

Symposium

Introduction to the AALS Symposium on the Role of Law Schools and Law School Leadership in a Changing World*

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OVERVIEW

Legal educators around the world are currently challenged and have the opportunity to create curricula, methodologies, and research and outreach programs which move beyond teaching of technical skills to teaching and development of competence and commitment for public service responsive to needs of an increasingly interrelated and globalized world. In this Symposium a panel of distinguished legal educators representing law schools and legal-education systems in common- and civil-law countries from Africa, Asia, Australia, Europe, North and South America address these challenges and responses as they occur in their respective legal systems, law schools and countries. They note in their discussions the relevance of tradition, history and culture of the individual countries in identifying their needs and methods of responding to these needs and the necessity of developing an appropriate synthesis between global and local needs to accommodate the interaction between global and local cultures.¹

Globalization has also generated discussion regarding the existence of universal, generally applicable principles in legal education which,

1. This synthesis has been recently described as “glocalization” (i.e. a term which combines the words “global” from globalization and “local” from localization). The term “glocal” was first adopted by leading sociologist Roland Robertson in his work on globalization from the original Japanese word *dochakuka* (“global localization”): see ROLAND ROBERTSON, *GLOBALIZATION: SOCIAL THEORY AND GLOBAL CULTURE* (1992); see also ZYGMUNT BAUMAN, *GLOBALIZATION. THE HUMAN CONSEQUENCES* (2000). Applied to legal studies, the concepts of “glocal” and “glocalization” call attention to the correlation between the globality and the historical and cultural locality of some specific legal issues. Since global and local perspectives are seen as interdependent, legal actors in addressing these issues should try to find an appropriate synthesis between the effects of globalization and consideration of local traditions and identity: see Pier Francesco Savona, *Diritti culturali e società “glocale”: una questione di riconoscimento o di giustizia sociale?* [The claim of rights in the ‘glocal’ society: an issue of cultural identities or of social justice and equal treatments?], 36 (3) *SOCIOLOGIA DEL DIRITTO* 21 (2009); see also MARIA ROSARIA FERRARESE, *DIRITTO SCONFINATO. INVENTIVA GIURIDICA E SPAZI NEL MONDO GLOBALE* [Law Unlimited. Juridical Inventiveness and Spaces in the Globalized World] (2006).

when articulated, may be helpful in identifying and achieving legal-education goals. In the introductory paper of the Symposium, from Australia, Dean Michael Coper of the Australian National University College of Law notes that the International Association of Law Schools (IALS) from its creation in 2005 has emphasized the need and desirability of recognizing the diversity of legal cultures and legal-education systems around the world.² Dean Coper notes, however, that this awareness is enriched by also identifying general universal principles that can be utilized creatively by legal educators worldwide in achieving their missions.

The diversity of legal systems and broad geographical representation of participants in this Symposium facilitate identification of these principles. Legal educators worldwide from Africa, Asia, Australia, Europe, North America and South America participated in this Symposium. They come from common- and civil-law countries and from countries which recognize the customary law of their indigenous population. The IALS and a consortium of sections of the American Association of Law Schools (AALS) have focused continuing attention on the evolution of internationalization and globalization of legal education.³ Within the parameters of this broad framework, the Symposium papers address the interaction of global and domestic cultures within their legal systems and their individual law schools.

From Africa and the University of Cape Town Faculty of Law in South Africa, Professor Chuma Himonga comments on the difficulties in identifying universal principles applicable to all legal education because

2. The International Association of Law Schools was founded in October 2005. It has 182 member law schools from 46 different countries (data retrieved from: <http://www.ialsnet.org/members/index.html>; last visited on September 2, 2010). Its mission, as stated in its Charter, is “to foster mutual understanding of, and respect for, the world’s varied and changing legal systems and cultures as a contribution to justice and a peaceful world” (Charter available at: <http://www.ialsnet.org/charter/index.html>). The Association regularly sponsors conferences that bring together legal educators from around world to discuss legal education matters.

3. Symposium, *Emerging Worldwide Strategies in Internationalizing Legal Education*, 18 DICK. J. INT’L L. 411 (2000); Symposium, *Working Together: Developing Cooperation in International Legal Education*, 20 PENN ST. INT’L L. REV. 1 (2001); Symposium, *Continuing Progress in Internationalizing Legal Education—21st Century Global Challenges*, 21 PENN ST. INT’L L. REV. 1 (2002); Symposium, *Developing Mechanisms to Enhance Internationalization of Legal Education*, 22 PENN ST. INT’L L. REV. 393 (2004); Symposium, *Globalizing Legal Education—Transnational Law: What Is It? How Does It Differ From International Law and Comparative Law?*, 23 PENN ST. INT’L L. REV. 795 (2005); Symposium, *Internationalizing the First Year Law School Curriculum—Integrating Transnational Legal Perspectives into the First Year Curriculum* 24 PENN ST. INT’L L. REV. 735 (2006); Symposium, *Internationalizing the First Year Law School Curriculum—Techniques To Internationalize The First Year Curriculum*, 24 PENN ST. INT’L L. REV. 801 (2006); Symposium, *Achieving Optimal Use of Diverse Legal Education Methodologies*, 26 PENN ST. INT’L L. REV. 834 (2008).

of differences in culture, history and tradition of various legal systems. In this context she focuses on South Africa's political history, its colonial past, its apartheid regime, and its dealing with both Roman-Dutch law and the English common law. This history and these events caused the University of Cape Town Law Faculty to focus on respect for basic rights in a racially segregated society and on adherence to the rule of law. The South African history, tradition and apartheid experience framed the South African concept of rule of law in the context of commitment to the need to convey to students the ethical framework within which lawyers should render public service in the process of creating a new governmental framework free from apartheid.

