LAW SCHOOLS AS AGENTS OF CHANGE AND JUSTICE REFORM IN THE AMERICAS

Jon Mills* and Timothy McLendon**

I. INTRODUCTION

As the legal community of the Americas evolves, the role of law schools and legal education must change with it. New realities of globalizing commerce and communication dictate that the legal profession understand and deal with emerging legal relationships. Wherever the future may lead with regard to the various treaties between nations in this hemisphere, like CAFTA, NAFTA, the FTAA, Mercosur, and others, it is obvious that the Americas are drawing irrevocably closer.

How will law schools participate and react? There is, in my opinion, an obligation for universities and particularly law schools, to be involved in society and promote social justice. This concept is not alien to Latin America.1 The challenge is to be in harmony with contemporary society and yet be a force for change at the same time. However, the opinion that colleges should be agents of change is not universal. Some law schools take a more limited view that schools should simply prepare law students to become lawyers, judges, or some other type

* Dean Emeritus and Professor of Law, University of Florida Levin College of Law.
** Staff Attorney, Center for Governmental Responsibility, University of Florida Levin College of Law. The authors would like to thank Brian Frankel and Brian Eves for research assistance in the preparation of this Article.

1. Maria Antonieta Saenz Elizondo, Role of Colleges of Law on Legal Reforms in the Americas, at 1 (May 26, 2000) (unpublished paper, on file with the authors) (“It has been a tonic of the Latin American university and especially the Faculties of Law to generate the most profound reflections to fortify the fundamental rights of individuals.”).
of legal professional. But even this more limited perspective should recognize the contemporary
environment and the coming changes. This Article discuss how law schools in our hemisphere
can better prepare lawyers for the future, work together more effectively, and promote
improvements in the justice systems.

II. TRAINING IN THE TRANSNATIONAL LEGAL PRACTICE

A. The Need for More International Law Training in the United States

Law schools in the United States have an obligation to address recent global
developments. In fact, the President of the Association of American Law Schools identified the
globalization of the legal practice as the top current challenge to legal education. Last year the
United States imported 1.5 billion dollars in legal services and exported some 1.25 billion
dollars. “Law schools find themselves racing to keep up with the rapid pace of the changes . . .”
For example, there are no questions on any state bar exam concerning international law and no
mandatory international law courses or exposure to the study of international law in the basic
legal education within the United States.

2. See Alberto Bernabe-Riefkohl, Tomorrow’s Law Schools: Globalization and Legal Education, 32 SAN DIEGO L.
REV. 137, 162 (1995) (explaining that law schools in the globalization era should “provide students with a complete
education[;]” one that develops practical skills, yet still emphasizes research, criticism, and contributions to society).
5. See Claudio Grossman, Building the World Community: Challenges to Legal Education and the WCL Experience,
A challenge facing law schools around the world is to teach and understand what some have termed “transplant laws.” These legal and statutory changes in countries across the world are made for a number of reasons including: cost savings, compliance with external dictates, entrepreneurial changes, and generating legitimacy. In other words, these policy changes were not always made as a result of debate and national consensus. Responding to these various incentives create a global patchwork of new laws with varying compliance or understanding. What all of these changes have in common is their significant altering of the international playing field. Consequently, law schools and academic professionals have an obligation to adjust our teaching methods and curriculum to match the evolving international situation. The point is, we are in a rapid state of change that requires law schools to react with greater speed than we have in the past. The effectiveness of teaching can be greatly enhanced by cooperation among law schools in the hemisphere.

B. Avoiding “Legal Imperialism” in Latin America

In developing and assisting with justice systems, U.S. assistance has sometimes been termed “legal imperialism.” The criticism suggests that much of the American legal assistance

was premised on the conclusion that the legal model in the United States is better than the ones in other countries. 8 This concept has also been called “Americanization,” where U.S. language and legal norms become the standard in other nations due to the predominance and power of the United States in the international community rather than through free choice. 9 To avoid this perception, the goal of any proposed program should not be to install the American legal system, but rather to engage in a dialogue about common principles and studies of successful procedures. To be successful, any legal model must be a product of the values and culture of the citizens it governs. Therefore, mutual understanding in seeking successful models is central to success.

C. Differences Between the United States and Latin America

The future lawyers of the Americas should learn that the rule of law stems from the society in which it is located. If the society is democratic and open, then the law will likely be the same. These future leaders must also learn about the differing cultural and historic contexts that have guided legal development in our hemisphere. For example, the difference in the colonial histories and economic systems of the United States from the rest of the Americas provides a critical basis for understanding the current distribution of wealth and the structure of governments in the hemisphere. 10 Even so, colleges in the United States rarely offer courses

10. Of course, significant distinctions exist within Latin America based on differences of culture, history, and geography. Similar, though lesser, differences exist within the various states of the United States. Nevertheless, and especially within the context of addressing distinctions between the common law and civil law traditions, there are important commonalities within Latin America.
comparing Roman Law to Common Law theories, and when such courses are offered, they are featured mainly as electives for small groups of curious upper-level students.

Traditionally, legal education in both Latin America and in the United States focuses on the classroom. In the United States the Langdellian method of Socratic teaching using casebooks of mainly appellate court decisions remains basically unchanged since the late 1800s. This method of developing analytic abilities through the Socratic Method has been criticized as lacking practical training in the actual practice of law. The growth of clinical teaching and skills courses has emerged as a partial response to this criticism, but law schools in the United States remain focused on the older methods. The other significant factor about legal education in the United States is that it is a three-year graduate program which follows an initial four-year undergraduate study, and the undergraduate study is often conducted in areas entirely unrelated to law.

