

Building the World Community:
Challenges to Legal Education and the WCL Experience
By Claudio Grossman^a
American University – Washington College of Law

I. Introduction

Today we are witnessing dramatic global transformations that question both the content and methodology of legal education. These changing processes have been well documented and extensively discussed elsewhere.¹ They include global trade, foreign investment, the breakdown of authoritarian political structures, the emergence of new nations, and the presence of new international actors such as individuals, multinational corporations, and non-governmental organizations (NGOs).² Crucial problems that challenge humankind cannot be solved solely by individual states. Instead, this growing trend demonstrates the necessity for international cooperation.³ It is particularly the case for transboundary problems such as the proliferation of nuclear weapons, widespread poverty, environmental degradation, international terrorism, and war crimes. These developments confirm that a new world reality is emerging and is here to stay. Society must now ask how these phenomena will affect legal education.

For rhetorical purposes, we can identify two main schools of thought that consider the implications of these global changes and their effects on legal education. The first school contends that the transformations taking place are of minimal concern because lawyers deal primarily with domestic issues. This theory maintains the status quo in legal education, believing that the practice of law primarily deals with domestic interests and issues that are confined within one nation's borders. Proponents of this viewpoint further allege that the modification of legal education is unnecessary because the global issue is "merely a matter of translation." For example, a real estate lawyer in the American Midwest who engages in the development of agricultural land will simply need a language translator if a foreign party is involved in a transaction, but need not employ

^a Dean, American University Washington College of Law.

¹ See Alberto Bernable-Reifkohl, *Tomorrow's Law Schools: Globalization and Legal Education*, 32 SAN DIEGO L. REV. 137 (1995) (arguing that changing economic and political world order, including major shifts in trade patterns, internationalization of financial markets, and post Cold War political structure, call for adjustment of legal education). See also W. Michael Reisman, *Designing Law Curricula for a Transnational Industrial and Science-Based Civilization*, 46 J. LEGAL EDUC. 322 (1996) (arguing that legal education must accommodate globalization by implementing the notion of a comprehensive transnational legal system rather than autonomous national systems).

² See Claudio Grossman and Daniel D. Bradlow, *Are We Being Propelled Towards a People-Centered Transnational Legal Order?*, 9 AM. U. J. INT'L. L. & POL'Y 1 (1993) (arguing that new actors include individual voices who implement change through non-governmental organizations and have played a monumental role in developing transnational alliances towards securing human rights, consumer protection, social justice and sustainable environment, thus garnering transnational affiliations and making their voices heard).

³ See Reisman, *supra*, note 1, at 323-24 (contending that increasing acts of political violence, transnationalization of crime, and economic monopolization render the individual state unable to protect public order and, therefore, increase the need for intergovernmental cooperation).

different legal concepts. Accordingly, because the basic concepts underlying the transaction remain the same, the traditional concept of legal education should remain intact.

The second school of thought goes beyond translation. Indeed, this more innovative theory argues that more is required to prepare lawyers for the seismic changes currently taking place than mere language interpretations. Proponents of this school regard translation alone as an ineffective means of establishing a continuous relationship with a client. They believe that knowledge of the client's cultural values is also of great importance when developing a professional relationship. This group believes legal education needs to be modified by increasing global exposure, achieved by adding courses, hiring more international faculty, sponsoring more international academic programs, opening research centers with global connections, and augmenting the number of formal international linkages. Unfortunately, this group only makes quantitative changes to legal education. The actual law school experience would require no basic transformation.⁴

Standing alone, neither of the above two approaches produces the paradigm shift required to educate lawyers in the new world reality. Both schools of thought appear to underestimate the breadth of the changes currently taking place, as one simply maintains the status quo and the other advocates making only surface changes to legal education. What is needed, instead, is a profoundly different approach, one that advocates a *qualitative* rather than a *quantitative* change in legal education. The aim of this paper is to push the debate in that direction and to explore ways to reconceptualize legal education in accordance with the global transformations currently taking place.

