

INTERNATIONAL EXPERIENCES: A PATH TO CRITICAL LEGAL SKILLS, VALUES, AND INNOVATION FOR AMERICAN LAW STUDENTS

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American law schools have long wished to expand opportunities to gain exposure to international legal practice. These experiences help students gain knowledge of law and practice in a different legal system and increase their cross-cultural humility; students also make valuable connections for future employment and improve language proficiency. Most importantly, research shows international experiences improve cognitive thinking and creativity while developing awareness of responsibilities to the global community, critical qualities for all law practice. Foreign law students and American business school students regularly study abroad, benefitting from increased knowledge and skills including innovation. Several factors have prevented U.S. law schools from offering international programs and U.S. students from taking advantage of them. This article provides an explanation for the failure to internationalize American legal education, demonstrates the need for

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international experiences, and offers solutions. It explains how all U.S. law schools can begin to increase their international offerings for students, helping them to become better lawyers, with the skills, values, and creativity to contribute to legal practice in the world today.

Many Americans, living in a country of approximately 330 million people,² with a land area of over 3,531 million square miles,³ are ignorant about the degree to which the U.S. is interdependent with the rest of the world. As global pandemics, climate change, trade wars, and real wars continue to escalate,⁴ focusing solely on domestic issues can help us avoid feeling overwhelmed. Why then should law students gain international experience, at a time when they are creating a roadmap for their future legal careers? As this article will show, if they do not gain this experience early on, they risk missing out on the critical skills, values, and knowledge needed to engage in the global legal practice that is their future.

Part I of this article traces the arguments for the globalization of legal education and describes the factors that have impeded the expansion of international experiential learning in the United States. It describes how business schools in the U.S. and legal training in countries outside the U.S. already promote international experiences and argues that American lawyers will play a role in global issues despite their lack of training.

Part II gives an overview of the ABA Standards for Legal Education relevant to international externships and study abroad and includes results from a survey on international experiences. It describes the variety of programs offered and explains how law schools should engage students in study abroad and international opportunities.

Part III discusses how international experiences develop creative

² *U.S. and World Population Clock*, UNITED STATES CENSUS BUREAU (Sept. 3, 2020, 3:19 PM), <https://www.census.gov/popclock/>.

³ UNITED STATES CENSUS BUREAU, QUICKFACTS, <https://www.census.gov/quickfacts/fact/table/US/LND110210>

⁴ The World Health Organization reported on August 30, 2020 over 1.8 million new COVID-19 cases and 38,000 new deaths. A total of nearly 25 million cases and 800,000 deaths have been reported since the start of the COVID-19 outbreak. *Coronavirus Disease (COVID-19) Weekly Epidemiological Update*, World Health Org. 1 (Aug. 30, 2020), https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200831-weekly-epi-update-3.pdf?sfvrsn=D7032a2a_4.

See UN CLIMATE ACTION, REPORT OF THE SECRETARY-GENERAL ON THE 2019 CLIMATE ACTION SUMMIT AND THE WAY FORWARD IN 2020 (Dec. 11, 2019), https://www.un.org/en/climatechange/assets/pdf/cas_report_11_dec.pdf. See also *UN News: Neither Side Stands to Benefit in US-China Trade Spat UN Says*, UN NEWS (Feb. 4, 2019), <https://news.un.org/en/story/2019/02/1031921> [<https://perma.cc/DXY9-UXEJ>]; *More Children Killed by Unsafe Water than bullets, says UNICEF Chief*, UN NEWS (March 21, 2019), <https://news.un.org/en/story/2019/03/1035171> [<https://perma.cc/LBR8-DSZ5>].

legal thinking, cultural humility, awareness of bias, and global citizenship. It describes research on these impacts and demonstrates the transformational effect of these experiences through the students' own reflections.

Part IV concludes with a call for the expansion of international externships and study abroad programs to adequately prepare American law students to engage in domestic and international practice in both public and private settings.