In contrast, Latin American civil law education is an initial five year university program without further required study. Instruction is traditionally based on passive lecture without skills instruction or engagement in problem solving. Reported structural issues in many parts of Latin America include a shortage of full time faculty, low salaries, and a lack of access to law school for lower income groups. Some law schools have undergone significant changes in the last few years.

---

years. One example is the series of reforms recently instituted in Guatemala, where reforms included changes to the curriculum to include courses on conflict resolution, gender, human rights, indigenous peoples, and domestic violence, in addition to teaching approaches that attempt to integrate practical applications as well as theoretical lectures. Further reforms included upgrading facilities, providing access to greater legal technology, improving clinics, and the introduction of externships with courts, prosecutors and public defenders. However, attempts to limit enrollment or introduce tuition fees have been problematic.

D. Subjects Critical to Law Schools in the Americas

Treaties and trade agreements are of obvious significance when considering the education and practice of international law. Treaties are important in forming international law and relations. Trade has lasting effects not only on economies of the involved nations, but on poverty, labor, women, indigenous populations, health, and the environment. It is important for the expansion of legal education in international law involve a solid grounding in treaty and trade practice between nations, especially in Latin America given its close proximity to our nation.

Environmental issues have been examined in the U.S. legal system and education system

---

14 For more on Guatemala’s legal education reforms, see, e.g., Steven E. Hendrix, Reforming Legal Education in Guatemala: A Model for Law School Reform in Latin America?, 54 J. LEGAL EDUC. 597, 603-04 (2004) (describing USAID-funded legal education reforms in that country).
15 Id. at 601-04 (noting the differences in implementation of admissions and tuition reforms at various universities that may have contributed to success or failure).
in many different ways. But the close proximity of Latin America to the United States also makes the international practice of environmental law of great importance. Latin American countries have been criticized for failing to promote or enforce legislation that would effectively address the region’s many environmental issues.\(^{18}\) To be effective environmental lawyers, students must be trained in new ways.\(^{19}\) Environmental lawyers need a firsthand perspective of the biology and ecosystems to bridge the gap between written law and its practical application.\(^{20}\)

Any international curriculum should also address important social issues in other countries and their effect on the practice of law. Both the United States and Latin America have faced issues with the poor and indigent parts of society having a lack of access to legal assistance and information. Government support and clinical approaches in legal education have helped provide legal services to the underprivileged in the United States. This is also occurring in Latin America, where some countries have taken a focused look at providing legal support to all levels of society; but it is still quite limited.\(^{21}\) Latin America has also faced a wealth of issues regarding indigenous population and their legal rights and status. With the assistance of the United Nations and many different amnesty concerns, it seems that many important political views and changes are taking place in Latin America with regard to indigenous populations.\(^{22}\) However, there is still


\(^{20}\) Id.


much work to be done for indigenous rights in Latin America, the United States, and the world.

Of course many of the social legal issues in Latin America, as well as in the United States and around the world, stem from real or suggested corruption within the legal and political systems. But countries like Chile, Brazil, Peru, and Mexico have recently gone through important regime and policy changes that show openness to human rights concerns and reflect significant changes in the legal systems of the region. Much of the governmental reforms in these countries demonstrate an increasing sensitivity to due process, human rights protections, freedom of expression, migrant rights, and the rights of children. Unfortunately, some countries in Latin America still have yet to experience important governmental and societal shifts of this nature. Some of the most important changes in Latin America essential to the transnational practice of law are judicial reforms. With the introduction and/or development of stare decisis and integrate appellate processes in some of the Latin American legal systems, the understanding and teaching of the comparative legal systems may be less burdensome.

23 Beginning in the 1980's the countries in the southern cone of South America made the successful transition from military to civilian, democratic rule. See, e.g., Peter Smith, Cycles of Electoral Democracy in Latin America, 1900-2000 (Univ. Of Cal. Berkeley CLAS Working Paper No. 6, 2004), at 31-37; Eduardo Silva, Authoritarianism, democracy and development, in Latin America Transformed (Robert N. Gwynne & Cristóbal Kay, eds., 2004), at 141-56. A similar transition from authoritarian rule has likewise recently occurred in other major Latin American countries that were never subjected to military rule, as for example Mexico or Peru. See id. Columbia, while retaining its democratic forms, was obliged to combat entrenched guerrilla and paramilitary movements, together with powerful drug traffickers. See id.; see generally Freedom in the World 2005: The Annual Survey of Political Rights & Civil Liberties (Aili Piano & Arch Puddington, eds., 2005), at 37-39 (discussing Argentina), 97-102 (discussing Brazil), 140-43 (discussing Chile), 149-52 (discussing Columbia’s struggles against left- and right-wing violence) & 417-21 (discussing Mexico).


