming or hunting.

Yet while the students of LMC may have lacked English language skills and worldly wherewithal, they had front row seats to living conditions and experiences that made the rule of law urgently relevant to their lives. Imagine, for a moment, teaching the basics of refugee law to refugees. There is probably no one in the world who would be more interested (or amused). Or teaching human rights law to people who had fled government abuse and now lived in a community whose gates were guarded by armed soldiers. Thus, while perhaps I opened their eyes to laws that they had no inkling existed, they also opened my eyes with personal vignettes of how in the corners of the world, in the looted homes of rural villages or the fields burned by a departing army, the laws were nice to hear about but for them remained as fictional as the Hollywood movies they so enjoyed watching.

My second ‘undercover’ teaching job was located two hours to the south of Mae La Camp, in a pleasant Thai village dotted with tamarind and mango trees and surrounded by rice paddies. With a driveway bordered by huge palms acting as sentinels and three scruffy dogs running out to greet visitors, the small complex of green-roofed structures neighboured by a pond sprouting violet and white lotus flowers looked like any typical rural Thai house.

This was intentional. The school’s location and curriculum were for the most part closely-guarded secrets. To the Thai villagers who would pass by, deliver the drinking water or fish in the pond, the Peace Law Academy was merely a school for migrants. Without the sanction of the Thai government, at least during its initial years, the school maintained a low profile and the students remained at risk of arrest by police or immigration officers. Their safety and anonymity were of paramount concern.

Funded largely by American, Swedish and Japanese organizations, the Academy’s objective was not so much to train opponents of the Myanmar military government as it was to capacitate budding leaders from the country’s various states and divisions to promote and protect the rule of law. The quality of legal education in Myanmar

had suffered under military rule⁴ and even the students with law degrees readily told me that they had barely learned anything. After graduating in two years, it was hoped that they would return to their cities and villages to take up community leadership positions and train others in human rights and law. In this way, the values underlying all the Academy's courses—equality, respect, transparency, good governance, fairness and justice—would be shared throughout the country.⁵ These are the types of values in legal education that are, arguably, crucial to systemic justice and the integrity of the globalising legal community.⁶

The students in the Peace Law Academy, for the most part, had experienced a different side of the Myanmar military government's reign from those in the camp. For nearly fifty years, the people of Myanmar had been—and some would argue continue to be—largely deprived of basic freedoms and rights by the ruling military regime (although no longer technically in power, the constitution of Myanmar reserves one-quarter of seats in both the Union and the 14 State and Division Legislatures for military officials directly appointed by the Commander-in-Chief).⁷ Thus, in contrast to the students in the camp who had experienced the impact of actual warfare, most of those in the Academy were acutely aware of the more subtle oppression brought about by government abuses and restrictions.

Probably the most dramatic example of the military flexing its muscle during my tenure working for the Academy and its administrative organization, the Burma Lawyers' Council, was during a May 2009 conference in Bangkok on criminal accountability for Myanmar's then military leaders. A wide variety of international human rights organizations and Burmese advocates met to discuss a potential international inquiry into allegations of crimes against humanity and war crimes in Myanmar. Giving me a jolt of excitement and that odd surreal feeling when real danger appears, rumours circulated that the Thai and Myanmar governments had sent agents to infiltrate the meetings. The Myanmar government had apparently issued an arrest warrant for the General Secretary of the Burma Lawyers' Council and was reportedly trying to either kidnap or kill him.⁸ This was a man with whom I had eaten many meals and—please do not spread this—I accidentally locked inside a Bangkok office for several hours. To add to the tension, security personnel advised us to eat our meals in a sheltered inner area of the dining room of the hotel. Fortunately, while my mind was

⁴Myint Zan, 'Legal Education in Burma since the Mid-1960s' (2008) 12 *Journal of Burma Studies* 63.

⁵For an overview of the Academy, see Burma Lawyers' Council, 'Opening Ceremony of Advanced Internship Program in Human Rights and Law' (2009) 32 *LawKaPaLa: Legal Journal on Burma* 14–16.

⁶Josephine Palermo and Adrian Evans, 'Australian Law Students' Values: How They Impact on Ethical Behaviour' (2005) 15(1 & 2) *Legal Education Review* 4.

⁷Constitution of the Republic of the Union of Myanmar 2008 (English translation) arts 109(b), 141(b).

⁸Dan Withers, 'Aung Htoo, BLC: "Than Shwe Fears the ICC"', *Democratic Voice of Burma* (online at 22 October 2010) <http://english.dvb.no/interview/aung-htoo-blc-%E2%80%98than-shwe-fears-the-icc-%E2%80%99/12370>; Andrew Marshall, 'Putting Burma's Junta on Trial', *Time* (online at 7 August 2009) <http://content.time.com/time/world/article/0,8599,1915174,00.html>.

still in a fog of exhilaration and fear, clearer-minded activists spirited the General Secretary to an anonymous hotel room, where he went into hiding and later left the country to seek asylum.

This was the first time (and fortunately so far has been the last) that I felt a small fraction of the sensation that so many of my Burmese colleagues felt of being targeted by a powerful government. The truth was, of course, that I was not the target and I was never in any real danger. Yet there was uncertainty and foreboding in the air of that conference room. This gave me a glimpse of what the Academy students must have felt when they passed through a police checkpoint on the way to the market, or when a Thai soldier suddenly appeared in the doorway during one of my lectures, wondering what we were doing.

