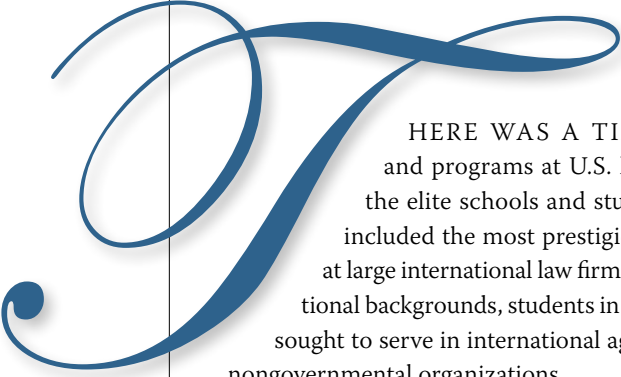


By David Tobenkin

LEGAL MINDS

Internationalization is expanding rapidly at law schools



HERE WAS A TIME when international content and programs at U.S. law schools were the preserve of the elite schools and students. Those in the favored club included the most prestigious law schools and practitioners at large international law firms, students with particular international backgrounds, students in the nation's capital, and those who sought to serve in international agencies and international nongovernmental organizations.

That is no longer the case. Increasingly, international law has become a vital component of many, if not most, U.S. law school programs and U.S. law schools are expanding international content and programs for both U.S. and foreign students.

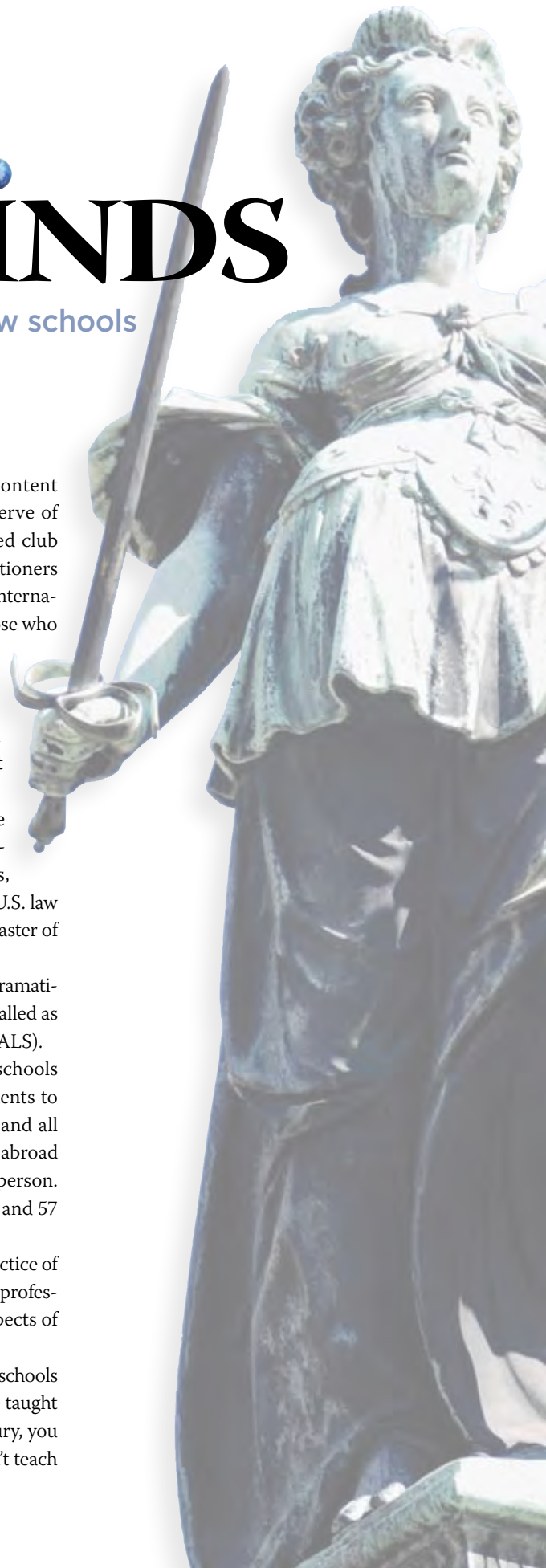
The facets of the internationalization of legal education are myriad. For U.S. students, law schools are adding international content and programs like journals, clinics, semester abroad programs, and joint- and dual-degree programs. For foreign nationals, more U.S. law schools are offering exchange programs, summer programs, and master of laws (LL.M.) programs focused on their particular needs.