II. Legal Education in an Interconnected World

Despite the past century's numerous philosophical changes in international law, the curricula of law schools continue to focus on a domestic agenda. A study conducted by the American Society of International lawyers (ASIL) found that during the Langdellian era (1870-1895) there were only twenty-three educational institutions that offered international law in the United States.⁵ Surprisingly, the contemporary law student is only slightly more likely to have taken a course in international law than her counterpart in 1912.⁶ Moreover, although international law is offered on a wider basis in today's law schools,⁷ the full incorporation of the subject into legal training remains marginal. For example, there are still no questions on any bar exam concerning international law, no mandatory international law courses, and generally no first-year

⁴ This approach further neglects the fact that crucial international legal dilemmas in recent times have concerned "non-Anglo-Saxon" nations. E.g., International tragedies such as war crimes in the former Yugoslavia and Rwanda, human rights violations in the form of disappearances and state-sponsored terrorism in Latin and South America, female genital mutilation in Africa, and the Bhopal environmental disaster in India.

⁵ See REED, *supra* note 10, at 301.

⁶ See Richard B. Bilder and Valerie Epps, *John King Gamble's Teaching International Law in the 1990s*, 87 AM. J. INT'L L. 686, 688 (1993) (book review).

⁷ See WCL Informal Course Survey, *supra* note 8. One hundred fifty-two (152) of the 160 AALS schools offer a general international law course. See *id.*

exposure to the study of international law.⁸ This disregard of international law has been particularly disheartening with regard to the teaching of international human rights law. In 1979, only fifteen law schools offered a course or seminar on the subject, and only twenty schools offered such a course in 1990.⁹ Despite strides being made to disseminate information and prosecute the perpetrators of human rights violations—events such as state-sponsored terrorism, ethnic genocide, and war crimes such as rape, torture, and the conscription of child soldiers—the subject has yet to become an accepted elective in the traditional law school curriculum.¹⁰ The failure of the modern American law school to update its curriculum to encompass international law, and thus recognize it as a subject highly applicable to the practice of law, constitutes a profound anomaly in legal training.

The first-year curriculum in most law schools consists of the standard “core courses,” including torts, contracts, property, civil procedure, criminal law, and constitutional law. Furthermore, many professors continue to rely on the traditional case method for instruction. A brief look at Langdell’s curriculum at Harvard indicates that changes to the first-year legal training have been moderate at best. At the end of the nineteenth century, the primary first-year course of study consisted of:

1. The Law of Merchants, Contracts
2. Equity
3. Pleading, Practice, and Evidence
4. Criminal Law
5. Real Property¹¹

The continued focus on standard courses that remain inextricably attached to domestic concerns is inadequate to prepare lawyers for a new world reality.

Lawyers practicing within this new reality will be challenged by rapidly developing international economic and political links. Rising global technologies, such as satellite communications, establish greater transparency between global actors. The Internet and high-tech computer networks now connect the world with the click of a button. Authoritarian political systems are being dismantled and societies are becoming more open.

These changes in the world have simultaneously changed the role of a law school, calling for a fundamental reconceptualization of legal training. Exclusive reliance on the Langdellian ideology, which treats law as a science in which legal principles are derived by studying selected cases, will not adequately prepare law students for the contemporary world.¹² New forms of communication such as e-mail, the Internet, and teleconferencing have exploded onto the scene, enlarging the scope of dialogue and questioning the

⁸ *See id.*

⁹ *See* Richard B. Lillich, *The Teaching of International Human Rights Law in U.S. Law Schools*, 77 AM. J. INT’L L. 855, 856 (1993).

¹⁰ *See id.* Despite the increase in institutions offering a course or seminar on international human rights law in the 1980s, only 11.9 percent of the 168 schools then listed by AALS offered courses in human rights law. As of March 2000, over half of American law schools offer a course that studies human rights law, but fewer than twenty percent of schools offer more than one course on the topic. *See* WCL Informal Course Survey, *supra* note 8.

¹¹ REED, *supra* note 10, at 454.

