

**BABSEACLE 4th Annual Pro Bono Conference & Legal Ethics Forum
September 6, 2015**

**Ann Chompathong BABSEACLE; Leah Wortham The Catholic University of
America; Irine Zaitseva, Herbert Smith Freehills**

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Scenario

Anna is a client of John, who is a lawyer. Anna has gotten legal advice from John on several matters during the past ten years. Anna is a teacher and has no commercial or business experience.

Anna went to see John about selling her apartment. John offered Anna advice on the sale and referred Anna to Mike - a real estate agent who is friends with John. John referred Anna to Mike because John and Mike have an understanding that John will receive 10% of the profit that Mike makes from any referral. After discussing the sale of her apartment, Anna disclosed to John that she is in financial trouble because she is caring for her disabled mother and recently lost her job because she can only work part-time. John advised Anna that she could resolve her financial trouble by investing in the company Fruit Pty Ltd.

John is a director of the company, Fruit Pty Ltd. Recently, Fruit Pty Ltd has been doing very badly and losing money. John knows that Fruit Pty Ltd is facing insolvency. John did not tell Anna that he was a director of the company and he would receive a large profit from her investment. Furthermore, John did not disclose to Anna that her investment would be very high risk, and Anna may lose all her invested money if the business fails. Because Anna trusted the advice of John and believed that she would double her money if she invested in Fruit Pty Ltd, Anna decided to invest her life savings. Anna asked John to arrange the investment and prepare the relevant documents. John agreed.

What conflict of interest issues do you see in the problem? Why do they raise questions that concern you?

4th Asia Pro Bono Conference and Legal Ethics Forum Session Presentation Plan Template

Name of Session: Plenary 5: The regional curriculum development and teaching of legal ethics, professional responsibility, pro bono and access to justice: Experiences and opportunities. Panel presentation and open discussion.

This session will focus on pro bono opportunities in the region with particular reference to the practical legal ethics and professional responsibility program developed by BABSEA CLE and its partners which has been rolled out in [6] countries in the region

Total Session Minutes: (75 min)

Facilitator:

Lynn McMahon (Herbert Smith Freehills) Lynn.McMahon@hsf.com

Co-Presenters:

1. Leah Wortham, (Catholic University of America) wortham@law.cua.edu
2. Lynn McMahon (Herbert Smith Freehills) Lynn.McMahon@hsf.com
3. Nattakan Chomputhong, (BABSEA CLE) ann.legaltrainer@babseacle.org

Session Plan:

Activity Step	Activity Description	Time (Min)	Presenters	Materials Needed
1	Introduction to the presenters and session content	5	Lynn McMahon	N/A
2	Overview of development of Ethics & Professional Responsibility Curriculum. How and why it came together? Why were law firms involved? How is our experience relevant in the region?	10	Lynn McMahon	PowerPoint slides and pictures
3	Video showing feedback from BABSEA CLE training session participants	5	Nattakan Chomputhong	Video of participants in BABSEA CLE training
4	Review of curriculum rollout with a	10	Nattakan	PowerPoint

	focus on impact in the region.		Chomputhong	slides
5	Introduction to group brainstorm activity	10	Leah Wortham	PowerPoint slides
6	<p>Divide participants into small groups, brainstorm activity drawing on the experience of attendees at the conference. Objective: determine the relative emphasis that might be given to one aspect of content versus another across the region.</p> <ul style="list-style-type: none"> • What is your perception of the most common ethical issues arising in your country and what should graduates be taught? • What is your vision for the future of the legal system in your country? 	20	Leah Wortham to lead with Lynn and Ann assisting	Pens and paper for each small group. Clipboards or flipcharts.
7	Returning to larger group, speaker from each group to provide responses based on group discussion	10	Leah Wortham to lead with Lynn and Ann assisting	Flip chart / white board.
8	Debrief and wrap up	5	Lynn McMahon	N/A
Total Time:	75	75		

4th Asia Pro Bono Conference 2015

Regional Curriculum Development -
Teaching Legal Ethics, Professional
Responsibility, Pro Bono and Access to
Justice: Experiences and Opportunities



Speakers

- Facilitator
 - Lynn McMahon, Herbert Smith Freehills
- Co-Presenters
 - Leah Wortham, The Catholic University of America
 - Nattakan Chomputhong, BABSEA CLE

Lynn McMahon

Herbert Smith Freehills



Lynn McMahon is a full-time Pro Bono Senior Associate in the Sydney office of HSF where she is involved in the management of the firm's pro bono program in 12 offices across Australia and Asia.