PART I. INTERNATIONAL EXPERIENCES: A KEY STRATEGY FOR LEGAL EDUCATION

How international experiences prepare students to engage in the larger world struck me as the first Ebola epidemic panic spread throughout the world. Reports of the deadly disease became frequent in late 2013.⁵ Many Americans responded with an urge to close the borders and leave those afflicted with the disease to their fate.⁶ A small number of people tried to help, volunteering as medical personnel, raising money, and sending supplies.⁷ The common background of these individuals appeared to be their awareness of the ways in which disease had no respect for borders, and their prior experience of having lived or worked abroad.⁸

Having visited Kenya and Ethiopia in the summer of 2013 to expand Seattle University Law School's externship opportunities in Africa, I knew the impact of that trip on my own awareness of our global interdependence.⁹ I was no stranger to living and working internationally,¹⁰ but the experience reminded me afresh that both colleagues

⁵ 2014-2016 Ebola Outbreak in West Africa, CTR. FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/vhf/ebola/history/2014-2016-outbreak/index.html#:~:text=ON%20March%202014%20the,epidemic%20the%20largest%20in%20history> (last visited Mar. 8, 2019); 2014-2015 West Africa Ebola Crisis: Impact Update, THE WORLD BANK (May 10, 2016), <http://pubdocs.worldbank.org/en/297531463677588074/Ebola-Economic-Impact-and-Lessons-Paper-short-version.pdf>. Unfortunately, the Ebola epidemic resurged again in 2019. Ebola Outbreak 2018-2019: An Escalating Health Crisis, THE NETWORK FOR PUB. HEALTH LAW (Jan. 15, 2019), <https://www.networkforphl.org/news-insights/ebola-outbreak-2018-2019-an-escalating-health-crisis/>

⁶ Naina Bajekal/London and Aryan Baker, *Ebola Health Care Workers Face Hard Choices*, TIME (Oct. 13, 2014), <http://time.com/3502002/ebola-liberia-sierra-leone-doctors-nurses/>.

⁷ Jen Christensen and Debra Goldschmidt, 'Out of control': How the World Reacted as Ebola Spread, CNN (last visited Sept. 9, 2020) <https://www.cnn.com/interactive/2014/11/health/ebola-outbreak-timeline/>.

⁸ Bajekal/London and Baker, *supra* note 6.

⁹ While traveling I encountered both reminders of my own privilege in access to health care, food and security, as well as the distrust of Americans like myself who were viewed as taking opportunities away from a current generation of Africans, following a legacy created by the history of colonialism and slavery.

¹⁰ I moved to the U.S. from England as a young child. In high school, college and

and students needed firsthand information about *why* such exposure is important. I had expanded Seattle University Law School's International Externship Program to provide that experience for our students shortly after starting to direct the program in 2009. After many years of encouraging others to do the same, I wrote this article to explain why all law school externship programs can, and should, establish such programs.

A. *Efforts to Increase International Legal Education:
History and Theory*

Exposure to global practice is not at the top of most American lawyers' minds, even if the impact of international issues is recognized in the highest court of the land. Justice Stephen Breyer, in his 2015 book "The Court and the World: American Law and the New Global Realities"¹¹ pointed out that in one particular week, two of the six cases heard called for the U.S. Supreme Court to consider foreign persons and activities. He offered several explanations for the growth in global practice, including shared problems of "security, the environment, health, and trade. . ."¹² He believed this interdependence was likely to grow in a constitutional government that allows a "multi-racial, multi-ethnic, and multi-religious population to govern itself democratically while protecting basic human rights and resolving disputes under a rule of law."¹³

Justice Breyer's observations have been echoed by many in the legal academy, including clinical educators, who have sought to increase law student participation in international issues.¹⁴ Yet legal education has not kept pace with the need to expose and prepare

graduate school I spent time living and working in France, Germany and the People's Republic of China.

¹¹ STEPHEN BREYER, *THE COURT AND THE WORLD: AMERICAN LAW AND THE NEW GLOBAL REALITIES*, 3 (Knopf ed., 2015).

¹² *Id.* at 4.

¹³ *Id.*

¹⁴ For an authoritative discussion of the importance of globalization for legal education generally see Carole Silver, *Getting Real About Globalization and Legal Education: Potential and Perspectives for the U.S.*, 24 *STAN. L. & POL'Y REV.* 457 (2013) [hereinafter Silver, *Getting Real About Globalization*]. For a recent history of the clinical legal education movement see generally RICHARD J. WILSON, *THE GLOBAL EVOLUTION OF CLINICAL LEGAL EDUCATION* (2017). See also William L. Berman, *Why Not an International Clinical Legal Exchange Program? It is Worth the SCHLEP*, 21 *CLINICAL L. REV.* 171 (2014) (citing *THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE* (Frank S. Bloch ed., 2011); John E. Sexton, *The Global Law School Program at New York University*, 46 *J. LEGAL EDUC.* 329, 329-30 (1996); Frank S. Bloch, *Access to Justice and the Global Clinical Movement*, 28 *WASH. U. J. L. & POL'Y* 111, 113, 116 (2008); and, 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, 617 (2006).

