

BEYOND LECTURING: OTHER METHODS OF TEACHING INTERNATIONAL BUSINESS TRANSACTIONS

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INTRODUCTION

Any account of legal teaching methods should have the function of law as a starting premise. More in particular, the function of regulation and the promotion of order should be paramount in ascertaining the success of legal training. Viewed in this manner, the law functions as a tool with which societies, in the face of often irreconcilable moral, political, economic and other differences, attempt to regulate themselves and thus to promote order.

The efficiency of this tool very often depends on the abilities of the wielder thereof which abilities, in turn, depend on the training and experience of said wielder. Therefore, the correct training is a non-negotiable element in the arsenal of the university graduate venturing into the field of International Business Transactions, be it as an attorney, or legal adviser for a large multinational corporation. However, the question of appropriate teaching methods for producing well rounded participants in the field of International Business Transactions remains to be answered.

TEACHING METHODOLOGY AND COURSE CONTENT

At the outset, one should distinguish between methods of teaching law and the contents of syllabi on International Trade. Teaching methodology is often informed by the very subject-matter being taught but, for the purpose of this discussion, I will attempt to steer clear of the evaluation and assessment of courses to be offered in an International Business Transactions syllabus. Suffice it to say that modern university syllabi tend to be rather uniform in this regard, perhaps because of the ever growing importance and globalization of trade. One would typically find courses on international sales contracts and other contracts of international significance, the international carriage of goods, insurance, payment methods, dispute resolution, and then courses dealing with the traditionally, but also changing, public law aspects of international trade law. This paper will however focus on the teaching of International Business Transactions.

TEACHING METHODS

It is submitted that the demands of industry should play a substantial role in the determination of the most efficient teaching methods. However, this should not be at the expense of, or divorced from, the traditional view of the university student as a reader and critical thinker of his subject. In fact, in very many ways, the traditional qualities of a university education are relevant to the industry.

The demands of industry?

One could safely assume that universities and other institutions of higher learning, offering programmes in International Business Transactions, would attempt to supply the kind of graduates that would successfully apply themselves in the field, and thus meet the demands of industry. A cursory glance at the web pages of most universities offering courses in International Business Transactions will reveal the emphasis often placed on the industry or professional relevance of their respective courses.¹ However, what are these demands?

¹ See for e.g. the website for the University of Dundee's Centre for Energy, Petroleum and Mineral Law & Policy, and its International Business Transactions Programme.

A job advertisement² for a junior international trade attorney required the following skills of applicants:

“Candidates must have outstanding academic achievements, along with great writing, research, and interpersonal skills...”

This advertisement, compared to others, is short but sweet, and requires skills (save for interpersonal skills perhaps) that one would typically expect from the traditional university graduate.

An advertisement³ for a relatively entry level appointment listed the following requirements:

“...Your qualifications will be evaluated on the basis of your level of knowledge, skills, abilities and/or competencies in the following areas:

Knowledge of the trade show industry sector (both domestic and foreign).

Ability to manage a trade promotion program;

Ability to work in a team environment;

Ability to develop and maintain system(s)....”

From the above, and many other job advertisements, one can distill the following general demands of industry on university trained graduates:

- Knowledge, which presumably is more than technical subject knowledge;
- communication, writing, research and people skills;
- analytical thinking; and
- team work.

Therefore, the typical programme in International Business Transactions should aim to promote the cultivation of these skills.

The South African experience

The South African higher learning environment has undergone changes over the past years, in an attempt to equip university graduates with the skills demanded by industry. In order for universities to remain relevant for professional purposes, a paradigm shift regarding tried and trusted teaching methods had to be made. As a result, the traditional distinction between universities, typically employing the traditional method of highly theoretical formal lecturing, and technikons (also known as polytechnics) with their more practical and applied approach, was eroded. The result of this erosion was the attempt at a more balanced use of the traditional highly theoretical university approach to teaching and the more practically orientated and applied approach of the technikon.

A number of approaches to prepare students for industry have thus become apparent. The idea is ultimately, to retain the traditional theoretical approach of universities, with a healthy dose of industry exposure through various means. These means include, without being limited thereto, legal aid clinics, moot court competitions, student internships, exchange programmes,

² <http://www.job-search-engine.com/keyword/international-trade-attorney?page=2> (last visited 7 April 2008)

³ <http://federalgovernmentjobs.us/jobs/International-Trade-Specialist-1167363.html>, (Advertisement has as of date been removed) last visited on 20 March 2008.

and (importantly so), lecturers from industry⁴ to illustrate the relevance of university studies to practice. The question of industry relevance of studies is often a vexing one for students.

An integrated approach?

It is clear that industry demands an integrated approach to the teaching of International Business Transactions. In fact, if one looks at job advertisements in general, it becomes quite apparent that no single teaching method would sufficiently address the demands of industry. What is called for is an integrated approach, not only in terms of subjects studied, but also in terms of teaching methods employed, to produce the kind of graduate capable of succeeding in practice. An integrated approach is the only viable teaching method to ensure the continued relevance of university based training for industry.

