

**DEMOCRACY FOR ALL: HUMAN RIGHTS AND STREET LAW  
LEGAL LITERACY PROGRAMS;  
Reflections After 20 Years of Democracy in South Africa**

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**Introduction**

Street Law is an educational movement that began in 1972 in the United States and has since spread to over 40 countries. This paper will document how it was established and flourished in the 1980s and 90s in South Africa. The goal was and is to teach non-lawyers, especially high school students, their legal rights and to empower them to become active informed citizens in their society. This paper will trace the background of Street Law in the U.S. and how that program was adapted and transformed to be the success it is in South Africa as well as a model for the world. Reference will be made on how the Street Law movement has grown and sometimes struggled during the past twenty years and its prospects for the future.

**Background of Street Law in the United States**

Street Law was first established by myself and three other law students and a law professor at Georgetown University Law Center in 1972 (O'Brien 1978, p. 568). The 1960s had been a time of social unrest and Street Law fit the mold of trying to improve society. The concept was proposed by a community group (D.C. Citizens for Better Public Education) which had the mission of improving the failing schools in Washington, D.C. The idea was to develop a practical law curriculum law students could teach. From the beginning, it was accepted that the teaching methodology would be interactive (role-plays, small group work, mock trials, debates, etc.) and that lecture, which was seen as often boring and authoritative, would be kept to a minimum. "Learning by doing" would become the hallmark of Street Law. The name "Street Law" was chosen because it was thought it would be attractive to young people and it meant "the law you need to know on the street."

The interactive methods can be illustrated by a short exercise called the “Pencil Game,” which can and has been played by students, teachers, lawyers, police officers, prison officials, law professors and judges all around the world.

### ***The Pencil Game***

***Step One:*** *The teacher (law student or law teacher) tells the students to play the game, without any instructions. The students look at each other bewildered; they don’t know where to begin or how to play.*

***Step Two:*** *The teacher says that the purpose of the game is to pass the pencil to the back of the line and back. The students begin to do that.*

***Step Three:*** *The teacher stops the students half way back in the line and says, “You are doing it wrong, you must pass the pencil over your right shoulder.” They now pass the pencil back to the front of the line and start over, passing the pencil over the right shoulder. The teacher again stops them halfway saying, “Now you must pass the pencil over your left shoulder.” They do this and the pencils return to the front of the line.*

***Step Four:*** *Instead of declaring the winner to be the row that seems to have won, the teacher picks as winner the row with the most girls or women and declares that that row won because they had the most females.*

***Step Five:*** *The teacher asks one of the students in the front of the rows to give him a dollar. One student does and the teacher proclaims his row the winner.*

***Step Six:*** *The teacher debriefs the game. How did the students feel about the outcomes of the game? Common reactions are that it was unfair, that they never knew the rules, that the rules were changed in the middle of the game, that there was corruption, and that there was discrimination against males. These are basic concepts of law and they learn these through this introductory game.*

We drafted the first Street Law curriculum to include basic chapters on Criminal Law, Consumer Law, Torts, Family Law, Housing Law and Constitutional Law. (O’Brien et al. 1972). Interviews of legal services attorneys, who worked with the poor in Washington, helped to identify the

most pressing problems confronting the disadvantaged in the black community. Some of these examples were: what to do if stopped by the police, the landlord's obligation to provide tenants' heat in the winter, or how to complain if a television you buy doesn't work.

The Professor, Jason Newman, and I met with Washington, D.C.'s Associate Superintendent of Schools, Vincent Reed, who said "These law students aren't going to lead students on protest marches to the principal's office, are they?" We assured him that that would not happen, and he went along with a pilot in two schools. The pilot was a huge success culminating in a mock trial at Georgetown Law Center's Moot Courtroom, conducted before an audience of students and parents and one of the most respected African-American federal judges in Washington, D.C., Judge William Bryant. He remarked, as so many judges have since, "You did a better job than many of the lawyers in my courtroom."