From Asia and from the perspective of a former Dean at Kenneth Wang School of Law of Soochow University in China and Professor of Law at the University of California, Berkeley Boalt Hall and the University of the Pacific McGeorge School of Law in California, Professor Francis Wang concurs with the suggestion in the Carnegie Report that United States legal education (and Chinese legal education) should focus more on professionalism and ethics to transmit and develop professional ethical and community values in implementing the rule of law. He then responds to the invitation Dean Coper tendered at the beginning of the Symposium for participants to identify universal principles of legal education. Professor Wang agrees that such principles exist and writes that the most fundamental and important of these principles is adherence to the rule of law. However, he also notes fundamental differences in the meaning of the term "rule of law" in China and the United States and the manner in which commitment to adherence to the rule of law is to be transmitted. He notes that China currently uses mandatory Mao Thought or Deng Thought political courses which express the prevailing organizing principles as currently taught in Chinese law schools. However, he also notes that there are those who feel that the subject matter of these courses too heavily involves indoctrination as opposed to explanation of civil societal values and understanding of the rule of law. Professor Wang notes that American and European colleagues have expressed the opinion that "Law is not merely a tool of a dominant class to ensure stability; rather it is an overarching set of principles to which all should be subject."

Our research indicates that in 1999 the principle of the rule of law was introduced into the 1984 Constitution of the People's Republic of China with a constitutional amendment. The amendment added the following language as the first section to the text of Article 5 of the Constitution, stating that:

The People's Republic of China governs the country according to law and makes it a socialist country under rule of law.⁴

Problems persist, however, with regard to the meaning of the principle introduced in the Constitution. The same Chinese words included in the first and second sections of Article 5 of the Constitution have been translated in the official English version first as "rule of law" (in the first section) and then as "socialist legal system" (in the second section).⁵ This creates interesting questions not only on the degree of reception of the rule of law in China, but also on the importance of legal translations, and on the translatability of some legal concepts.⁶

From Asia, and the National University of Singapore Faculty of Law, Dean Cheng-Han Tan agrees with the need to expand the role of law schools beyond teaching traditional client-counseling skills to include research and development of commitment to public service. In particular he notes the need to complement these functions with "capacity building," in which the law-school community actively is involved in developing the capacity of organizations and individuals outside of the law-school community to carry out public-service endeavors.

From Europe and the University of Maastricht School of Law in Holland, Dean Aalt Willem Heringa addresses the impact of the Europeanization of the law and legal education on the long-established national legal-education systems within Europe. This evolving transformation results from the post-World War II creation in 1950 of the Coal and Steel Community, its evolution into the European Economic Community under the 1957 Treaty of Rome, and its further evolution into an expanding concept of the European Union under the 1992

4. The official English version of the Chinese Constitution is available on the website of the National People's Congress of the People's Republic of China at: http://www.npc.gov.cn/englishnpc/Constitution/node_2824.htm.

5. See Angelo Rinella, *Law-making in the People's Republic of China. The 'Obliquity' of the Chinese Constitutional System Between Rule of Law and Pragmatism*, in Tania Groppi, Valeria Piergigli, Angelo Rinella (eds.), *ASIAN CONSTITUTIONALISM IN TRANSITION. A COMPARATIVE PERSPECTIVE* 115 ff. (2008).

6. For an analysis of current issues in legal translation, focusing on translation's promises and limits, see Simone Glanert, *Comparaison et traduction des droits: à l'impossible tous sont tenus* [Comparison and Legal Translation: Everyone is Held to the Impossible], in Pierre Legrand (ed.), *COMPARER LES DROITS, RÉSOLUMENT* [Comparing Laws, With Determination] (2009), at pp. 279-311; Simone Glanert, *DE LA TRADUCTIBILITÉ DU DROIT* [On The Translatability Of Law] (forthcoming 2011). On the impact of law and language on global commerce in an increasingly globalized world, see Patrick Del Duca, *CHOOSING THE LANGUAGE OF TRANSNATIONAL DEALS: PRACTICALITIES, POLICY, AND LAW REFORM* (2010). The book offers examples from English-, French-, Italian-, Portuguese-, and Spanish-speaking places in the Americas, Africa, Asia and Europe.

Maastricht Treaty and the December 1, 2009, implementation of the Lisbon Treaty. The specialized and large European Union law program—now supplementing the traditional Dutch curriculum—is described in detail in the Symposium paper presented by Dean Heringa.

From North America and the Penn State Dickinson School of Law in the United States, Professor Louis Del Duca adds to the professional skills-training, research and public-service outreach roles of law schools an analysis of the need for law schools to develop a legal methodology which properly balances use of available legal teaching techniques. Each law school—based on its legal culture, tradition and history—would develop a balanced use of Socratic case law, Socratic problem, lecture, simulation, clinical, advocacy, negotiation etc. methodologies in lieu of excessive use of only a single or few of the available methodologies to facilitate achievement of legal-education goals.

From South America and the University of Buenos Aires (UBA) Law School in Argentina, Dean Mónica Pinto and Assistant Dean Alejandro Gomez agree with expanding the role of law schools beyond technical client-counseling training to research and public-service outreach. They address the process of achieving these goals within the context of the UBA Law School with its large student body and significant population of part-time students who, because they need to support themselves financially, are unable to devote their full energies to their law-school training. Their paper addresses techniques and measures which are utilized to maximize the extent to which the training in acquisition of client-counseling skills is coupled with transmission of principles beyond the mere teaching of notions in order to allow students to face the increasing pace of change in the international and national legal environment.

Dean Claudio Grossman from the United States and American University Washington College of Law in Washington, D.C., and Dean Elizabeth Rindskopf Parker from the United States and the University of the Pacific, McGeorge School of Law in California close the Symposium by addressing leadership roles and strategies available to law-school deans who strive to internationalize and globalize law-school curricula, and also foster diversity, research and outreach. Among the list of specific strategies available to law-school deans to promote public service, Dean Grossman places particular emphasis on the need to provide scholarships and debt-management support for students who demonstrates a serious commitment to public service and the desire to engage in public-interest initiatives and careers. Dean Parker addresses particularly the extended scope of leadership strategies that an “outside dean,” (i.e. a dean who is not recruited from the ranks of the legal

education fraternity but from other leadership venues) can provide to the law school community.

These references merely illustrate the imaginative approaches the panelists utilized in their own law schools and adapted to their own legal cultures, traditions and history—which are discussed in more detail in the papers that follow. The Symposium papers provide interesting and useful reading as the presenters, from the perspective of their own history, culture and tradition, address the themes of **moving beyond teaching of technical skills to public service outreach** and **the role of a law school dean** in achieving these goals.

