

5-1-2006

Preparing New Students for Legal Practice in a Flat World

Martin H. Belsky

Follow this and additional works at: <http://elibrary.law.psu.edu/psilr>

Recommended Citation

Belsky, Martin H. (2006) "Preparing New Students for Legal Practice in a Flat World," *Penn State International Law Review*: Vol. 24: No. 4, Article 9.
Available at: <http://elibrary.law.psu.edu/psilr/vol24/iss4/9>

This Article is brought to you for free and open access by Penn State Law eLibrary. It has been accepted for inclusion in Penn State International Law Review by an authorized administrator of Penn State Law eLibrary. For more information, please contact ram6023@psu.edu.

Preparing New Students for Legal Practice in a “Flat World”

Martin H. Belsky*

I went to a law school [Columbia University] specifically because of their international program and became involved with almost all aspects of that program—which they called “transnational law.” I also did graduate work in International Affairs and Law. I was, and am, committed to incorporating transnational law concepts into the law school program. And I have had administrative responsibilities that have made me take a pragmatic approach to reaching that goal.

During this workshop, we have heard many ideas about bringing transnational law and issues into the first year curriculum. We have heard descriptions of the actions of individual faculty members, and administrators of law schools with adequate resources to promote that integration. This is a narrative about “Globalization for the Rest of Us.”

As the [former] Dean at the University of Tulsa, with a personal transnational focus and a tight budget, I worked with a coalition to push a Global focus. A small group of committed faculty, students, and staff had to sell the idea to skeptical faculty, alumni, *and* students, who had a domestic and bar focus. We had to get central administration and alumni support by making it as close to self-supporting as we could. And we had to make it politically acceptable and even preferable to all the various constituencies.

There were periodic set-backs but long-term progress. There were risks that, on hindsight, we can boast were worth it. And now there is an institutionalized [I hope] transnational component in a medium sized, regional law school.

I start this talk by referring to New York Times columnist Thomas Friedman’s 2005 book, *The World is Flat*, in which he describes a 21st Century society that is global and interactive. Because of modern technology, especially communications, services that had to be co-

* Professor of Law, University of Tulsa College of Law. A.B., Temple University, J.D. Columbia University; Diploma, Cambridge University; Cert. Study, Hague Academy of International Law. Professor Belsky has served as Dean at first, Albany Law School, and more recently at the University of Tulsa College of Law.

located with products or other services can be now placed anywhere. Individuals with necessary skills can work at home or, at worse, at a nearby Internet café, for multi-national companies whose headquarters and identity are thousands of miles away.

Components can be produced in China, assembled in Pakistan, sold in New York City, and serviced Holland. Personal services can be provided by trained professionals in India to customers or their agents in Tulsa or Baltimore.

For America and Americans to compete in this new “Globalization 3.0,” it and they must have a legal and political infrastructure that promotes both individual initiative and a safety net of transition. Services, such as legal counsel, must be available in all languages, adjustable to multiple cultures and constitutional systems and flexible in response to quickly changing priorities and competitive demands.

Yet, most American law students do not even take a course in Comparative or International Law. Those that do take a course, usually choose “Public International Law,” which is often taught as a “Law and International Relations.”

Academic administrators have to overcome a bias—by faculty, alumni, university administrators, and students—that courses that focus on transnational perspectives are somehow “softer,” “not as rigorous,” and certainly, not “bar prep.” For most students, taking a transnational law course is an “add-on,” to be fitted in only after the “bar courses” are accommodated and, then, only if the “time” or “prof” is right.

One traditional method of encouraging students to encounter transnational law is to have an elective in the first year, with a limited number of options and including international law, and comparative law in that limited list. Another established method is to sponsor “international law societies,” and pay for social events [with food] and speakers for them. A third conventional scheme is to pay for a specialized journal, and encourage first year students, who may or may not think they can make “the” law review, to consider that avenue of developing their writing skills and, of course, their resumes.

How do we promote a broader school-wide perspective, and try other techniques at “Globalization?” To quote a former colleague here, “we are not dealing with nuclear warfare here.” Try some things. If they work, build on them. If they do not, drop them.

