

Elements of internationalisation of the legal studies

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I think the exchange of ideas will rotate around the goal of internationalisation, the object of study and the subjects of this scholarship, namely the students, teachers and practitioners.

A. The goal of the legal curriculum in regard to international law

I have no doubt there is a growing need to provide training and expertise in international law. I think this goes for all developed countries and for lesser developed ones too. We see largely increased trans-boundary interactions. Transportation brings persons and goods on the move. Information & communication technology shrink the globe, creating possibilities and challenges. The debate over multilateralism or anti-multilateralism is getting sharper and the legal groundwork for the structures of cooperation and conflict resolution and the rules of engagement for the legal transactions in the world are at issue. I fear there is a lack of understanding of economics and of the theory of economic development that may cause disturbances in the peaceful cooperation of individuals and of nations.

I was impressed by U.N. Sec.-Gen. Annan emphasizing that the U.N.'s greatest success towards assuring world peace has been its treaties in the field of private international commercial transactions (sale of goods) and arbitration, under the auspices of the general assembly (at a conference in the U.N. headquarters on 10 June 1998). International legal studies assure a good peace dividend.

It is paradoxical, but little has been done on the international law curriculum. The invisible hand seems to steer it. Many European countries have just in the past year undergone an extensive reorganization in the field of legal studies. The introduction of the Bachelors/-Masters-structure has taken many hours of planning in each law school. I presume that in most places this was an exercise useless for this AALS-debate, not being especially oriented towards innovation but rather imposed and reflecting only the urge to consolidate. The focus was on qualifications and on diploma-alignment. Here or there some re-orientation in teaching-method or in training students for practical skills may be achieved.

“Curriculum development” as a topic of concern has been externalised and is stimulated under certain European Community programs as a sort of export of our existing curricula to developing countries. The problem is, that the persons helping others should be those with good experience in international law. They are however most in demand in their

field and do not necessarily find time to work for university development. The administrative persons active in curriculum planning, controlling the money-flow, have understandable preferences for primary legal needs of local development for developing countries (like teacher training, legal research and information tools, procedural law and enforcement, commercial transactions). This does not help develop the international law curriculum.

I find that the world's better ranked law schools all demonstrate competence in the international field and all offer a broad array of international law courses. I think the market indeed provides what is required.

I would not propagate imposing more international law other than in introductory or basic courses on public international law and on private and commercial international law (some law schools do not require that minimum). I think a lawyer's training presupposes sufficient knowledge of sociology, theory of state organisation and of economics. I suggest that a stronger interest should be shown for international economic development and for theories of economic development, because much will turn on the views accepted on those points (see elements of the object of study in section "B").

I think that a more advanced study of international law can remain optional. Whether an individual takes up specialized courses is part of personal preferences. However, I would ask law schools to define their goals in line with present and foreseeable needs. The basic curriculum in law should lay a sound foundation and put the building blocks in place for those who wish to move in the direction of an international practise of the law.

International law can be largely a postgraduate offering, as it presently is. But a greater effort should be done to plan and to adapt to current needs of the professional circles and for the needs of government lawyers and NGO-lawyers plus even for non-lawyers. More synergies ought to be sought between law schools to broaden the curricula and to improve cooperation with practitioners in international organizations and in international legal practise and for example in WTO-law (I add thoughts on that in B and C).

B. The object of study in international/transnational law and in trans-frontier law

We must build on experience in existing curricula; no fundamental change is needed.

Law schools must lay good foundations for all students:

- comparative law (terminology, language abilities, historical development, functional analysis)
- structure of the legal body (personal status, rights *in personam*, rights *in rem*, tort)
- elements of public international law
- theory of economic development (anti-multilateralism)
- public law (constitutional law and democratic organization of the state; centralization vs./decentralization)
- international institutions and WTO in particular
- humanitarian law principles
- financial transactions (banking and investment needs).

Acknowledge the importance of the procedural component:

- understanding the risks and challenges of trans-frontier disputes
- provide insight in international tribunals for a rights-based international approach
- consider efficiency; study elements of privatisation or decentralization in dispute resolution (arbitration, negotiation, execution, strategy).

Most domestic courses should refer also to the international perspective and to the international complications in the particular field of substantive law; indicating the sources of rules and affording help for later research in that direction.