25 For an example of some of the current judicial reforms that have affected the criminal justice systems in Latin America, see Linn Hammergren, Institutional Strengthening and Justice Reform (1998), available at http://pdf.usaid.gov/pdf_docs/PNACD020.pdf.
E. Benefits of Greater Emphasis on Hemispheric and Global Exchange

While the U.S. academic community is starting to realize the need for increased global interaction, restrictions still remain on foreign externships and foreign exchanges. These restrictions involve such barriers as accreditation standards that do not easily accommodate foreign externships.26 302(b)(1) (2005) [hereinafter 2005-06 ABA STANDARDS], available at http://www.abanet.org/legaled/standards.html. Other restrictions involve lack of funding, which limits the ability of law schools to conduct foreign programs. Despite these obstacles, there are some very successful foreign programs for both for students and faculty. These programs help build a greater understanding of another language, culture, history, and context, which, in turn, helps develop better mutual professional understanding in the legal community of both nations. The classroom can provide valuable background and contribute to identifying similarities and differences between the systems, but the classroom cannot replace real world experience and interaction.

The basic infrastructure of legal education is unlikely to change quickly. Thus, progress in integrating the profession will likely need to be done in incremental steps. There are numerous successful exchanges that exist between law schools. For example, The University of Florida Levin College of Law has its own success story in its effective partnership with the University of Costa Rica. As a case study, this relationship is worthwhile and will be discussed later in greater

26 ABA Standard 307 allows for the foreign credits, but ABA Standard 305 sets out meeting and interaction requirements for faculty and sets limits as to the credit that can be earned. This makes it very difficult for law students to find school based learning or experience in areas where the faculty might not have reasonable access. See ABA STANDARDS FOR APPROVAL OF LAW SCHOOLS §
But as the transnational practice of law grows, the opportunities of law schools in Latin America to learn and study with teachers and students from the United States and abroad will increase.

The legal community as a whole also has much to gain by the implementation of increased transnational law practice between the United States and Latin America. As the Hispanic and Latino population of the United States grows, as does immigration concerns, it will be important for lawyers to have a firm grasp of the culture and needs of possible new clientele. Moreover, an understanding of the comparative law systems, and access to information about the trade and treaty laws of the different countries, will be of increasing importance in business and corporate law and government concerns. The more transnational law with Latin America is developed in law schools, the more access the legal community will have to information vital for practice.

The American community as a whole also stands to benefit from the increased transnational legal practice. Not only will the population have access to lawyers with better training in the international arena to address their concerns, but our lawyers as policymakers will also have a greater understanding of the international legal community. This is especially important in the aforementioned areas of immigration, trade with Latin America, environmental

27. See infra Part IV.A (discussing clinical programs).
concerns, and many other areas of social concern important to the population of the United States.

III. LEGAL EDUCATION INTERACTION BETWEEN THE UNITED STATES AND LATIN AMERICA

Interaction between legal education institutions in the United States and Latin America is one important and necessary way of fostering transnational legal practice between the countries. Law schools have the resources and flexibility to provide many enriching opportunities for students, faculty, and those practicing in the legal community to meet and study with each other. These interactions can also help promote effectual and positive changes here in the United States and in Latin America.

A. Students

There are many ways that law schools can provide interaction between the United States and Latin America for students. One of the most common ways is through exchange programs.30 Exchange programs allow students to study in another country while typically receiving credit toward their degree at their home school. This provides a unique opportunity for the student to experience the culture of a different country and understand differences in culture and legal

structure. Many of these programs also allow the students to learn about topics specific to the area from the experienced faculty at the school they are visiting. The benefits to a law student are obvious; instead of just a textbook knowledge of the comparative law and legal system, the student witnesses the system and culture firsthand.  

LLM programs are another way to expand international relationships and cultural awareness. First, there are a number of schools now offering LLM programs specifically tailored to an increased knowledge of international law. Some even focus on specific areas on international law like taxation, international relations, and others. However, LLM programs can also bring foreign students to U.S. campuses for postgraduate legal studies and many universities in the United States operate such programs.  

For example, the University of Florida has established a one-year LLM program in comparative law reserved for foreign attorneys and law students, and over the past ten years, UF has hosted law students from Brazil, Colombia, Costa Rica, Ecuador, Mexico and Venezuela. These LLM programs allows students who cannot participate in an exchange program, or students who want to learn about more than one culture, the opportunity to interact with legal students and professionals from many different countries. This experience allows students to gain firsthand knowledge about many different cultures without having to leave the law campus.

There are also short-term changes that could facilitate relationships and the development of common understanding. Student organizations and competitions have flourished in recent

31. See Grossman, supra note 5, at 838.
33. For more information on the University of Florida’s LLM in Comparative Law, see University of Florida Levin College of Law, LL.M. in Comparative Law Program, available at http://www. law.ufl.edu/programs/comparative/.
years. The range of international student organizations and competitions offers a menu of opportunities for our law schools to foster relationships and experience cultural and academic exchanges. In an age of digital and instant communications, such relationships could be easily established and maintained. From a practical point of view and from personal experience, communications north and south can be easier than that of east and west simply because of time zones. Some examples of student organizations that can promote understanding include:

- The International Law Students Association\(^{34}\)
- International Moot Court competitions; and
- Journals focusing on international law issues.

Changes in curriculum are a basic tool of educational institutions that can affect a change. Increased availability of international and comparative law courses is elemental to progress. Exchange programs that give U.S. students the opportunity to study and live in Latin American countries are also an important component to internationalizing the curriculum.

B. Faculty

Law school faculty also stand to benefit from interaction between the United States and Latin America. Specialists in all fields and studies of law can get increased exposure to the different legal systems and cultures, providing them with a broader base of knowledge from

which to teach.