Lynn has over 15 years' experience as a dispute resolution lawyer and worked on a broad range of commercial matters in Australia at HSF and in London at Linklaters.

During her time at both firms she provided pro bono legal advice to a diverse range of pro bono clients. She also worked as an advocate for disadvantaged young people at the Shopfront Youth Legal Centre in Sydney.

Lynn is also a member of the HSF Community Committee responsible for management of the firm's community and charitable engagement.

Lynn was involved in the development of the BABSEA CLE Ethics and Professional Responsibility Curriculum (which she has co-presented in Cambodia) and the Mock Trial Curriculum. She is a member of the International Organising Committee and Program Committee for this Conference.

Leah Wortham

The Catholic University of America



Leah Wortham is Professor Emerita of Law at The Catholic University of America in Washington, D.C. where her primary teaching areas were the clinical externship program, professional responsibility, and criminal law. Starting in 1996, she helped Jagiellonian University (JU) in Kraków, Poland establish the first successful clinical legal education program in Central Europe, the model of which was replicated in many parts of the former Soviet sphere. She has taught, conducted workshops, and consulted with law teachers, law students, and lawyers regarding legal ethics, legal profession reform, clinical education, and legal education reform in 28 countries with participants from many more. She is an editor and author of *LEARNING FROM PRACTICE: A PROFESSIONAL DEVELOPMENT TEXT FOR LEGAL EXTERNS (LFP)* with the 3rd edition forthcoming in 2015. She also directs two programs offered in cooperation with (JU): an American Law certificate program for JU students and an LL.M. program for foreign law graduates. She has worked extensively with the D.C. Bar, the second largest bar in the U.S with more than 100,000 members, including as chair of the rules of conduct review committee, the committee issuing ethical opinions interpreting the conduct rules, and of lawyer discipline hearing committees.

Nattakan Chomputhong (Ann)

BABSEA CLE



Nattakan is the Regional Legal Ethics, Access to Justice, Pro bono and Professional Responsibility Initiative Coordinator at BABSEA CLE. Nattakan holds a first class honours bachelor of law degree from the University of Chiang Mai and was also involved in the CLE program while she was a student. Upon graduation, she became a legal fellow at BABSEA CLE. Having completed her time as a legal fellow, she now works as a legal trainer. As the legal trainer at BABSEA CLE her responsibilities include: administrative and teaching support for clinic programs throughout the region, and she provides training for those wishing to become clinical faculty members. She also coordinates the legal ethics, pro bono, access to justice, and professional responsibility initiative in the region.

HSF Relationship with BABSEA CLE

As part of HSF's focus on strengthening global rule of law the firm has assisted BABSEA CLE in its efforts through the following:

- providing pro bono legal assistance on governance and incorporation issues to BABSEA CLE Australia, launched in 2014;
- HSF Singapore lawyers have co-presented CLE seminars in Laos;
- HSF Sydney based Disputes partners presented two 2 day negotiation workshops to lawyers, Bar associations, law faculty staff, and students in Laos.
- HSF Singapore hosted a pro bono seminar for in-house counsel of client organisations which was jointly presented by BABSEA CLE.



Legal Clinics

Herbert Smith Freehills has provided support for:

- A legal clinic at the University of Economics and Law in Ho Chi Minh City;
- A legal clinic at the National University of Laos, Vientiane;
- A coordinator position at each clinic; and
- Ad hoc mentoring by HSF Singapore lawyers.



Mock trial training – Yangon, Myanmar

December 2014: Mock trial
workshop in Yangon



Lecturers from 18 universities
attended the 2 day workshop.