American law students to practice in the international legal arena. Despite increases in international opportunities in the U.S. at the undergraduate level,¹⁵ and in graduate level business education,¹⁶ American law schools trail our European and Australian counterparts. A 2010 Amsterdam Law Forum essay on the *Internationalization of Legal Education* compared the three-year *post-graduate* legal training in the U.S. with the three-year *undergraduate* training (followed by one to two years of additional training) in the United Kingdom and in most European countries.¹⁷ It described how European exchange programs, originating from exchange programs such as the Bologna Process¹⁸ and the Erasmus Program,¹⁹ have impacted large numbers of European students and pointed out that some American law schools were expanding courses in international law.²⁰

European universities now include a recommended semester or year of study abroad in their legal education programs.²¹ Australian legal education has also increased the availability of study abroad programs, clinics, and internship/externship opportunities.²² Reasons for

¹⁵ For data on U.S. undergraduate study abroad see U.S. STUDY ABROAD, OPEN DOORS, <https://opendoorsdata.org/data/us-study-abroad/> (last visited Sept. 4, 2020).

¹⁶ See Renatte K. Adler, Steven J. Loughrin-Sacco & Ron Moffat, *The Role of Experiential Learning in Preparing Global Ready Graduates in Impact of Education Abroad on Career Development*, Vol. 1, Martin Tillman Editor, American Institute for Foreign Study citing a study of 3000 international business students with international internship experiences in Mexico, Quebec, Chile and Brazil between 1989 and 2004; 80 percent said the experience improved their chances of getting a job; and 51 percent said it increased their earning potential. *Id.* at 16.

¹⁷ Joan Mahoney, *The Internationalisation of Legal Education*, 2 AMSTERDAM L. FORUM 43, 43 (2010) (pointing out that while some American law students have specialized in history or political science, there is no required undergraduate degree prior to studying law).

¹⁸ The Bologna Process is an inter-governmental cooperation between forty-eight European countries in the field of higher education established to bring more coherence to higher education systems across Europe. Under The European Higher Education Area, it facilitates student and staff mobility to make higher education more inclusive and accessible. Participating countries agreed to introduce a three-cycle higher education system consisting of bachelor's, master's and doctoral studies, ensure the mutual recognition of qualifications and learning periods abroad completed at other universities, and implement a system of quality assurance., EUROPEAN COMM'N, ERASMUS+ PROGRAMME GUIDE 5 (2020). https://ec.europa.eu/education/policies/higher-education/bologna-process-and-european-higher-education-area_en (last visited Sept. 4, 2020).

¹⁹ The Erasmus Programme stands for European Community Action Scheme for the Mobility of University Students and was established in 1987 to promote student exchange within the European Union. Students study or do an internship in a university in another European country, and the study abroad is recognized by their university when they return. For more on the program, including current initiatives, see *Erasmus+ Programme Guide*, EUROPEAN COMM'N (Aug, 25, 2020) https://ec.europa.eu/programmes/erasmus-plus/sites/erasmusplus2/files/erasmus_programme_guide_2020_v3_en.pdf.

²⁰ Mahoney, *supra* note 17 at 47-48.

²¹ *Id.* at 44.

²² See Tim Connor, Nola M. Ries, Nicola Ross, Kevin Sobel-Read & Daniel Matas,

this expansion include student interest, globalization of legal services, employer demand, a faculty desire to develop global citizens, government funding, and increased competition among law schools.²³

For American students who study law, however, international experience is still relatively rare despite the decades-long interest in the topic. The push for globalization of legal education arose after World War II; a greater understanding of international tensions would give lawyers and others the skills to avoid future conflicts among nations.²⁴ The focus included not just conflict resolution but also emphasis on the internationalization of trade and commerce.²⁵ Multicultural education was still a relatively new concept, but writers such as Leon Trakman recognized that training should include not just courses in public international law and conflict of laws. Of equal importance was “an appreciation of the broad political, economic, and social demands underlying international relations as well as an advanced legal exposure to the dynamic of specific and novel areas of international law and relations.”²⁶ In his article written forty-five years ago in 1975, he specifically mentioned the non-traditional skills needed for “the interpersonal and policy-directed profession of presentation and diplomacy.”²⁷