Faculty exchanges, which are usually easier to organize than student exchanges, can be a first step in building new international relationships. Whether done through a student exchange program, an LLM program, or even through some sort of videoconference, faculty exchanges provide the faculty with the same rewards and benefits that students receive from similar exchanges.\(^3^5\) Additionally, it allows the faculty the opportunity to expand their vita with new classes and lectures that might not be available to teach in their home school.

Also, faculty exchanges do not need to be long term time commitments for the participating faculty member. The University of Florida Levin College of Law developed short-term faculty exchange programs, with foreign faculty visiting Florida to teach “enrichment” courses of one to three weeks.\(^3^6\) During the Spring 2006 semester, one of this Article’s authors, was privileged to host professors from Peru and Chile in an enrichment course focusing specifically on law and policy in the Americas. These short term exchanges still provide similar benefits to the exchange and LLM programs, but without the significant time and money commitments from the visiting professor or professional.

There are also special projects that can bring the faculty from different campuses and countries together. Whether it be a symposium addressing a certain topic, or a conference addressing a certain area of law, law schools can find new and exciting ways to bring law education professionals from around the world and locally to meet each other. Research projects

---


\(^3^6\) The University of Florida and the Pontifical University of Rio de Janeiro, Brazil, have established joint “enrichment” exchanges of faculty that take advantage of the differing academic schedules in Brazil and the United States to allow faculty to teach these short term courses.
are also frequently overlooked as a method of creating strong transnational legal education programs. Not only will these projects themselves provide benefit, but the opportunity to build strong transnational legal networks between students, faculty, and professionals will be invaluable to everyone involved.

**C. Areas of Concern**

When considering the legal education interaction between the hemispheres, there are many areas of study that should be addressed for the benefit of all involved. We must ensure that we not only increase the interaction between the nations, but also ensure that the interaction is meaningful and promotes positive change.

Increased attention to the ethical policies and practices involved in transnational and multinational legal transactions will be of growing importance to lawyers throughout the Americas. Currently, law schools in the United States frequently teach ethics and professionalism as part of the curriculum. Forty seven states require students to pass the MPRE, the Multistate Professional Responsibility Examination, as part of the requirements to practice law within the state. However, we are unaware of any of these courses or exams including substantial materials on transnational practice. In addition to the obligation to facilitate

---

37. See Friel, supra note 35, at 511.
understanding of the modern consequences of the global community, law schools also have the
duty to teach students about their ethical obligations both to their clients and to the community as
a whole.

Law schools have a direct and explicit responsibility to prepare students and legal
professionals to be part of the legal community. Inherent to that duty is the need to enrich the
cultural and professional knowledge and experience of those who study there. This means not
only addressing the specific educational and professional needs in an area of expertise, but
helping to develop professionals with a solid understanding of the different transnational and
comparative law interactions. Likewise, law schools should help foster the appreciation for other
societies and cultures and how they affect the practice of international law and policy.

IV. NON-TRADITIONAL APPROACHES

There are other ways for law schools to effect a positive change in the practice of law in
Latin America and in the United States beyond just the expansion of curriculum, faculty, and
student exchange. Non-traditional approaches to the practice of law and legal education can
provide additional options to the transnational practice of law.

A. Clinics

Clinics and clinical education are non-traditional approaches that can reap immediate and
helpful rewards to students and the community. Promoting clinical and direct assistance to individuals in need, the clinical movement has only recently gained broad acceptance, seeming grudgingly so, by the mainstream U.S. legal education system. The purpose of clinical education is not to replace the substantive law taught by mainstream academia, but rather to bridge the gap between theory and practice. There are multiple benefits of direct legal services clinics:

- Direct service to individuals in need (especially the poor or underserved indigenous populations);
- Practical training of students; and
- Promotion of careers in areas of public interest or public need.

Law school clinics now commonly allow students to practice criminal law, family law, consumer law, landlord and tenant law, environmental law, tax law, human rights law, and alternate dispute resolution, all under the supervision of a licensed practitioner. The Conservation Clinic at the University of Florida Levin College of Law offers another approach to clinical education. Rather than litigation, the Conservation Clinic provides research and legal drafting

---

39. ABA Standard 302(b)(1) states that a law school should provide substantial opportunities for “live-client or other real-life practice experiences, appropriately supervised and designed to encourage re-election by students on their experiences and on the values and responsibilities of the legal profession . . .” 2005-06 ABA STANDARDS, supra note 26, § 302(b)(1). This live-practice requirement is met by provision of both clinics and externships.

40. See, e.g., Mark Spiegel, Symposium: Clinical Education, Theory and Practice in Legal Education: An Essay on Clinical Education, 34 UCLA L. REV. 577 (1987); Richard K. Neumann, Jr., Donald Schon, the Reflective Practitioner and the Comparative Failures of Legal Education, 6 CLINICAL L. REV. 401, 404 (2000). Neumann notes that, unlike graduate programs in medicine or architecture, modern legal education has neglected the fact that law school trains and educates practitioners. Id. at 426. Clinical education is one aspect of legal education that focuses on skills development. These courses would include counseling, interviewing, legal research and writing, and even alternate dispute resolution and mediation, all of which are an increasingly recognized, though undervalued, part of the law school curriculum. See Don Peters, Mapping, Modeling, and Critiquing: Facilitating Learning Negotiation, Mediation, Interviewing, and Counseling, 48 FLA. L. REV. 875, 875-77 (1996).
support for clients such as NGOs, state and local governments, and international organizations. The University of Florida’s Conservation Clinic operates in conjunction with the school’s summer program in Costa Rica allowing students to work on international environmental projects.41

