

The View from Here

Establishing Legal Clinics in Moldova:

Lessons in Volunteerism and Legal Education

From the Spring 2000 issue of USC Law ♦ *By Associate Karen A. Lash '87*

When I received a call from the American Bar Association's Central and East European Law Initiative (CEELI) asking if I would go to Moldova to help set up the country's first domestic violence legal clinics, I paused — the project sounded fascinating but, "Moldova?" We talked at length about the legal needs of women and children in Eastern Europe, while I resisted the temptation to ask if she really meant "Moldavia," a country I was pretty sure I'd heard of.

After we hung up, my Internet search quickly resolved the confusion. Known as Moldavia during the Soviet era, this tiny country of 4.5 million nestled between Romania and the Ukraine was renamed Moldova following its 1991 liberation from the USSR.

Anxious to learn more, I attempted to acquire a more sophisticated understanding of the region's legal landscape and tried to initiate e-mail conversations with some of the Moldovans I would work with upon arrival. This effort introduced me to the two guiding principles for westerners working in Moldova.

First, it's almost impossible to find — in any language — comprehensive materials explaining Moldova's civil and criminal justice system, laws or legal education. But learning on the spot through countless interviews rather than via advance research quickly translated into a positive experience for me. It meant meeting many more wonderful people with a vast range of perspectives than I otherwise would have. Importantly, it also reinforced my role as advisor — they are the experts in making new ideas uniquely Moldovan.

Second, because I speak neither Romanian nor Russian, and few Moldovan lawyers and other professionals over 30 speak English, translators are a necessity. CEELI hired 25-year old Eugene Floya, a criminal law professor at Moldova State University Faculty of Law (since students graduate at the age of 22-23, he already had several years teaching experience) to accompany me to meetings. In addition to wanting to practice and improve his English, Eugene translates because he needs the money — law professors at the public universities earn \$35/month (the cost-of-living is about \$75/month.) Virtually all law professors do some-thing to earn extra money. Those who don't speak English try to either teach at another law school, much to the cha-grin of MSU Faculty of Law Dean Yuri Sedletsky, or maintain a private practice. Unfortunately, a fair number of professors also "sell" high grades. All students seem to know who takes cash and who doesn't, with sales commonly being referred to as "income supplement."

Over the month, we met with dozens of government representatives, law school deans, university presidents, law faculty, psychology professors, students, lawyers, judges, doctors, Peace Corps Volunteers, representatives from women's organizations and UNICEF, and people at the U.S. Embassy and USAID. Without exception, people embraced the notion of legal clinics in the capital city of Chisinau (pronounced "keesh-a-now") and Balti (pronounced "belts"), a smaller city a few hours north. By the time I left, a remarkable coalition of individuals and organizations had collaborated to lay the essential foundation for the clinics. Local law school deans had all agreed to permit students to satisfy law school practicum requirements by volunteering at the clinics. We co-drafted a nuts and bolts clinic manual covering volunteer selection and evaluation procedures, volunteer training and ethical responsibilities contained in the recently adopted Law of the Republic of Moldova on the Legal Profession.

Directors and supervising attorneys were selected as we arranged for office space, determined budgets for furniture, and secured agreements for publicity and outreach strategies including use of free

radio announcements, newspaper ads, and distribution of information by FFbased NGOs, women's health centers, and Peace Corps Volunteers. We also designed "know your rights" presentations on women's and children's legal issues to help educate lay audiences on legal options. Before I left, a Domestic Violence Legal Issues brochure we wrote together with leaders in the domestic violence field was being distributed by the Dalila Center, a women's health clinic in Chisinau.