MOVING BEYOND TEACHING OF TECHNICAL SKILLS TO PUBLIC SERVICE OUTREACH

In his introductory paper on “*Educating Lawyers for What? Reshaping the Idea of Law School*,” **Michael Coper** notes the evolution and expansion of the role of law schools from skills-training to the assumption of additional research and outreach roles. Noting the country-specific character of this evolution, Dean Coper nevertheless asks whether there are some things which are universal about the tasks and challenges legal educators face everyday. Are there principles in legal education that can be considered valuable and applicable in any legal-educational environment to assist law schools in fulfilling their mission?

Dean Coper indicates his awareness of the importance of learning about diversity and cherishing it. In particular he observes that the foundational concept and goals of the IALS have underlined the desire and need to learn from each other⁷—presupposing not only the acknowledgment of differences but also the willingness to recognize them as valuable and respectable. Nevertheless, he sets the stage for not simply learning from each other but also for embarking on a search for universals in legal education. Dean Coper suggests that, at the very least, law schools worldwide share the common goal of trying to go beyond the mere production of lawyers with technical legal competence and also share the common goal of educating lawyers for the broader aspirations of public service. He notes that law schools have three major roles today:

- a) introducing students into the discipline of law (educational role);
- b) expanding the frontiers of legal knowledge (research role);

7. See Symposium, *Enriching the Law School Curriculum in an Increasingly Interrelated World—Learning From Each Other*, 26 PENN ST. INT’L L. REV. 831 (2008).

- c) sharing the knowledge acquired with other relevant communities (community-outreach role).

With regard to the educational role, Dean Coper writes that the nature of the role that lawyers could and should play in society needs clarification. In his view, in the past thirty years three factors have greatly contributed to challenge the traditional Western conception of lawyering based on a relatively passive kind of legal practice. These factors are:

- i) a progressive shift from transmittal of a frozen-in-time body of knowledge to proactive and creative problem-solving lawyering;
- ii) globalization and the increased need for lawyers to be trained for transnational and international practice;
- iii) increased importance given to service to the community, understood as the active use of legal knowledge and skills in the service of society as an identity-shaping element of the role of lawyers.

Can these outreach activities and the traditional concept of lawyers be considered universals? Or are they culture-bound phenomena with no intrinsic common core? Is there anything universal in going beyond teaching lawyering skills? Dean Coper reports different views of deans from countries around the world on the role of lawyers in conducting activities beyond their traditional technical activities. These ideas converge to indicate a notion of lawyering that benefits society generally and that can be qualified universally as public service. While it is important to take into account the context (culture and the legal systems) in which lawyers will find themselves operating, nothing in individual countries is inconsistent with the endorsement of a broad notion of public service.

Noting the relationship between teaching, research and outreach roles, Dean Coper observes that the research role of law schools should aim to achieve law reform and social justice, defend the rule of law, and protect human rights. He concludes that the “outreach role” is very close to the teaching and research roles and indeed a logical extension of them. In this view, the educational, research and outreach roles coalesce to establish a unified model of law school that finds its mission in promoting not only the necessary technical competences but also the values of leadership, citizenship and service, to the extent that law can become a means to express these values.

In her paper on *The Goals and Objectives of Law Schools in their Primary Role of Educating Students*, **Chuma Himonga** presents a South African perspective of legal education. Professor Himonga takes the position that uniformity is unlikely to be achieved among law schools with regard to the purposes for which they educate students. While changes in national and international scenarios have required law schools worldwide to embrace common goals, law schools are also asked to consider local legal educational needs which are inherently different. In this context she addresses the specific goals of the University of Cape Town (UCT) Law School to provide insight to the relationship between local needs and the general goals of the Law School.

Professor Himonga identifies conditions that influence how a law school determines its objectives. The first is whether the law school is public or private. Private law schools usually enjoy greater flexibility in determining their objectives. Public law schools are more likely to have goals closer to those identified as national or other governmental and political goals. Connection to the public is important in South Africa, since universities are visualized as key sites for the production of intelligent graduates who are socially responsible and sensitive to local, regional, national and transnational needs.

South Africa's political history and its colonial past also influence the purposes for which students are educated. Since its foundation in 1859 the UCT Law School has shown a dynamic character in the choice of its missions, dealing at the beginning with two different and competing legal systems (i.e. the Roman Dutch law and the English common law).⁸ In the early years of the apartheid regime, concerns about respect for basic rights in a racially segregated society led the school to focus its teaching on the protection of the rule of law and on conveyance of the ethical framework within which lawyers should work to benefit society.

Under the new constitutional system (initiated in 1993 under the "Interim" Constitution and completed in 1996 with the current "Final" Constitution),⁹ the UCT Law School has supported the new national aspirations and the country's commitment to a new birth and to the abandonment of previous inequalities. The main goal is to produce

8. On the interaction between Roman (Dutch) law and the English Common law in the South African legal system, see KONRAD ZWEIGERT AND HEIN KÖTZ, AN INTRODUCTION TO COMPARATIVE LAW 231 ff. (1998, 3rd).

9. For a legal and constitutional analysis of the country's transition to democracy and a valuable introduction to the South African Constitution in its historical and social context, see HEINZ KLUG, THE CONSTITUTION OF SOUTH AFRICA. A CONTEXTUAL ANALYSIS (2010).

versatile law-school graduates whose knowledge and skills will contribute to the social, cultural, legal, economic and political development of South Africa. UCT Law School trains students for work in various areas of national and international professional practice. At the same time it strives to promote professional responsibility, a sense of duty to stand up for the rule of law, and commitment to the improvement of the law and the legal system. It also trains students for leadership and civic responsibility.

The UCT Law School achieves these goals by carefully determining the content of the LL.B. curriculum, which includes non-law disciplines such as history, politics, language and economics. Tutor programs have been established to support Black, Colored and Indian South African students who suffered educational disadvantages under the previous apartheid regime. Finally, courses are offered to make students aware of the increasingly interrelated international-law environment, and of national and regional needs and culture. The curriculum includes subjects such as International law and Jurisprudence and African Customary law, which is incorporated in the curriculum as a stand-alone course in recognition of the importance the subject plays in the South African legal system.¹⁰

Professor Himonga's paper demonstrates the difficulty of positing uniform goals for legal education as long as there are fundamental differences in the conditions under which law schools are established and operate in different countries. Law-school curricula should take into account culture-relevant aspects of legal education and local needs. However, the pressure of globalization and the effects of international human-rights treaties in domestic jurisdictions are leading to increased consideration and to the establishment of common goals, methodologies and content in legal education. Law schools should not insulate themselves, and their educational curricula and goals should prepare students to operate in an increasingly interrelated world. Issues of globalization incorporated into the law-school curriculum, at the same time, should not minimize the importance of local realities. These competing legal-education goals must be balanced.