Clinics began operating in many Latin American law schools around the same time they became a feature in U.S. legal education.42 There are legal clinics throughout the Americas, and some are significant and continuing. These clinics reflect issues and concerns of their particular country. Chile provides an example of clinical programs working well within a nation’s legal system, benefiting students, society and needy individuals.43 In countries such as Chile, clinical education is not a requirement for graduation, but related requirements call upon law students to

41 To further this transnational approach to clinical legal education, the UF Clinic’s Director spent a semester at the University of Costa Rica faculty of law helping to set up a “consultorio juridico ambiental,” modeled after the UF clinic. The Consultorio now operates on a year round basis, and may be the first in-house clinic devoted solely to environmental law in Latin America and the Caribbean. The benefit to UF students and faculty is the ability to step into an ongoing clinical program with its own portfolio of projects, applying their U.S. legal skills to culturally distinct context. Good examples of this unique collaboration is the research and drafting support for a brief to a Costa Rican environmental administrative tribunal concerning the application of the ISO 14001 international environmental management standard to domestic Costa Rican law, and an endangerment petition under the World Heritage Convention to declare the Belize barrier reef a World Heritage Site endangered due to climate change. See University of Florida/University of Costa Rica Summer Program in Environmental Law, available at http://conservation.law.ufl.edu/summer_costarica (last visited Oct. 9, 2007). Students from the United States and Costa Rica collaborated in the former; while students from the United States, Jamaica and Belize collaborated on the latter. For more information on the UF Conservation Law Clinic, see also University of Florida Levin College of Law, Conservation Clinic, available at http://conservation.law.ufl.edu (last visited Oct. 9, 2007).


43 The majority of Chilean law schools now include clinical education in their curriculum. See Richard J. Wilson, Three Law School Clinics in Chile, 1970-2000: Innovation, Resistance and Conformity in the Global South, 8 CLINICAL L. REV. 515, 520 (2002) (highlighting the examples of law clinics at the University of Chile Law School, the Catholic University of Chile Law School, and the Diego Portales University Law School).
provide a certain amount of public service to the poor. The use of clinics in Guatemala provides students with valuable experience in issues of civil, family and labor law, while providing poor women and indigenous people access to justice. In Costa Rica, the faculty at the University of Costa Rica is considering the establishment of a Center for Conflict Resolution to train mediators, with the expectation that this will include a student training component.

B. Externships

Externships also provide an alternate method of delivering legal education as well as expanding the possibilities of international law experience. These types of programs allow the student to actually work in the field of law under the tutelage of one or more practicing attorneys. While this is not exactly new or non-traditional in practice, its application to international law could be an exciting way to expand international law education. Law schools and legal professionals can work together to provide externships both in the field of international law and/or practicing in another country. The benefits for students are similar to exchange programs, except the students get direct “real world” experience in the practice of law. Furthermore the companies and firms hosting the extern get additional service and the chance to

44. See generally González, supra note 12 (noting the public service requirement for admission to practice).
45. See Hendrix, supra note 14, at 604 (discussing similar USAID-funded clinical education reforms in neighboring El Salvador).
46. See Don Peters, To Sue is Human; To Settle Divine: Intercultural Collaborations to Expand the Use of Mediation in Costa Rica, 17 FLA. J. INT’L L. 9, 15 (2005) (noting that there is also discussion of creating a regional center for conflict resolution based at the University of Costa Rica).
work with and hire quality attorneys from other areas of the world. However, there are some current difficulties in setting up such programs. The ABA Standards for approval of Law Schools allows law schools to give credit for studies done in foreign countries, but there are faculty supervision requirements that make it difficult.48

C. Other Nontraditional Programs

There are also different types of law school based organizations that focus more on researching current issues of law and policy rather than on direct client service. These types of research centers also grew in periods of social evolution. There are multiple policy centers dealing with issues ranging from environmental law to consumer law to human rights. Many are based at law schools.49 These usually are partially funded through grants (both private and public), contributions, and law school sources. Again, the benefits are multiple:

- Direct impact on public policy [legislative drafting and policy analysis];
- Experience and training in public policy; and
- Promotion of careers in public policy.

48. See 2005-06 ABA STANDARDS, supra note 26, § 306.
49. The Center for Governmental Responsibility at the University of Florida Levin College of Law was founded in 1974 as a legal and policy research institute. Affiliated center staff teach at the College of Law and research issues including environmental law, trade, elections, welfare reform, constitutional law, as well as international issues such as this conference. See generally University of Florida Center for Governmental Responsibility, available at http://www.law.ufl.edu/cgr/ (last visited Oct. 9, 2007).
There are examples in Latin America of such policy centers linked to higher education. A good example is the Centro de Investigaciones Jurídicas at the Universidad Diego Portales in Chile, which has been influential in the development and implementation of criminal procedure reforms in Chile.