I may have taught undercover, but for me it was for the most part an adventure. The risk I faced—possible but unlikely deportation—paled in comparison to those of the Myanmar students, teachers, lawyers, doctors, politicians and others from every walk of life who laboured—often in silence, for almost no pay—to bring better days to their country. Each of them could have easily given up. Many could have resettled to more prosperous countries and forgotten about their homeland. Others could have abandoned their dreams of a brighter future in exchange for a stop to government harassment and, in some cases, detention. They did not, and in their resilience, they taught me lessons about courage and strength. There is some irony, therefore, in the title of this piece. For although people called me ‘teacher’, *sayar* (Burmese) or *th’ra* (Karen), I hope that at least some of them took pleasure in knowing that ‘student’ was the more appropriate word.

4.2 Out from Cover

Beginning in around 2012, improvements in the political conditions in Myanmar brought about a number of changes that affected many lives, including mine. Most of my colleagues felt safe enough to return to Myanmar. The Peace Law Academy continued for another session but then also moved inside Myanmar. Efforts to repatriate refugee camp residents have increased (although distrust in the Myanmar government continues).⁹ A significant portion of the international funding moved on or dried up.¹⁰ I also moved on. I contacted Professor Dr. Myint Zan, the editor of this book, who suggested that I apply for a position at the Faculty of Law of Multimedia University in Melaka (Malacca), Malaysia. Fortunately, I was offered a post and I worked there from 2012 to 2014. I currently teach at the Faculty of Law of the University of Malaya in Kuala Lumpur.

⁹Ron Corben, ‘Myanmar Refugees in Thai Camps Face Repatriation Challenges’, *VOA News* (online at 11 May 2017) <https://www.voanews.com/a/myanmar-refugees-thai-camps-repatriation-challenges/3847329.html>.

¹⁰Saw Yan Naing, ‘Left Behind: Karen Refugees at Mae La Camp’, *The Irrawaddy* (online at 28 April 2017) <https://reliefweb.int/report/thailand/left-behind-karen-refugees-mae-la-camp>.

As I transitioned from the Thailand-Myanmar border to urban Malaysia, from grassroots human rights work to university life, from dusty refugee camp paths to skyscraper-lined highways, and from undercover to out from cover, I came to understand that perhaps the most enduring gift from my experience teaching law on the border is perspective. It is a well from which I draw from time to time. When traffic on the way to work is bad, I look at my new car and remember slowly riding a bicycle to the Peace Law Academy in the hot sun. When the air conditioning in a classroom seems sluggish, I remind myself of how the bamboo structures in Mae La Camp were built with permanent openings to let the breeze in.

Perspective is not, however, only about being able to appreciate comfort, stability or even intellectual and material wealth; perspective is also about understanding how opportunity enables, and in this regard I have been truly fortunate. To some extent—through our attitude, drive and effort—we make our own opportunities, but I am convinced that circumstances outside my control—my citizenship, my native language, my parents' emphasis on education—largely contributed to opening a wide range of opportunities for travel, work and study. I hope that the young men in the barbershop, and the children memorizing English expressions, and the Peace Law Academy students, can find their way to meaningful and rewarding opportunity. Some of them surely will, hopefully all, but their path is not an easy one. Many doors that were open for me will be closed for them. It is in mitigating the inequity of opportunity, I believe, that education has perhaps its greatest potential.

Perspective for me also means appreciating how all of us—regardless of our backgrounds—need encouragement in education. In the eyes of my Malaysian students, I can see the hopes, fears and uncertainties that I saw in my Myanmar students. Though perhaps different, their concerns are just as urgent and important. As older adults, many of us probably look back to our student life as 'the good ol' days', but if we are honest, we should recognize that being a student is not easy. I remember fearing one of my classes with all my soul—there were only 6 of us, and I knew that the teacher would call on me to participate. When contemplating getting a job after graduation, I recall the helplessness I felt in the face of what seemed like monumental political and economic forces beyond my control. As teachers, our ability to affect these factors is limited, but we can help our students face them with hope and confidence. Recently during my Mooting class, I was particularly impressed with the oral submissions of a few of my Malaysian students. They had prepared well, they were brave but measured in their positions, and they spoke with passion. During the feedback session afterwards, I could see that my praise for them was not just words, but energy. Positive energy that filled them with strength and promise.

Ultimately, in legal education, we do the best we can for our students given the environment in which we operate. I believe that what we do is a human endeavour, in which our final goal must be a human one. To improve our lot as we travel through the challenges of living together in society. To gradually, but without hesitation, move away from historical abuses and injustices to a fairer, more peaceful and more equitable place in time. Teaching on the border and in Malaysia has taught me this. Sometimes I imagine my Myanmar students, perhaps working with disenfranchised

labourers in a remote village or holding a UN workshop in a bustling Yangon conference room. I imagine my Malaysian students, advocating for freedom of speech and association or, perhaps one day, issuing opinions from the Malaysian judicial bench. All of them, equally, are bringing about the justice that I dreamed of when I decided to attend law school in 1998 and when I decided, back in 2006, to leave a private law firm in Phoenix, Arizona to teach law undercover.

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