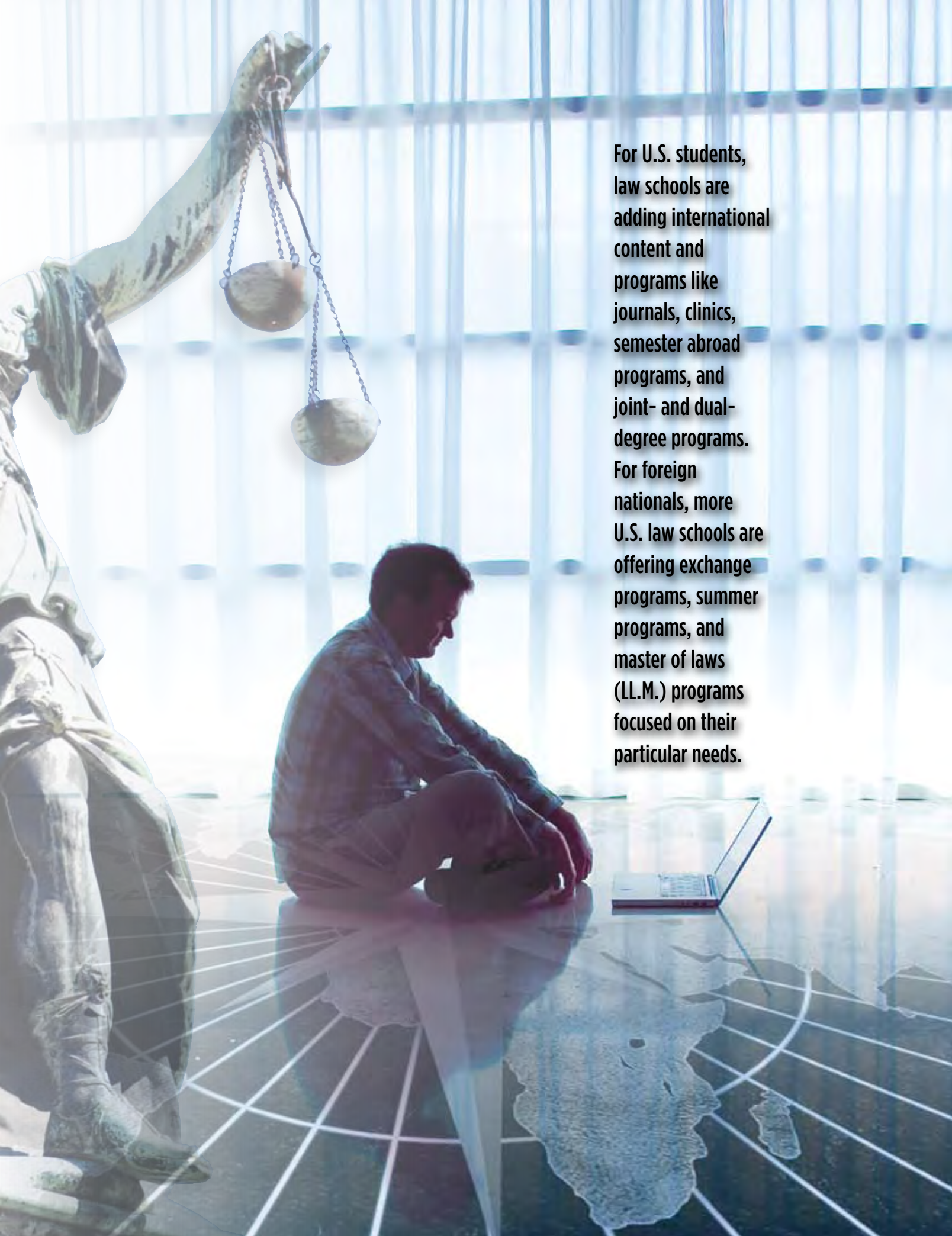
"The growth really began over 20 years ago, but it has increased dramatically in the last decade," says Susan Westerberg Prager, recently installed as executive director of the Association of American Law Schools (AALS).

A 2007 American Bar Association survey found that of 159 schools participating in the survey, 110 schools said they encourage students to attend education abroad programs offered through the school, and all but one of those said they also encourage students to attend study abroad programs offered through other law schools, says an ABA spokesperson. In addition, 95 schools said they have a summer abroad program and 57 said they have a semester abroad program.