¹² *See* Weyrauch, *supra* note 7, at 263-63 (emphasizing that although the Langdellian teaching method is still largely adhered to, it nonetheless precludes students from observing facts and understanding social norms).

integrity of legal training. The classical ingredients of legal training—consisting of faculty, students, appellate decisions, and research centers—underestimate the scope of legal training that is demanded by the new world paradigm. The world is now immersed in multiple networks with ever-growing interconnectedness, redefining the needs of legal education.¹³

Inasmuch as individual states can no longer isolate themselves from the international community, legal training can no longer be enveloped within the four walls of a law school. Instead, law schools must connect themselves with the outside world and reconstruct their academic agendas to work with actors in the international community, such as NGOs, multinational corporations, governments and legal systems of other countries. In addition, while the study of case law continues to provide an indispensable vehicle for legal training, we now know the importance of expanding legal training beyond this one-dimensional approach.

Today, new skills are required in legal education as exemplified by the development of practical and experiential training methodologies. Clinical programs, moot court competitions, study-abroad courses, debate clubs, and an increased reliance on non-legal disciplines such as economics, psychology, political science, anthropology, and sociology have made the study of law based exclusively on readings cases obsolete. Today's law school graduates must have the skills to play the role of facilitators and problem solvers in international transactions. They must also be able to act as liaisons for communications between and among formally organized legal systems with differing national histories, customs, and experiences. Put simply, the philosophical foundation of Langdell's case theory is insufficient to prepare law students for the world they will encounter.

III. An Innovative Model: American University Washington College of Law

What can be done with regard to the disconnection between domestic-oriented legal training and the global-oriented world system? One approach may be simply to make quantitative changes by sponsoring more research programs, stressing the importance of linguistic diversity, and augmenting the number of international students, faculty, and courses. However, this additive approach does not necessarily provide the typical law student with the diverse interaction that is needed to operate in the new world. In addition to updating its curriculum through the quantitative measures described above, American University Washington College of Law (WCL)¹⁴ has adopted a qualitative,

¹³ See Grossman and Bradlow, *supra* note 2, at 10.

It is becoming less tenable to classify issues as “international” and therefore as inside the boundaries of international law or as “domestic” and therefore within the jurisdiction of each sovereign state. All issues now have both international and domestic features, in the sense that they influence or are influenced by developments in both the domestic and international arenas. This collapsing distinction between domestic and international calls for a reconceptualization of international law so that these issues can be addressed in their totality and free of the constraints that are created by the artificial distinction between domestic and international issues. *Id.*

¹⁴ The Washington College of Law was founded by Ellen Spencer Mussey and Emma Gillett 104 years ago. In 1895, Delia Sheldon Jackson approached Ellen Spencer Mussey and expressed a desire to practice law. Mussey herself had undergone legal training at her husband's law practice but, because of her gender,

process-oriented approach that sets into motion the dynamics necessary to transform the traditional, domestically-oriented legal training into training that is interconnected with the world. The building blocks of this approach consist of the following: (A) establishing links between the study of domestic and international law; (B) focusing on different legal systems; (C) including cultural issues in the academic agenda; (D) incorporating the perspectives of other academic disciplines into the study of law; and (E) promoting social change and international awareness through purpose-oriented programs outside of the curriculum.

was later denied admission at the law schools of National University and Columbian College (now The George Washington University). Realizing the importance of Jackson's endeavor, Mussey contacted her colleague, Emma Gillett. Under Mussey and Gillett's tutelage, the first Women's Law Class was held on February 1, 1896, attended by Jackson and two other women. By 1898, six women had completed all but their final year of law school. Not having incorporated their classes as a law school, Mussey and Gillett asked Columbian College to enroll the women for their final year. Columbian College refused on the ground that "women did not have the mentality for law." Mussey and Gillett founded WCL out of commitment to their students. Upon its incorporation by the District of Columbia in 1898, WCL became the first law school in the world founded by women. Since its creation, WCL has been dedicated to expanding the "traditional" notions of legal education.