“Globalization 3.0” will require a legal and political infrastructure that promotes both individual initiative and a safety net of transition.

The Present Academic Legal Environment

In an article I wrote in 2002,¹ I described the history and development of legal training. Legal education was started by apprenticeships, and then moved, with a few exceptions at several elite schools who had full-time programs, to part-time training by practitioners. By the middle and late 20th Century, most lawyers were trained by full-time faculty as full-time students. Yet, again with a few exceptions, most law schools were focused on the law of their “home state,” and most students felt that legal education was mostly to prepare them for the bar.

Law Schools are now evolving into Legal Education Centers, with skills training, specialization, and teaching of law to a broad array of interested parties. Most law schools teach a primarily national curriculum, and even the bar exam consists of multi-state and not local questions and issues.

I believe that a core component of future legal education has to be a broadening of this national into a global perspective so lawyers can service the people, services, products, and locales of the flat world.

Traditional Techniques to Promote Transnational Law

As noted earlier, many schools allow an elective in the first year, with a limited number of options and including international law, and comparative law in that limited list. These schools also often sponsor “international law societies,” and pay for social events [with food] and speakers for them. Finally, an increasing number of schools support a specialized international, comparative, or transnational journal.

Most schools allow credit for students who take a summer or semester long course in an approved ABA overseas program. They allow its travel funds to be used by faculty wishing to attend a conference overseas or in the States on a transnational topic.

Finally, ABA Standards for Library Collections include foreign and international materials.

This is not enough.

A Transnational Agenda

Promotion of a school-wide transnational focus requires personal involvement by academic administrators, led by the Dean.

He or she must build on the traditional techniques and urge experimentation with new ones. He or she must also be willing to abandon ideas that are not working.

1. *Law Schools as Legal Education Centers*, 34 U. TOL. L. REV. 1 (2002).

A committed Dean can start promoting this agenda as early as visits during the Decanal Search process. The process of convincing the students, faculty, university, alumni, and organized bar begins with an explanation of why transnational programs are no longer just an “aside” and that schools that wish to survive in a “flat world” must take a broad-based approach.

The Dean’s position, fora, and resources are essential to first share and then implement this agenda. This is a continuing effort—and means including this perspective in most talks, publicity, and interactions.

The scale of activity depends on how far the Dean and the faculty wish to go. It can start slow, or have more of a deep immersion.

Developing and Supplying Resources

Many of the ideas that I propose [and used] are relatively inexpensive and can easily be included in a budget or annual giving allocation. For more expansive actions, specially focused funding can often be secured by self-supporting or profitable programs or focused fund-raising.

Alumni, foundations, law firms, businesses, government agencies and non-profits [both commercial and non-commercial] with transnational foci can be asked for help. Many of these entities will not give to law schools generally but will help support a transnational program or activity.

As relationships are developed with the University community, resources can be secured for multi-disciplinary transnational projects and programs from the central administration, university foundation, and non-law colleges and department budgets.

Symposia, conferences, and events [and as will be described later, classes] can provide CLE or non-law continuing education credit and charge an appropriate fee.

Overseas programs [as will be described later] can provide discretionary funding.

Developing a “Transnational” Faculty

Most law schools will prepare a strategic plan—either periodically, or when there is a new dean or university president. And some schools have planning or curriculum review retreats. It is important to include a transnational perspective into these discussions and plans.

There are usually a few [or in some schools, a substantial number of] faculty who already have an interest in transnational law. They should be organized as a “lobbying” group for new and enhanced programs.

Bribery [or “incentives”] works!

Thus, an organization, with or without a Director [at Tulsa, we have a “Comparative and International Law Center” with a Director], or Chair, should have a budget to organize events, speakers, and activities with a global perspective. And these and other faculty members can be encouraged by providing additional funding [a special funding pool] for overseas meetings and conferences. A special pool can also be developed for research on a transnational topic or that is published in a transnational or foreign journal.

In addition, interested faculty could be asked to organize a conference of scholars on a transnational topic. Stipends or honoraria and expenses should be provided. Outside academic speakers, local and national practitioners should be asked to speak. In addition, home law faculty, who do not necessarily have a transnational perspective should be asked to participate by giving introductions, moderating a panel, or delivering a paper [and, if possible, with a stipend].

