

IALS ANNUAL MEETING 2015 - INTERNATIONAL ASSOCIATION OF LAW SCHOOLS
DEVELOPING APPROACHES AND STANDARDS FOR A GLOBAL LEGAL EDUCATION
FIRST DRAFT REPORT – STUDY GROUP ON CONTRACT LAW

CORE PROPOSALS

1. Knowledge

Q: What core elements are essential for students to enable them to have a substantive understanding of the field?

A: It is crucial to understand that Contract Law is currently a transnational discipline. Being able to assess the impact of this factor in the field enables students to think out of the box of established dogmas. In this scenario, a problem-based, functional approach seems appropriate to combine an evolving theory and practice. The capacity to work fluently in English is important.

Principles. Agreement. Individuals that create law. Predictability. Fairness.

- Freedom of contract. Agreement. Performance (how). Remedies.
- Public law limitations: but these limitations may vary depending on regions/countries.
- Who. Actors: children, women, certain entities? State as a contracting party? Depending on each country.
- What: subject matter. Depending on each country.

2. Skills

Q: In addition to the general skills outlined in the Outcome of a Legal Education, are there any skill sets particular to this field which students should have attained at the end of the course?

A: Skills related to alternative dispute resolution and drafting skills.

- Drafting? Or better as an advanced course.
- Interpretation
- Negotiation (in the formation of contracts)
- Client counselling

- DR/ADR

3. Values

Q: What values specific to this field should students incorporate in an overall ethical legal education?

A: The concept of justice as prudential in order to enhance the understanding of different solutions to the same problem and the capacity to assess them – an important value in a globalized world.

Q: What values specific to this field can be used to illustrate and reinforce an ethical legal education?

A: Understand the importance of respecting different cultural values and ways of doing business that affects directly a contract between foreign parties and the outcome of negotiations.

- Justice/Fairness in different cultures

EXTENDED MOTIVES

1. How has globalization impacted your course?

A: Very much. Globalization has affected classic dogmas of Contract Law and has got increasingly transnational. There is a growing gap between what has been traditionally taught and practice. Contract Law has modernized, got international, and that is leading to important changes in the content of the course. The internationalization of contracts has highlighted the need to prepare students in different legal systems as well as the importance of languages, in respect of which having a working capacity is an asset for a Contract lawyer.

- More to upper year courses. Only interested notes.
- Impact by Europeanisation. Regional level

2. Are there areas where international standards are adopted?

A: Yes, especially in the sales of goods (UN Convention on Contracts for the International Sale of Goods, CISG) and industry sectors (e.g. Montreal Convention for international carriage by air), INCOTERMS.

3. How did that come to pass?

A: The transformation of Contract Law has first affected the most globalized transactions. To them, neither the Common nor the Civil Law traditions proved to be

entirely satisfactory to parties. Therefore, a unified, new set of rules was agreed as a compromise between stakeholders proceeding from different legal traditions.

- WTO.
- New lex mercatoria

4. What areas in your field will be the next ones to be influenced by globalization?

A: Several areas seem to be the next ones to be influenced by globalization. Among them, the law governing merges and acquisitions is expected to receive a huge impact as it is increasingly affecting not only large but also small and medium enterprises. In the same vein, the law on insolvencies should receive a transnational treatment due to growing cross-border transactions. ADR is called to occupy a more relevant role in the solution of conflicts.

- Services; Remedies; Securities & collaterals. Drafting.

5. How should we prepare our students to confidently meet these challenges within a regime of the rule of law?

A: Adapting the content of subjects to current changes is essential. Contract Law should no longer be taught as a national subject but as a transnational one. Comparative Law is an important tool to this end. International internships and exchange programs would complete the preparation of students.

- Skills; Knowledge; constant learning. New technologies. Rewards for professors (by academy) should change.

6. What are the major areas for investigation in this field?

A: The transformation of the main concepts in Contract Law, due to globalization, with special focus in the interaction of the different legal families. The influence of Consumer Law in this process should also be researched. Corporate, Insolvency and Litigation Law should be taken into account as they directly affect contracts.

- New ways of teaching. Teaching & sharing: open sources. "Creative commons"/ How is contract perceived in the market. Issues raised by globalization: internet issues, etc.

7. How can collaborative approaches across regions inform the scholarship in this field?

A: Conferences, Symposiums, Meetings and Publications. A good book on Comparative Contract Law that does not restrict itself to one particular region of the world would be mostly appreciated by stakeholders.

- Teaching & sharing sources. Collaboration. Provide more tools. Specific groups within IALS: exchange of legal information.

8. What trends are developing in the field which researchers and scholars both in and outside of the field should be aware?

A: The expansion of models of contracts, thought for one particular jurisdiction, but applied all over the world. The huge impact that this has in practical and theoretical terms is clearly under-researched. Also, the use of new technologies and how it affects contracts.

- Globalization, technology. Against that, constitutionalization of contracts (local) and regulation of national law: Human Rights, environment. Expansion of contracts: eg Co2; drugs.