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Globalizing the Law School Curriculum: Affirming the Ends and Recognizing the Need for Divergent Means

Elizabeth Rindskopf Parker*

We have just heard from the most powerful law schools in the country and learned how they are working to expand international legal education. Columbia, Michigan, American University and Osgood Hall are to be congratulated for the work they have done in creating courses which approach international, comparative and transnational law with a set of “stand alone” comprehensive classes.

Let me now approach the subject in a different way and consider a different context in which to introduce international law into a law school curriculum. Here I must admit that my own personal experience as a law student has informed my thinking. I am a Michigan graduate, yet I never took international law, comparative law, or transnational law, despite the rich offerings that were available when I attended law school many years ago. In my ancient and sophomoric student’s view, there was no international law. I liked to quip that international law was for

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people who enjoyed studying a foreign language or who liked to travel.

It appears that I was not alone in this remarkably naïve perspective. In a recent Congress, it has been said that approximately 85% of the members never have had a passport. That would also suggest that few of them took international law. Extrapolating from my own personal history, it is reasonable to anticipate that there is a problem in the understanding of international law throughout our profession, certainly among those of my generation. My own experience teaches how great a problem this lack of understanding—or appreciation—of international law can be. Since 1980, every position I have occupied has had transnational, comparative or international law at its center. My professional life has been suffused with international issues. And I must also say that I have spent a great amount of time apologizing to Professor Mathias Reimann and his faculty colleagues at Michigan for my errors and my uninformed behavior as a law student.

The point of these comments for today's discussion is this: how do we change this situation which exists in most law schools today where international law and international issues are still not a required part of the law school experience? What approach should we take, not for the large and well funded schools from which we have just heard, but for the rest of our nation's law schools, where funding and international expertise may be less available? We in this room may all believe in the value of international law, but we are likely still a minority among all of our law school colleagues. How do we change this situation for law schools that have not yet defined themselves as international centers of legal learning?

To answer these questions, we must first consider the source of the problem. Among the places to look for answers are the alumni, faculty, students, and even deans of our law schools. I mention deans, because even they have a role!

To begin, I doubt there is much of an issue in gaining support for internationalizing the law school curriculum from our alumni. They are practicing law in the "real world" and they understand that today, legal matters with an international aspect are growing exponentially. It will be helpful for them to share what they are learning with their law school faculty. As one example, I served on the Advisory Board for the International and Comparative Law Center at the University of Michigan when it first endorsed the transnational law course that the Michigan faculty ultimately adopted several years ago. I am told that the support of this board, principally composed of alumni, was critical in encouraging Michigan faculty to take its bold step of creating the first such required course in the nation. If so, I am proud to have been a member of the Board. There is, however, one group of our alumni—

those who serve as bar examiners—who may yet pose a problem. I doubt they will not soon support adding international law to bar exams and I also doubt that we are going to change them in a hurry. If we could do so, however, we would quickly produce a revolution in legal education.

As for the faculty, I believe their views will divide on the value of adding international law to the required law school curriculum. This is true because many will be of my generation, not convinced of the importance of international law, and even more may lack competence or comfort with teaching international, comparative and transnational topics. At Pacific McGeorge we solved this problem by establishing an attractive summer school venue in Salzburg, Austria more than three decades ago. The price for participating in the summer program was teaching a course that had international, comparative or transnational content. Gradually, over time the faculty was converted to the value of international, comparative and transnational subjects in the curriculum through this process. Not all law schools may be so lucky, of course.

Students, on the other hand, particularly in their early years, are likely to be unclear about the importance of international law to their preparation as lawyers. The fact that international topics are not a part of the bar exam is sufficient to convince some that international topics are not of value. Increasingly, however, I have found that today's students are excited about international practice and need little convincing. If there is a problem, it is in finding them jobs with sufficient international content immediately upon graduation.

Finally, deans, as I mentioned, can be critical to internationalizing the curriculum because of the leadership they can provide. Not surprisingly, not all deans, many being of my generation and perhaps sharing my early experience, are as supportive of internationalizing the curriculum as my colleague on today's panel, Dean Grossman. I wish that all deans had Dean Grossman's passion and vision for international subjects, because if they did, we would not be having this discussion today. But in truth they do not.

What then can we do to increase international offerings in law schools when we lack the type of leadership represented on this panel? If we find that our faculty has grown up in a time when they did not have exposure to international legal topics in an intense way and are not now comfortable with international, transnational, and comparative law issues, what is the best solution? At Pacific McGeorge, we are working on a response to situations like this—a solution that may also be the most practical approach for the majority of U.S. law schools.

The fact is that even at Pacific McGeorge, where international and transnational legal topics are widely taught, we have not tried to adopt

the Osgood Hall elective course solution or the Michigan mandatory transnational law approach. Both are too demanding of financial and faculty support. Instead we are exploring a different approach—call it the “Pacific Approach.” We are working to see whether it is possible to create materials that could be used as freestanding modules—components—that would be added to traditional first year foundational courses, for example, property, contracts, constitutional law, criminal law, and civil procedure. These components could be inserted into those courses. They would be manageable in size and complexity, so that any faculty member, with relative ease, could gain the necessary confidence to be able to expose students at the beginning of their law school experience to the importance of international, comparative and transnational legal concerns.

Obviously, the key to doing this will be to create superb teaching materials. From candid conversations with colleagues here and elsewhere, it is clear that there is a woeful lack of good international materials, no matter what kind of a program we consider. Our hope is to begin creating such material, suitable for the component approach which I have described. I am happy to say that we have already launched this effort under the able leadership of Professor Franklin Gevurtz.

Finally, let me conclude my remarks with a request addressed to each of you. We are going to need a great deal of help from a large number of people to make this project work. And so, you will be hearing further from us. Our hope is that this “Pacific Approach” will be applicable to the problems faced by a large number of law schools that today may not yet have the competence, the faculty, or the commitment to make a curriculum change as dramatic as the Michigan approach. We think the “Pacific Approach” may be the solution to moving all schools towards greater competence and interest in the transnational curriculum which is surely the future of all U.S. law schools.

Let me close by saying that I do not think there is a “one size fits all” solution to this problem. It is obvious that we need to do a great deal more to make sure that across our nation every law student—our future leaders—has a much better appreciation for the world they will inherit, no matter what their career path ultimately will be. And so I join my colleagues here in saying, that whatever works, deserves our support.

Thank you.