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Tourist or Resident?: Educating Students For Transnational Legal Practice

Dean Mary C. Daly*

I would like to begin my remarks where Dean Parker left off. Before a law school initiates curricular reforms to better prepare its students for transnational challenges in the practice of law, it must first decide the reform's goals.

In colloquial terms, do you want your students to be tourists or residents? If you are a tourist in Paris and have only twenty-four hours to visit the city, what do you do? You hop on the Metro, spend the morning at the Eiffel Tower and the Cathedral of Notre Dame, and the afternoon at the Louvre; grab lunch at a cafe, have dinner at a brassiere, stroll along the Champs Elysee, and then go back to your hotel and pack so you can leave the next morning.

If you intend to take up residency, however, your activities are quite different. You devote at least a full week to locating a nice apartment in a picturesque arrondissement. After moving in, you meet your neighbors, familiarize yourself with the local shops, and search out law professors who write and research in the same areas that you do. By the end of your residency, you will have become familiar with the urban and academic culture of Paris.

In thinking about reforming your law school's curriculum to accommodate the demands of transnational legal practice, you must first decide whether your students need the knowledge of a tourist or that of a resident. For the non-elite law schools, fiscal, faculty, and curricular restraints will often tip the scales to favor the tourist option. I do not regard this outcome as necessarily a bad one.

If students come away with an appreciation that in the global legal universe there are different notions of jurisdiction, procedural justice, and personal liberties, I think that they have learned a great deal. For years I taught a course entitled "Professional Responsibility: Business

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and International Practice” in which I interwove a comparative understanding of the civil law system’s different way of educating and regulating lawyers, perceiving conflicts of interest, and thinking about the confidentiality of communications between lawyers and clients.¹

That the students completed the course without a thorough understanding of any of those topics was fine by me. My immediate goal was to sensitize them to red-flag issues that could impair their ability to represent clients competently in legal matters with foreign law aspects. My long term goal was to spike their curiosity about foreign, comparative, and international law as they relate to the role of the lawyer in transnational legal practice. In short, I wanted my students to decide on their own to be residents not tourists.

Because I perceive a particular value in the tourist option, I especially applaud the “Pacific Approach” that Dean Parker mentioned in which her faculty members are creating freestanding modules of international materials for use in first-year foundational courses. This approach has two benefits. First, international and foreign law experts are culling and compiling the readings. Professors whose substantive knowledge is in other areas of the law need not flounder around in unfamiliar waters, trying to select the most appropriate primary and secondary materials. Their knowledgeable colleagues have undertaken this task. Second, it strengthens the intellectual bonds between the professors who assemble the module for a particular subject matter area and those who teach the module. The bonds can often lead to a richer collaboration in teaching and writing in areas of transnational law.

In conclusion, I would like to remind you of the wisdom buried in a once-ubiquitous telephone company commercial that urged its listeners “to reach out and touch someone.” There are many English-speaking, foreign law professors who are eager to visit and teach at U.S. law schools. While there are costs—both financial and personal—associated with such affiliations, these professors offer invaluable learning opportunities for both students and faculty. Costs can be contained through the creative use of intensive courses taught over a short period of time. Finally, explore the legal community where your law school is located. U.S. lawyers with transnational legal experience and foreign lawyers educated in different legal systems practice across the United States in urban, suburban, and even rural areas. Almost all of them are committed, global citizens who will be willing to share their knowledge with you and your students.

1. See Mary C. Daly, *The Ethical Implications of the Globalization of the Legal Profession: A Challenge to the Teaching of Professional Responsibility in the Twenty-First Century*, 21 *FORDHAM INT’L L.J.* 1239 (1998).