Mock Trial Event

- January - February 2015, Jane Sanders (HSF Special Counsel, The Shopfront Youth Legal Centre) - UNDP funded placement in Yangon, Myanmar.
- Worked on local CLE programs and training, a mock trial training workshop and the inaugural mock trial event held February 2015 at Dagon university, Yangon, Myanmar.
- Students from 18 law schools across Myanmar participated.
- Assistance from local HSF secondee with MLSL in Yangon and MLSL client attended mock trial as judge.
- MLSL now providing pro bono legal for BABSEA CLE in Myanmar.



Ethics and Professional Responsibility curriculum development 2013-2014

BABSEA CLE identified a need to develop a curriculum on ethics, professional responsibility and pro bono which could be delivered across legal jurisdictions in Southeast Asia. Together with DLA Piper and the Australian Government Solicitor, HSF created a training template that can be customised according to the relevant country and be taught by a range of legal professionals. In addition to drafting four chapters of the curriculum, the HSF Sydney office hosted the curriculum training session which BABSEA CLE presented to lawyers working on this project.



Ethics and Professional Responsibility workshops

- BABSEA CLE ran testing workshops in Thailand, Vietnam, Laos, Cambodia and Myanmar during 2014 and 2015.
- HSF representatives assisted as facilitators in workshops in Laos, Thailand and Cambodia.
- HSF funding for Curriculum Project Coordinator role



Why are law firms involved?

- BABSEA CLE identified regional need for curriculum topics
- HSF priority pro bono areas of reconciliation, homelessness, disability & health and global rule of law
- National and international program – local licence issues
- Collaboration with other firms, exchange of expertise and resources
- Experience and examples from daily practice



Impact of the curriculum in Asia region



Nattakan (Ann) Chomputhong, Legal Trainer & Regional Coordinator, BABSEA CLE

- <https://drive.google.com/file/d/0B6tJnPUonZxUUUw3bHdzZ2hHazA/view?pli=1>

Accomplishments July 2013 – 2015

- 12 workshops
- 531 participants, including law students, law lecturers, and practitioners from the region
- The University of Economics and Law (UEL), and National Economic University, Vietnam started a legal ethics course using chapters from this curriculum.
- The Foreign Trade University is trying to integrate the curriculum with their CLE course.
- The Faculty of Law and Political Science, National University of Laos plans to use the curriculum.



