

A GLOBALIZED LEGAL EDUCATION – WHY AND HOW

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Introduction

My brief from Professor Francis Wang was to “speak on [my] law school’s experience in crafting a curriculum which responds to the rapidly changing needs of legal practice in an ever globalizing environment.” Globalization is not something new – it has occurred throughout human history and it has impacted on law and legal education.¹ However, the phenomenon today is unique because of technological advancements in travel and communication. In the past, globalization was the province of select players – empires, then nation states, then multinationals. Today, individuals are players in the new globalized world.² What was boutique is now a budget option; law schools can no longer avoid this issue because even the smallest law firm in town will be dealing with transnational matters.

The effect of globalization permeates into every area of law, not just international business transactions or international human rights, but even the most personal and private matters, such as marriage.³ Today’s version of the celebrated case of *Carlill v Carbolic Smoke Ball Co*⁴ would not involve an advertisement in the Pall Mall Gazette, but an advertisement on the internet, disseminated through Facebook and Twitter and accessible across the world. The simple question of a unilateral contract would now raise far more complex questions of jurisdiction, conflict of law and cross-cultural (mis)understandings! In this brief paper, I will sketch out why we decided to globalize our legal education and how we went about it at NUS.

Why did we globalize?

The NUS Law Faculty is in Singapore, a highly globalized city-state,⁵ heavily dependent on international trade and foreign investment. Singapore has also developed itself as a hub for international arbitration and dispute resolution. The practice of law in Singapore has become increasingly globalized with its major firms having footprints across the region. The Singapore Academy of Law, in a 2008 report, identified international law as one of the top three areas in which law students should be competent.⁶ Law graduates are thus expected to be comfortable working across jurisdictional boundaries. Academics, seeing the promises and threats of globalization, have developed it as a field of study and are eager to research and teach in this area.⁷ There has also

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¹ As the Dean of the NUS Law Faculty has noted, two earlier waves of globalization of law occurred during the Roman Empire and the colonial period. Tan Cheng Han, “Change and Yet continuity – What Next After 50 years of Legal Education in Singapore?” [2007] Singapore Journal of Legal Studies 201 at 203.

² The idea is best captured in Thomas L Friedman, *The World is Flat: A Brief History of the Twenty-first Century* (New York: Farrar, Straus & Giroux, 2005).

³ *TQ v TR* [2009] 2 SLR 961. This case involved a prenuptial agreement made in the Netherlands between a Dutch man and a Swedish woman who were married and later came to live in Singapore.

⁴ [1893] 1 QB 256.

⁵ Singapore is ranked in the top 10 global cities: <http://www.foreignpolicy.com/node/373401> (last accessed, 9 March 2011)

⁶ Singapore Academy of Law Survey (December 2008), 8.

been strong demand from students who have grown up in an age that know no boundaries. As an institution, the law school embraced globalization and indeed set out a vision to be Asia's Global Law School.

At the outset, a distinction should be made between a globalized legal education and a global law school. The latter is a far more ambitious project, which requires considerable resources in terms of financing, human capital and political will. A global law school is one that stands above the national or local schools; its faculty and students are international, as are its programmes. It operates at the global level and its graduates are likely to work in the major cities around the world. It has a vibrant community of international scholars and visitors as well as strong international linkages with other institutions, collaborating in research and teaching across borders.

How did we globalize?

A global law school in that sense is not for every institution. However, a globalized legal education can fit comfortably within a domestic law school that is aimed at educating lawyers for the local bar. Today, the question is not whether we should have a globalized legal education but how we accomplish this.⁸ Our response to this at NUS, as part of our ambition to become a global law school – or at least a highly globalized law school – was to adopt a holistic globalization strategy involving curriculum design, programmes, students and faculty.⁹

There are several facets to designing a curriculum that meets the needs of a globalized legal education. First and foremost, courses on public and private international law, transnational law and comparative law have to be included in the curriculum. This raises an important question of policy that has been the subject of much debate. Should new courses be added to the curriculum or should these perspectives be integrated into the traditional core courses on contracts, torts, crimes, property and so on? In addition, a global approach tends to encourage interdisciplinary studies.¹⁰ One cannot, for example, study laws on climate change or biodiversity without appreciating the relevant scientific, sociological, economic and cultural issues.

Much has been written about globalization and legal education and I do not propose to add to the theoretical or academic discourse; rather, I will focus on some of the pragmatic issues, drawing from the experience at my law school. Following a major curriculum review ten years ago, the faculty determined to include international and comparative law courses and perspectives in the core curriculum. A compulsory course called Comparative Legal Traditions was introduced and the foundation course on Singapore Legal Systems included a section on public international law. A slew of international and comparative law electives were developed and today, out of the hundred elective modules on offer, half are international or comparative in nature.

We were conscious that while we were a common law school based on the English system with a natural affinity to the Western common law tradition, we were also an Asian law school

⁷ Interestingly, much of the exciting literature is emanating from developing world academics who have challenged the instrumentalist nature of international law and global regulatory regimes, viewing them as a form of neocolonialism, and in the process have offered enriching insights into the nature of law itself. One of the leaders of this school is Professor Sornarajah of NUS who has written extensively in the area.

⁸ In the last two years, I have attended symposia on this issue in Hong Kong, Korea and Japan. The Asia Pacific Rim Universities Law Deans meeting, to be held in Beijing in April this year, is also focused on this issue.

⁹ See generally, Tan Cheng Han, "Challenges to Legal Education in a Changing Landscape – A Singapore Perspective" (2003) 7 Singapore Journal of International and Comparative Law 545; A Loke, "Forging a new Equilibrium in Singapore Legal Education" (2006-2007) 24 Wisconsin International Law Journal 261; S Chesterman, "The Globalization of Legal Education" [2008] Singapore Journal of Legal Studies 58.