Those numbers track a steady process of globalization in the practice of law itself, says Cornell University Law School's John J. Barceló III, professor of international and comparative law, who supervises many aspects of Cornell Law's international offerings:

"If you go back to the beginning of the twentieth century, U.S. law schools back then focused on state law, their local law. Some subjects were taught at a broader level. Toward the middle to end of the twentieth century, you saw the development of national law schools, law schools that didn't teach





For U.S. students, law schools are adding international content and programs like journals, clinics, semester abroad programs, and joint- and dual-degree programs. For foreign nationals, more U.S. law schools are offering exchange programs, summer programs, and master of laws (LL.M.) programs focused on their particular needs.

local law at all, and that drew students from across the country and graduates who went across the country to practice as lawyers.

“Then, think twenty-first century, and I think you see another level of broadening of the legal enterprise. Now the leading schools are the schools that are international. They still teach national law, but increasingly what is taught are subjects that can be described as transnational or world law. These are subjects taught with transnational perspective similar to how national law schools taught, but from an international point of view. Some subjects are wholly international and you are also seeing more comparative law and more foreign law. There is also

the parallel development of students coming from all over the world to study in U.S. law schools and going to all parts of the world to practice at international law firms. The big mega law firms have offices all over the world and do business all over the world. They require people that can handle that activity.”

On the other hand, a longstanding international focus is a hallmark of many leading programs. Cornell Law has long embraced an international perspective, a diverse student body, and international scholarship. The school’s first entering class in 1887, for example, included a Japanese student, a professor of international law, and required lectures in Roman and international law.

Also expanding are international LL.M. programs that focus on educating foreign students about the U.S. legal system and good legal practices.

“Until four or five years ago, our LL.M. program was a small program of 30 students a year,” says Andrew Guzman, University of California, Berkeley School of Law international law professor and director of the school’s International Legal Studies Program. “Now we have 100 foreign students a year. They mostly take preexisting classes with our J.D. students. Now we are planning to offer a summer LL.M. program where foreign students will be able to earn an LL.M. over two summers starting in summer 2009.”

Many law schools are coordinating an increasingly diverse set of international offerings within an international office to create synergies, increase branding, and provide administrative support.

Duke University School of Law Associate Dean of International Studies Judy Horowitz says that when she arrived at Duke Law in fall 1981, she found a sole international component of five international students. Duke Law’s international program now has 76 master of laws, 13 doctor of juridical science (S.J.D.), the equivalent of Ph.D. students, and 16 overseas exchange students. In all, she says, the school now has more than 1,000 international alumni hailing from 39 countries.

Horowitz’s Office of International Programs has five employees and reflects a trend to consolidate international offerings previously dispersed throughout the law school in a single location.

“Through our office, we offer counseling for students, career advice, and a way to keep in touch with alumni,” Horowitz says. “We had a large international reunion in Munich this past June. I think concentrating our international efforts helps with international students.”

Survey of U.S. Law School International Programs and Content

159 SCHOOLS QUERIED:

- 110 schools said they encourage students to attend study abroad programs offered through the school.
- 109 schools said they also encourage students to attend study abroad programs offered through other law schools.
- 95 schools said they have a summer abroad program
- 57 said they have a semester abroad program
- 7 said they have a year abroad program
- 9 offer an LL.M. (graduate degree beyond the basic law degree) partially abroad
- 5 offer an LL.M. program fully abroad
- 17 offer joint- or dual-degree programs in conjunction with foreign law schools
- 52 have cooperative faculty exchange programs
- 67 have cooperative student exchange programs
- 21 have scholarly collaboration research programs
- 27 are involved in consortiums of law schools
- 7 have joint institutes
- 3 have joint clinical programs.

SOURCE: AMERICAN BAR ASSOCIATION



PHOTO COURTESY OF JUDY HOROWITZ

International Linkages

Efforts are underway to increase linkages between international law programs in different countries. As a result of member law schools increasing interest in assistance of the AALS with furthering international collaborations, former AALS Executive Director Carl Monk spearheaded the 2005 creation of a new organization, the International Association of Law Schools (IALS), which now has 179 members from 49 countries who explore topics in international legal education, as well as through two conferences per year. While headquartered in Washington, D.C., the body strives to ensure that its membership and leadership are internationally diverse.

“The IALS is not a standards-setting body and is unlikely to become one,” says Prager. “It aims to explore how connected the world is becoming and what the implications of that are for the world of legal education.”