When few American law schools had clinics and none had externships,²⁸ Trakman asserted that the best way to investigate interdisciplinary realities of legal development was at their source, in the countries where the legal systems had evolved. “Beneficial extraterritorial borrowings only become truly meaningful when the innovator has understood the economic, political, and social climates in which the law originated.”²⁹ Trakman endorsed student exchanges, both for

Becoming Global Citizens And Global Lawyers: Incorporating International Work And Study Experiences Into The Australian Law School Curriculum 25 CLINICAL L. REV. 63, 64 (2018). For a description of a class curriculum and student responses see Andrew Mitchell, Bruce Oswald, Tania Voon & Wendy Larcombe, *Education in the Field: A Case Study of Experiential Learning in International Law*, 21 J. LEGAL EDUC. 69 (2011).

²³ Connor et al., *supra* note 22, at 64.

²⁴ See Leon E. Trakman, *The Need for Legal Training in International, Comparative and Foreign Law: Foreign Lawyers at American Law Schools*, 27 J. LEGAL EDUC. 509, 509 (1976).

²⁵ *Id.*

²⁶ *Id.* at 510.

²⁷ *Id.* at 511. The Fulbright Act of 1946 was followed by a series of laws designed to strengthen intercultural exchange: The Smith-Mundt Act in 1948, The Mutual Educational and Cultural Exchange Act in 1961, and The International Education Act in 1966.

²⁸ Roger S. Haydock, *Clinical Legal Education: The History and Development Of A Law Clinic*, 9 WM. MITCHELL L. REV., 101, 106 (1983) (describing the founding of one of the first law clinics at William Mitchell College of Law in 1973).

²⁹ Trakman, *supra* note 23, at 513. To achieve the goal of training students at the source, Trakman recommended developing the United Nations as a center for legal education and particularly endorsed the United Nations University (UNU) established in 1973 in

U.S. law students studying abroad and for international students coming to the U.S.³⁰ In describing how to successfully integrate foreign LLM students in the U.S., Trakman foreshadowed the outlines for a successful international experience for American students in international externships: “The apparent solution . . . would lie in establishing clear and certain functional educational goals. The foreign lawyers would be chosen, and the method and substance of study predetermined, with these specific goals in mind.”³¹

Calls for globalizing legal education and a belief that law schools would embrace the concept continued to increase as the 20th century drew to a close and the 21st century began.³² In 1998, only ninety law schools offered summer study abroad programs and a small number offered clinical trainings and internships.³³ By 2011, the number had increased to over two hundred.³⁴

Tokyo, Japan.

³⁰ *Id.* at 517. (pointing to the success of the Fulbright Program established in 1946 by the Fulbright Act and heralded the exportation of U.S. expertise abroad, a trend since criticized by many as lacking cultural competence and respect for the host countries.)

³¹ *Id.* at 528. (adding that even then precautions need to be taken to avoid foreign lawyer confusion about the American legal system). The article is also a good example of the paternalistic and superior tone that has been so sharply criticized.