It is hard to imagine how the practice of asking a series of questions surrounding a central issue and answering questions of others involved in a discourse (the Socratic Method), could possibly have turned Michael Schumacher into a Formula 1 champion. For that, as a part of his training, he had to use a racing simulator. The ability of the lawyer engaged in International Business Transactions to navigate the twists and turns of international trans-boundary negotiations could similarly be honed by the students' engagement in moot courts and trade simulations. This would facilitate a much smoother transition to practice.

It is, however, also difficult to imagine any simulation turning Haile Gebrselassi into the world-beating athlete he had become. He actually had to put in the hard yards. Similarly, the hard-yard component of legal training can be addressed by the typical university legal aid clinic, as well as meaningful co-operation between law firms and universities, internships with the relevant industry players and international student exchange programmes.

The knowledge of those engaged in International Business Transactions, besides spanning the disciplines of politics, economics and law, should as a rule include an awareness of the important social and cultural differences between themselves and those with whom they trade. This can only be taught effectively through exposure to other cultures via meaningful exchange programmes and international internships.

It is clear that, in addition to the often hailed traditional teaching approaches of universities, any meaningful methodology for the teaching of International Business Transactions should seek to meet the demands of industry. This does not mean that the traditional, and probably less time consuming, lecture should be jettisoned, but rather that the focus on knowledge for the mere sake thereof should be reassessed. If one considers the influence of the Socratic Method on the dynamics of societies of old, it is indeed doubtful whether knowledge for the mere sake thereof was ever the true aim of lecturing. It is a fact however, that our societies have become more complex, our world smaller, faster and less tolerant of long lectures under a tree in the sun at the feet of a master. We have the necessary technology, know-how and need to employ a more outcomes-based, multi-faceted teaching method.

Challenges facing the integrated approach?

The integrated approach is ultimately time consuming, while there is also the ever-present old faithful, financial constraints. In order to produce capable graduates, effective teaching needs to balance the issues of educating well informed analytical students with the concomitant financial and time constraints. In a country like South Africa, as well as other developing nations of the world, the financial issue is indeed paramount. One could only imagine the substantial expenses

⁴ The Maritime Studies Programme offered by the University of Stellenbosch makes extensive use of industry experts to teach various components of the course in addition to the complement of university teachers. For more information see:
http://sun025.sun.ac.za/portal/page/portal/Economic_Management%20Sciences/Home/Departments/Logistics/Homepage/Programs/Maritime%20Studies (last visited on 7 April 2008).

of running the kind of integrated training programme advocated here in an efficient manner. Despite education in South Africa attracting the lion's share of government spending⁵, higher education remains in dire need of funding. Even a rationalization and merging process, which saw a reduction in the number of separate institutions of higher learning,⁶ failed to address this concern adequately. Given that doubt exists about the possibility of South African institutions meeting South African skills demands⁷, and also the substantial levels of development needed in other important areas, the extent of this balancing exercise between integrated teaching and limited financial means becomes more obvious.

It is here that the old adage, it takes two to tango, becomes relevant. The tango of International Business Transactions has more than two parties dancing, and it is more than probable that the financing of teaching initiatives in poorer parts of the world will benefit not just those poorer parties, but also those that have the means to assist with the effective teaching of International Business Transactions. A basic premise of world trade is the facilitation, liberalization and promotion thereof. The more developed and educated your trading partner, the more efficient trading will become, with a more than likely overall drop in transaction costs. There is thus an incentive, for those with the means of assisting with the proper implementation of integrated teaching programmes in the field of International Business Transactions, to assist not only out of altruistic concern but also because it will benefit them in the long run as well. If we truly believe in the benefits of free and effective trade, then the concept of co-operation should indeed be the buzzword.

International co-operation in the field of legal education, therefore, is necessary. Besides co-operation between nations, there is also the need for co-operation between universities, faculties, industries, and trade organizations such as the WTO and others. This kind of co-operation will facilitate more than just a streamlining of teaching methods, but also further other aims in the field of International Business Transactions such as uniformity and, ultimately, economic growth.

CONCLUSION

Besides the practical demands of industry, the requirements for the modern university graduate to effectively engage in the ever-growing field of International Business Transactions still substantially revolve around issues of knowledge, critical thinking and research. These valuable skills are traditionally the forte of university education. However, in order to remain relevant, teaching should add to the traditional lecture those skills needed to make a smooth transition to practice. Here other institutions, like technikons, have distinguished themselves over time. The only teaching method that could possibly ensure this is an integrated approach. Such an integrated approach requires that the acquisition of knowledge and skills of critical analysis is more than just academic. In order to achieve this, one would need co-operation between all the relevant role-players with their respective strengths and weaknesses, so as to provide an integrated and comprehensive training regime. In respect of the realities of time and financial constraints, co-operation between the haves and the have-nots, is needed for an equitable spread of the costs of teaching International Business Transactions effectively.

⁵ Jet Education Services "Education in South Africa Today" http://www.jet.org.za/page.php?p_id=30 (2007); The education budget was increased by R4.6 billion in the 2007/8 thus constituting a R105.5 billion share of government's total budget of R475.8 billion. This extra funding is for spending on higher education subsidies, curriculum development and teacher bursaries. Site last visited on 07 April 2008.

⁶ *ibid*

⁷ *Ibid*