In May 2008, at the first IALS general assembly, more than 100 IALS members who are legal educators from 40 countries chose Monica Pinto, professor of international law and international human rights law and the director of the human rights program at the University of Buenos Aires Law School, as its first elected president and Francis SL Wang of the Kenneth Wang School of Law, Suzhou, China, as president-elect.

Prager says that challenges facing international law education include promoting teaching materials with expanded international content, facilitating participation of legal educators in developing countries in IALS and other programs, and working across significant differences in legal education in different countries. She

notes, for example, that in some countries law is taught primarily as a graduate degree program while in many others law is studied at the undergraduate level.

Prager also noted that the AALS itself is also addressing the internationalization of law and legal education through conferences on that subject, such as one held in January 2008, and through the formation of a new AALS committee, the Committee on International Cooperation.

Smaller School Opportunities and Challenges

The internationalized focus of legal education is leading to new marketing and comparative advantages for some students and schools outside the top tier.

Tulane University Law School, for example, touts its location in New Orleans as a comparative advantage. Louisiana is the only state where the dominant state form of law practiced is civil law, which draws legal direction largely from statutory law, as opposed to common law, which draws legal direction from principles established through court decisions.

“Tulane is probably the only national law school that actually offers a full curriculum in civil law and common law,” says Herbert Larson, professor of the practice and executive director of Tulane Law’s International Legal Studies and Graduate Programs. “Students can come here and specialize in civil law or take a couple of courses. What most common law students don’t realize is that 70 percent of the world has a civil law-based system. Once you go outside the U.S., some knowledge of how civil law system functions versus common law

Judy Horowitz (far left), associate dean for international studies at Duke Law School, with Jennifer Maher, the assistant dean of international studies, and international law alumni on campus to do a panel for current LL.M. students on working in the United States.

“If you counted our two summer programs and dual-degree and semester aboard programs, probably more than 50 percent of J.D. students leaving Cornell will have had some experience studying abroad,” Cornell Law’s Barceló says.

is critical. That has large implications. The deal courts [regulating international commerce] are of mixed jurisdictions, and all international criminal courts are mixed jurisdictions. We think Tulane students have an opportunity to acquire unique training that will stand them in good stead in international practice.”

Still, for smaller law schools, competing against the big schools in international law is always a challenge, some say.

“This is always an uphill battle,” says Valerie Epps, professor of international law and director of the international law concentration at Suffolk University Law School in Boston. “We are largely a tuition-driven school. But a number of years ago, an admissions director said that the most frequent question that students were asking was what international law programs do you have. Students were ahead of the curve in wanting those programs. Students are interested in this. They live in the globalized world. They’ve traveled more. There is no such thing as national corporate law. All the big corporations have a million tentacles around the world. Aside from actual treaties, even when dealing with what [you] might think of as traditional areas of law, there is a lot of international law in it, like child custody disputes between parents from different countries.”

Suffolk Law offers U.S. students a certificate resulting in an international law concentration, international internships, a one-week summer program in Lund, Sweden for foreign lawyers who want to learn about the U.S. legal system, a semester study abroad program for U.S. students, an LL.M. program in European affairs for U.S. students, and two LL.M. programs for foreign students—one specializing in U.S. law in Budapest, Hungary at the Eotvos Lorand University Faculty of Law and a program on global law and technology held at Suffolk Law.

“What we are finding is that our students come out with our certificate from the international concentration, and it makes their resume look more interesting,” Epps says.

The J.D. Curriculum—Adding International Perspectives

For U.S. law students, the growing path toward internationalization has played out on a number of fronts.

The Juris Doctor degree (J.D.), the bread-and-butter graduate degree needed for professional accreditation in the United States, is increasingly incorporating international law and options. “If you counted our two summer programs and dual-degree and semester aboard programs, probably more than 50 percent of

J.D. students leaving Cornell will have had some experience studying abroad,” Cornell Law’s Barceló says.

In 2001 the University of Michigan Law School instituted a requirement that J.D. students participate in a course on transnational law at some point during their J.D. education, becoming one of the first national law schools to do so. The course provides an introduction to the international dimension of law, “the minimum every lawyer should know about law beyond the domestic (American) orbit in order to be qualified for practice in an age in which virtually every area of law is being affected by international aspects,” according to a transactional law course description.

“The thinking behind the requirement was that the world into which our graduates are going is one of incredible global interconnectedness, from human rights to international economics,” says Virginia Gordan, Michigan Law assistant dean of international affairs and administrator of Michigan Law’s Center for International and Comparative Law. “The faculty felt that no student should emerge from education here who wasn’t exposed to an understanding of how U.S. law fits into the larger world.”