The proficiency of the students in the pilot mock trial had a major impact on Street Law's future. The Director of the Robert F. Kennedy Foundation was in the audience, and he called me up and stated: "My daughter played an attorney in the trial, and it has changed her life. She feels so much better about herself; she sees what she can do." He ended up funding Street Law programs to be taught at other law schools, and it has since spread to 70 law schools across the United States.

Within three years the Street Law curriculum became a best-selling book, *Street Law, A Course in Practical Law* (Arbetman, O'Brien & McMahon 1975) published by the country's leading law book publisher, West Publishing Co., and has now sold over two million copies and become a model for South Africa and over forty other countries. It is now in its eighth edition, (Arbetman & O'Brien 2010), as the law is updated every four years and new interactive methods added.

### **Street Law in the U.S.**

Early on we learned that if it were going to make a major impact on a large number of students, we would have to train secondary school teachers to teach Street Law. They taught many more high school students and were a much bigger market for the book than law students. Teachers had little or no background in law, but they were well educated and some were familiar with interactive teaching methodology.

Interactive teaching methods were always at the heart of Street Law as they made it more interesting to the students. David McQuoid-Mason of South Africa has written the following rationale for these methods: “The origins of the learning pyramid are obscure, but it provides a valuable tool for demonstrating that interactive learning is often the most effective way to teach law.”

“The learning pyramid indicates that the rate of memory retention increases as more learner-centered interactive teaching methods are used. For example, using an overhead projector or a power point, learners remember 20 percent. If learners see a live demonstration they will remember 75%. And finally, if the learners teach others or immediately use the information, e.g., in an action project or through the U.K.-based Street Law Plus programs, they will remember 90%.” (McQuoid-Mason 2008, p. 31).

From 1975 to the present, hundreds of teacher workshops were conducted coast to coast, and in 1994 a special summer institute was established by Lee Arbetman, now Street Law Inc. Executive Director, at the U.S. Supreme Court under the auspices of the Supreme Court Historical Society, in which the justices play a major role. Teachers were taught by some of the leading Supreme Court advocates. Chief Justice Roberts was a Supreme Court advocate then and played a leading role teaching the teachers. Now in its 20th year, this Supreme Court Summer Institute has become one of the country's leading teacher training programs.

From the beginning, Georgetown University has based its model on law students being trained and then teaching in schools and prisons. It started in two high schools but later expanded to all Washington, D.C. high schools. The original idea of having two students teach in each school was abandoned in order to reach out to more schools. Under the auspices of Georgetown's present director, Professor Richard Roe, the program's classes were expanded to women's prisons, homeless shelters and other community settings. Georgetown provides the most intensive supervision of any law school in the world. Roe, or one of his clinical supervisors, observe, and critiques and gives feedback to each law student's teaching methods four times a semester. Law students are also required to keep a journal and develop written lesson plans. Lesson plans are also a requirement in South Africa and in some of the 64 or more faculties of law programs in the U.K.

(Grimes et al. 2011, p. 234). Unfortunately, South African law schools and other law schools around the world have not had the funding or the luxury of this type of intensive supervision.

Street Law was not seen as just instruction for high school students, it was offered in two Washington, D.C. prisons as early as 1974. Prison inmates, though rarely sophisticated or well educated, brought a street knowledge of the law and court experience that made the classes more interesting. The inmates participated in mock trials and mock parole hearings. Graduation ceremonies with caps and gowns took place before family members. For most, this was first such experience in their lives. Correctional officers asked why they, too, could not learn the law, and under the leadership of Street Law staff member, Margaret Fisher, a program for them was set up in Washington and other cities. A special manual was produced, *Practical Law for Correctional Personnel* (Fisher & O'Brien 1980).

Moving to the state of Washington, Fisher has been a particularly prolific and innovative creator of Street Law programs and educational materials, addressing the needs of immigrants, Native Americans, prison inmates and correctional officials, mental patients, youth cited for criminal, traffic and school offenses, and school children from elementary through high school. She is based at Seattle University and at the Courts of the State of Washington, where she also trains judges to teach Street Law, helps teachers implement online educational video games, originally developed as the I-Civics model under the leadership of former Supreme Court Justice Sandra Day O'Connor. Fisher also spent close to a full year in Southern Africa, in Lesotho and in South Africa, helping set up Street Law programs.

