

**Legal Education in the United States
and the Importance of Critical Thinking**

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I am delighted to be a participant in the IALS 2007 conference on legal education, and very much look forward to meeting my colleagues from around the globe. As I suspect many of us were, I was at first somewhat intimidated by the conference-paper assignment – to write about the “Three Most Important Features of My Country’s Legal System that Others Should Understand.” As any good law student or lawyer would do, I quickly realized that I needed to narrow the scope of the assignment both as to topics about which I could write something meaningful in three to five pages, and to topics about which I actually have some first-hand knowledge. As a former university general counsel, law school dean, and university president, I realized that my time (and yours) might most fruitfully be spent on a discussion relating to legal education and the pathway to the legal profession in the United States. Given my current and still somewhat new position as president of the Law School Admission Council, I will further focus my comments to the process by which law students are selected and then navigate their way into the profession.

Among the key features of entry into the legal profession in the United States are the following:

1. Legal education in the United States is a three-year, post-baccalaureate, expensive experience.
2. Admission to law school is highly competitive, and the perception of many applicants is that much of the “selection” along the pathway to the legal profession is determined by where one attends law school.
3. In this selection process, law schools place an emphasis on finding potential lawyers with well-developed critical-thinking skills.

Each of the above has some impact on the further globalization of legal education and the legal profession, as I hope to demonstrate in the balance of this paper.

Admission to Law School

Those who wish to enter an accredited US law school and become lawyers first must have an undergraduate degree. This degree can be in any academic discipline, but most law students have backgrounds in the social sciences or humanities. US law schools tend to be wary of “pre-law” majors, or majors that focus too early on legal studies, preferring instead a more general, broad-based undergraduate experience.

With their undergraduate degrees in hand, applicants can apply to Juris Doctor

programs throughout the United States. Many will have at least some educational debt already at this point and, if they are successful in being admitted to law school, can expect to acquire more debt during the three years of law school. The total cost of attendance now routinely exceeds \$100,000 over a three-year program. At some private law schools, the cost is even greater.

Despite these costs in time and money, US law schools routinely receive many more applications than they can accommodate. For the class that entered law school last year, nearly 89,000 people sought at least one of the 46,000 seats that were available at 193 nationally accredited law schools. Applicants understand that admission to law school is competitive; thus most apply to more than one school hoping to be admitted to at least one that they wish to attend. (Indeed, on average, a US law school applicant applies to 5.5 law schools.) Of those 89,000 applicants last year, 63 percent (nearly 56,000) were offered admission to at least one law school. Ten thousand applicants were offered a seat but chose not to attend – they may have chosen to pursue other educational or career options, or may have decided to try again later, hoping to secure a seat at a law school more to their liking.

Because more than 90 percent of students who enter US law schools each year will graduate, and because more than 90 percent of law graduates will eventually pass a bar examination, the 63 percent acceptance rate at the law school application stage is where the majority of the selection of future American lawyers takes place. As a result, the admission process itself is the subject of a great deal of debate and scrutiny, and law schools devote a considerable amount of time and attention to it.

Until rather recently, the JD educational model was limited mainly to the United States and Canada. Recent years have seen the introduction of JD programs throughout the world, including Asia, Europe, and Australia. In many cases, the introduction of JD programs as an addition or alternative to the more-common undergraduate law degree has been undertaken with the specific goal of making law graduates more competitive in a global marketplace for legal talent. A byproduct may be to create, over time, a truly global market for law students as well.

The Search for Critical-Thinking Talent

Given the competitiveness of law school admissions in the United States, and the fact that applicants come to law school with a wide range of educational backgrounds (in terms of both academic field and rigor), US law schools rely quite heavily on the Law School Admission Test (LSAT) in their selection processes. The LSAT, which the Law School Admission Council develops and administers, is a standardized measure of acquired, high-level reading and verbal-reasoning skills. It does not presume any prior knowledge of the law, or prior training in any specific academic discipline. The skills it measures are of obvious importance to success in legal education, which in the US and Canada relies on the Socratic method of instruction. The test is routinely validated for use in the law school admission process, although I think we all can agree that the ability to read and think critically is of vital importance to practicing lawyers as well.

Indeed, as other legal education systems have sought to include the development of critical-thinking skills in their pedagogies and educational outcomes, there is increasing global interest in developing a similar test or in adapting the LSAT to other contexts. Law schools in Japan, Korea, and the UK recently have developed such tests for themselves, sometimes with some technical assistance from LSAC, and the use of the LSAT has expanded beyond North America into one Australian JD program this year. In addition, institutes that train and select magistrates in Eastern European countries have expressed interest in developing a similar test, with Romania's National Institute of the Magistracy taking an early lead.

The Global Trend toward Critical-Thinking Assessment

There appears to be a growing trend toward the assessment of the reasoning and critical-thinking skills of potential law students and lawyers, in addition to the assessment of their knowledge of the law. The point at which the critical-thinking assessment occurs varies from one country to another. In the UK, it occurs when students seek entry into an undergraduate law program. In the US, Canada, Japan, and Korea, it occurs when students seek entry into a graduate-level law school. In Romania, it occurs when law graduates seek admission into the training and placement program for judges and prosecutors. In each case, however, there is recognition that the ability to read and think critically is a vital skill for legal training and law practice. Most legal education programs will, in fact, hone these skills while simultaneously providing instruction in the content of the law, but professors throughout the world find it easier to teach students, and their students find it easier to learn, when students enter the educational environment with these skills already well-developed. This is, of course, particularly true of curricula that stress legal analysis over the rote memorization of the law.

In the United States, the desire to assess the critical-thinking skills of prospective lawyers arose in a specific context, namely a Socratic-method mode of instruction within a common-law legal system. We have been assessing these skills among our law school applicants for more than 60 years. As lawyers branch-out into a truly global practice, lawyers from all educational and legal backgrounds are finding that mere knowledge of the law in their own and other countries is not sufficient – they need keen analytical skills as well. The globalization of law practice may yet lead to a truly global system of legal education, with an international focus on training in the law and the development of critical-thinking skills. Wherever these needs are identified, assessment schemes, both of legal knowledge and of reasoning abilities, are sure to follow.