Many schools are introducing students to international topics as early as the critical first year of legal education, when students’ head-to-head academic rankings, critical for future employment opportunities, are largely determined.

“One development in the internationalization of U.S. legal education is the introduction of international content in the first year [of U.S. J.D. student studies],” says Cornell Law’s Barceló. “The tradition has been that the first year was inviolable as far as content is concerned. Now some schools are saying that international subjects should be in there. That also reflects a pattern of the increased presence of non-Americans in the classroom because of internationalization in law schools. We have U.S. and foreign students in the same classroom on the Cornell campus, and we also try for this in our summer abroad programs. Even though the topic in a course at Cornell may focus mostly on American law, students from another country and legal system can add important perspectives. That is a development that will likely continue.”

The scope of internationalization is such that it rapidly is breaking out of ghettos and pervading the work of many, if not most, faculty at larger law schools.

“The old model at law schools for the international and foreign law curriculum was for a handful of professors to specialize in those subjects,” says the University of Michigan’s Gordan. “Now most of the faculty who teach international classes also teach on other fields,

such as corporate law or constitutional law, and they are bringing a large component of international and comparative content into what were noninternational classes. So it now pervades the curriculum.”

A variety of classes are being taught from international approaches.

“A good example of a type of subject that will be taught from an international approach is international commercial arbitration,” Barceló says. “That’s truly a world law subject because it functions all over the world and reflects transactions all over the world. Parties to such transactions often put in a clause to resolve disputes by arbitration. Frequently law and lawyers from all over the world are involved. The parties may be from Serbia and England; the arbitrators may be from China, Hungary, and the U.S.; and they may meet in Vienna to resolve a dispute governed by Swiss law. Beijing, Paris, and New York are all important centers for this type of law.”

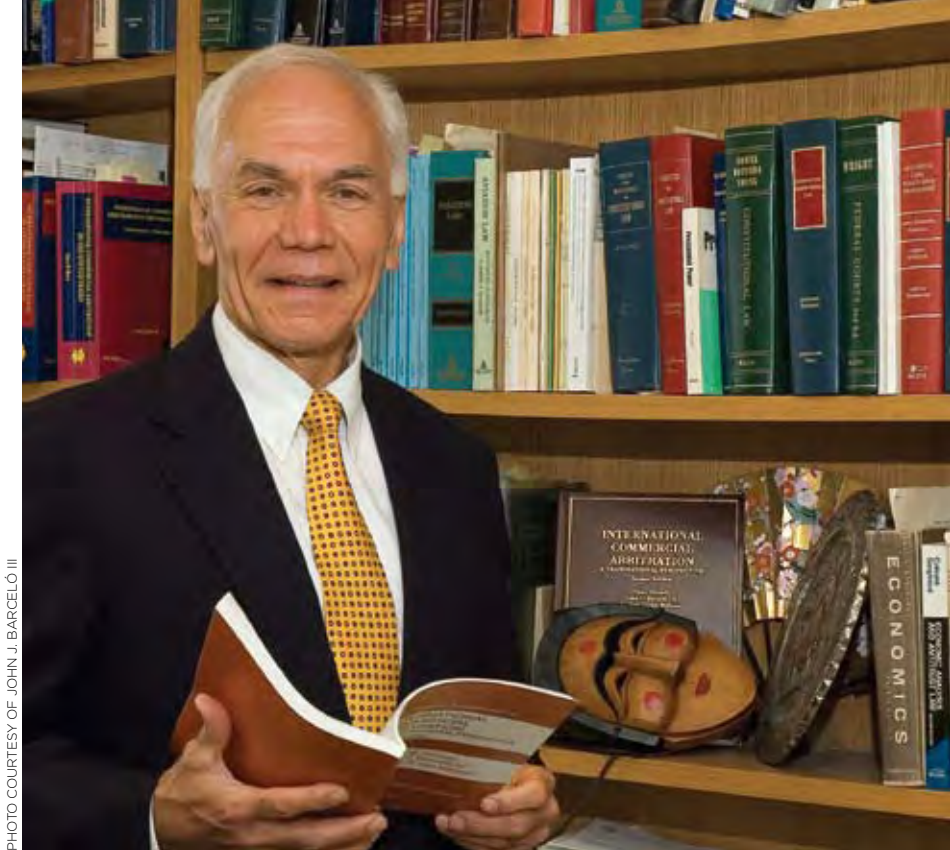


PHOTO COURTESY OF JOHN J. BARCELÓ III

National Law Still Primary

On the other hand, international law professors themselves hasten to add that in training new lawyers, cultivating good overall legal skills will always trump specialized international knowledge.