Mediation and Alternate Dispute Resolution are some of the most sweeping and important changes to the traditional practice of law in the United States.⁵⁰ These ideas and types of legal practice are also spreading to many other countries around the world. This type of practice allows parties to arbitrate and try to settle disputes outside of the courtroom. Obviously this helps to relieve overburdened legal systems, like the systems in the United States. Additionally, this helps lower the costs of legal actions, making them more accessible to the indigent and less wealthy within a society.⁵¹ What is more, these benefits come without sacrificing the ability of anyone to access the legal system and get their “fair day in court.” Giving Latin American legal systems the opportunity to evaluate and examine these types of dispute resolution will be of great importance for the future of the Latin American legal community.

Many of these non-traditional approaches of law practice can be combined to produce unique opportunities for students and faculty. The University of Florida Levin College of Law summer program works with the University of Costa Rica to bring American, Costa Rican, and other Latin American law students together to study environmental law under American and

---

⁵¹ Id.
Costa Rican professors. While this program has the typical elements of a study abroad opportunity, it also adds elements of a clinic and fellowship, allowing students to get hands-on experience with local law and policy.

V. THE FUTURE OF LAW AND LEGAL EDUCATION IN LATIN AMERICA

It stands to reason that plans to implement change to legal education, whether here in the United States or in Latin America, must have clear goals and objectives. Primary among these goals is increased interrelationship among law schools in the Americas.

A. Legal Education

Legal education in both North and South America is continually challenged by a need for financial resources and better facilities. Studies done by Latin American researchers find that many law schools in Latin America need to improve their resources to provide a better education for students and thereby produce higher quality attorneys.52 The physical conditions and needs of different schools must be weighed and valued in a case-by-case setting, but there are some common problems identified by researchers that seem to interfere with many Latin American

52 For an example of the importance of educational reform in Latin America, see Luis Pasara, La Enseñanza del Derecho en el Perú: Su Impacto Sobre la Administración de Justicia [The Education of the Right in Peru: Its Impact on the Justice Administration] (Lima, Peru, Ministerio de Justicia, Aug. 2004) (a report on the problems in the legal education system of many low quality schools producing lawyers and the negative impact on the legal system).
law schools including “poor physical facilities, limited and obsolete library resources, outdated curricula, weak research communities unable to participate in knowledge production and to confront economic and social problems”.

Another major issue identified by studies of Latin American law schools is hiring and retaining full time faculty. With many schools going under-funded or experiencing issues with corruption, teaching salaries cannot match opportunities for employment outside of the field of legal education. This fact leaves many law schools without resources to attract top faculty and leaves current faculty dissatisfied. This problem is already being addressed through governmental and educational reform in some countries. The introduction of visiting faculty from other law schools for exchanges, visiting terms, and other special projects can assist and enhance legal education in Latin America by providing additional faculty resources to the law schools.

Exchanges, LLM programs, conferences, and other programs provided by U.S. law schools can provide increased opportunities for both students and faculty in Latin American law schools. Furthermore, these activities encourage reciprocal programs from Latin America, bringing more law students from the United States to Latin America, providing an insight into our culture and legal system that many of these students could otherwise never receive. Support from both public and private sources is necessary to make these programs a reality. With better

53. Fuentes-Hernández, supra note 13, at 42.
54. See Wilson, supra note 43, at 534 (providing a brief discussion on the low pay of faculty in Latin America and how it obliges professors to continue in their profession and only teach part-time).
55. See Fuentes-Hernández, supra note 13, at 42 (discussing problems with the quality of Latin American legal education).
56. See Leah Wortham, Aiding Clinical Education Abroad: What Can Be Gained and the Learning Curve on How to do So Effectively, 12 CLINICAL L. REV. 615, 672 (2006) (discussing how clinical education can be encouraged and
faculty resources and increased program opportunities, these law schools will be able to produce higher quality attorneys.

These changes can and should bring about increased interaction with the different segments in society. As mentioned above, clinics and pro bono opportunities bring legal assistance to a segment of the population that is normally outside of its reach. With this interaction, the law students continue to get access to means of “real world” experience that will better prepare them for the practice of law.

Accreditation and quality assurance is another issue that is essential in an increasingly complex legal environment. As the number of Latin American institutions offering legal education grows, there needs to be established standards regarding what is required for a legal education. In the United States, accreditation is voluntary and is conducted by two private organizations: the legal education section of the American Bar Association (ABA) and the American Association of Law Schools (AALS).57 The AALS is composed of member law schools that meet certain criteria involving teaching, research, the intellectual community, academic freedom, governance, and a commitment to public service and justice.58 ABA approval is more significant in the accreditation process, requiring law schools to meet eight chapters of legal education standards in areas of curriculum, faculty, admissions, financial resources,

---

57. The national accreditation role of these two organizations is especially significant given the fact that admission to the practice of law remains a function of the supreme courts of the various states. The national accreditations allows these state bars to rely upon the legal education of out-of-state applicants. See generally James P. White, History of the Administration of the American Law School Accreditation Process, 51 J. LEGAL EDUC. 438 (2001).

physical facilities, and library resources.59 The ABA also requires periodic self-studies by each law school, and ABA site visitation teams, composed of lawyers, professors and judges, conduct school inspections.60

Both models of accreditation would seem to be available in the Latin American context. This process is important because, as legal education has expanded in both public and private universities, enormous disparities have arisen in access legal education and the quality of university facilities and faculty.61 Existing regional consortia of universities in Latin America may provide a foundation to evaluate the quality of the different institutions. For instance, six universities in Brazil, Argentina, Paraguay and Chile compose the Asociación de Universidades del Grupo Montevideo, which was formed to promote research and improve education.62 Additionally, the older Unión de Universidades de América Latina, in existence since 1949, has similar goals. These member-based organizations offer a possible locus for voluntary regional accreditation by guaranteeing the quality of their members.63 Another national model for accreditation is offered by governmental entities such as the Brazilian agency, CAPES, which monitors post-graduate programs, or the Council for Research, which considers elements of undergraduate education.64 This type of accreditation would not be voluntary, but would be