Overseas programs can be risky but can provide resources. First steps are to provide assistance to faculty who wish to teach in such a program and to students who wish to attend. A possible second step is to join with other law schools, either individually and case by case or in a consortium. A final step can be to develop your own summer, semester, or even winter-break, semester-break, or spring-break overseas programs.

Faculty [especially those who teach first year courses] can be encouraged to take their traditional area of teaching and scholarship [constitutional law, contracts, torts, family law, criminal law, civil procedure] and prepare a new course on the same topic from a transnational perspective.

In addition, it may be possible to tie special overseas programs to particular areas of expertise of your faculty that can easily include a transnational perspective [for Tulsa that was native American/indigenous law; and environmental law; for others it could be intellectual property or corporate governance].

Another way to promote an international perspective in your faculty is to provide funding for those who wish to participate in or become members of local organizations or bar committees and sections that discuss or hold meetings or have speakers on transnational topics.

Visibility and resources can be secured by developing specialized CLE or CE programs [either individually or as part of a conference or program] that include your own faculty, who receive stipends for participation.

If your school is considering “concentrations,” the committed faculty can ask the curriculum committee to consider a transnational

“track” or certificate, and ask them to consider including traditional courses in that specialty, if the course includes at least some transnational focus.

Priming the Pump

My premise is straightforward—the more students demand transnational perspectives, the more the marketplace [here the law school] will respond. The more money is provided to faculty for transnational focused activities and research, the more faculty will become interested in promoting that perspective. The more you can tie activities to securing better students and more applicants, the more support you can devote to them. Again, bribery works!

A transnational perspective can even be made part of the “marketing” for admissions. Many schools provide opportunities for college and even middle and high school students to preview law school. It would not be difficult to include a transnational perspective in these activities by supplying speakers, hosting a mock United Nations, and organizing [with interested teachers in the middle and high schools] a mock “International” or Foreign Country court proceeding.

Most schools have an illustrated “View Book” and/or Catalogue that can highlight transnational opportunities.

Many schools invite prospective students to alumni events. Include faculty and alums with transnational experiences to attend.

As will be described in more detail later, students can also be attracted to your school by involving admissions staff, librarians, and interested law faculty and law students with undergraduate transnational oriented faculty, courses, events, and programs. This can be done within your own university or at outside colleges [including community colleges].

Many schools have a “Pre-Orientation” for accepted students in the spring prior to their first year. Include a transnational perspective in this program—lecture, mock trial, conversation. And, of course, include transnational perspectives in the formal orientation process.

At a slightly more sophisticated level, a school might want to consider and promote “Three Plus Three” programs with Arts and Sciences and Business Colleges [where an outstanding student is admitted to the undergraduate school and law school and can complete a B.A. and J.D. degree in six years]—and highlight a transnational perspective. Similarly, joint degree programs can be developed and promoted that highlight a transnational synergy.

Convincing the other “Players”

To develop resources for a transnational program and to incorporate such a program fully into the entire curriculum, support is needed from the various constituencies, in addition to the faculty. The Dean should be willing to personally get involved in meetings and activities. His or her presence makes a statement and elevates the activity. It also makes allies for further actions.

The University Community

University administrators and non-law faculty often complain that law schools are “islands” and not really part of the campus. They often ask about and seek more multi-disciplinary programs.

Some small expenditures and actions can secure support from them for a transnational perspective and also help to promote this perspective internally.

Involvement with undergraduate foreign and international programs and departments can be promoted by an array of activities and actions.

—Working with the political science, international affairs or government departments on mock U.N. and mock international courts;

—Working with the language department on a mock foreign legislative session and court proceeding;

—Working with the business school on joint law-business transnational projects—such as visits to corporate offices, including in-house counsel, speakers, conferences, and international transactional exercises.

—Working with specialized departments and, if applicable, colleges, on “Transnational Law and . . .” projects. Such joint efforts have been successful with engineering schools [e.g. oil and gas, intellectual property, international and foreign regulatory obligations], medical schools [international and foreign research rules, liability, alternative funding for patient care], environmental policy departments [the regulatory and procedural processes, public administration colleges and departments [international and foreign law and policy, systems of government and law].