“The biggest challenge for us, if I put on my lawyer hat, is for students to be the best domestic lawyers they can be,” says Michigan Law’s Mark West, Nippon Life Professor of Law, associate dean for academic affairs, and director of the Japanese Legal Studies Program. “I’d rather they have a thorough understanding of the basics of thinking like a lawyer, and how to look up a tort, first. On top of that, we can give them that little extra that international law firms want, such as experience in a transnational law course so they know law outside our borders. Also I would add some sort of a comparative law component. But I have no desire to push any more of an international component than we have. If they want to be Japanese lawyers, they should go to Japan and study Japanese law. That’s not what we do.”

West’s basic Japanese law course approaches the subject by examining the roles of Chinese, German, and U.S. law in the development of modern Japanese law, the formal structure of the legal system (including the roles of the judiciary and the bureaucracy), the legal profession, formal and informal dispute settlement mechanisms, and attitudes toward law and its operation. For two to three weeks, the course is co-taught with visiting faculty from the University of Tokyo Faculty of Law. The class size has increased over time:

“When I first started here, there were 10 students and most had substantial background in Japanese,”

says West. “Now there are between 30 and 65 students in the class. There are probably three or four students who could do work in Japanese, then, usually eight to 10 with some experience with Japan”

Language Needs Are Changing

West says that one change is a wider range of opportunities for students who are not fluent in Far East languages:

“The jobs in Japan are mainly big corporate law firm jobs. It used to be that of those people sent to Japan, half needed to be fluent and the rest needed to be senior. Now that some of the offices have really expanded, a big firm there can afford to have 40 lawyers, and they can afford to have less senior people who are not fluent. These days it may be enough for new graduates to say to these firms, ‘I took courses in Japanese law so at least can tell you how the system works.’”

Use of English in many international law settings notwithstanding, a large barrier for effective legal practice abroad for U.S. students is lack of fluency in foreign languages. Some law schools are addressing this by offering simplified legal classes in foreign languages.

“We have legal language classes that are taught by visiting scholars, LL.M.s, or doctoral students,” Duke Law’s Horowitz says. “They operate at the intermediate level, provide a basic introduction to the legal system of the country, and run for one semester, two hours per week. It’s a little substantive law and a lot of speaking. We’ve had them in Mandarin, Korean, Japanese, Spanish, German, French, and Italian. By

John J. Barceló III, professor of international and comparative law and director of the International Legal Studies Program at Cornell Law School

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the end of the semester, students not only have been introduced to a new legal system, but they also have dramatically improved language skills.”

Clinics and Journals

Many schools have expanded their international extracurricular activities through the addition of legal clinics and journals. Many offer refugee and asylum law and immigration clinics.

In 2008 the University of Michigan Law School started an international transactions clinic, one of the first in the country, which is focused on areas such as micro lending and international finance.

“There are all types of students who are in it,” Michigan Law’s Gordan says. “Some think they will go into international transactional practice, others into economic development. It exposes them to a variety of transactional work.”

The program is immensely popular, she says, noting that the 2008–09 program had 55 students signed up to register for 10 available spots.

Study Abroad

The range of programs for U.S. students studying abroad runs from, on the more modest in terms of time and academic rigor, summer institutes and programs, to semesters abroad at foreign institutions, to dual and joint degrees in which a foreign institution’s requirement actually governs the students’ academic requirements, and which sometimes extend a student’s normal three-year J.D. program by another year.

Study abroad programs offer students limited exposure to a foreign legal school, law, and students. Duke Law started in 1986 to sponsor overseas summer institutes for the purpose of providing an overseas experience and exposure to students from other countries, says Duke Law’s Horowitz. “We have 20 opportunities to study overseas, from Copenhagen to Capetown. The exchange goes both ways. We receive students from overseas law schools and send Duke J.D. and J.D./LL.M. students to them.”

Horowitz said that some programs are integrating international work experience into their offerings.

“We’ve been able to get jobs in Asia and Europe for 27 students to work five to six weeks paid for law firms overseas,” Horowitz says. “The majority of them were Asian law firms, which value English speakers who can help with translation and also with their U.S. clients and U.S. law. Generally they don’t have to be fluent in the language of the country there, an exception being France and Switzerland, where French is sometimes required.”