Funding, besides coming from the aforementioned Robert F Kennedy Foundation, also came from the U.S. Department of Justice, U.S. Department of Education, D.C. Department of Corrections, Federal Bureau of Prisons, foundations, especially the Ford and Soros Foundations, corporations, law firms, and individuals. Street Law Inc. now has an annual dinner/fundraiser that has garnered extensive support from corporations and law firms.

## **Street Law in South Africa**

The first Street Law program outside the U.S. was established in South Africa in 1986. This was remarkable for a couple of reasons – the charged political environment in the period of Apartheid suggested probable government roadblocks and the subsequent introduction of the program in South African law schools resulted in almost universal acceptance. This was in no small part due to David McQuoid-Mason, then Dean of the University of Natal Law Faculty.

In 1985, McQuoid-Mason visited me in my office in Washington, D.C. Within a few minutes, he said “We can and must do this in South Africa.” I said, “But won't we get arrested?” He said, “Don't worry about that; we will work around the government.” The next week, we met again in New York, where he witnessed teachers taking part in a mock trial and forthwith plans were underway for the U.S. State Department, at McQuoid-Mason's behest, to fund my travel expenses for a month long trip from the U.S. to South Africa and for us to begin drafting a South Africa Street Law book. This trip was at the height of Apartheid and the day I arrived in South Africa, on the day “emergency orders” were issued resulting in soldiers with machine guns lining Jan Smuts Airport, tanks driving into townships we visited, and meetings taking place often by candlelight to avoid detection by the security police.

In order to get a program going quickly in 1986, McQuoid-Mason decided to publish the book in the form of five booklets (McQuoid-Mason 1987-1992) on topics such as Introduction to South African Law, Consumer Law, Family Law, Welfare and Housing Law, and Criminal Law and Juvenile Justice (McQuoid-Mason 2008). For purposes of not risking government interference, criminal law and human Rights came a little later (but not much later) than the others. One of the major innovations in the South African books was the addition of engaging (often comical) cartoons by South African artist, Andy Mason. These made the booklets interesting and user-friendly. I played a role in editing these books, which took a number of exercises from the American edition, where McQuoid-Mason would mail drafts to me (there was no internet at the time) and I would make handwritten comments and mail the drafts back. In later years, McQuoid-

Mason combined the five booklets into one stand-alone Street Law text similar to the American textbook. (McQuoid-Mason 2004).

How did McQuoid fund the printing of the books? This was perhaps his most brilliant move. He and I approached the head of the all-white Association of Law Societies in South Africa and McQuoid-Mason said to him, “If you guys want to be relevant in the new South Africa, you will be better off if you do something good in the old South Africa.” The Law Society head saw the point and funded a pilot project which started at five high schools: two black, two white, and one Indian and just one law school, the University of Natal. The Association of Law Societies, along with U.S. AID and the Ford Foundation later helped expand Street Law to 17 law schools (McQuoid-Mason 2003). The insignia of the Association also went on the cover of each book providing a badge of legitimacy and protecting the program from the scrutiny of the South African government.

From the beginning some influential members of the judiciary were enthusiastic supporters of Street Law. High Court judges frequently presided at mock trials. At the time all judges were white. To indicate to school children that one day there would be black judges, black lawyers were also invited to preside over trials. Many of these lawyers later became judges and other leaders in the new democratic South Africa (McQuoid-Mason 2003).

At the inaugural Street Law program at the University of Natal, McQuoid-Mason used law students in large numbers, e.g., 100 a semester. He then persuaded 17 of 21 universities across South Africa to introduce Street Law programs in their curricula; all schools sent law students out to teach. (McQuoid-Mason 2008, p. 29). There was tremendous interest and enthusiasm among South African law students and high school students in this teaching.