10. African customary law has also been officially recognized by the 1993 Interim and the 1996 Final Constitutions of South Africa: *see* articles 33, 35, 181, 183 and 184 of the 1993 Interim Constitution and articles 39, 211, 212 of the 1996 Final Constitution. Text of both constitutions *available at* <http://www.constitutionalcourt.org.za/site/theconstitution/thetext.htm>. On the debate surrounding recognition of African law, with specific reference to the African system of customary law, *see* Werner Menski, *COMPARATIVE LAW IN A GLOBAL CONTEXT. THE LEGAL SYSTEMS OF ASIA AND AFRICA* 380 ff. (2006).

In his paper on *Goals and Objectives of Law Schools. A Brief Discussion of Universals and Differences*, **Francis Wang** addresses Dean Coper's call for expansion of analysis of differences between legal-education systems to undertake the search for universals (if any) in legal education amongst the world's legal-education systems. Professor Wang compares the United States and Chinese systems of legal education to understand whether differences in goals among law schools produce a different concept of the "rule of law."

Professor Wang notes that much has been written on the need to reexamine the role of law schools in the preparation of lawyers for the legal profession. From the vast literature on the subject, he focuses on the 2007 U.S. Carnegie Report,¹¹ which addressed significant aspects of the United States legal-education tradition. While praising the signature learning method employed in United States law schools (i.e. the Socratic or case-dialogue method), the Report also underlined the need for United States law schools to focus more on professionalism and ethics.

Professor Wang then compares the essentially lecture methodology used in Chinese law schools (and in law schools established in civil-law countries) with the Socratic case-law method used in United States law schools.¹² His purpose is to ascertain which approach facilitates a better understanding of the rule of law. According to Professor Wang, universals in legal education do exist, the most fundamental being attuning students to the importance and values associated with the concept of rule of law.¹³ While the lecture methodology has traditionally

11. WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND AND LEE S. SHULMAN, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007).

12. The Socratic case-law method relies on inductive methodology: general principles are established through the analysis of facts and decisions used in a body of cases which have developed a similar rule to be applied to varying factual situations raising the same issue of law. Conversely, in China and in other civil law countries where law is usually identified with written texts functioning as a collection of norms and rules of law (be it codes or statutes), law schools usually employ the lecture methodology which relies on a deductive approach. According to this approach, legal issues are decided through use and application of norms contained in the statutes or codes. This method is usually praised for providing a better framework for theoretical legal analysis and being effective in conveying doctrinal knowledge.

13. The expression "rule of law" refers to a concept that historically emerged in Western liberal democracies and that is considered today to be a fundamental feature of any liberal and democratic political system. Different legal systems, however, have developed a different understanding of this idea, mainly due to their legal and cultural traditions. For considerations on the universality of the rule-of-law principle and its (supposed) equivalence with the Italian principle of *Stato di Diritto*, the German *Rechtsstaat* and the French *État de Droit*, see John S. Bell, *Comparative Administrative Law*, in Mathias Reimann and Reinhard Zimmermann (eds.), *THE OXFORD HANDBOOK OF COMPARATIVE LAW*, Oxford University Press 1271 (2008). On the different ways in which the rule of law has been implemented in different Asian countries (China,

been considered an efficient conveyor of doctrinal knowledge, scholars have argued that its use does not develop critical-thinking and problem-solving skills. Conversely, United States law schools, employing the Socratic case-law methodology, according to the Carnegie Report, seem to be particularly good at developing these skills.

After describing the general features of the system of legal education currently in place in the United States, Professor Wang focuses on a description of its Chinese counterpart. Legal education in China is state-controlled and takes place at the undergraduate level (for the first law degree). Only a minority of law graduates work in the traditional legal professions as lawyers, judges, or prosecutors. Most graduates find employment in the public sector either in governmental bureaus or in state-owned enterprises. Others are employed in the private sector or pursue advanced degrees. Obtaining a license to practice law in China requires passing of the national bar exam after one year of mandatory apprenticeship.

Another interesting contrast between the United States and the Chinese legal-education systems is underlined by Professor Wang's consideration of the suggestions in the Carnegie Report that United States legal education must train lawyers not only to acquire technical skills, but also to transmit and develop professional, ethical and community values. Different views have been advanced about how best to achieve the purpose of transmitting values as a means to convey both civic responsibility and an intellectual and political framework for the role that future lawyers will play in society. Mandatory Mao Thought or Deng Thought political courses, which express the prevalent organizing principles on which the Chinese government and its society are based, are currently in use. However, some believe that the subject matter of these courses too heavily involves indoctrination as opposed to exploration of civil societal values and understanding of the rule of law. Professor Wang notes that on this subject American and European colleagues have opined that "law is not merely a tool of a dominant class to ensure stability; rather it is an overarching set of principles to which all should be subject."

Vietnam, Singapore, Malaysia, Hong Kong, Indonesia, India, Thailand, Philippine, Korea, Taiwan, Japan), *see* RANDALL PEERENBOOM, *ASIAN DISCOURSES OF RULE OF LAW: THEORIES AND IMPLEMENTATION OF RULE OF LAW IN TWELVE ASIAN COUNTRIES, FRANCE AND THE US* (2004). Chapters on France and the United States provide a benchmark of how the concept has evolved, is applied and is implemented in civil-law and common-law jurisdictions. *See also* TOM GINSBURG, *ADMINISTRATIVE LAW AND GOVERNANCE IN ASIA: COMPARATIVE PERSPECTIVES* (2008).

In his paper on *The Goals and Objectives of Law Schools Beyond Educating Students: Research, Capacity Building, Community Service*, **Cheng-Han Tan** focuses on the following three areas of law-school activities that lie beyond the schools' educational mission of providing students with technical training for the practice of law:

- a) research,
- b) capacity building, and
- c) community service.