For many schools, expansions over time have taken the form of growth from a single location, often a Western European country, to strategic sites near key foreign international business and government locations.

“Our first summer institute was held in cooperation with the University of Copenhagen in Copenhagen and remained there until it moved to Brussels in 1991, in order to take advantage of the proximity to the European Commission, and was cosponsored by the Free University of Brussels,” says Horowitz. “The institute moved to Geneva to work

Mark West, professor of law and director of the Japanese Legal Studies Program at the University of Michigan Law School



PHOTO COURTESY OF MARK WEST

with the University of Geneva Law Faculty in 1996, a move to take advantage of all the international institutions, like the U.N. and its many agencies, located in Geneva. At the same time, Duke decided to have an international presence in Asia and in 1997 began to cosponsor the Asia-America Institute in Transnational Law in cooperation with the University of Hong Kong.”

At Tulane Law, foreign summer programs are located in places of particular international interest, says Larson, who is also director of Tulane Law’s Amsterdam study abroad program. “There, given our proximity to the Hague, our focus is on international criminal law and international human rights. We try to create internship opportunities. This last summer students had the opportunity to go to The Hague and got to see part of the trial of Charles Taylor [the former president of Liberia accused of war crimes and crimes against humanity.]” Other programs, he says, have similar location-tied themes. The program in Cambridge, Great Britain, focuses on European Union constitutional issues, in part because of the expertise of the director and the faculty of the program, he says. London, has been the location for an international commerce program because of its status as the financial capital of Europe. A program in Paris specializes in European Union proper law, while a program in Greece focuses on maritime and admiralty, taking advantage of “3,000 years of Greek shipping,” says Larson.

Nontraditional Locations

Seemingly no location is too remote for summer abroad programs.

Seton Hall University School of Law Professor Bernard K. Freamon has been the on-site director of Seton Hall’s Cairo Summer Program at the American University of Cairo for the past 12 years. Students are offered the opportunity to take courses in Islamic jurisprudence, international criminal law, international human rights law, admiralty and maritime law, and international oil and gas law.

In winter 2007–2008, he began offering a winter study abroad program on human trafficking and slavery in Zanzibar, Tanzania. Freamon said that the program, which had 52 students last year, reflected a personal interest of his in the subject:

“Zanzibar is a good place to study this topic—there is a long history of Indian Ocean slavery, it’s an Islamic environment, and it’s an opportunity to introduce students to another legal culture from sub-Saharan Africa. It’s also a place other law schools haven’t established links with.”

Freamon says the exotic locations of the programs help set Seton Hall apart from other law schools.

He says students attend the program in Zanzibar for a variety of reasons:

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“Zanzibar is a good place to study this topic—there is a long history of Indian Ocean slavery, it’s an Islamic environment, and it’s an opportunity to introduce students to another legal culture from sub-Saharan Africa.”

Seton Hall University School of Law Professor Bernard K. Freamon has been the on-site director of Seton Hall’s Cairo Summer Program at the American University of Cairo for the past 12 years. Here, he is with his research assistants at Qaitbey in Alexandria, Egypt.

PHOTO COURTESY OF BERNARD K. FREAMON



“Many of them come because they want to do human rights work. Some are interested in development work. Others have a particular interest in slavery. Some just want to go to Africa. We also offer a safari that comes at the end this year. The same is true for Cairo: some students have always wanted to see the pyramids. Others are interested in Islamic jurisprudence or oil and gas.”

Freamon, who says he has been teaching Islamic jurisprudence since 1995 and civil rights for 20 years, says some of his graduates have become diplomats, while others have specialized in representing Muslims in the United States with respect to the Sharia, the code of Islamic law.

“The Egypt Program was a tremendous part of my professional development—I have always believed that international education should be a key part of my college and law school education,” says Katherine Kelly, a Seton Hall Law student who participated in the Egypt summer program in 2007. “Through the Egypt Program, I had the opportunity to learn about the Egyptian culture and legal system. In particular, I enjoyed taking a course on international oil and gas law. My fiancé, whom I met at Seton Hall Law School, and I are planning to move to Texas after graduation. Having taken the oil and gas law class in Egypt, I feel more prepared for the Texas bar which covers oil and gas law.”

There can be substantial differences between study abroad programs even within the same school, notes Deborah Call, associate dean for international programs at University of Southern California Law.

