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“Sharks, Saints and Engineers: Legal Education for the Global Knowledge Society”

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The 3 Poles of Legal Education Programs

Training – Internationalization – Cooperation

- **Legal Education** in constant state of reform
- **Internationalization** of LE fact of life and challenge
- **Cooperation** through dialogue, programs, exchanges (student & faculty)

Legal Education: The State of Permanent Reform

- **Doing What for Whom ?**
- **How ?**
- **Length ?**
- **Depth ?**
- **International ? Comparative ?
Competitive ?**

Legal Education: The State of Permanent Reform

- Doing What for Whom ? – **Lawyers, Practitioners, Judges, Public Servants, Teachers...**
- How ? – **Theory & Practice Intertwined**
- Length ? – **The ‘shorter the better’. Learning “on the job“, US/C 2nd degree v. Europe 1st degree**
- Depth ? – **Generality over Detail, Expert Training over Critical Understanding of Place of Law in Society...**
- International ? Comparative? Competitive? – **Students’ mobility, Trade-offs with Training/Education mandate, Open windows, Career training?**

Llewellyn's Question

Karl N. Llewellyn, *What is Wrong With So-Called Legal Education?* (35 Colum. LR 651 [1935])

Query: What do our students do after Law School?

Answer: We don't know (anymore).

Experiment: Competition of program offers for Saints, Sharks and Engineers

Saints seek education in social justice

Sharks seek education in corporate/business law

Engineers as the in-betweens, no specific target
– Law as general education.

Educating Lawyers for the Global Knowledge Society 1

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Law Schools (are paid to) provide:

- higher education
- vocational training
- theory/practice integration
- critical thinking
- international outlook, exposure
- career preparation

Educating Lawyers for the Global Knowledge Society 2

In a **Global K-Society**, Law Schools must:

- do all of the above, but by **integrating**
 - *research and teaching,*
 - *international exchange and cooperation programs with individual and collective research projects, and constantly*
 - *scrutinize the curriculum with view to evolving professional fields (changing political economy of the legal profession)*

Specialization **vs.** General Education 1

- **Europe:** Length of Academic & Professional Education
 - Integration of Theory and Practice (Articling [*Referendariat*], clerkships, internships)
 - Europeanization of Legal Practice: Education and Mobility
 - Competitiveness among Programs
 - a) Again, length
 - b) Languages (English as *lingua franca*?)
 - c) Funding to offer foreign instructors, create fellowships for students and faculty

Specialization **vs.** General Education 2

North America: Law Schools as Professional Schools

- Student satisfaction
- US/C: trade-off between core 1st and elective 2nd/3rd year courses
- Predominantly local orientation of legal education, some distant domestic, fewer to Europe
- Globalization of Legal Practice –
Worldwide Job Opportunities: Are our students ready?

Specialization **and** General Education 3

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Curriculum Reform Challenges: Focus on First Year courses – creation of mind-set, learning approach (selectivity, short-term)

Osgoode Hall: 1st year Curriculum Reform (in force since 2007)

- **Ethical Lawyering in Global Community (Sept: Legal Profession (1 week) / January: Ethical Lawyering (2 weeks))**
- **FULL YEAR COURSES: Legal Process:** Fusion of Civil Procedure and Legal Research & Writing / **Public Law & Constitutional Law**
- **SEMESTER COURSES: Perspective Options** (Globalization and the Law, Law and Poverty, Legal Theory)
- **Contracts, Criminal and Torts** taught in Fall term
- **Property** taught Winter term

Specialization **and** General Education 4

Upper Year Curricular Streams:

- International, Comparative & Transnational Law
- Taxation
- ADR and Mediation
- Labour & Employment Law

Globalizing Legal Education

- **Europe:**
 - Erasmus, ELSA and other student exchanges
 - Faculty exchanges
 - Curriculum: Bologna, and now?
 - Towards a Common Curriculum OR, Benchmarking, Learning, Competing
 - Conference Essay: "...able to choose btw best, fastest, cheapest and most internationally oriented"
 - Focus: Germany – Competition of University and Legal Practice Lobbyists / Skepsis as to Bachelor&Master Introduction and Accreditation, Modularization and ECTS; 2003 LegEd Reform gave faculties more freedom in setting milestones (very few of 41 law faculties chose foundations, some legal process, most corporate/commercial)
- **North America:**
 - Strengthening of International Law Components – but how?

Principles to Programs

- Definition of Core Values, Core Subjects, Foundations as Elephant in the Room
- Political Economy of Legal Education shapes perspectives on ‘Market Demands’ (‘Law is local’ vs. Global Profession)
- Professionalization increasingly understood as Specialization – uneasy feeling regarding Foundations (only for ‘elite students’, ‘happy few’?)

Curriculum Dimensions: Int'l, Transnat'l, Global ...

- **Europe:** see, #6 of Communiqué of the European Law Faculties Mtg, [Ljubljana 2005](#):
 - a) the core legal subjects related to the main disciplines of law,
 - b) the humanistic subjects providing an appreciation of the law's social and cultural contexts in place and time,
 - c) the delivery of the skills (languages, communication, technologies etc.) indispensable for the later academic and professional activities of the students, and
 - d) interdisciplinary subjects which allow the law graduate to cooperate with other non-legal disciplines

Curriculum Dimensions: Int'l, Transnat'l, Global ...