Students 313



Lecturers 147



Lawyers 38



Trainers 33











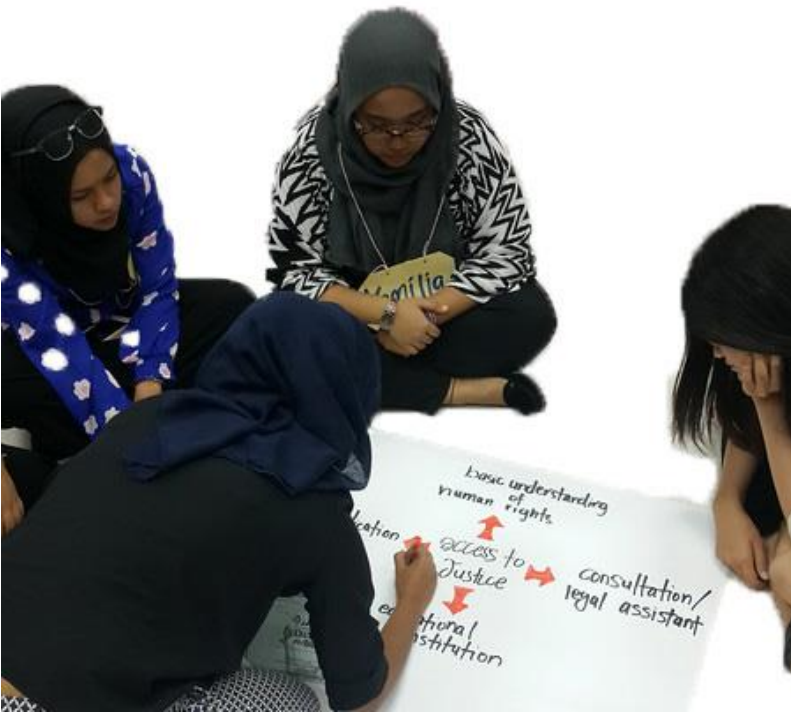














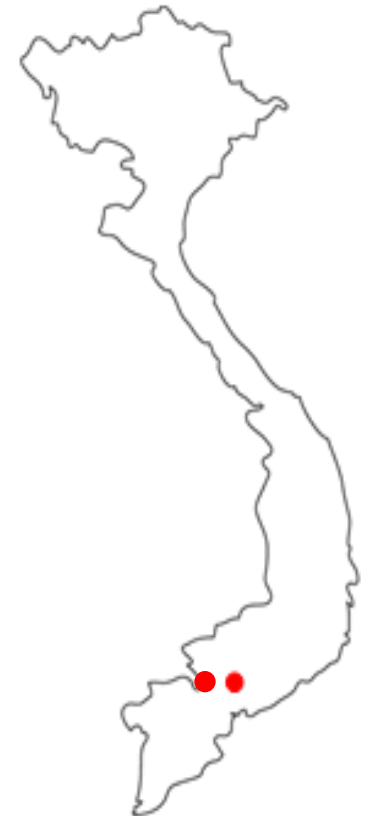


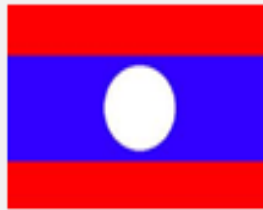
Number of law schools in Vietnam



Number of law schools teaching

- Legal Ethics,
- Pro Bono,
- Access to Justice, and
- Professional Responsibility





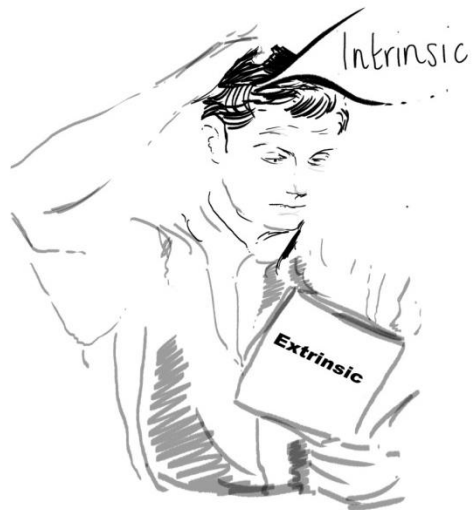
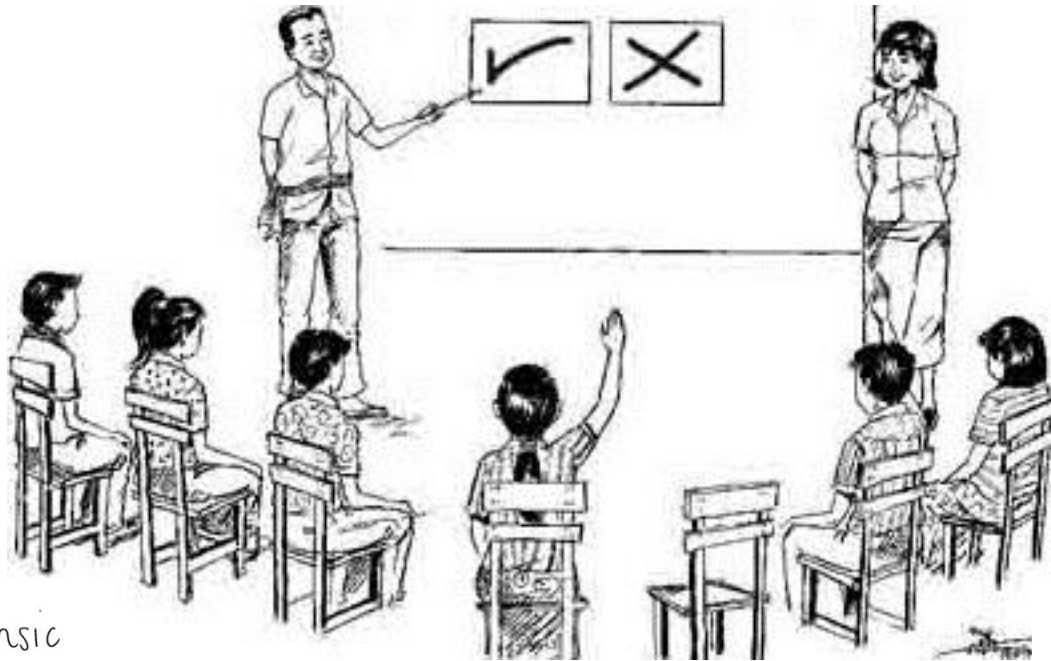
Number of law schools in Laos