—Co-sponsoring [with funding] speakers and events organized by other colleges and their departments.

—Helping to organize and provide partial funding for university and multi-College Conferences and Symposia on International and Foreign law topics.

—Helping organize and provide some funding for undergraduate international and foreign law student associations.

By definition, promotion of a true and broader multi-disciplinary approach for law and non-law students helps eliminate the “we versus them” perspective that other disciplines have of law faculties.

Some ideas:

—Open up transnational courses to upper level undergraduate and graduate students, without charge to the home college or department. Having additional students in classes usually involves only marginal costs.

—Invite faculty and students in other departments to attend and participate in law school events. Provide transportation if necessary.

—Include faculty and students in other departments in transnational programs—like international moot court competitions, review of articles submitted for international journals, review of papers by law students in seminars, hosting of special speakers.

—Allow law students to get credit not just for transnational law courses, but also courses, including foreign language courses, in other colleges and their departments. Pay the colleges for credits involved. Again, this will involve only marginal costs. Law school tuition is collected and non-law tuition [almost always far less] is paid out.

The Local “Transnational” Community

Almost all communities have a council on foreign affairs or other similar entities that bring together business leaders, government workers, academics and others for speakers and programs. In addition, state and local governments and chambers of commerce usually have or co-sponsor programs and materials [sister cities, global visitor programs, etc.]. These entities and their members are useful allies [and often financial supporters] in developing a transnational agenda for the law school.

Similarly most local and state bar associations have committees or sections that deal with transnational agendas. They and their members are also useful allies and potential funders.

Finally, there are local “interested” entities and citizens that can

provide physical and fiscal support. These include the media, foundations and charities, religious organizations, and retail merchants [especially those that are part of an international chain].

Alumni

Each school will have some alums who either practice overseas or have a transnational practice. Meet with them and get their ideas on how to include a transnational perspective.

If there is a sufficient number in any one foreign location, schedule an alumni event. Invite [and if possible subsidize] representatives from your alumni association, interested faculty, and students.

Invite alumni with an international perspective to come to campus and give a talk, speak to classes, and meet with faculty, students, and other alums.

Devote an issue of the alumni magazine to transnational law programs, issues, activities, and alums.

Encourage alums to take CLE/CE programs with a transnational perspective. Consider discounts for such attendance.

The Students

As noted above, “prime the pump” with pre-law and then orientation promotion of transnational law. Then encourage students to participate in law school and other on and off campus organizations with a transnational focus. Some more examples—

—Include students in social and dining events involving speakers, conferences, and symposia. Also have students serve as hosts for speakers and guests.

—Provide subsidies for your own or other school summer and semester abroad programs, attendance at overseas and domestic transnational programs.

—Encourage student organizations, in addition to those already with this perspective, to include a transnational perspective. For example, support and perhaps subsidize participation by the Moot Court in the Jessup International Moot Court Competition.

—Support and perhaps subsidize special efforts to have “the” Law Review publish articles with a transnational perspective.

—Develop or, if existent, enhance support—both personal and fiscal—for a transnational law journal.

While doing these things, it is necessary to explain the future of law and lawyering in the evolving “flat world” and how they can fit in.

Staff

We often forget how important law school staff is in getting things accomplished and in setting and assuring an agenda of change. To promote a global perspective, it is crucial that staff participate in developing and implementing a transnational perspective. Examples again

- Use alumni office staff to include alumni and members of the local transnational community;
- Use development office staff to secure resources for this initiative;
- Use your fiscal officer to develop and track special funds to support transnational programs and activities;
- Integrate the “priming the pump” agenda into the day-to-day work of the admissions staff;
- Encourage programming for career options with a transnational element;
- Work with the library director to enhance the international and foreign law materials that are available and accessible.

Integrating the Transnational Approach

It is clear that as faculty have experiences in the transnational arena, they bring that perspective into all their courses—including “core” courses in the first year.

It is also clear that as more and more students get exposed to transnational issues, they become more willing to handle even local matters that may have a transnational perspective.

These students, and newly energized alums, can provide a stable lobbying group for integrating “Globalization 3.0” into the “core curriculum.”