³² See generally Mary Daly, *The Ethical Implications of the Globalization of the Legal Profession: A Challenge to the Teaching of Professional Responsibility in the Twenty-First Century*, 21 *FORDHAM INT'L L. J.* 1239, 1242 (1998). See also Trevor C.W. Farrow, *Ethical Lawyering in a Global Community*, *COMP. RES. IN L. & POL. ECON.* (2012) (arguing that professionalism must include the need to strive for justice); Alberto Bernabe-Riefkohl, *Tomorrow's Law Schools: Globalization and Legal Education*, 32 *SAN DIEGO L. REV.* 137, 162 (1995) (arguing for more practical and social justice content in the curriculum and for regulatory support for such goals); David S. Clark, *Transnational Legal Practice: The Need for Global Law Schools*, 46 *AM. J. COMP. L. SUPP.* 261 (1998) (arguing that the U.S. should be the site for global education due to the preeminence of Western legal theory); Gloria M. Sanchez, *A Paradigm Shift in Legal Education: Preparing Law Students for the Twenty-First Century: Teaching Foreign Law, Culture, and Legal Language of the Major U.S. American Trading Partners*, 34 *SAN DIEGO L. REV.* 635 (1997) (arguing for specialized courses in foreign law taught in their domestic languages, predominant trading partners being Mexico, Canada, and Japan); John Edward Sexton, *The Global Law School Program at New York University*, 46 *J. LEGAL EDUC.* 329, (1996) (arguing that NYU's approach, including foreign faculty, showed promise); Adelle Blackett, *Globalization and Its Ambiguities: Implications for Law School Curricular Reform*, 37 *COLUM. J. TRANSNAT'L L.* 57 (1998) (arguing that the disjointed aspects of globalization have important consequences for law school reform and suggesting that globalizing the curriculum should involve every subject and explicitly discuss ambiguities, not simply adding courses on particular countries); David E. Van Zandt, *Leadership in Legal Education Symposium: Globalization Strategies for Legal Education*, 36 *U. TOL. L. REV.* 213, (2004) (arguing that the U.S. preeminence means that students can still focus on the U.S. system and find their skills valued overseas); and Muna Ndulo, *Legal Education in an Era of Globalisation and the Challenge of Development*, *J. OF COMPARATIVE L. IN AFRICA*, Vol. 1, No. 1 (2014) (citing the need for additional resources in legal education in Africa).

³³ Daly, *supra* note 32, at 1245.

³⁴ Robert E. Lutz, *Reforming Approaches to Educating Transnational Lawyers: Observations from America*, 61 *J. LEGAL EDUC.* 449, 453 (2012).

Yet the prediction that American legal education would become globalized did not materialize. Writing in 2005, Carole Silver pointed out that many law firms are involved in international law and have offices based outside the U.S.³⁵ However, these firms most often internationalize by hiring foreign trained lawyers to work in their home jurisdictions.³⁶ U.S. law firm jobs are transferred off shore due to the high cost of American legal fees.³⁷ More law schools claim they are providing a global curriculum and are offering LLM programs to allow foreign-trained lawyers to practice in the U.S.³⁸ But American law offices on the whole remain U.S.-centric.³⁹ Many law firms are slow to recognize the benefits of international experience in developing critical legal skills. This may help to explain why most law schools offer few international law courses and do not promote interaction between foreign and U.S. trained law students.

More practical barriers also explain the failure to provide more international experiences in U.S. law schools. Neither applications to law school nor the market for law jobs completely recovered after the 2007 crisis. The long-term impact of the coronavirus on legal jobs and law school applications is still unknown.⁴⁰ While international study abroad programs have grown over the years, many do not include practical experience. The cost of traveling abroad without gaining legal experience in today's job market makes some students wary and some faculty discourage their participation.⁴¹ A belief that such exper-

³⁵ See Carole Silver, *Winners and Losers in the Globalization of Legal Services: Situating the Market for Foreign Lawyers*, 45 VA. J. INT'L L. 897 (2005) [hereinafter Silver, *Winners and Losers*]. For more on the characteristics of foreign-trained lawyers in the U.S. market, see Carole Silver, *The Case of the Foreign Lawyer: Internationalizing the U.S. Legal Profession*, 25 FORDHAM INT'L L. J. 1039, 1043-6 (2002). [hereinafter Silver, *Foreign Lawyer*]

³⁶ Silver, *Winners and Losers*, *supra* note 35, at 898.

³⁷ *Id.*

³⁸ The LLM Guide lists fifty-eight law schools in the U.S. offering LLM programs, See *LLM Programs in Public International Law/International Organizations – United States*, LLM GUIDE, <https://llm-guide.com/public-international-law-international-organizations> (last visited Sept. 5, 2020).

³⁹ Silver, *Winners and Losers*, *supra* note 35, at 899.

⁴⁰ According to LSAC data, applications are up only 0.4 percent from the 2019-2020 admissions cycle ending July 31, 2019. During the prior year, application submissions were 3.3 percent higher. Gabriel Kuris, *The Impact of the Coronavirus on Legal Education*, U.S. NEWS (Aug 24, 2020), <https://www.usnews.com/education/blogs/law-admissions-lowdown/articles/the-impact-of-the-coronavirus-on-legal-education>. The U.S. News data indicates that the average number of applicants at the top fourteen law schools was 20.6 percent lower in 2016 than it was in 2008. Ilana Kowarski, *Less Competitive Law School Admissions a Boon for Applicants*, U.S. NEWS (Aug. 8, 2017), <https://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2017-08-08/law-school-admissions-less-competitive-than-2008>.