- **North America:** From State Schools to 'Global Schools'?
 - Osgoode as Global Law School
 - NYU's Global Law Franchise (Jean Monnet, Hauser & IILJ Programs)
 - Michigan's Internationalism
 - McGill's Transsystemic Program
 - UBC's coming mandatory TL course
 - University of Toronto's 1st yr ICT oriented electives

Curriculum Dimensions: Int'l, Transnat'l, Global ...

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- **Institutional Dimensions 1**
 - Visiting Faculty, Exchange Students, Research Centres, CLPE Research Fellows (Faculty and Grad students)
 - Summer Schools domestic and abroad (ATLAS, Prato [through Monash U, Australia], Hebrew University (through York),
 - Significantly Internationalized Graduate Program (General Research Stream LL.M. integrated with specialized LL.M. programs operated through Osgoode Professional Development Program)

Curriculum Dimensions: Int'l, Transnat'l, Global ...

- **Institutional Dimensions 2**

- Joint Programs

- Existing: NYU (JD/LLB, LLB/LLM),
Montréal (Bachelor in Common/Civil
Law)
- At York: LL.B./MBA (with Schulich
School of Business) / LL.B./MES (with
Faculty of Environmental Studies)
- In Finalization Stage: Asia, Europe

Curriculum Dimensions: Int'l, Transnat'l, Global ...

- **Institutional Dimensions 2**

Summer Internships:

- Summer Placements with Public Policy Institutions across Canada and abroad
- Student-driven [International Legal Partnership Program](#)
- [Ian Scott Public Interest Internship Program](#)

Curriculum Dimensions: Int'l, Transnat'l, Global ...

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Upper Year Curriculum:

Upper year specialization programs vs.
mandatory overview of Int'l Law vs.
transnationalization of core curriculum

- Osgoode's ICT Program
- Other specialized programs: ADR and Taxation
- Clinical Programs, domestic and abroad

Curriculum Dimensions: Int'l, Transnat'l, Global ...

...e.g. Osgoode's **International, Comparative and Transnational Law (ICT) Program**

- 1st year, 2nd term Elective: “[Globalization and the Law](#)” ([TL Modules](#)) as one of several “perspective option courses”
- Upper Year Credit collection in related courses
- Ends with Capstone course, ICT Colloquium
- Graduation with ICT Specialization
- AIM: No basic introduction into “Intl'l Law”, but critical inquiry into transnational law and legal pluralism

Facing the Grind

Recent Innovation: 1st year curriculum reform

- ‘Ethical Lawyering in a Global Community’, addressing the ethical challenges of lawyers in increasingly transnational and multicultural Canadian society
- Partial Shift to full-year courses (Legal Process & Public/Constitutional Law)
- Second term, perspective option
- Full Year Legal Theory Seminar (as PO)

Rationales: Breadth & Depth

Stated Objectives in Osgoode's First Year Curriculum Reform Paper 2006:

1. Encouraging critical and reflective approaches to the study of law (from beginning and systematically first year)
2. Incorporating legal ethics and professional responsibility into curriculum
3. Exposing all 1st yr students to transnational and globalized character of law
4. Better integration of skills development into curriculum, high order research, analytical and communication skills, advocacy, interviewing, conflict resolution
5. Improved pedagogy through active learning methods, more feedback and more varied forms of assessment

Transnationalizing the Curriculum for the Future

- Integrating transnational dimensions into general curriculum ([Pat McFadden](#)'s critique of provincially minded judges: jurisdictional, doctrinal and methodol.)
- Transparency of Syllabi and Teaching Websites
- Research into growing literature on transnational elements in law school curricula
- Faculty retreats and thought exchange
- Annual Course Design Institute
- Drawing on Foreign Graduate Students' expertise and experience (TA, adjunct, guest lectures)
- LRW training of students with foreign materials
- Encouraging involvement in exchange programs, law reviews and clinical work

Back to Llewellyn's Question: What For Whom?

- Who are we educating?
 - The “total jurist”?, the “uniform jurist”?
 - Getting the balance right between
 - Generalization and specialization (with every element added you lose another)
 - Corporate v social justice
 - Clinical v academic
 - Theory and Practice

Identifying Goals and Processes

Law School as Knowledge Laboratory

- Optionalizing before Officializing
- Diversity over programmatic brainwash (Dean Grossman, ACL, D.C.: Curriculum Reform as ongoing, ‘evolving process’)
- Socialization as ‘lawyers’ in first year – presentation of (career & education options, strengthening dialogue between teachers and students)

Situating Our **Projects** to Recognize our **Responsibilities**

- **North America:**
 - **U.S.:** Legal Education for the Hegemon?
(overcoming parochialism as civic duty?)
 - **Canada:** Legal Education for
 - a Pluralist Society
 - the U.S. neighbour (NAFTA etc)
- **Europe:** European Integration, New Boundaries, New Identities, Legacies (European Social Model vs Regulatory Competition etc)

A Future of Legal Education?

Past: Legal Education “before Globalization”

Presence: Pressure, Adaptation

Future: Demands of Globalized Practice, Knowledge

From a focus on legal training as instrumental, affirmative, non-critical, oblivious to law’s ‘machinery of justice’ to a critical, comparative, interdisciplinary practice and knowledge-driven education

Central: Integration of legal education with Lawyers’ role in society

- SKILLS Training: not only corporate, instrumental, but critical
- Assess the need to reconceptualize the role of “**foundations**” in law school curricula