Globalizing the Law School Curriculum

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A Case Study -

• 2005 Tahoe I Conference hosted by Pacific McGeorge School of Law
  • 31 law schools from across country
  • Participant experts by subject area
  • Preliminary Discussion:
    • Goals sought by globalizing curriculum
    • How to globalize the curriculum

• 2011 Tahoe II Conference
  • Intercultural legal competence education in law schools
Purposes of Globalizing the Curriculum

- To improve students’ understanding and application of domestic law
- To prepare students for practice of law in era of increasing globalization

What should a “well-educated” law school graduate know about global issues?
“The McGeorge Model”

• Pervasive approach to integrating international, transnational, and comparative law issues into traditionally domestically oriented courses

• First and Second Year LR&W - Global Lawyering Skills I and II.

• Upper Division Classes – Global Issues Series
Global Lawyering Skills I & II

Pacific McGeorge revised its legal research and writing program to incorporate global issues into the curriculum. This approach ensures that all first and second year law students are exposed to substantive issues involving transnational, comparative or public international law.
Global Lawyering Skills I

• Sensitizing students to cross-cultural lawyering:
  • Like other human interaction, lawyering is cross-cultural
  • Be aware of and open to differences
  • Avoid stereotyping and generalizing
  • Learn to recognize own values, judgments, interpretations and potential biases
  • Know self as cultural being, interacting through own cultural prism
  • Deal with client as another, unique refractor of his/her own culture
Global Lawyering Skills I

• International law research concepts introduced after students have spent a semester researching and writing domestic law issues:
  • Collaborate with law librarians in planning lecture
  • Lecture provides overview of sources of international law
  • Defines and explains commonly used terms in international practice
  • In-class international research exercise
  • Culminating in open research problem involving transnational or international issue.
Global Lawyering Skills II

• Cultural Barriers to Effective Advocacy

Fig. 1: The iceberg concept of culture

Global Lawyering Skills II

• Second year students work through year-long case file involving a comparative or transnational issue.

• Examples:
  – Whether U.S. or Austrian law should govern doctor-patient confidential information exchanged between a CA resident and a NY certified therapist residing and practicing in Austria;
  – Japanese corporation’s U.S. subsidiary sued in CO. Whether attorney-client privilege applied to communications between Japanese in-house counsel and director in CO.
  – Lesbian couple adopted each others’ children in NL, moved to Mississippi then sought to have adoption recognized there. Whether adoption recognized under comity or Hague Convention on International Adoption.
Global Issues Series

• Casebook supplements by subject.
• Currently 23 volumes.
• Authors from Pacific McGeorge and across the country.
• Published by West.
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Global Issues in Constitutional Law

• Almost all core curriculum case books have narrow domestic focus.

• Constitution lists treaties as part of supreme law of land, Constitutional Law casebooks include only minimal coverage of international and foreign law.

• This omission of global materials represents a step backwards from practices of sixty years ago.
Global Issues in Constitutional Law

• **Example**: Constitutional Review
  – Comparison of German Basic Law to Article III
  – Discussion of South African model of judicial review
  – Discussion of constitutional review v. judicial review

• **Example**: Justiciability and stare decisis rules in other countries

• **Example**: Free Speech v. Dangerous Speech
  – Comparison of U.S. precedent with ECHR and other cases
    • Which is most protective of free speech?
    • Of public order? Why? Societal motivations?
Global Issues in Environmental Law

• Topic very suitable to integrating global issues
  – Very few environmental issues are exclusively domestic

• **Example**: No constitutional right to a healthy environment or clean water, so what other approaches are there to this issue?
  – Comparison of U.S. and other constitutions and approaches
  – Discussion of whether such rights would fit into U.S. Constitution today
Global Issues in Environmental Law

• **Example**: Toxics and Hazardous Substances
  – Burden Shifting: Comparison of U.S. approach where EPA must demonstrate chemical presents unreasonable risk to EU approach imposing burden on chemical manufacturer prior to introducing chemical to market.

• **Example**: Transboundary Environmental Impact Assessment
  – Comparison of NEPA and ESPOO convention to illustrate how NEPA idea successfully “exported” for broader application.

• Effective tool for teaching students to understand better how domestic law functions in a certain context.
Global Issues in Corporate Law

• Provide students with introduction to basic business forms commonly found in global economy
  – société, sociedad, Gesellschaft, Vennootschap, kaisha
  – Société en nom collectif, offene Handelsgesellschaft, etc.

• Familiarize students with choice of law issues that arise when corporation formed in one country does business and is sued in another country
  – Review and comparison of U.S., ECJ, Japanese law and precedent
  – Incorporation doctrine v. seat theory
Global Issues in Corporate Law

• Compare divergent approaches to limited liability and creditor protection among nations
  – Example: MNE activities and insulation of affiliates from damages for injuries caused by subsidiaries through limited liability mechanism.

• Assess and compare standards of corporate responsibility
  – Example: Stakeholder Model v. Shareholder Primacy
    • Comparison of U.S. and NL or D law (workers’ council)
    • Requirements for employee codetermination of supervisory board members.
Challenges

• Oversimplifies global issues
• Lacks necessary, full context for proper analysis
• Irrelevant to passing the bar (a luxury)
• Irrelevant to future law practice of many graduates
• Reticence of some faculty unfamiliar with international materials
• Additional cost to students
The challenges to incorporating global issues into the curriculum need to be met head-on and can be overcome.

The road to globalizing the law school curriculum is inevitable.

It is no longer a question of whether to do it, but when.