The South African government was highly unlikely to allow Street Law formally into their schools. Therefore, it was decided that individual schools could be approached as principals had flexibility to start “non-formal” education programs and that was how Street Law classes began. (McQuoid-Mason 2003). One roadblock was encountered at a meeting of principals in Zululand. After hearing McQuoid-Mason's presentation, one principal said, “Professor Mason, why have you come here to pour poison

into our ears and to teach dogs to rise up and tear out our throats?”  
(McQuoid-Mason 2003).

Some of the first inter-racial workshops ever held in South Africa were under the auspices of Street Law. McQuoid-Mason likes to tell the story of conducting a workshop with white and black students together learning about confrontations with the police. When the black students did the role-play, they had the police beating up the students. When the white students did the same role-play, the white students and police were very polite to each other. Students always brought their life experiences to Street Law.

McQuoid-Mason wanted to reach the most possible students. That was why he worked to spread Street Law to 17 universities with as many as 100 law students teaching from each law school. To accomplish this, he developed a limited supervision model enabling him to have law students teach in as many schools as possible. With an average of one or two law school staff members per program, this made intensive supervision impossible. Lesson plans and journals were required as were weekly seminars. The program often turned to school teachers for law student evaluation and feedback. But the teachers were themselves often poorly trained and had little or no knowledge of the law. This may have been necessary considering the reality of South Africa, but it made effective supervision often problematic.

McQuoid-Mason served as national coordinator for the first few years and then turned the job over to other law school coordinators. The first Street Law coordinator was Mandla Mchunu who later became national Street Law coordinator and went on to be a top official in South Africa's first democratic election in 1994. The present national coordinator is Lindi LaRue, based at Nelson Mandela University in Port Elizabeth.

After the publication of the five South African Street Law booklets, it was recognized that human rights had been left out of the curriculum. I was asked why there were no human rights in the American Street Law text, and my only answer was that Americans focused on our constitutional rights and other rights were provided by law, but they were not referred to as human rights. Certainly, the U.S. Government had been a leader in the writing of

the Universal Declaration of Human Rights, but it had since failed to ratify some human rights treaties, and there was a strong aversion in the U.S. to incorporating human rights law into domestic law.

The South Africans were correct in pointing out that human rights were not included in U.S. textbooks, and, as a result, McQuoid-Mason and I embarked on a joint effort to develop a human rights curriculum that could be used both in South Africa and the U.S. The result was *Human Rights for All* (O'Brien, Greene & McQuoid-Mason 1996), a text that included topics such as:

1. What Are Human Rights?
2. Political Rights in a Democracy.
3. National Security and Fair proceedings after Arrest (including detention and torture).
4. Social and Economic Rights.
5. When human rights abuses occur, what can be done?

This book became part of training programs in South Africa and other countries. This was exemplified by training of paralegals at the Lawyers for Human Rights, a South African public interest organization, which had as one of its main tenets the abolition of the death penalty (later enacted in the new South African Constitution). The book *Human Rights for All* called for a debate on the legitimacy of the death penalty, as this was an example of the interactive methods Street Law used to elicit both sides of an issue. The Lawyers for Human Rights' paralegals refused to debate the issue since, in their minds, the issue was settled: the death penalty was wrong. This was contrary to the Street Law philosophy that both sides of an issue be debated in Street Law classes.

*Human Rights for All* is now part of a movement in the U.S., called “HRE USA” (Human Rights Educators USA), to incorporate human rights education in the national curriculum. As a result, in 2014 the National Council for the Social Studies adopted a resolution supporting human rights education in state schools. Some human rights have also been incorporated in the new national curriculum of South Africa.

*Human Rights for All* has not been a big seller in South Africa nor in the United States. The subject of human rights was not formally incorporated in the South African or U.S. school curricula. Illustrations for the *Human Rights for All* text were again produced by South African artist, Andy Mason, and, again, the American publisher insisted the drawings be adapted since they felt they were too graphic for an American market. However, discussion of human rights was also incorporated in the American Street Law textbook, the only book of its type in the U.S., which now includes a chapter on human rights. *Human Rights for All* was later used or adapted for many other countries.