Number of law schools
teaching

- Legal Ethics,
- Pro Bono,
- Access to Justice, and
- Professional Responsibility

Interactive & experience-based teaching methodologies





CURRICULUM

LEGAL ETHICS, PRO BONO, ACCESS TO JUSTICE
AND PROFESSIONAL RESPONSIBILITY



THE DLA PIPER FOUNDATION



HERBERT
SMITH
FREEHILLS

Group Brainstorm

Divide into small groups
for a brainstorm activity ...



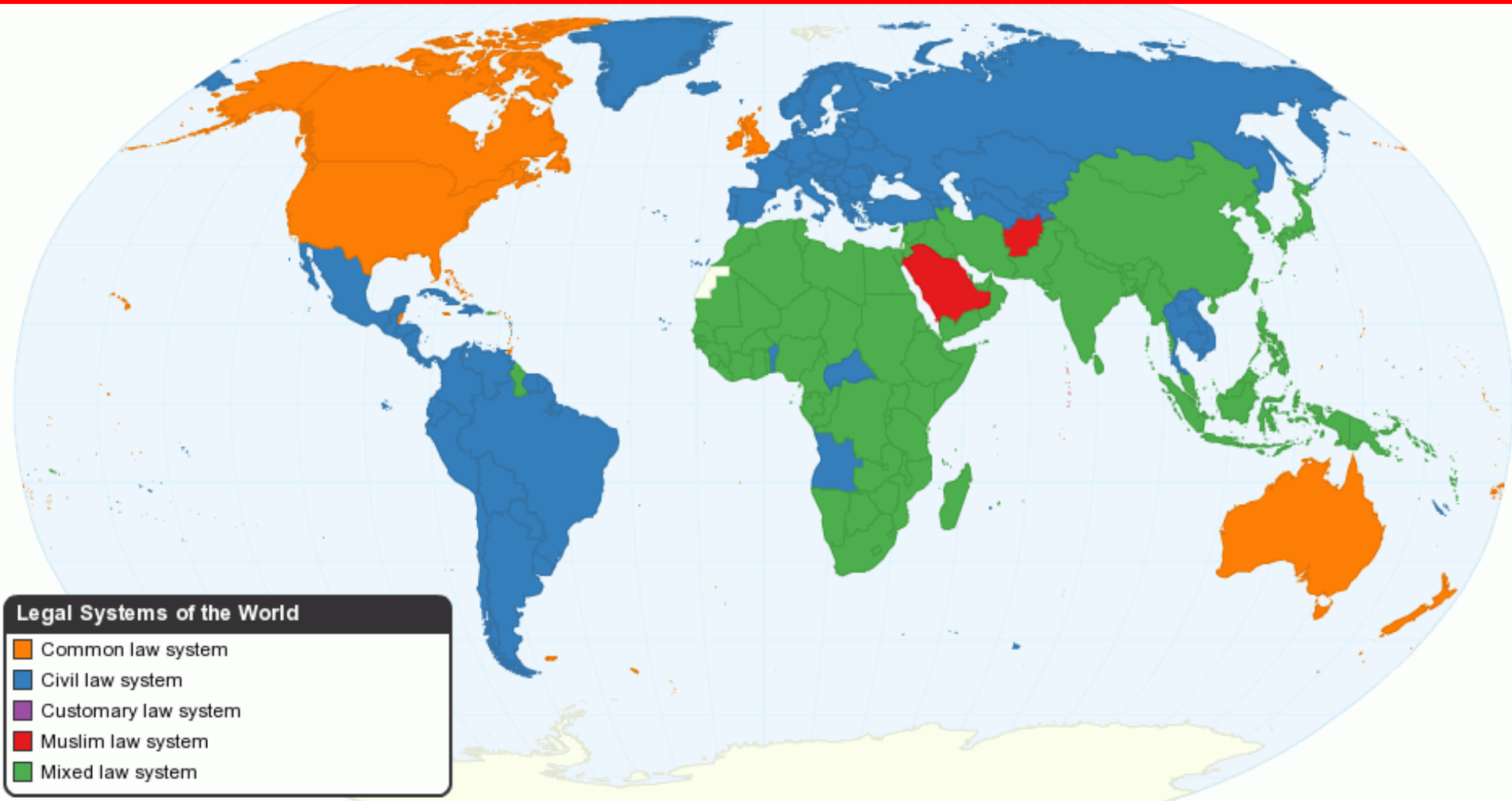
FOUR POINTS

- **Why so valuable**
- **Why so needed**
- **A next step**
- **Need your help**

MY BELIEF

- **Students in LL.B. B.A., Master's, LL.M, J.D. programs should have**
- **At least one course in legal ethics including application of ethical principles**
 - **To real-world problems**
 - **To teach ethical decision-making**
 - **For those going into all career tracks including legal jobs that do not require a bar license**

WHY SO IMPORTANT



Source: [ChartsBin.com](https://www.chartsbin.com)

WHY SO IMPORTANT

- Legal ethics teaching & materials now mostly limited to “rich” common law countries
 - not civil law
 - not non-so-rich common law countries
 - except introduction in clinical courses
- Importance of models from similar legal contexts to adapt

WHY SO IMPORTANT

- **Emphasizes topics not usually so central in at least U.S. materials**
 - access to justice
 - role of lawyers in A2J
 - why do pro bono
- **Central focus on JUSTICE**
- **Complete “kit”: exercises, videos, slides**

WHY SO NEEDED

- **Prepare students (also continuing legal education for lawyers)**
 - “fire drill”
 - formation of professional identity
- **Common vocabulary & framework**
 - education
 - critical perspective
