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# The Role of Culture, Race, Gender and Language in Working Together: Developing Cooperation in International Legal Education

Adrien K. Wing\*

## Introduction:

Moderator: Our next speaker is Professor Adrien Katherine Wing who has taught at the University of Iowa College of Law since 1987. Her courses include Human Rights, Comparative Law, Comparative Constitutional Law, Critical Race Theory and U.S. Constitutional Law. She is the author of more than fifty publications; her international research is focused primarily on South Africa, the Middle East and on women's rights. She is the editor of *Global Critical Race Feminism: An International Reader*, which was published by the N.Y.U. Press in 2000. She was, as we have already heard, a member of the Planning Committee and a participant in the AALS Florence, Italy Conference and is a member of the Board of the AALS African Section, and Chair-Elect of the AALS Minority Section. Professor Wing will discuss the role of culture, race, gender and language in developing faculty and student international exchanges.

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\* A.B. Princeton University, 1978; M.A. University of California at Los Angeles, 1979; J.D. Stanford University, 1982. Bessie Dutton Murray Distinguished Professor of Law at the University of Iowa College of Law. These edited remarks were presented on a January 2001 panel at the American Association of Law Schools (AALS) Annual Meeting entitled "Working Together: Developing Cooperation in International Legal Education." I would like to thank my copanelists Carl Monk, Frank Upham, John Sexton, Myron Bright, Peter Friedman, Nancy Rapoport, Louis Del Duca and Michael Scharf. I would also like to thank the then AALS President Dean Gregory Howard Williams for selecting me to be a part of the AALS Florence, Italy May 2000 conference.

### Remarks by Professor Adrien Wing

Thank you very much. I would like to thank the organizers for inviting me to be part of today's program. Also, I have to second Carl Monk's comments that participating in the Florence Conference was really a very profound experience. All of us go to dozens of conferences over a number of years, but this one was really unique in its conception and execution. I am very excited about the possibilities for involving all of you and our colleagues in formally using the AALS as the rubric for expanding and institutionalizing international legal education cooperation.

I am delighted to talk on the issue of culture, race, gender and language because often this topic is not explicitly addressed within a panel of this type. Or if it is addressed, it is marginalized or tokenized by being put at the end of a substantive presentation. Thus, I am very glad to see that it is being put in the center of the panel today. And, of course, everything we have been saying so far on the panel, is an indication of the fact that at least some of us, or all of us here in this room and some of our colleagues, do realize that culture is certainly implicated in international legal education. We also must realize that issues of race, gender and language are involved as well.

Right now we are educating students, whether they are only 18 or 19 years old or in their early 20's, that are going to be practicing law still in mid-century. This is a scary thought considering many of us in this room will not be around at that point. I focus on mid-century because it has been predicted that by mid-century, the United States of America will no longer be a majority White country. For those of us visiting California for this conference, you may or may not realize that this state is one where Whites are already the minority. So we who are U.S.-based have to get into the mind set to realize that we are educating predominantly White students who are going to be practicing law in a country and world of people of color. And as a matter of fact, many of those students, depending on the institution, may be going to school right now with very few people of color, whether those are U.S. citizens or visiting foreign students. Additionally, we all are aware that the assault on race based affirmative action may further impact the diversity of American schools. Nevertheless, whatever happens with internal U.S. legal challenges to diversity, we know that we have got to educate all of our students—whatever their background—for this future that they will face. We have to educate them in all of the areas we are talking about today.

My own perspective is that I have been an international lawyer for eighteen years and I focused primarily on Africa, the Middle East and Latin America. I have now been part of Iowa's specialty in international and comparative law for the past fourteen years. We have seven faculty that are part of that specialty. Our Director, John Reitz, is here as well. I am also the new Head of Iowa's Summer Abroad Program in Arcachon, France. Additionally, I have been teaching for six years in Howard University's Summer Abroad Program in South Africa, instructing both the South African LL.B. students and American J.D. students. So I bring a long-term commitment to international legal cooperation in terms of dealing with culture, race, gender and language.

In my brief remarks, I will discuss three areas—students, faculty and curriculum. In terms of students, I am going to raise a number of questions that I want you all to think about at your own universities. Forgive me if you have already thought of all of these things and what I am saying is redundant. In your J.D. and your LL.M. programs, how many people do you have from other countries and, more specifically, how many people do you have from the developing world? It is relatively easy, because of the more favorable economic situations, to bring in people from the so-called First World countries. But as we discovered with the Florence Conference, unless you subsidize students and faculty from the developing world, you are not going to have them. And, of course, some schools are very resource rich, like at N.Y.U. They can have global faculty and global LL.M.'s, but many of our schools have difficulty fully meeting the financial needs of our U.S.-based students. There may be no aid for the foreign students. So one of the critical things for your school to think about is how can you develop some resources to give some scholarships for both tuition and living costs. It is no good to give foreign students the tuition if they can not afford to live in the community. At our institution, we are lucky in that there is a state university rule that anyone who becomes a research assistant for a professor gets in-state tuition, a huge savings. Maybe this is a fairly unique approach to enhance both US and foreign student diversity.