Later, funding in South Africa was secured by a large grant from the U. S. Agency for International Development (“USAID”), which particularly liked the Street Law book on Democracy, called *Democracy for All* (McQuoid-Mason, Mchunu, Govender, O’Brien & Larkin 1994). The program began before the 1994 election and after Mandela was released when democracy could legally be discussed. This book provided training to NGO members and high school students so that they could understand that democracy was more than just about elections.

The writing was a true collaboration between two Americans and three South Africans. The design took place in South Africa and then writing took place in the U.S. The book was published in South Africa. Training began before the 1994 elections with NGO paralegals being trained and then delivering the curriculum to community groups, and Street Law coordinators being trained and then having their law students teach the curriculum in schools. Street Law's interactive methodology was used in the curriculum with an emphasis on role-plays, use of small groups and mock hearings. Principal topics covered were:

1. What is Democracy?
2. How Government works in a Democracy.
3. Checking the Abuse of Power.
4. Human Rights and Democracy.
5. Elections.

## 6. Citizen Participation.

This type book, *Democracy for All*, a training manual for average citizens, may be the only book of its kind anywhere in the world and has proved very popular in other countries where it has been adapted, e.g., Mongolia, Moldova and elsewhere. It again contained cartoons by South African Street Law illustrator, Andy Mason, though some have been adapted in other countries to fit the various cultures. Its goals are:

- a. To improve understanding of the fundamental principles and values underlying democracy in a society.
- b. To promote awareness of current issues and controversies relating to democracy.
- c. To show students that their participation can make difference in how democracy works in their country.
- d. To foster justice, tolerance and fairness.
- e. To develop willingness and an ability to resolve disputes and differences without resorting to violence.
- f. To improve basic skills, including critical thinking and reasoning, communication, observation and problem solving.

The book also became a valuable publication in the Middle East. Street Law Inc. and the Center for the Study of Islam and Democracy (Washington, D.C. and Tunis, Tunisia) adapted it to be *Democracy for All in Islam* (Masmoudi et al. 2006), with quotes added which indicated how democracy was supported by the Koran. It has been used successfully in training in many Arab countries, e.g., Tunisia, Morocco, Jordan and others.

## **Integrating Street Law into the Academic Program of the Law School**

When South Africa first looked to Georgetown University's program in the U.S., it found that students were teaching for a full year (two semesters) three times per week, attending a weekly seminar, writing lesson plans and journals and conducting a mock trial competition. It was felt that carrying such a heavy workload, sometimes estimated to be 20-30 hours per week, merited academic credit. When South Africa started the program, McQuoid-Mason felt that Street Law-type programs that are fully integrated into the curriculum should be providing academic credit for their work, as in any other law course (McQuoid-Mason 2008, p. 34).

This was questioned in the U.S. at Georgetown Law Center by some faculty members and a report was written criticizing Street Law academically and calling for taking away academic credit for the program (Ruff Report, 1980). An all-faculty meeting was conducted where a number of prestigious professors defended the program's academic value. One professor said: "We all know we learn more by teaching than sitting in a classroom." The Dean pointed out that one of the law school's goals is to provide outreach to the community and there was no better way than Street Law. Consequently, academic credit was continued for Street Law, now celebrating its 42<sup>nd</sup> year at Georgetown.

A similar debate took place in South Africa, and some schools such as University of Natal (now Kwa/Zulu Natal) approved Street Law for credit. Others lessened the credit or made it a volunteer non-credit program. My preference is strongly for an academic credit-bearing program where law students receive a grade and are more committed (a greater reason to show up and work) and deliver generally more and better training. However, in many schools in the U.S. and elsewhere, students organize a volunteer program on their own with little training and knowledge of Street Law, and its history.

