

Taking Globalization Seriously

Michigan Breaks New Ground by Requiring the Study of Transnational Law

The class of 2004 of the University of Michigan Law School is a unique group; it is the first law school class in the United States required to take a course on Transnational Law in order to graduate.

While most law schools offer courses in international and comparative law, often in great numbers, Michigan is the first, and so far the only, American law school to *require* such a course. This arguably constitutes the most important law school curricular innovation in several decades. In large part, it was a response to the urging of Michigan alumni to inculcate graduates with an understanding of the global dimensions of law. It has reaffirmed the Law School's commitment to international and comparative legal studies and confirmed its position as a leader in that field. The requirement of the course has received wide attention and much praise as an "historic step,"¹ including kudos from Su-

preme Court Justice Sandra Day O'Connor.² Increasingly, other law schools are considering Michigan's example.

When the faculty voted to make the course a prerequisite for graduation, it acted upon the conviction that, in today's legal environment, a fundamental understanding of law in the global context is an indispensable element in every lawyer's professional tool kit. The faculty wanted to convey the message that in light of the rapidly increasing international mobility of people, goods, services, and capital, a basic knowledge of the international dimensions of law is no longer simply an option but has become a necessity, not unlike a basic knowledge of contract law, property rights, civil and criminal liability, procedure, and our constitutional framework.

The main purpose of the Transnational Law course is twofold. First, it teaches *every* student the absolute minimum every lawyer should know about law beyond the domestic American orbit. This is important not only to become qualified for practice in an age when few areas remain unaffected by international issues, but also to become a well-educated lawyer at a time when the United States is more deeply involved than ever in world affairs. Second, the course lays the groundwork on which more advanced international and comparative law courses can build. From now on, teachers of such courses can presume that their students have at least a broad overview of the law's international dimensions.

In order to accomplish these goals, the coverage of the course is necessarily general. "Transnational Law," a term introduced by

Judge Philip Jessup in his Storrs Lectures at Yale half a century ago, encompasses "all law which regulates actions or events that transcend national frontiers."³ This law comes mainly from three major areas: public international law (the law of nations), private international law (conflict of laws), and foreign and comparative law. It includes not only norms that are "international" by their nature, such as treaties or custom, but also domestic rules and principles governing transnational issues, such as U.S. law dealing with foreign litigants or with American business activities abroad.

The specific content of the course has evolved and continues to evolve. Currently, it is divided into four main parts. It begins with a fairly substantial introduction to the major actors, sources, and principles of public and private international law. The second part addresses the fundamentals of international dispute resolution, among states as well as among private parties, including the ground rules of foreign judgment recognition and the principles of international commercial arbitration. Part three focuses on transnational transactions, especially negotiation and drafting, proffering specific examples. Finally, the students are briefly exposed to a few special areas in which the Michigan faculty has particular strengths: international human rights, European Union law, and international trade. These areas are introduced by faculty who specialize in them. Here, the students can see how the general principles they have studied apply within a particular context and get a glimpse of some of the upper-level courses in international law offered by other faculty members.

The teachers involved have brought a wide range of special knowledge and experience to the classroom, creating a synergy between various subjects of transnational law.⁴ Some sections are co-taught by a public and

All columns are the opinion of the writer and do not represent the position of the Legal Education and Professional Standards Committee or the State Bar of Michigan.

private international law scholar, others by a full-time academic in cooperation with an international practitioner as an adjunct. This has turned out to be a highly valuable learning experience for the instructors themselves.

So far, the law school's experience with the course has been overwhelmingly positive. The great majority of students have responded with enthusiasm and praise, both in the classroom and in course evaluations. On the faculty side, the course has intensified the interaction among those teaching international and comparative subjects. In particular, faculty who have contributed to the teaching

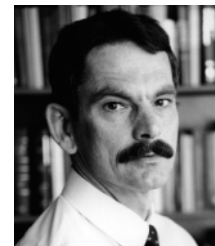
materials have taken a greater interest in what each is doing in other coursework.

Still, challenges and problems remain. Covering such broad material in very little time entails a constant struggle against oversimplification and superficiality. A major problem is that the course is currently limited to two credit hours. Another concern is the effect of the course on student interest in the traditional upper-class international and comparative law offerings. Ideally, the basic course should whet the students' appetites and thus lead to greater interest in the more specialized areas. Yet, it is also possible that

students will take only the transnational course and proceed no further. Even in that case, however, at least all students have learned an indispensable minimum.

In the meantime, the positive effects of introducing Transnational Law as a mandatory course are already beginning to show. Teachers of upper-class courses are seeing a new, more internationally-sophisticated generation of Michigan students. Previously, many students had either considered international issues complete mysteries that were best avoided or regarded them as exotic idiosyncrasies that they approached with great

trepidation. In contrast, those who have completed Transnational Law tend to see international dimensions as fairly normal challenges that need to be tackled just like any others, albeit with particular circumspection. As Professor MacKinnon put it reporting on her experience in teaching Sex Equality, "Michigan students now handle the international materials in the course with perfect aplomb instead of looking like 175 turned-off television sets at the first mention of the International Convention on Civil and Political Rights." This is exactly the way it should be. ♦



Mathias Reimann graduated from the University of Freiburg and obtained a doctorate in law with a dissertation on German legal history. He received an LL.M. from the University of Michigan and joined the faculty in 1985.

He has also taught in several countries, including the University of Trier, Germany, the European University Institute in Florence, Italy, the Universities of Freiburg, Frankfurt, Paris, and Tokyo. He is involved in a major international research project on the unification of European private law and served as a general reporter for the Comparative Law World Congress in Brisbane, Australia on international product liability law.

FOOTNOTES

1. Anne-Marie Slaughter, Notes from the President, American Society of International Law Newsletter, March/April 2002, 1, at 4. See also Jeffrey Atik and Anton Soubout, International Legal Education, 36 Intl. Lawyer 715, at 717-718.
2. Sandra Day O'Connor, Keynote Address, American Society of International Law, Proceedings of the 96th Annual Meeting, March 13-16, 2002, Washington D.C. (2002), 348 at 352.
3. Phillip Jessup, Transnational Law (1956), 2.
4. So far, the course has been taught by five tenure and tenure-track faculty with diverse specialty interests: Reuven Avi-Yonah (international tax law), Michael Barr (financial institutions), James Hathaway (refugee and asylum law), Rob Howse (international trade), and Mathias Reimann (international civil litigation). In addition, Tim Dickinson (an expert in international business transaction) teaches the course as an adjunct professor. Two visitors have joined the ranks: Karima Bennoune (a human rights scholar) and Joel Samuels (a specialist in public international law and international arbitration).