One of the things I fear in our present legal climate is that we may be more successful in bringing in foreigners than we are in sustaining U.S.-based diversity. So when you are enhancing your financial resources to diversify or globalize your student population, be careful that you do not somehow end up eliminating some groups in the competition for very scarce diversity resources. Do not let the choice come down to whether we can have this person

from Africa, or this person from Detroit. Even within your U.S.-based diversity, the category African-Americans may include students who are from Africa or the Caribbean, as well as several generations in the United States. The latter category should not be supplanted by those in the former two categories. And, of course, with Latinos, there are so many different groups, some of whom are U.S. citizens and some of whom are not. Diversity should not mean that you have only Chicanos and/or Puerto Ricans. The full diversity of non US Latin Americans needs to be represented within your student population.

Do you know how to evaluate foreign transcripts? You may find you need to call up colleagues at other schools to help you evaluate a foreign transcript. I do not know anything about Japan but maybe Professor X at X law school is the one I should call to say, "Well where does this university rank?" What is their Harvard, Yale or Stanford? But are you limiting the possibilities by only focusing on the very top schools? Are you perpetuating the various inequities that exist in those countries where maybe only very privileged people have been able to have access to their premiere university for a variety of reasons? On the other hand, in some countries, access is determined solely by test scores rather than by ability to pay. Universities are all public. Yet who is most likely to score well on such tests?

What do you make of the TOEFL score? Is your TOEFL score artificially set too high or too low? Sometimes we have provisionally admitted students and had them spend a year in intensive English before they do any law whatsoever.

In your diversity representation, do you have students who are from places like the Middle East, Asia, Latin America, and the former Soviet Bloc? How many of your foreign students are women? For those of us who are in international law, we see that it is still mainly male oriented. In terms of your different exchanges for students, are you mainly sending males abroad? Do you predominantly have males from other countries coming in? And even with our Florence conference, we discovered that despite our best efforts, we still had a very heavy population of predominantly male academics. You will have to make real affirmative efforts to get women involved, whether they are foreign or U.S. based.

Do you have students who are from minority groups in their country? For instance, do you have Maoris who are from New Zealand or Aborigines from Australia? In South Africa there is a group the so-called Coloureds along with Indians, Africans, and whites. In terms of religious diversity, how many of your foreign

students are Muslim? There are one billion people in the world who are Muslim, yet few of them are in US law schools. Their viewpoints are greatly under-represented and misunderstood.

Are most of your foreign students people who speak English as a first language? A second language? A third language? Do you have people who speak languages like Chinese and Russian and Arabic as a first language? Do you have ways to permit your U.S.-based students to get the foreign language skills that they will need in the future? You heard about the FLAST Fellowships. Iowa is a school that has them. But these few language fellowships are a drop in the bucket! Often our students would like to continue a language that they may have studied in high school or college, but there is no room really in the law curriculum. They have to do it as an overload, which makes it basically impossible. Is there a way in the 21st Century where we are going to enable our students, and I'll even make a more radical statement, our FACULTY! (laughter), to have the ability to learn or re-learn languages? And, of course, since faculty are not in the prime age anymore for language acquisition, it may be harder for us than for the twenty somethings to learn it. We have to bring in the foreign language departments into the U.S.-based law context, the same way that we are increasingly more open to history or other liberal arts departments.

Do you have students who may be political refugees or stateless people, people who do not fit into any group and who are in very dire circumstances? Many of these people are interested in law, based upon their experiences and we need to bring them in and have their views affect our other students. Are you taking your students on research missions that you may be doing or your colleagues may be doing around the world? Now lots of us have some very nifty trips that we go on, but how often do you say "Hey, maybe I can take this research assistant or two or three other people and expose them." I've taken my students to the Middle East and to Africa. My former colleague, Jim Anaya, takes his students to Geneva every year, and also he has also taken his students to Nicaragua to assist Miskito Indians. These are transformative experiences, whether these young lawyers practice tort law in Dubuque, Iowa for the rest of their lives or they practice global international law in London. If you do take students abroad, are you taking any foreign students with you to the extent that their visas may permit them?

In terms of your summer abroad programs, are you serving a diverse group of students? In other words, are you making sure that it is not just all one type of student that goes over there? Are

you hiring foreign students as your research assistants? Some of us are loathe to do that because we worry whether their English is good enough. Are they really going to be as helpful? But you're giving an opportunity and it is going to help you as well to interact with these students and mentor them. Of course, when they are alums, they can help you recruit to continue to diversify your pool.

Now that I have made some comments about students, let us move to my second topic—faculty. In terms of faculty, we have got to do all of the same things I mentioned with respect to students. On your tenure track, clinical, visiting and adjunct faculty, do you have people in any of the diverse categories I mentioned for students? Or are we just continuing to replicate the same kind of demographic dynamics we have had in the last century? What are we going to do to be able to evaluate the credentials of people from a variety of countries? Even though their credentials may be different, and they may have a different style of doing a presentation or teaching, our students must be exposed to all of these different types of voices if we're going to be effective.