## **Law Students and Teachers**

I believe the law school model, when properly done, has significant advantages over a model where non-lawyer regular teachers are the sole teachers. Firstly, teachers do not usually have training in law, though occasionally a law school graduate will go into teaching. Teachers just cannot answer the myriad of questions on law their students often have. Law students as teachers bring freshness to the school and their enthusiasm makes them popular among their students. The relative nearness in age of law students to their wards enables the students to relate to their instructors better. Nevertheless, there are now scores of veteran teachers in the U.S., South Africa and other countries who have learned the law and methodology very well and are now outstanding teachers of Street Law.

Nonetheless, there are advantages for regular teachers, especially if they conduct classes with occasional supplemental legal resource persons. This is widely done in the U.S., under the auspices of the American Bar Association and many state and local bar associations, where thousands of attorneys go into classrooms all over America, often on “Law Day,” designated May 1<sup>st</sup> of each year, and conduct a guest class for or with the teachers. The teacher may incorporate the lawyer (or law student) into the lesson plan or turn the class over, hopefully with some guidance, to the legal resource person. The teacher sometimes attends teacher training and learns how to effectively use the legal resource. In this way, a teacher, who has much more experience than the legal resource person in teaching, grading, discipline and school administrative procedures, remains in control of the class.

## **The Future of Street Law**

In most of the 40 countries that have Street Law programs, Street Law is here to stay. In the U.S., the availability and publication of a best-selling textbook provides an easy access to the program for hundreds of teachers who can buy and use the textbook each year. The flagship law school programs, the University of Kwa/Zulu Natal in South Africa and

Georgetown University in the U.S. have Street Law embedded in their law schools' curricula and funds from the schools' budgets help support the programs. This is also true in the sixty-four British law schools where Richard Grimes has initiated the Street Law program.

The initial influx of money did not ensure sustainability. Take the case of South Africa. USAID came in with seed funding, but when democracy came to South Africa, they pulled out. Fortunately, eight of the 17 law schools were willing to continue the Street Law program and incorporated it into their curriculum and budget. This is the case in many other countries.

Each year, new law schools contact Street Law programs and ask how they can start their own programs. Many go to the bi-annual GAJE (Global Initiative for Justice Education) Conference and make similar inquiries.

The Street Law program at the College of Law in England and other British law schools added a component called "Street Law Plus." The program has gone beyond the initial information stage as in response to specific needs for letter writing and form filing. Street Law students help their often adult students with basic legal services on a collective (e.g., community group) and/or individual basis. Complicated matters are referred to solicitors and barristers. (Grimes et al. 2011, p. 235).

The future may lie in Asia where Bruce Laskey and Wendy Morish started an innovative project a few years ago called Bridges Without Borders, and established Street Law in Malaysia, Thailand, Cambodia, Burma and Indonesia. Many thought that that part of the world would not be receptive to Street Law, but Bruce and Wendy has proved them wrong. Laskey and Morish are also setting up clinical programs and have found Street Law an easier entry point, where no judicial approval is needed for students to go into court as required in some clinical programs.

One impact Street Law has had on legal education has been its model interactive teaching methodology. Some law professors who became involved in Street Law began to use methods such as small group work, role-plays, debates, and mock trials within regular law school classes. Some

law students began to question why their law professors were just lecturing when other more exciting interactive methods were available. Street Law has had a lasting impact on legal education.

Another argument in favor of Street Law's future sustainability is the enthusiasm of the law student teachers. In virtually every law school where evaluations have been done, the results have been very positive. It is a regular occurrence that law students write, "This was the best course I took in law school."

What Street Law has created over its 40-year history is a cadre of dedicated supporters. Thousands of law students have taught Street Law. Many more thousands have taken it as high school students. Most of the students have considered the experience a positive impact on their lives. Many now hold prestigious positions in societies such as judges, law firm partners, law school deans and faculty, legislators, government lawyers, etc.

Street Law coordinators, some law school faculty members and deans, people in educational ministries and agencies, teachers, and law students, many of whom are now practicing lawyers, law professors, judges, and law school deans, want Street Law in their town or city or county and will fight to keep it going as long as there is a need to address issues of social justice, democracy and human rights. With this type of support, I believe Street Law can be sustained for the foreseeable future and there will be continued expansion of the program for years to come. Viva Street Law!

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