 - understand own country by comparing to others

NEXT STEP: CONTEXTUALIZE & LOCALIZE

- **Ethical questions arising from legal roles mostly universal**
- **Differences in**
 - **“answers” in local law & rules**
 - **professional role & norms they reflect**
 - **historical & current context**
 - **priorities of most important to address, perceived problems, or changes desired**

NEXT STEP: CONTEXTUALIZE & LOCALIZE

- **Prioritize issues/questions**
 - **Come up most commonly?**
 - **Most serious?**
 - **Important to vision of legal profession, legal system & society people want**
 - **Students most need to learn to be prepared for practice**

NEXT STEP: CONTEXTUALIZE & LOCALIZE

- Real world scenarios from the country
 - realistic fact situations
 - based in country's law & legal system
- More effective & engaging for learners
- A good scenario can be used in many ways
 - discussion problems, role plays, take a stand discussio, debate, reflective journal topic
 - soap opera plot-line 😊

NEXT STEP: CONTEXTUALIZE & LOCALIZE

- **Easy to adapt for another country with a similar context**
- **A chance for to find that hidden novelist/scriptwriter within**
- **Compelling stories help us learn & remember**

NEED YOUR HELP

What legal ethics issue(s) would be your top priority for materials specific to your country? Why?

#1 Think yourself & make a note

#2 Discuss with 2 or 3 others

#3 Some reporting & discussion

#4 On paper—turn in for Leah

– Country for which writing

– Your answer to the questions above

– Myanmar language is fine

– Name & affiliation is useful but not required

MORE THOUGHTS LATER?

As real situations come up?

Email me at

wortham@law.cua.edu