⁴¹ The average cost of annual tuition and fees at private law schools in the 2019-2020 academic year was 49,548 dollars. Ilana Kowarski, *See the Price, Payoff of Law School*

iences are less important than work in the United States has meant that many law students forego studying and working abroad.

As to those law students who do venture outside the U.S., the clinical legal community has raised concerns about the historical tendency towards cultural imperialism that such exploration can continue to foster.⁴² Some argue that the empathy and social justice norms embodied in the clinical movement offer hope in overcoming this history.⁴³ Others claim that the idea of U.S. trained professors exporting the clinical teaching movement to other countries carries with it an assumption of superiority that can easily be counter-productive for both sides.⁴⁴ Such educators remain uneasy about the ways in which cultural imperialism permeates these interactions, even if due to unconscious bias rather than explicit discrimination. They argue even human rights clinics seeking to promote humanitarian law may unconsciously and unintentionally imbue their students with a belief in the superiority of the U.S. system and a disdain for other cultures.⁴⁵

Despite such concerns, a blueprint for successful collaborations has emerged. This blueprint has resulted in worthwhile prescriptions for involvement of host country colleagues, for immersion in the local culture, and for ways to sustain collaboration.⁴⁶ With the goal of internationalizing U.S. legal education, groups of over thirty professors from universities in the U.S. and abroad met to discuss ways to globalize the core law school curriculum in 2005 and again in 2011.⁴⁷ The

Before Enrolling, U.S. NEWS (March 18, 2020), <https://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/law-school-cost-starting-salary>. The list of 2020 study abroad programs shows a range from \$900 to over \$1300 per credit hour with additional fees for housing, food and travel. ABA For Law Students, *Summer Study Abroad Law School Programs*, ABA, <https://abaforlawstudents.com/stay-informed/summer-study-abroad-law-school-programs/#:~:text=%2Ffees%3A%20%241%2C270%20per%20credit,or%20ABA%2Dapproved%20law%20school>. (last visited Sept. 3, 2020).

⁴² Daniel Bonilla, *Legal Clinics in the Global North and South: Between Equality and Subordination – An Essay*, 16 YALE HUM. RTS. & DEV. L. J. 176, 176-77 (2013).

⁴³ James Silk, *From Empire to Empathy? Clinical Collaboration Between the Global North and the Global South – an essay in conversation with Daniel Bonilla*, 16 YALE HUM. RTS. & DEV. L. J. 216 (2013) (suggesting that some North/South collaborations can work as equal partners if they embrace solidarity and empathy).

⁴⁴ Philip M. Genty, *Overcoming Cultural Blindness in International Clinical Collaboration: The Divide Between Civil and Common Law Cultures and Its Implications for Clinical Education*, 15 CLINICAL L. REV. 131, 135 (2008).

⁴⁵ Deena R. Hurwitz, *Lawyering for Justice and the Inevitability of International Human Rights Clinics*, 28 YALE J. INT'L L. 505, 520-21 (2003).

⁴⁶ Peggy Maisel, *The Role of U.S. Law Faculty in Developing Countries: Striving for Effective Cross-Cultural Collaboration*, 14 CLINICAL L. REV. 465 (2008).

⁴⁷ See generally Franklin A. Gevurtz, Linda E. Carter, Julie A. Davies, Brian K. Landsberg, Thomas O. Main, Michael P. Malloy & John G. Sprankling, *Report Regarding the Pacific McGeorge Workshop on Globalizing the Law School Curriculum*, 19 GLOBAL BUS. & DEV. L. J. 1, (2005) [hereinafter Gevurtz et al.], and Franklin A. Gevurtz, *Report Regarding the 2011 Pacific McGeorge Workshop on Promoting Intercultural Legal Compe-*

first conference, *Tahoe I*, sought to introduce international, comparative, and transnational law into the core law school curriculum.⁴⁸ The second, *Tahoe II*, had the goal of promoting intercultural legal competence.⁴⁹ *Tahoe II* also developed learning outcomes to allow law students to acquire the skills, attitudes, and knowledge viewed as critical to global lawyering.⁵⁰ Both conferences highlighted that interacting with people outside the U.S. increased lawyers' ability to communicate with individuals from diverse backgrounds here at home.