We should train law students for skills in private deal making in a plurilegal setting:

- institutional requirements for investment, risk-taking
- comparative corporate law
- financial markets regulation
- offer insight into the economics of international trade
- emphasize negotiation and renegotiation of contractual relationships.

Expand the study of uniform law components:

- uniform law in the field of property (developments in real estate projects,
- uniform law in the field of intellectual property
- focus on the law of engineering projects and infra-structural and industrial projects (investment treaties, project financing, public procurement, dispute resolution boards)

- uniform law in the field of transactions (employment contracts, sale of goods, receivables, financial products, several aspects of consumer protection).
- regional developments around products safety, environmental care
- de facto convergence in technology transfer law
- status of international procedural and administrative cooperation (Hague conventions)
- towards uniform rules in the private international law of persons and corporations.

Study treaty developments around the soft-law components of international law:

- look at the WTO-agenda of “Doha”
- the rules on investment and labour law-relations of United Nations and OECD
- study the developments in environmental law and in energy law.

Study systems of regional cooperation and unification vs./ global multilateral discipline:

- institutional organizations of regional economic cooperation
- customs unions and the problems of export subsidies
- export promotion systems
- multinational corporations (national laws and group phenomena)
- non-governmental cooperation in the international field.

C. The subjects that study international law

Student mobility and selecting lawyers with the right stuff:

- there always was mobility within the US, as within Germany
- Erasmus and Socrates have helped mobility in Europe (limited impact in law)
- cooperation between law schools has been successful (institutional relationships)
- a few foundations have been generous (Ford foundation et al.); more private firms could be addressed for sponsoring – where the U.S.-schools have been leading
- governmental programs have been important sources (Fulbright exchange grants)
- broader international fellowship programs (U.N.?) would help.

Maturity and specialization required:

- practicing law across borders will be a product of labour division and consultation

- it is a pluri-disciplinary field; best suited for persons with some experience and with a certain type of proficiency (as in languages, cultural or inter-personal skills) or with specialization in some area's of the law
- the individual skills and personal character traits necessary are for working in team
- good language abilities usually indicate a stronger sensitivity to terminology and to communication and intercultural skills
- the existence of different legal systems in integrated economies within a small circumference generate better abilities for transnational and trans-frontier work: conflicts awareness has been cultivated in the U.S. in fields such as torts and corporations; in Europe there a somewhat higher awareness in the fields of international family law and general commercial transactions, as practical experience and seniority on the job grow (at the Bar or as corporate counsel or even in public administration); this could be similar for certain areas in central and south America and in parts of Asia
- except for immigration law, asylum law and humanitarian law; I find the field of international law to be high in costs and controlled by specialized business lawyers.

The economical principle and the study of law:

- in law schools there is only so much time to get a degree; one must select fields of law
- study of law becomes more prone to efficiency-considerations as the costs of study increase and international law is only lucrative for few practitioners
- for the law schools themselves there are only so many candidates and only so much student brain-power for which to award the degrees (there is internationally a strong inflation of degree programs on offer and the U.S.-degrees are overpriced; the existing language-bonus may fade away as other English-language programs are created)
- international law courses are often theoretical because practitioners are not affordable as teachers; increased demand for teachers may lower the quality of teaching as the practical needs become more urgent
- consider which are the bread-and-butter-courses for the students of lesser developed countries; the greater need is for local legal training and domestic lawyering talent (administrative rules, procedures and permissions, inter-personal relations, labour market) at affordable prices
- so, there may be a need to subsidize developing "international" curricula

- realistically speaking, I think that (besides the intellectual limitations) economic grounds point to a choice for post-graduate specialization in international law.

Involving practitioners:

- there is a business component in making the law school programs successful; they can be offered to persons with a number of years of experience
- we note however a reverse trend towards picking special talents earlier; international law requires the most talented students; they could come from studies in economics or management
- our hopes should not be on an elite of young students alone
- law schools should liaise with groups of practitioners for teaching and for learning.

Involving the international institutions:

- It is commendable to involve international institutions to send trainees to law schools for specialization and send cadres to provide help in teaching
- WIPO, for example, has a bounty of income and was squabbling over how to use it for training purposes in international intellectual property protection and development
- there is a great opportunity to rationalize U.N. and World Bank/IMF funds for training and research, for their public-relations-budgets and the creation of rules for the international arena
- It would help if more international institutions would provide personal grants for talented young people.