One of the things I noticed in dealing with South Africa is that on the South African Constitutional Court there are eleven judges; seven of them are White. Most of the White male judges get a lot of opportunities to come to the U.S. and to Europe to lecture. A lot! Whereas the four people of color who are African or Indian get fewer invitations to lecture in the U.S. or Europe. So when you are bringing in foreign teachers, whether it is a guest lecturer or a longer-term global faculty person that you are going to have for a semester or a mini-course or a summer course, are you making sure you are being very diverse in your selection of these faculty?

Also, are you giving opportunities for foreign professors to come and get their LL.M. or their J.S.D. at your institution? Of course we know there are big name schools that are experts at this like a Harvard or an N.Y.U., but even in a tiny school in the mid-west like Iowa, we have up to twenty people getting an LL.M. We don't have a J.S.D., but at least we're bringing in a small group and giving them some chance to enhance their credentials.

Are you making sure that your library people and your technology people are hooked in well to these foreign visitors to give them access to technology and resources that they can then take back to their country as professors? Many countries in the developing world may not even have regular computer access; they may have one fax line for their whole law school; they may have fewer law books than you have in one of your offices. I have been donating books on behalf of Iowa for the last ten years. Every

semester we send them to Africa and the Middle East—just items that we are throwing out because they are three years old, a new edition came out, or an extra freebie. You can literally populate an entire law collection in a developing country by sending in your discarded books, law reviews, reprints, ABA Journals, etc.

Also, are you being imperialist in terms of your diversity? In other words are you thinking, “I’m the great American who is coming to this country to help these poor people,” or are you realizing the extent to which you can humbly learn from the diversity that you get when you travel to these countries or when you interact with students and faculty from these other places. When you are in these countries, are you making sure that you are speaking with a diverse array of professors and people there? Or are you just speaking to the people that look the most like you, talking about subjects that you have in common and ignoring the diversity that may exist right around that foreign law school, in the same way that you may ignore the diversity that exists around your U.S. law school and only interact within a narrow set of colleagues in the U.S.? It can be very uncomfortable, of course, to get out of your skin and say, “Let me talk to this woman or man from a different race or ethnic or cultural or religious background while I’m in this country, and really interact with them and find out something about their lives.” When you go on these trips are you thinking about including your more junior colleagues? Are you thinking of including your domestic law U.S.-based colleagues? Also, are women professors from the U.S. part of what you are doing in your exchange efforts as well as the foreign professors?

To follow up my previous comments about language, have you thought about dusting off that old language that you studied in high school or college and play with now and then, to enhance your ability to be part of globalization? One of the reasons I took over our summer program in France is that I knew it would be an opportunity to restore my rusty French. One of the first things I am doing with my new research assistant is I am going to have that person tutor me every week in French before I go and then I am going to use the research assistant in the Summer Abroad Program to teach French to the American students! Most of them may come with no exposure to the language of your Summer Abroad Program, and I thought let’s at least expose them so that when they’re in the culture they can buy items, and comment on things. If you have more advanced students who took five years of French, you can use this same research assistant to enhance their language abilities as well.



Now that I have briefly discussed students and faculty, I will address my final topic—curriculum. If your colleagues can come to accept the importance of diversity in the students and faculty, they may be able to also accept a more diverse curriculum as well. Most of our colleagues are not going to be able to visit the countries that some of us visit. So are you doing what you can to make reading accessible to your colleagues on some of the countries that you visited? Maybe they can then think about incorporating this material into their courses? In my own U.S. Constitutional Law course that starts next week, I have the students read the U.S. and the South African Constitution, so that they can get a comparative perspective from the beginning of their study of U.S. law. So when we go through all the traditional subjects such as judicial review, they will realize the choices that can be made when one was writing a 21st century Constitution as opposed to an 18th century Constitution.

In terms of curriculum, can you use the fact that you may have summer classes or mini-classes to bring in lecturers from other countries who can not come to the U.S. for a whole semester. You might be able to bring someone who is fluent in Chinese and offer a course in Chinese or Japanese to the small sector of your students who can do something like that. Are you including courses on gender issues within your curriculum on the developing countries of the world? Are you mainstreaming these globalized subjects into your U.S.-based courses? So for instance, in my Critical Race Theory course, half of the content is critical race feminism. In my human rights course, half the content now concerns women as well. Finally, how can we get the accrediting bodies that exist in our various countries—whether that's the ABA, AALS or whatever, to mandate these sorts of things in terms of globalization of students, faculty and curriculum? Because we know that if it's mandated, then some change will have to happen! How can we get our Deans to include these sorts of factors in their evaluation process of the faculty so that our colleagues will realize, "Hey, I have to do this to continue in a progressive fashion for the rest of my own career." I think that once we mandate some of these changes, we hopefully will be able to move forward in truly educating the students and the faculty for this new century.