What follows are just a few of the observations and discoveries that made this trip so fascinating and one of the best professional experiences of my life:

Tensions between Ethnic Romanians and Russians since independence in 1991, the country's name change was only one in a series of decisive actions Moldovans took to "De-Russify" their lives and reclaim the majority ethnic Romanian culture. Moldovan (basically Romanian) was declared the official national language by the new government, relegating Russian, previously the language of the government and the educated, to second-class status. The Cyrillic alphabet, which the Soviets had imposed on the Romanian language, was also rejected. Every former "Lenin Boulevard" had been renamed in honor of Stefan cel Mare, a 15th century Moldovan hero. Even the country's "break-away region" of Transnistria, with its self-declared Stalinist government, is a response to concerns of the predominately ethnic Russian and Ukrainian population east of the Dniester River who fear being treated unfairly by the new democratic and majority Romanian population.

For visitors, these tensions pose unique problems. Phrases in both languages must be simultaneously learned. I felt a twinge of panic with each initial encounter as I listened for clues on whether to greet someone with the Russian "zdrastvuyte" or the Romanian "buna ziua." Indeed, once at the ballet I made the dreaded mistake — after paying for my program and thinking I had heard the woman use Russian I thanked her with "spasiba."

For what seemed an eternity, she loudly castigated me for using Russian at one of Moldova's prized cultural venues. I also took note when the Balti Vice Mayor greeted me in Moldovan in the lobby, but spoke the obviously more familiar Russian in her private office. These lessons also meant that we had to ensure that all our materials be available in both languages, and that care be taken to address language and cultural differences when training volunteers to work with battered women.

Life for the Westerner

The capital Chisinau has a small town feel — with a population of under 1 million, it was less than a week before every walk down Stefan cel Mare Boulevard resulted in seeing someone I knew. Chisinau is the only part of the country where western influence and prosperity are obvious. Home to two McDonalds, Benetton, an Adidas store, and a handful of small western-style grocery stores, there are western European and U.S. name brands sold in some of the larger stores and a growing number of businesses that take credit cards. U.S. and British music blares from business establishments. But even on the main thoroughfare there are no street lights whatsoever, the sidewalks are dangerously uneven, and most buildings have no heat or air conditioning.

The city is fascinating in its own right — Stefan cel Mare Boulevard is perfect for people watching and there are numerous museums, cathedrals and beautiful parks. A bi-monthly "cultural calendar" of the extraordinary number of activities includes opera and ballet. Food is excellent, and plentiful for tourists, who can dine at dozens of traditional or western-style restaurants in Chisinau. The most popular attractions are the Moldovan wineries. The most famous, Cricova, boasts the world's largest wine cellar with its lavish tasting rooms and more than 80 miles of underground tunnels (dug by prisoners during the 1950's) with names such as "Cabernat Way" and "Pinot Street." Honored with hundreds of international awards for their wines, cognacs and champagnes, Moldova supplied the bulk of wine consumed in the former Soviet Union. I was also told frequently with obvious pride that Queen Elizabeth special orders her favorite Cricova red wines each year.

Economy and Poverty

One student told me somewhat provocatively, “We are not poor but we have no money.” With no mineral deposits but a favorable climate and good farmland, Moldova depends heavily on agriculture, featuring fruits, vegetables, wine and tobacco. Under the Soviets, the farming collectives in the largely agricultural economy used heavy equipment like tractors – but individuals without resources to purchase or maintain such vehicles hand plowing. All oil, coal and natural gas must be imported, largely from Russia. After the breakup of the Soviet Union, constant energy shortages contributed to the sharp production declines and the seemingly insurmountable debt, which threatens the country’s future.

As most government employees earn below the cost-of-living, corruption is the norm. Several times we were pulled over by police officers who simply accept payment for “fines” on the spot. It is not at all uncommon for employees to go six months without getting paid —similarly, pensioners who get a paltry \$7 or \$8 a month only occasionally receive their checks. Many workers get paid in their employer’s product – perhaps toasters or bags of sugar.

