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# Partnerships, Joint Ventures and Other Forms for Building Global Law Schools

Dean John B. Attanasio\*

Much attention is devoted to the concept of global law schools today and the conversation is prompted, obviously, by the fast emerging global economic village. The law is, in my view, struggling to keep up with these economic developments and to fashion regulatory frameworks that can provide some meaningful oversight to an otherwise *laissez-faire* driven process. Indeed at some level, the *laissez-faire* nature of the global economic marketplace is what sparked the controversy and protests that we recently witnessed in Seattle. A year before Seattle we were in another crisis: the global financial crisis, which started as the Asian financial crisis and then spread across the globe. It seems to me that these recent crises illustrate the extent to which legal globalization miserably trails economic globalization. In fact, the really critical player, in my view, in the global financial crisis was the Federal Reserve Board of the United States - very much a domestic actor. The Fed was not the only player, but it may have been the most important one. In a similar vein, some of the controversy that unfolded in Seattle resulted from the speed at which globalization is moving, and the law's relatively slow pace in reacting to economic globalization.

In a perverse way, both the global financial crisis and the controversies we witnessed in Seattle may be important wake up calls for all of us - trumpeting just how far the law has lagged behind the globalization process. Some of this slow pace is undoubtedly due to the inherent to the nature of law. Law, ideally at least, evolves in something of an open process - hopefully a democratic one.<sup>1</sup> The open participational method that law ideally embodies takes time and there is also a good bit of conversation

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1. This model that I am going to describe is a bit ethnocentric and "Western."

involved. Unfortunately, the regionalization and globalization of the economic order have often short-circuited legal processes of broad-based rational discourse of policy options, substituting market driven expedience, or at best, technically oriented bureaucracies.

The traditional methods of adjudication and legislation have been left far behind. Incidentally, some of these developments were predicted by a Frenchman named Jacques Ellul, who wrote in the mid-'60s about technology versus democracy.<sup>2</sup> As I have discussed in earlier work, the barriers imposed by sovereignty and the related lack of anything even approximating an international legal order help to account for the turmoil that often characterizes the global economic village.<sup>3</sup> Law schools and lawyers must bear some responsibility for the current state of affairs.

Some of these developments really relate to the sovereignty model, which is ascendant in the global community.<sup>4</sup> In the U.S., law schools have trailed far behind business schools in thinking about globalization. I think that this is an important failure on our part. Fifteen years ago and more, business schools were thinking critically about these developments, when they did not even appear as blips on the radar screens of most American law schools. Consequently, law has lagged far behind business as a player in the globalization movement.

To make matters worse, American law schools lag far behind law schools in most other parts of the world with which I am familiar - primarily in Europe, Asia, Africa, and South America - in terms of these globalizing developments. These law schools in other parts of the world were far more interested in international and comparative law long before we were. At times when perhaps most American law schools had perhaps one internationalist on the faculty, law schools in other parts of the world had many people who were quite well versed in comparative and international law. Until recently, American law schools tended to

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2. See generally JACQUES ELLUL, *THE TECHNICAL SOCIETY* (J. Wilkinson trans. 1964); JACQUES ELLUL, *THE TECHNOLOGICAL SYSTEM* (J. Neugroschel trans. 1980).

3. See John B. Attanasio, *Rapporteur's Conclusions*, in *INTERNATIONAL LAW DECISIONS IN NATIONAL COURTS* 373 (Thomas M. Franck & Gregory H. Fox eds., 1996).

4. See Claudio Grossman & Daniel D. Bradlow, *Are We Being Propelled Towards a People-Centered Transnational Legal Order?*, 9 AM. U. J. INT'L L. & POL'Y 1(1993).

regard comparative and international law as, at best, appendages and, at worst, irrelevant to their projects.

Beginning about seven years ago, when NYU launched the global law school movement, law schools began to focus on these colossal developments in a more concerted way. Because we are in the process of fashioning a new paradigm for American legal education, progress has been slow - largely confined to a handful of law schools that are blessed with the faculty and alumni who can readily contribute to fashioning this new paradigm. Through the scholarship that they produce and the lawyers that they train, these schools are making a large contribution to shaping the global legal milieu. Even for schools that wish to engage these developments, impediments abound. Notably, law remains an enterprise with strong local roots strengthened by jurisdictional rules and bar exams.

Even when law schools speak about globalization, we tend to speak in grandiose terms about what a global law school might be. We tend to focus on the kind of professional a global school might train, the kind of scholarship its faculty might produce, or the kind of conferences it might organize. We seldom discuss the nuts and bolts of how to construct a global law school. The inadequacy of this discussion about how to structure a global law school has resulted in more rhetoric and less action than one might have hoped for by this point in time.

In my view, the philosophical foundation for any discussion of a global law school itself must be the concept of relationship, rather than agreement. This necessary foundation derives from the way in which the global legal structure itself is constructed, that is, on relationships much more than on agreements. While certain agreements are legally binding, the paucity of enforcement structures, and high enforcement costs driven by distance, language, and other barriers currently render agreements, at best, expensive to enforce. Central to the project of constructing a global law school must be faculty and alumni.

At SMU, we are blessed with a large number of faculty members interested in global law. Many among this large group of faculty are bilingual or multilingual. Most of the faculty have taught or lectured in a number of other countries around the world. This experience is at least as important as foreign language skills. Most have contacts and close friendships with faculty members at prominent universities around the world. SMU also has over 1,000 alumni located in over 65 countries around the world. Many alumni occupy critical leadership positions such as

justices of the highest courts of Japan and Taiwan, CEOs of major corporations in Japan, Hong Kong, and Taiwan, presidents of senates, ministers of justice, and managing partners of major firms. This network has been developed over many years, as SMU recently celebrated 50 years of international legal education. The LL.M. program itself has been in existence for nearly that long. Such relationships take a long time to build and can require considerable monetary resources to cultivate—in travel, communications, stipends, and other expenses.

This network of faculty and alumni contacts, which extends all over the world, provides the basis for the relationships that can build a global law school. At SMU, these relationships have attracted distinguished visiting faculty from England, South Africa, China, Peru, and Japan to the Law School last year alone. All but one of these faculty members have previously taught at the Law School before. These relationships attract students to the Law School from all around the world—last year alone from 25 countries—with very little effort. We have 47 international LL.M.s last year. This number is not produced by brochures; it is all based on relationships.

These relationships also found conferences. Typically, they form the basis for inviting distinguished scholars from around the world. More ambitiously, they can be used to found partnerships between different universities for larger projects. For example, several years ago NYU Law School and Saint Louis University Law School partnered in organizing several conferences on constitutional adjudication, which brought together justices of the German Federal Constitutional Court, the Russian Constitutional Court, and the Supreme Court of the United States. Last year, SMU Law School partnered with the Universities of London, Cologne, Wittwatersand, Hong Kong, and Bangkok to fund and develop a series of global conferences on the global financial crisis. These conferences were held at universities around the world and will result in a substantial body of written materials, featuring the general counsels of the U.S. Treasury, the International Monetary Fund, the European Central Bank, and the New York Federal Reserve Bank.

I am not suggesting that such partnerships or joint ventures are without difficulties or bumps in the road, but it must be remembered that they are based on relationships and not agreements. We have all seen many agreements between universities that are simply not worth the paper on which they are written. Many simply gather dust. They gather dust, not because

the parties to those agreements are somehow insincere, but instead because they lack the fundamental relationships that could have made these agreements successful. The key to developing global legal education is relationships. Relationships take time and they have to be nurtured.