¹⁰ K Rittich, "Global Legal Education: Reflections from the Faculty" in D Cole (ed), *Why Transnational Legal Education?* (Georgetown Law Center for Transnational Legal Studies, 2009) 15.

surrounded by neighbours whose legal traditions were civilian, mixed and pluralist.¹¹ We also did not want to go from being an “English” law school to becoming an “American” law school.¹² Hence, we ensured that a large proportion of our international and comparative law electives were Asian in nature. There are permanent electives on aspects of Indian, Chinese, Japanese, Indonesian and Malaysian law, with other jurisdictions covered on an ad hoc basis. In addition, we have a regular course on European Union Law.¹³

In addition to curriculum changes, the law school has developed student exchanges, internships, summer programmes and joint degrees. The exchange programme exposes students to a different learning environment and immerses the student in a foreign culture for an extended period, giving the student an insight into the legal and social culture of another jurisdiction. The NUS Law Faculty’s student exchange programme is extensive, with about 45% of the cohort going abroad.¹⁴ The Faculty hosts an equivalent number of foreign students, which gives classes at NUS a very vibrant and cosmopolitan feel. This facilitates a natural comparative study of law as students from different legal systems are in the same classroom and legal issues are dissected from various perspectives.

Beyond the student exchange are jointly taught or joint degree programmes leading to qualification in two jurisdictions or to an LLB/JD and a masters degree in another jurisdiction. There is growing demand for law graduates who are qualified or well versed in more than one jurisdiction. NUS is also a founding member of the Centre for Transnational Legal Studies, which is a consortium of globally oriented law schools.¹⁵ CTLS offers a unique educational experience for faculty and students. Each institution sends two faculty members and about a dozen students to London, where the centre is based. All the courses that make up the curriculum are transnational in nature and in many instances are jointly taught by faculty members from different institutions. Thus, you have an environment where faculty, curriculum and students are transcending national boundaries and giving real meaning to the idea of a global legal education.

So, a globalized legal education is built at various levels, from the core curriculum to student exchanges to collaborative programmes and dual degrees. Finally, having a faculty that is diverse is also important. At NUS half the faculty are non-Singaporeans and hail from a dozen jurisdictions. All of them have had postgraduate training outside Singapore and many have had experience working in another jurisdiction. In addition to the full-time faculty, we regularly invite visitors from around the world to come and teach at NUS.

Challenges and concluding remarks

Having set out why a globalized legal education is important and how NUS went about achieving it, let me say a few words of caution. The challenges are not insignificant. There are large investments that have to be made by institutions to make the necessary changes and to facilitate international interaction and collaboration. There are vested interests within the law schools and

¹¹ For example, Indonesia, Malaysia, Thailand, Philippines. We capitalized on this by establishing the Asian Law Institute, which was aimed at bringing together Asian law scholars to share and learn from each other. Information on ASLI is available here: <http://law.nus.edu.sg/asli/index.aspx>.

¹² See, T Ginsburg, “Transforming Legal Education in Japan and Korea *Symposium on Developing Mechanisms to Enhance Internationalization of Legal Education*” (2004) 22 Penn State International Law Review 433; JE Moliterno, “Exporting American Legal Education” (2008) 58 Journal of Legal Education 274.

¹³ Our Visiting Professor programme ensures we have a steady stream of academics from around the world.

¹⁴ Out of a cohort of 240 students, about 110 go abroad on exchange. The Law Faculty has about 50 faculty partners around the world and the university has in the region of 300 partners. Each year, we host around 120 exchange students from over 25 different countries.

¹⁵ Information on CTLS is available here: <http://ctls.georgetown.edu/>.

within the legal profession which are resistant to globalization and prefer to focus on the local dimension of law and practice.¹⁶ Law itself, in many respects, is inherently parochial, although this view is being challenged. In addition, there are linguistic, cultural and pedagogical barriers to be overcome.

Most importantly, one should also never be under an illusion that including a module on some aspect of Chinese law means a student will have expertise in Chinese law. The point of a globalized legal education is to give students an insight into foreign law, legal cultures and systems.¹⁷ It is to sensitize them to evolving global norms that will shape domestic and international law. It is to eliminate the “unknown unknown” and turn it into a “known unknown”,¹⁸ so students can navigate their way in a global environment without stepping on landmines.

A globalized legal education is not an all or nothing proposition. Some law schools may see this as the way of the future and seek to distinguish themselves as elite schools engaging at the supranational level and attracting the best global talents in terms of faculty and students. Clearly, there is not enough room there for everybody. That group is going to be limited to a select number of schools. But a globalized legal education is there for all. It need not be all consuming, and law schools can simply globalize their legal education to the extent that they feel comfortable.

¹⁶ It will require some astute management and skilful politics to “practice the art of the possible.”: FA Gevurtz, “Incorporating Transnational Materials into Traditional Courses *Internationalizing the First Year Law School Curriculum - A Symposium from the Association of American Law Schools Annual Meeting January 3-7, 2006: Techniques to Internationalize the First Year Curriculum*” (2006) 24 Penn State International Law Review 813 at 815.

¹⁷ A similar point has been made by the Dean of Wisconsin law School in a Keynote Address at the International Conference on Legal Education Reform: Reflections and Perspectives. See KB Davis Jr, “Six Uneasy Pieces” (2006-2007) 24 Wisconsin International Law Journal 31 at 36-37.

¹⁸ To borrow an expression from Donald Rumsfeld, former United States Secretary of Defence: Department of Defence News Briefing 12 February 2002 (last accessed, 10 March 2011, <http://www.defense.gov/transcripts/transcript.aspx?transcriptid=2636>)