59. See generally 2005-06 ABA STANDARDS, supra note 26; see also Appendix A — Law School Accreditation.
60. See White, supra note 57, at 441-42.
61. See generally Fuentes-Hernández, supra note 13 (discussing the problems in quality in Latin American legal education that have accompanied the great expansion of enrollment).
62. For a discussion on many of the groups, policies, and practices that have worked for educational reform in Latin America, see generally Jorge Balan, Reforming Higher Education in Latin America: Policy and Practice, 41 LATIN AM. RES. REV. 228 (2006).
63. See Monica Pinto, Developments in Latin American Legal Education, 21 PENN ST. INT’L L. REV. 61, 64 (2002). Obviously, these organizations would need to address specific needs and requirements of legal education and provide for some monitoring of member universities.
government mandated and supervised. For example, Peru has passed legislation that created a system of accreditation for the entire national collegiate school system.\textsuperscript{65}

A basic approach to accreditation for law schools in Latin America would need to address the following issues:

- Full-time dean and administration focusing only on legal education;
- Nondiscrimination on basis of race, color, national origin, sex, sexual orientation;
- Adequacy of class hours available for legal instruction;
- Credit to be given for foreign studies, including recognition of foreign programs;
- Adequate student-teacher ratio, including standards for both full-time and part-time professors;
- Standards for admission to law school, including necessary preliminary tests;
- Availability of adequate student services, advising and career counseling;
- Availability of adequate law library and legal information technology;\textsuperscript{66} and
- Adequate facilities for classrooms and study areas.

\textsuperscript{64} See Nadia de Araujo, \textit{The Status of Brazilian Legal Education}, 51 J. LEGAL EDUC. 325, 331 (2001) (noting that the Brazilian Ministry of Education also conducts a two-part examination of law schools including its facilities, faculty, and student performance on national and bar exams).

\textsuperscript{65} See the attached copy of Ley No. 28740 (19 May 2006), available online at: http://www.unmsm.edu.pe/reforma/descargables/leyesuniversitarias/ley28740.pdf. It established SINEACE, El Sistema Nacional de Evaluación, Acreditación y Certificación de la Calidad Educativa, which is a governmental entity that is responsible for certification and accreditation within the entire Peruvian educational system. While it does not focus specifically on law schools, obviously law schools in Peru stand to benefit from the general standards set forth for any educational system within the country.

\textsuperscript{66} The University of Florida law library was found inadequate by an ABA accreditation evaluation in 1998-99. This finding helped prompt construction of a new legal information center and classroom facilities at the University of Florida in order to bring the school into compliance with ABA standards.
Introduction of accreditation criteria would likely include aspirational goals, for example in numbers of full-time faculty, facilities, or information technology. Such a simple accreditation model could be introduced relatively easily, though the implementation would be a challenge to many law schools. The standards require monitoring and accountability, a role performed by the ABA in the United States.

B. Support for Judicial Reform

There are important social, political, and legal changes occurring in Latin America and many of these changes are directly affecting the legal practice there.67 The increased interaction with the U.S. legal education system can be a positive force for change in many of these areas. Already we can see many of these important changes occurring with judicial reform in Latin America.

Many of the legal systems in Latin America do not have a system of following precedents of higher courts. Actions are decided on a case-by-case basis. This practice can lead to conflicting or inequitable outcomes. However many legal systems are beginning to seriously consider a push for “stare decisis.”68 One potential benefit is judicial economy in that issues previously decided do not have to be re-litigated. Not only will this cut down on the number of

---


legal issues presented to the courts, but will also provide a more stable, predictable, and equitable system of law.69

Latin American court systems are also starting to turn to a more consolidated court system. Many of the current legal systems in Latin America are composed of different types of courts requiring various types of actions, sometimes involving the same incident, to be filed in different courts of jurisdiction. Each of these courts has its own requirements and appeals, while sometimes dealing with overlapping issues. This keeps the legal system too complicated and out of reach of many of the country’s citizens.70 As many countries move toward a more streamlined legal structure with clear boundary lines, these issues will become more regulated and make the legal system more accessible to both the lawyer and the common man.

As stated above, legal systems both here and in Latin America have struggled with corruption and unequal preference given to the wealthy in society at various times. The result is low credibility of the justice system and rising crime rates.71 As the governments enforce judicial reform and promote social welfare, these issues are being addressed from within.72 Interaction among the entire legal community in our hemisphere can help as we share ideas on how to


combat corruption and increase or focus on ethics and professionalism.\footnote{See generally Luz Nagle, \textit{The Cinderella of Government: Judicial Reform in Latin America}, 30 CAL. W. INT’L L.J. 345 (2000) (discussing some of the issues facing the legal systems in Latin America and the current attempts at reform).}

\section*{C. Better “Partnership” of the United States and Latin American Legal Communities}

One positive change that can be brought about in the near future is a closer relationship between the law schools here in the United States and those in Latin America. By working together and forming lasting partnerships we can provide a multitude of benefits both for Latin American and U.S. students. As stated above, these partnerships will also provide tremendous benefits for the legal communities across both regions.\footnote{One of the important benefits would include increased national economic growth, see Richard A. Posner, \textit{Creating a Legal Framework for Economic Development}, 13 \textit{WORLD BANK RES. OBSERVER} 1-11 (Feb. 1998); Richard Messick, \textit{Judicial Reform and Economic Development: A Survey of the Issues}, 14 \textit{WORLD BANK RES. OBSERVER} 117-1136 (Feb. 1999).} Given the close physical proximity of our continents, it only stands to benefit us to develop strong ties and networking opportunities together for mutual gain.