The conferences had worthwhile goals, but barriers to the achievement of those goals were significant. One was the relative homogeneity of law school faculty who, by and large, were not familiar with different cultures and were predisposed to view U.S. law as of primary importance.⁵¹ Other challenges included lack of resources and the difficulty of achieving curricular reform.⁵² Despite the time and resources devoted to the conferences, progress was slow. The first conference ended with five next steps: publish a workshop report; increase communication among faculty; continue organizing future workshops; work with organizations such as the *American Association of Law Schools* (AALS); and continue individual faculty outreach within each participating institution.⁵³ At the end of the second workshop six years later, *Tahoe II* conference participants recognized that the barriers were still formidable. The conference report conceded that even the second report would not be "the last word on the subject."⁵⁴

Meanwhile, events transpiring between the time of the first and second conferences would have a profound impact on the law schools and professors who had these aspirational goals. The 2007 sub-prime mortgage crisis unfolded, and the subsequent economic recession hit law schools hard. Deans soon confronted the economic reality of reduced class size and tightened budgets.⁵⁵ Some advocates for globalization came to believe only top ranked and well-resourced law schools could invest in alliances to promote international integra-

tence (*The "Tahoe II" Conference*), 26 PAC. McGEORGE GLOBAL BUS. & DEV. L. J. 63 (2013) [hereinafter *Gevurtz*].

⁴⁸ *Gevurtz et al.*, *supra* note 47, at 269.

⁴⁹ *Gevurtz*, *supra* note 47.

⁵⁰ *Id.*

⁵¹ *Id.* at 94.

⁵² *Id.*

⁵³ *Gevurtz et al.*, *supra* note 47, at 328-30.

⁵⁴ *Gevurtz*, *supra* note 47, at 98.

⁵⁵ Natalie Kitroeff, *The Best Law Schools Are Attracting Fewer Students*, BLOOMBERG (Jan. 26, 2016, 9:18 AM), <https://www.bloomberg.com/news/articles/2016-01-26/the-best-law-schools-are-attracting-fewer-students> (reporting that as late as 2016, almost ten years after the recession began, law schools still faced significant challenges).

tion.⁵⁶ Others hoped competition for applicants might lead some schools to advertise international experiences as a path to global practice.⁵⁷ Concern grew that “globalized legal practice” might come to mean large firms, attached to corporate clients, with practices that further global inequality.⁵⁸

Yet global integration continues to grow, and faculty in areas such as environmental law continue to affirm that *all* law is global.⁵⁹ Student exposure to international issues in experiential learning increasingly occurs in international clinics⁶⁰ and study abroad programs.⁶¹ Yet options remain limited and often require resources from both law schools and students themselves. The recent coronavirus pandemic has dealt another blow to international exchange as borders

⁵⁶ Elizabeth Chambliss, *Colloquium: Globalization and the Legal Profession: Organizational Alliances by U.S. Law Schools*, 80 *FORDHAM L. REV.* 2615, 2620-26 (2012). This idea is connected to a long held and recently disproven concern that students earning credits in clinics and externships will reduce their chances of passing the bar. Robert Kuehn and David Moss studied bar passage rates of over 3,800 students at Washington University in St Louis School of Law and Wayne State University Law School; they found no correlation, negative or positive, between the number of clinical and externship courses taken and the bar passage rate. The results indicated that capping experiential credits to improve bar passage rates is not supported by empirical evidence. Robert R. Kuehn & David R. Moss, *A Study of the Relationship between Law School Coursework and Bar Exam Outcomes*, 68 *J. OF LEGAL EDUC.* 624 (2019). A larger 2018 study of 7,563 students from eleven California law schools found no relationship between the number of clinical, externship, or internship credits and bar performance, when examined across all schools or within each school. See THE STATE BAR OF CAL., PERFORMANCE CHANGES ON THE CALIFORNIA BAR EXAMINATION: PART 2 NEW INSIGHTS FROM A COLLABORATIVE STUDY WITH CALIFORNIA LAW SCHOOLS (2018), <https://www.calbar.ca.gov/Portals/0/documents/admissions/Examinations/Bar-Exam-Report-Final.pdf>. These were also consistent with earlier studies from Texas and Denver which found the same lack of correlation. See Katherine A. