

Curriculum Content of Legal Education – Internationalization of the curriculum “Think globally, act locally”

By:

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The University of Bologna, the oldest university in the world, was established more than nine hundred years ago, and it started as a law school¹. The same happened with many other universities –if not most– since then. Therefore, we can affirm that law schools and universities are two deeply intertwined concepts.

The creation of universities was a major breakthrough in world’s history and gave rise to a new era, becoming the bridge that connected the Middle Ages to Modern times. Universities, as the word suggest, from their very beginning, tried to transmit knowledge on a universal basis. They did so by simple means: attracting to their faculties and student bodies the most brilliant minds of their times, regardless of nationalities. Universities and law schools, were then truly global institutions. Roman law was the “common law” then taught.

The appearance of the nation-state, after the Peace of Westfalia in the seventeenth century, was key to reducing the global character of law schools. Law became “national” in character and distinguished from “foreign” law, and therefore law schools became more domestic. Their curriculum reflected those changes: the teaching of comparative law and comparative legal systems were reduced to their minimum expression and even general subjects as legal reasoning was taught in a national-oriented way. Foreign law was in many cases regarded as useless, and even looked at with disdain. One can obtain a law degree, and even practice as a lawyer during a lifetime, without any exposure to any of those issues. Bar admission generally requires not only knowledge of the local law, but that the same is obtained in a local institution. In many cases, law schools became no more than a place in which students can be taught local statutes and case law, as well as the procedural rules that apply when making a court appearance; but hardly the skills required to adapt to a fast changing world. In other words, able technicians, but hardly lawyers.

In these days in which we talk about “globalization” as a new phenomenon, when the internet allows research and the exchange of ideas to be performed on a worldwide basis with extreme ease and speed; in which the nation-state concept is changing at a fast pace, reducing national borders to mere political divisions, where human rights’ law has become for most part of the world a new *ius communi*, and where the legal profession, save for national regulations can be exercised internationally, law schools must remember their origins.

What types of lawyers are nowadays required? Truly most part of a lawyer’s work remains domestic, but with a twist. It is impossible to say that local legal work is not affected by the new reality. Even for a lawyer practicing law in a remote location, the globalization imposes changes (he or she may, in fact be the most benefited by this new situation). The law of the world is there, at a mere “click” in the computer, and this allows the practicing attorney or the academician to have access to new perspectives through which to confront the problems they face in their practice. As United States Supreme Court Justice Breyer once said in one of the many rounds with his fellow Justice Antonin Scalia regarding the usefulness of resorting to foreign courts decisions to decide a domestic case: “If here I have a human being called a judge in a different country dealing with a

¹ See <http://www.eng.unibo.it/PortaleEn/University/Our+History/default.htm> (as visited March 13, 2011).

similar problem, why don't I read what he says if it's similar enough? Maybe I'll learn something²". Law schools must give prospective lawyers the tools to deal with this new reality, regardless whether their practice is domestic or international.

Unfortunately, law schools are well behind this new situation. It is common in most parts of the world that lawyers and judges are completely unaware of the new developments, which gives rise to two negative consequences: either the complete omission of the international and comparative dimension, or the inadequate usage of the foreign precedent in domestic decisions.

Law schools must adapt to the new times and challenges by looking back. Think again on a global basis, and not exclusively on a purely domestic way. Their curricula need to show a balance among three major bases: 1) teach prospective lawyers the skills required for them to be able to think as such in a global world preparing them to assist their clients in the multiple roles a lawyer plays in exercising the legal profession; 2) give them the necessary research skills and tools to know what and where to search for such solution in a global environment, and particularly to understand the different legal systems and cultures that may impact on the outcome of their investigation; 3) the teaching of local laws and procedural rules.

One additional consideration. While the developed world can afford to train highly specialized lawyers, and there are plenty law schools in those countries which focus their curricula in specific areas of the law, in the less developed countries the role of the attorney is more of a general nature. It is common in those countries that the same lawyer needs not only to appear in court, but draft a contract, help with a will, defend someone who has been detained, or represent some client in a negotiation. Law schools' curriculum needs to take this into consideration. It is therefore essential law schools prepare "lawyers" in the complete sense of the word, allowing them to adapt to circumstances.

In other words, teaching prospective lawyers to think globally, in order for them become more effective when acting locally.

² Transcript of Discussion Between U.S. Supreme Court Justices Antonin Scalia and Stephen Breyer - AU Washington College of Law, Jan. 13, 2005, available at <http://domino.american.edu/AU/media/mediaref.nsf/1D265343BDC2189785256B810071F238/1F2F7DC4757FD01E85256F890068E6E0?OpenDocument> (as visited March 12, 2011).