Despite the difficulties, some economic reform has occurred: price liberalization and privatization, land reforms and restructuring of Soviet era collective farms, new laws to establish the independence of the central bank and the framework for both the financial sector and foreign investment. However, lagging structural reforms in the energy and agriculture sector, and pension reforms, have impacted relations with the IMF and the World Bank and harmed economic recovery. Even Congress recently reduced the USAID budget, the primary source of CEELI’s funding for law reform efforts throughout Central and Eastern Europe.

Women’s Issues

Despite societal support for traditional gender roles and the resulting discrimination, a resurgent and powerful women’s movement seems firmly rooted and evolving in ways U.S. feminists might envy. In the past few years, organizations of professional women have formed in both Chisinau and Balti, playing a central role in formation of the legal clinics. During my visits to Balti, we met with many of these women, each of whom contributed something to our effort. The organization’s founder, Dr. Sylvia Chetrari, used this network to help found a battered women’s hotline and shelter. One member, the Balti vice mayor, had already persuaded the city government to donate the building for the shelter and our legal clinic.

Spearheading the Chisinau clinic is Jana Costachi, Moldova’s Vice Minister of Labor. Her women’s organization even helped launch a women’s political party that got two members elected in the country’s third election in 1998. Jana told me somewhat apologetically that it was just a start since this still only brought to 11 the number of women in their 104-member Parliament. She was understandably shocked to hear this surpassed the number in our 100-member United States Senate.

Impressed by their energy and dedication, I asked Jana Costachi and Veronika Lupu, another woman involved with the clinic, what their husbands thought of their work. Veronika said they fought about it for two years, her husband accusing her of thinking she “was so smart now,” frustrated that she would “question him about things.” She proudly said, however, that she had finally worn him down and “he doesn’t mention it anymore.” When I turned to Jana, she shrugged her shoulders and with a wry smile said, “I’ve never asked him.”

Domestic Violence

Even without reliable statistics, no one doubts the seriousness of the domestic violence problem. Dr. Chetrari’s hotline received thousands of calls in its first year of operation and one expert on the topic suggests that as many as 25% of Moldovan women are victims of domestic violence. Despite the attention this international problem receives in Moldova, the nascent laws leave even the most determined legal advocates with precious few tools.

Criminal prosecution is rarely sought and reserved for the most heinous cases involving severe bodily harm. An administrative procedure available to women who sustained at least “light bodily harm” authorizes fines and reimbursement for medical bills, and the potential of a maximum 30-day jail sentence. In addition, the judge might also require the abuser to seek counseling for alcoholism. The simplest civil procedure allows women to seek financial reimbursement for any expenses related to the violence. But with married couples, fines are paid from joint property and “reimbursement” is a legal fiction since any money paid to the wife is still shared by the abusing husband. There is no equivalent of a restraining order, temporary or otherwise. Administrative and criminal cases require a police officer’s referral to a forensic expert who prepares a report documenting the domestic violence — and only violence resulting in physical harm constitutes punishable actions. The two-month statute of limitations on bringing either a civil or administrative case further frustrates remediation efforts, especially since the usually uncooperative police don’t submit a referral to the forensic doctor until time has expired. The most viable legal remedy ends up being divorce. Not surprisingly, divorce laws do little to protect women, and in the absence of any meaningful enforcement, kick-out or restraining orders, even divorce does not ensure physical separation.

The failure of existing legal remedies to provide significant relief also resulted in more expansive thinking about the role of the legal clinics. For example, we added a component involving a “Street Law” type of speaker’s bureau, and preparation of a “know your rights” curriculum that students and young lawyers could present in front of community gatherings. Each clinic would also dedicate students and supervisors specifically to work on legislative reforms and lawyers to conduct trainings for police officers and prosecutors. Unlike U.S. clinics that typically narrowly proscribe the subject area to ensure proper training of students and new lawyer volunteers, the Moldova clinics will probably add additional pressing legal issues – from helping single mothers establish paternity and secure some form of financial support, to addressing the practice of impoverished parents forcing their children to beg for money on busy Chisinau streets.