Dean Tan emphasizes that with regard to their research mission, law schools are committed to advancing of human knowledge and understanding. Dean Tan presents three different approaches to research utilized in the common-law tradition:

- i) "doctrinal research," which provides greater understanding of a single discipline from an internal perspective. This is especially important for developing countries since it helps systematize and elucidate the law of the jurisdiction at issue by providing a general legal framework. Doctrinal research alone, however, cannot provide full understanding because it does not place legal issues in their broader historical, political or cultural contexts;
- ii) an "interdisciplinary approach to legal research" attempts to further an understanding of the law through the lens of external perspectives, considering law not as an autonomous discipline, but, conversely, as interconnected with other disciplines and as a reflection of society's values and priorities;
- iii) finally, "comparative legal research" provides nowadays a necessary and modern approach to the study of law since it takes into account the increased number of interactions between legal actors across different jurisdictions. It helps to avoid the perception of law as an exclusively domestic phenomenon. Comparative legal studies traditionally enhance understanding of the strengths and weaknesses of one's own legal system, thereby dispelling the sense of false necessity¹⁴ that dominates the purely doctrinal research.

14. Or any other feature of one's own legal system, as far as the sense of "false necessity" is concerned. For considerations on the sense of "false necessity" see VICKI JACKSON AND MARK TUSHNET, *COMPARATIVE CONSTITUTIONAL LAW* 142 (2006). On this

Beyond their research function, law schools assist in functions of capacity building, that is, the development by the law schools of knowledge and skills of other legal actors. In Dean Tan's view, law schools need to be regarded as institutions of service to their communities. They bring to their communities greater objectivity and a non-partisan perspective.

Finally, with regard to the outreach function, many law schools have established clinical programs that allow disadvantaged segments of society to have better access to their legal rights. This is accomplished through direct community service, and through further integration and cooperation between the practicing bar and legal educators. Without competing with the private sector, law schools with clinical programs seek to complement existing avenues of access to justice by playing a fundamental role for individuals who lack access to private lawyers and state-funded legal aids. Clinical programs can also serve as a powerful educational tool for students, helping them to better understand the role and importance of law in society and contextualizing the study of law with real issues. Clinical programs convey not only the necessary technical and substantive knowledge of law but also a spirit of responsibility and ethics.

In conclusion, Dean Tan stresses how these three roles of law schools serve as a positive moral force oriented toward achieving an ever more just and equitable society.

In his paper on *European Legal Education: The Maastricht Experience*, **Aalt Willem Heringa** addresses the status of legal education in Europe after the so-called Bologna Declaration,¹⁵ focusing on the

topic and on how comparative (constitutional) law can help to develop a better understanding of one's own system, see Vicki Jackson, *Methodological Challenges in Comparative Constitutional Law*, 28 PENN ST. INT'L L. REV. 319, 320 (2010).

15. Bologna Declaration, June 19, 1999, available at http://ec.europa.eu/education/higher-education/doc1290_en.htm. The Bologna Declaration is the main non-binding guiding document establishing the Bologna Process. It was adopted by the Ministers of Education of twenty-nine European countries in Bologna in 2009 with the purpose of encouraging harmonization of legal education in Europe through creation of a European Higher Education Area (EHEA). The purpose of the EHEA was to further adoption of a three-tier system of legal education (bachelor, master, Ph.D.) in the participating countries and common terminology and standards for higher legal education. After the initial meeting in Bologna in 1999, further governmental meetings have been held in Prague (2001), Berlin (2003), Bergen (2005), London (2007), Leuven (2009), Budapest and Vienna (2010), each meeting producing a communiqué detailing progresses made in the process of harmonization. The Bologna Process has currently forty-seven participating countries. One year before the Bologna Declaration, in 1998, the Ministers of Education of France, Germany, Italy and the United Kingdom signed the so-called

impact of European law on legal education and on comparative and international legal research in the face of Europeanization and globalization. Dean Heringa also provides an account of the University of Maastricht's initiative to establish a European Law School as a new and innovative law school whose mission is to train lawyers and academics according to a state-of-the-art legal-education curriculum.

Despite existence of the Bologna Declaration since 1999, a unified system of legal education has not yet been established in Europe, neither in the context of the twenty-seven European Union (EU) Member States, nor in the context of the forty-seven Member States of the Council of Europe. Dean Heringa concludes that this slow implementation results from the merely voluntary nature of adherence to the Bologna Process, coupled with the right of participating States to determine the pace of implementation in accordance with their own traditions and histories of higher education, and their limited financial capacities. EU Member States have also avoided delegating competences in this area to the EU to protect their sovereignty in the field of education.¹⁶ Finally, in Europe regulation of the legal profession is still under the strong influence of national bar associations.

Despite these difficulties the EU has been able to influence the Member States' systems of legal education through grants of funds for research and student mobility.¹⁷ Moreover, since its creation, the EU has established rules regarding the freedom of services and free movement of workers (including legal practitioners) which guarantee recognition of diplomas and qualifications anywhere within the EU.¹⁸ Finally, the EU is also influencing legal education from another, more indirect, perspective. Many aspects of what used to be purely domestic areas of law are now under the influence of EU principles or direct legislation in the form of regulations or directives. With regard to these subjects,

Sorbonne Declaration in Paris, committing themselves to "harmonizing the architecture of the European system of Higher Education."

16. It should be noted that the Bologna Process is not an EU initiative. While there are twenty-seven Member States in the EU, the Bologna Process currently has forty-seven participating countries. The European Commission of the EU has contributed in relevant part to the development of the Bologna Process, but the Lisbon Recognition Convention (the Convention making academic-degree standards comparable and compatible throughout Europe) was actually designed by the Council of Europe and members of the Europe Region of UNESCO.

17. Among the most famous student-mobility programs, it is worth mentioning Erasmus/Socrates, Marie Curie, Erasmus Mundus and Jean Monnet.