“We have two study abroad programs, which have very different models,” Call says. “One is a semester abroad program where students attend the University of Hong Kong in the second year of their J.D. studies. Students take classes from an approved list of offerings taught by faculty at HKU, which partners with 38 law schools and enrolls students from around world. The other is a dual-degree program with the London School of Economics, where students spend an entire academic year in London. Admission to the programs is very competitive, the key deciding factor being a student’s academic record. Studying at a foreign institution is a vastly different experience for our students, who come from our small law school with excellent student services. They are forced to be much more independent abroad, which provides great life experience. Students also have the opportunity to take excellent classes that augment those offered at USC Law, such as international human rights classes and international trade and business classes.”

Many students traveling abroad find a mixture of old-school practice mixed with efforts to modernize curriculum along the U.S. lines. Masayo Nobe, a graduate of Michigan Law School who spent a semester abroad at Waseda Law in Japan, says the two schools offered an interesting contrast both academically and extracurricularly.

“The biggest difference between the two schools was the level of social interaction between the students,” says Nobe, who was born in Japan but raised and educated

in the United States and who is now a corporate attorney at Morrison & Foerster LLP in Tokyo working on cross-border matters.

"I also found fairly distinct working styles among the students. For example, in my international commercial transactions class, the class was divided into three groups of four to five people to mark up an agreement. Then, the entire class was to mark up one agreement together. In similar group-work situations in the U.S., my experience has been to 'divide and conquer.' At Waseda, each small group marked up the agreement, then one big meeting was held to discuss each group's proposed change, section by section. I also sensed that people were generally cautious to ensure that every group had some amount of input into the agreement. It was a somewhat tedious process, but at the end of the session everyone was on the same page in terms of knowledge and commitment to our draft. I have found this is similar to Japanese clients in their negotiation styles—they may take longer, but once they reach a decision they are generally very committed to it."

Dual- and Joint-Degrees

With respect to U.S. law schools' dual- and joint-degree programs offered in conjunction with foreign universities, a key distinction in programs are those that seek to provide general exposure to another legal system, and those that actually seek to prepare a student to become an accredited member of a foreign bar.

Cornell Law's dual-degree program with Université Paris I Panthéon Sorbonne in France is a four-year program that prepares a graduate to sit for the French national exam to be accredited as a French lawyer. By contrast, the German program, a J.D./master of German and European law and practice (M.L.L.P.), is a three-year program that does not lead to a German license to practice law. Barceló says that that reflects the extraordinary demands of legal licensure in Germany, which is about a nine-year process that includes both academic and varied vocational exposure.

Either program is challenging for U.S. students, but the French program particularly so, Barceló says.

"It requires that the student have genuine bilingual ability and be able to handle both languages equally well," he says. That has helped limit the size of the French program to about four students per year, and to even less in the German program.

Visiting Scholars

Not surprisingly, law schools have stepped up visiting scholars programs and international collaborations. Duke Law's thriving Visiting Scholar Program will feature, this academic year, 13 visitors from Korea, Japan, Macedonia, Nigeria, China, Taiwan, and Denmark,

says Duke Law's Horowitz. "They include judges, prosecutors, lawyers, Ph.D. candidates, and academics (including three with Fulbright Scholarships.) Visitors pursue their own research agendas, audit classes, visit local courts and other legal institutions, attend faculty seminars of interest, and use the facilities of the law school as appropriate."

Truly standout foreign faculty with a good command of English are often invited to teach international law topics. Duke Law, for example, has invited faculty members from top overseas law schools to teach, some for a whole semester and some for an intensive course taught in six weeks. This year overseas faculty members come from Israel, Korea, Germany, and Japan.

Not too many institutions can rival the degree of internationalization at Michigan Law.

"We've had an exchange relationship with university of Tokyo for 15 years, with an average exchange of two professors per year, done in conjunction with Columbia Law School," says Michigan Law's West. That has led to a remarkable statistic: More than half of Michigan Law's faculty has taught in Japan, says West.

The school's links to Japan span all the way back to its founding in the late nineteenth century, he says. "We had significant Japanese traffic in 1870s. At the time, we were the largest university in the country. In some classes, there were eight or 10 Japanese students in the 1870s. When you think that was the time that corresponds to when the events of Tom Cruise's movie, *The Last Samurai*, was taking place, it's really amazing that we have a connection from that far back." **IE**

DAVID TOBENKIN is a freelance writer in Chevy Chase, Maryland. His latest article for *IE* was "Degrees of Success" in the May/June 2008 issue. He is also an attorney.

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