Legal Education

Legal education in Moldova is the equivalent of a five-year undergraduate degree (although competition seems to be driving the largest of the private school competitors to MSU to introduce a four-year program). Law students, who normally begin immediately after graduating high school, all take the same intensive general legal education requirements in their first three years and choose from a short-list of specialties – Public Administration, Commercial Law, International Law, Diplomatic Relations – in their final two years. The purely theoretical teaching style includes a nearly useless practicum requirement – although assigned to a particular judge or prosecutor, students literally just sit and observe, a deficit which fueled enthusiasm for the legal clinics.

The devastating lack of resources, suggested by the low professor salaries, permeates all aspects of education. There is no real library, maybe two computers for 1000 students, and no textbooks. Professors who have full teaching loads, and often hold second jobs, have little or no time for students or scholarship. Classrooms are not heated, even in the dead of winter. Despite a demanding course load and strong support for education, there is little about the Moldovan academic experience that mirrors ours.

From Communism to Democracy

I did not fully appreciate the daunting challenge changing government systems posed until visiting a country still in the infancy of change. Communism provided no roadmaps, traditions, or norms for involving people in the political process. One vivid example occurred when Jana Costachi and I met to review what she would say at her press conference announcing a domestic violence awareness week – the staggering list of activities included age-appropriate curriculum at public schools, round table discussions at health clinics throughout the country and public service radio and newspaper ads. I

asked why she wasn't announcing the package of legislative reforms being introduced to Parliament to address the dreadful absence of legal remedies for battered women. I suggested that it was the perfect time to reach the general public about the reforms, encouraging them to contact their elected officials in order to urge them to support the proposed legislation. Although she was thrilled with the idea, it simply hadn't occurred to Jana to do this since, she explained, Moldovans "are still learning about the role voters can play in shaping laws – they don't know the power of their voice."

Also indicative of this inexperience with raising their voices, was how people appeared to be responding to Russia's threat to turn off all gas if the Moldovan government did not pay its outstanding debt. Half the people I questioned thought I was naive for thinking it would actually happen — the other half thought it probably would get turned off but considered me naive for thinking they could influence the Moldovan government to pay the debt or account for missing funds intended for this purpose. No one could see the value in speaking out or contacting their elected officials. If anything, it is this failure to believe they can make a difference, I fear, that could prevent Moldovans from becoming involved in government and evolving into a true democracy.

New Ideas

The excitement about creating the first legal clinics in the country seemed emblematic of a general interest in new ideas and opportunities to improve Moldova. Interesting to me, however, was the extent to which the clinics themselves involved new concepts. In my first conversations about volunteer training, I realized I could not simply refer to the use of "simulations" to demonstrate interviewing techniques – the current Moldovan purely theoretical teaching style involves no practical training of any kind so the concept was unknown. I had not predicted, how unfamiliar it still seemed that individuals could invoke the law to respond to social problems such as domestic violence, much less use the law to protect individual liberties. These notions represented a dramatic departure from the norm during fifty years of communism.

Even the notion of volunteerism, which now seems inextricably intertwined with establishing a democracy, was new to Moldovans. The communist government's role included advancing the state in part by meeting basic needs itself such as housing, medical care and food. In such a system, volunteerism seemed unnecessary, even subversive. In a democracy, the government may not always care adequately for its most vulnerable, requiring that volunteerism be promoted as one of society's highest values and hopefully fill the current need.

The Future of Moldova

Despite an economy on the brink of disaster and the still long road to a functioning democracy, I left feeling tremendously optimistic about Moldova's future. Throughout the country, I met generous, peaceful, intelligent, and energetic people, receptive to new ideas and possessing a fiercely held national pride. Embodying the promise for Moldova's future is the youth – the 18-25 year-olds, many of whom are so mature and savvy, I related to them as peers. Committed and idealistic, they lack the cynicism of previous generations. I have no doubt that if Moldova can survive until these talented youth take over, it will flourish. I dream along with them of the potential for this small, proud nation.