18. EU rules provide that a person who is qualified to practice as a lawyer in one Member State can also practice in another State.

students all over Europe are taught the same substantive law in their courses, with a clear impact on the content of their legal curriculum.¹⁹

Dean Heringa compares some of the main features of the various European systems of legal education, focusing on law school admission processes, the amount of tuition and fees, and purposes of legal education. He notes that while in Scandinavian countries the admission process is very selective and in the United Kingdom only few seats are available in law schools nationwide, countries such as Belgium, France, Italy and Germany still retain their traditional open admission system which furthers enrollment of a high number of law students.²⁰ In almost all European universities, public funding is provided by the State, a factor that (combined with the high number of students enrolled) makes tuitions and fees very low. Law schools generally train students to become lawyers, but not necessarily for law-firm practice or for admission to the judiciary. Many law graduates still decide to not take the bar exam and use their academic legal training to work as legal advisers in private companies or as civil servants in public bodies.

It is in this context that the University of Maastricht Law School realized that a need was felt for lawyers with good training in European institutional and substantive law and in the common principles of the European legal systems. A need was also felt for lawyers with a good command of legal English as a second language who would be able to operate across boundaries. To answer these needs—and to answer a

19. According to this process, harmonization of law has an impact on legal education. According to some scholars, the process can also work in the opposite direction, through a bottom-up approach. In their view, harmonization of legal education would further convergence of legal systems, especially in the area of private law. See Jan M. Smits, *Convergence of Private Law in Europe: Towards a New Ius Commune? in* Esin Orücü and David Nelken, *COMPARATIVE LAW. A HANDBOOK* 229 ff. (2007).

20. In the 2009-10 academic year, the number of first-year law students enrolled at the University “la Sapienza” of Rome Law School was 1,765. See Sapienza Università di Roma, *Organizzazione*, <http://www.uniroma1.it/infostat/scheda.php?aa=2010&lk=1> (last visited Sept. 7, 2010). In the same academic year, the total number of law students enrolled at the University “la Sapienza” of Rome Law School was 10,487. See Sapienza Università di Roma, *Organizzazione*, <http://www.uniroma1.it/infostat/scheda.php?aa=2010&lk=2> (last visited Sept. 7, 2010). John H. Merryman used to explain the open admission system in terms of the tendency of universities in the civil-law world to lean more towards a principle of “democracy” (i.e. the desire to make higher education available to everyone without distinctions, leading to the conception of the mass university) than towards a principle of “meritocracy” (i.e. the desire to make university a place where academic merit is recognized and rewarded, leading to the establishment of a university system where admission and advancement are controlled on the basis of academic aptitude and performance). This latter principle would have received a more prominent consideration in common-law countries. See John H. Merryman, *Legal Education There and Here: A Comparison*, 27 *STAN. L. REV.* 859, 861 ff. (1975).

direct call of the European Council of the EU²¹—the University of Maastricht Law School developed in 2006 a program in law focused on European, Comparative and International law, taught in English from the first year of the curriculum. This curriculum aims at training students who will be better suited for the demands of the modern European labor market.

In his paper on *Educating Students for What? The Goals and Objectives of Law Schools in Their Primary Role of Educating Students—How Do We actually Achieve Our Goals and Objectives?*, **Louis Del Duca** addresses worldwide changes to legal education since the end of the Second World War, focusing on the impact of internationalization and globalization of legal studies and on the need to redefine the role and functions of the lawyer in today's society. In the face of globalization and an increased need for lawyer commitment to public service, law schools today need to train competent and ethical lawyers and also produce lawyers for local, national, transnational²² and international practice sensitized to render public service and the need to protect the rule of law, work for law reform and become community leaders.

Since the Second World War new technologies and globalization have generated opportunities for expanded world commerce and cultural exchange. Professor Del Duca notes the impact of information technology and globalization on law, legal institutions and education. As a result of this “new revolution,” the number of areas in which legal and institutional convergence, harmonization and sometimes unification are taking place is increasing.²³

21. The European Council of the EU called upon European law schools to improve the quality of legal training and expertise with specific regard to knowledge of substantive European law and its interplay with the national laws of the single Member States. See Council Resolution 2008/C 299/01, 2008 O.J. (C 299) 1, about the training of judges, public prosecutors and judicial staff.

22. On the development of the modern concept of transnational law and on the difference between transnational, international and comparative law, see James H. Carter, *Transnational Law: What is it? How Does it Differ from International Law and Comparative Law?* 23 PENN. ST. INT'L L. REV. 797 (2005). According to Peer Zumbansen, “transnational law breaks the frame of traditional thinking about inter-state relationships by pointing to the myriad forms of border crossing relations among state and non-state actors,” see Peer Zumbansen, *Transnational Law*, in Jan M. Smits (ed.), *ELGAR ENCYCLOPEDIA OF COMPARATIVE LAW* 738 (2006).

23. For an analysis of the accelerating pace of convergence between the civil- and common-law traditions, see Louis Del Duca, *Developing Global Transnational Harmonization Procedures for the Twenty-First Century—The Accelerating Pace of Common and Civil Law Convergence*, 42 TEX. INT'L L.J. 625 (2007). A dissent to the view that convergence of civil- and common-law traditions is occurring is provided by Canadian scholar Pierre Legrand, who argues that any attempt at unifying European

While changes in domestic and international public and private law expand, new teaching materials need to be developed for training students—who will soon become practitioners and molders of public policy—to move comfortably in institutional environments in which concepts and procedures are now borrowed selectively from the civil law, the common law or from other legal traditions of the world. While in today's world development of an optimal legal curriculum and methodology is a challenge not likely to result in a single universally desirable solution, an attempt should nonetheless be made to identify a unified framework within which this search can be conducted. Balanced use of case law, case problem, lecture, simulation, clinical and other methodologies could represent a first step towards development of a transnational legal curriculum. A choice should also be made by each law school especially with regard to first-year courses, as to whether the so-called “integrated,” “pervasive,” or some combination of these models is best suited for the individual law school.²⁴

In underlining the need to adapt curricula and legal methodologies to changed societal needs, Professor Del Duca also offers some reflections on the relationship between the Socratic Method and the so-called “case method” introduced in 1870 by Christopher Columbus Langdell at Harvard Law School and still in use as the primary teaching methodology in the first year of law school in the United States.²⁵ The two methods are not synonymous. While the Socratic Method historically served as the “engine” to power Langdell's case-method

private law is not feasible due to deep cultural differences between these two legal traditions. See Pierre Legrand, *European Legal Systems Are Not Converging*, 45 INT'L & COMP. L. Q. 52 (1996); Pierre Legrand, *Antivombar*, 1 J. COMP. L. 37 (2006).