The legal profession can also be brought into the interaction between Latin America and the United States. When law schools begin to open doors for the students and faculty to interchange, it allows local professionals to also interact and create bonds with professionals in other countries. Outside of multinational law firms and those who directly deal in international law matters, there is little impetus or opportunity for lawyers and legal professionals to work with professionals from other countries.\footnote{See generally Alejandro Garro, \textit{On Some Practical Implications of the Diversity of Legal Cultures for Lawyering in the Americas}, 64 REV. JUR. U.P.R. 461 (1995) (discussing many of the aspects in the practice of law in Latin}
impair the legal community’s ability to adapt and grow with the changes.

Law schools are more than mere facilities to equip the next generation of legal professionals. They are tools that should provide research, training and learning opportunities to the existing legal profession and judiciary. By the same token, where feasible, the profession and the judiciary should be utilized by the schools to train and positively influence their students. Clinical programs and externships are ideal places to introduce this interaction with students. Other programs, such as the Inns of Court, offer students the opportunity to be mentored by a practitioner. Law school faculty can help provide continuing legal education to practicing lawyers as well as hosting conferences and symposiums addressing critical and important topics of law. This has the benefit of facilitating the interaction between academia and the profession, while also encouraging professors to think about uniting legal theory with legal practice.

VI. CONCLUSION

The current era of uncertainty is a time when academic institutions of mutual good will have the highest obligation. Because law is so important a factor in the construction of society, legal education programs have a special obligation to ensure tomorrow’s leaders are equipped to make valuable contributions both domestically and internationally. The responsibilities of legal education in a globalizing world make it necessary to periodically revisit law school programs in America that may be troublesome or difficult for a lawyer from the United States to adapt to or overcome without some mentoring from a lawyer with experience from the area).
order to allow for necessary reforms and improvements.

Because law schools in the United States no longer operate in isolation, they must give attention to the laws and legal structures of our neighbors in Latin America. In Florida, a state that in many ways links the United States with Latin America, the legal academic community must recognize that our graduates will regularly deal with the laws, practitioners, and judges of different countries. The law schools of Latin America face similar challenges. Law school must prepare the students to meet these challenges by providing not only a sound substantive education, but also the necessary skills and experience. By adapting curriculum to alert students to the international contexts, offering clinics and externships, promoting student and faculty exchanges, and emphasizing ethical foundations, today’s legal education will fulfill its obligation to train lawyers to serve their clients and society.
Appendix A—Law School Accreditation

Law schools in the United States do not face a mandatory accreditation structure, but rather may choose to voluntarily become accredited through the American Bar Association or through standards set forth by the state where the school is located. While a law school may choose to not become accredited at all, it would prevent the students from taking the state bar exam required to practice law; therefore, there is a strong impetus for any law school wishing to attract students to achieve and maintain some type of accreditation. The accreditation through the American Bar Association is most prevalent, with 194 law schools having obtained this accreditation as of June 2006. The following are some of the basic requirements that a law school in the United States needs to meet to obtain ABA certification:

Standard 205 states the school must have a full-time Dean,
Standard 210 states the school must not discriminate based on race, color, religion, national origin, sex, or sexual orientation in employment or enrollment,
Standard 304 states the school must provide and require a certain amount of teaching hours and days per semester, as well as an over all amount of credit hours required for graduation,
Standard 402 sets out student to teacher ratio standards for the law school. 30:1 or above gives a presumption of non-compliance, whereas, 20:1 gives the presumption of compliance. Anything between 20:1 and 30:1 is determined base on the school’s teaching resources,
Standard 502 states that law schools must require a Bachelor’s degree, or a showing that one is ¾ obtained, in order to be admitted as a student,
Standard 503 requires law schools to have prospective students take the LSAT standardized test, or an approved equivalent, to apply for admission,
Standard 511 states that law schools must provide access to some student services, including maintenance of student records, academic advising and counseling, financial aid counseling, and career counseling,
Standard 601 requires the law school to maintain a law library
Standard 701 states that law schools must have adequate facilities, including ample classrooms and an office for each full-time teacher
Rule 4 requires the law school to be in operation for one full school year before it can apply for accreditation

There are criticisms to this structure of accreditation, and the authors do not suggest that the different countries should adapt this exact structure or the idea that the United States model

76. See 2005-06 ABA STANDARDS, supra note 26, Interpretations 102-8.
77. As reported by the ABA. ABA Approved Law Schools, at http://www.abanet.org/legaled/approvedlawschools/approved.html (last visited Oct. 9, 2007).
78. These ratios are also based solely on the amount of full-time teachers to students.
would be at all successful within Latin America. However, the authors have learned from their own experience that accreditation is useful in determining what is useful or needed for the school, as well as a means of demonstrating the need to administrators.

---