24. The “integrated” model involves inclusion in the curriculum of a stand-alone “transnational law” basic course. The “pervasive” model involves the introduction of international- and comparative-law components into each of the traditional courses already in the curriculum. Using a slightly different terminology, Professor Mathias Reimann refers to a “separation model” to describe the use of a mandatory transnational-law course to develop specialized skills needed for twenty-first century practice, as a building block for further advanced courses, or as a minimal exposure for students who will not be enrolled in such courses. Its advantage would lie in the putting together “in an overarching theme the emergence of a more complex world which is not the traditional law of nations anymore.” Professor Reimann also refers to an “integration model” to describe incorporation of transnational materials into traditional first-year courses such as contracts, torts and property. See Mathias Reimann, *Two Approaches to Internationalizing the Curriculum: Some Comments*, 24 PENN ST. INT'L L. REV. 805 (2006).

25. In Todd Rakoff, Martha Minow, *A Case for Another Case Method*, 60 VAND. L. REV. 597 (2007), Harvard Professors Rakoff and Minow lament the excessive reliance on the traditional case law Socratic methodology. They strongly recommend utilization of a problem Socratic methodology using complex problem cases to supplement the traditional case law Socratic methodology for developing skills needed for successful lawyering in an increasingly interrelated twenty-first century world.

approach, it can be also used successfully in working with statutes, codes, administrative regulations and problems instead of cases.²⁶ Properly used, the Socratic Method can provide at least three important benefits:

- a) it produces an active—as distinguished from a passive—learning process, promoting active engagement of students, even in large settings;
- b) it is instrumental in teaching cognitive-skills development;
- c) it helps students to hone their verbal skills.

Properly utilized, the Socratic Method can be applied to the analysis of statutes, codes and administrative regulations, as well as to cases. Interspersed with lectures, it can be used to facilitate development of the broad theoretical background and lawyers' skills needed to operate with familiarity with concepts and procedures belonging to both civil- and common-law traditions as lawyers engage in client-counseling and public-service endeavors.²⁷

In their paper on *A Comment On Argentina's University Of Buenos Aires Law School (Facultad de Derecho de la Universidad de Buenos Aires)*, **Alejandro Gomez** and **Mónica Pinto** address the issues raised by Dean Coper in the context of the structure, activities and goals of the University of Buenos Aires (UBA) Law School. The heir to the 1814 Academy of Jurisprudence, the UBA Law School was established in 1874 and is one of Argentina's national public universities which today enjoy a constitutionally protected autonomy from governmental influence and control.²⁸

In its primary role of educating students, UBA Law School aims to provide law graduates with legal knowledge suited not only for the practice of law in a law firm, but also for work in institutions operating

26. Jeffrey D. Jackson, *Socrates and Langdell in Legal Writing: Is the Socratic Method a Proper Tool for Legal Writing Courses?* 43 CAL. W. L. REV. 267, 271 (2007).

27. Dean Claudio Grossman (American University) *inter alia* vigorously challenged the almost exclusive use of the case-law methodology and called for a more balanced methodology in preparing lawyers to meet challenges in an increasingly globalized world. See Dean Claudio Grossman, *Building the World Community: Challenges for Legal Education*, 18 DICK. J. INT'L L. 441 (2000); see also Symposium, *Emerging Worldwide Strategies in Internationalizing Legal Education*, 18 DICK. J. INT'L L. 411 (2000).

28. Section 75(19) of the 1994 Constitution of Argentina provides: "Congress is empowered: [. . .] to enact laws [. . .] which guarantee the principles of free and equitable State public education as well as the autonomy and autarky of national universities."

within any one of the three different branches of government, for NGOs, intergovernmental organizations and private corporations. Beyond the teaching of mere notions, UBA Law School focuses on the transmission of legal principles, so that students can face the increasing pace of change and obsolescence of legal notions occurring nationally and internationally.

UBA Law School is also concerned with promotion and achievement of goals that go beyond educating students, such as research, capacity building and community service. In this last respect and acknowledging the existence of inequalities in society, UBA Law School commits itself to engage law students and graduates in the pursuance of social justice, law reform and the fight against poverty. Legal education in Argentina—as in other civil-law countries—is an undergraduate program. Universities are public institutions financed by the State through tax revenues. Attendance in Argentina is therefore free for undergraduate students. For this reason, law schools feel they are under a moral duty to provide service to the community through clinical programs, legal assistance to governmental and non-governmental organizations, and legal assistance to the general public. To this purpose, Argentinean national law schools have established community-service departments which provide free legal assistance to community members who could not otherwise afford it. This represents an opportunity also for students, who can provide legal assistance under the supervision of a law professor.

Focusing on leadership, Assistant Dean Gomez and Dean Pinto define the role of the dean as crucial for the success of a law school and the achievement of its various goals. Besides expecting the dean to be a well respected scholar in her own field of study, she is also expected to have good managerial skills, to be easily accessible and to have a clear and unified vision of the law school's future which considers perspectives coming from of all concerned law-school actors.

In their concluding remarks, Assistant Dean Gomez and Dean Pinto acknowledge the importance for law schools worldwide to “learn from each other.” The very process of “learning” implies that diversity be then incorporated in one's own reality of legal education. Through its current educational curriculum and methodology, UBA Law School has incorporated diversity in its legal curricula. At UBA Law School some courses are indeed taught according to the model used in large European public law schools, while others are organized in a seminar- or workshop-like form, as is frequently done in American law schools.

THE ROLE OF LAW SCHOOL DEANS

In his paper on the *Role of a Law School Dean: Balancing a Variety of Roles and Interests*, **Claudio Grossman** reflects on how law school deans' leadership functions are today influenced by the need to take into account globalization and internationalization of law and legal education. In presenting his view, he provides examples from American University Washington College of Law (WCL) where he currently serves as Dean.

According to Dean Grossman, in performing leadership functions deans must balance a variety of roles including outside representation, development of initiatives and facilitation of decision-making processes. Dean Grossman also considers fundamentally important the articulation of a concrete participatory vision that benefits from inputs of the whole community and is able to solve ordinary problems and lend itself to action.

As emphasized also by other participants in this Symposium, Dean Grossman underlines the need for international and globalized curricula to provide students with up-to-date doctrinal and theoretical knowledge. In this respect WCL recognizes the importance of law in breaking down artificial barriers that divide individuals and nations. To achieve this goal, WCL offers more than forty courses each semester in international law, and encourages inclusion of international and comparative perspectives in domestic-law courses.²⁹ In Dean Grossman's view the idea of a strict separation between national and international areas of study and practice needs to be abandoned. Few issues nowadays can still be defined as strictly domestic or strictly international, and the interconnected nature of the world necessitates understanding of the dynamics of cooperation between different actors worldwide. This understanding can be provided not only by adapting the law-school curriculum, but also by facilitating exposure of students to foreign legal cultures through summer- and semester-abroad programs and supervised externships worldwide.³⁰

29. To address the absence of comparative and transnational law components in conventional law school teaching materials in the United States, Thomson West publishing has come to market with a GLOBAL ISSUES SERIES to supplement such materials. The series includes volumes on civil procedure, constitutional law, contracts, copyright, corporate law, criminal law, employee benefits, employment, employment discrimination, environmental law, family law, freedom of speech and religion, income taxation, intellectual property, legal ethics, property, torts and trademarks.

30. On this point see Claudio Grossman, *Techniques Available to Incorporate Transnational Components Into Traditional Law School Courses: Integrated Sections; Experiential Learning; Dual J.D.s; Semester Abroad Programs; and Other Cooperative Agreements*, 23 PENN. ST. INT'L L. REV. 743, 745 (2004-2005).

Law schools should also try to break artificial barriers based on disparities in gender, ethnicity, sexual orientation and the like. Diversity of the student body can be facilitated through incorporation of new courses in the law-school curriculum that enhance understanding of diversity-related issues. Essential in Dean Grossman's view is also a student-centered approach to legal education that translates not only to a small student-to-faculty ratio, but also in a personalized educational experience for each student and the opportunity to learn through clinics, trial advocacy, supervised externships and specialized seminars.

Another aspect in fulfilling a law school's mission is the centrality of creativity in legal education. In respect to scholarship, creativity translates into the development of and support to a creative community of scholars and creative thinking. According to Dean Grossman, law schools and scholars today face a significant challenge to support creative thinking in a world that has become increasingly complex and overwhelmed with information.

Dean Grossman then stresses the importance for law students and lawyers to engage in public service to help members of society and to promote the rule of law in the aggregate. Since its foundation in 1896, WCL has shown a longstanding tradition of commitment and engagement to public service. Indeed, engagement is seen as a fundamental component of a complete legal education, and the idea that law and legal education can and should affect reality in a positive way is conveyed to students as a fundamental principle in both the study and the practice of law. This engagement in public service can take the form of either pro bono service or job positions in the public-interest area.

In her paper on *The Role of Law Schools and Law School Leadership in a Changing World: On Being An "Outside Dean,"* **Elizabeth Rindskopf Parker** describes her role as an "outside dean" at the University of Pacific McGeorge School of Law since 2002. Her personal experience is the starting point for some reflections on what she identifies as a growing trend in the United States system of legal education: the selection of leaders—deans and others—from outside the law school and academia, a phenomenon that she describes as selecting an "outside dean."

According to Dean Rindskopf Parker this choice can find several justifications. The main reason seems to be the need for deans to be more active in the external world beyond law schools. What law schools increasingly need nowadays is a dean who can be the law school's ambassador, promoting its programs to a wider public and raising its profile among legal educators, alumni, judges, members of the bar and government officials.

Building on her seven years of experience as a Dean at the University of Pacific McGeorge School of Law, Dean Rindskopf Parker presents two main reasons why an outside dean might be at an advantage in reaching out to the external world. First, an outside dean can bring new ideas, contacts and experience into the sometimes self-referential world of legal academia. Second, an outside dean can reach out, introducing the law school and its faculty to the external world, building the engagement and recognition needed for reputation-building and fundraising.

Dean Rindskopf Parker identifies leadership, management and administration as three skills essential in any dean's activities. Leadership—a dean's ideal role, particularly for the purpose of external engagement—requires vision, the ability to inspire others and to think strategically. Management implements vision and requires the intervention of those directly responsible for the academic and business functioning of the law school. Finally, administration supports the functioning of the law school and its programs.

According to Dean Rindskopf Parker, deans, as leaders of the law school and their communities, should try to forge a vision that both internal and external audiences would support and share. The first step is to engage in effective listening and to create a vision perceived as authentic for the law school and faculty. Adjusting the inside view of a law school's leadership, management, and administration to address the needs of the external world is a delicate matter of political persuasion and negotiation. In this work, an outside dean is likely to have advantages such as a better awareness of how the law school is perceived and appreciated and greater tolerance for the intense schedule required. Under such circumstances, the traditional academic engagement of a professor with scholarly writing and teaching may become impossible to accommodate.

A significant number of extra-academic responsibilities, like fundraising, providing advice for law reform and those aimed at improving legal education and the legal system, also awaits the dean of a law school. These activities, if carefully chosen—avoiding activities that are partisan or destructive of a fair and open process—and well performed, will help build confidence in the law school and serve to raise its reputation. This latter aspect—reputation enhancement—represents indeed a fundamental element for the vitality of a law school. Dean Rindskopf underlines, among the many activities, how fine education, meaningful scholarship and service initiatives benefiting legal education and the legal profession as a whole will always represent the best means to enhance the reputation of a law school. An outside dean here may have the advantage of understanding how the public perceives lawyers,

the legal profession and the legal system to help the law school build a strong reputation.

CONCLUDING OBSERVATIONS

The thoughtful papers submitted by presenters in this Symposium provide us as legal educators worldwide useful insights into the legal-education principles and strategies of law schools in common- and civil-law countries from Africa, Asia, Australia, Europe, North and South America (worldwide from each of the populated continents), and also in countries which explicitly recognize the validity and applicability of the customary law of indigenous populations. We invite you to enjoy in detail each of the papers in this set. They provide us with a useful frame of reference as we respond to emerging needs of the increasingly interrelated and globalized twenty-first century world.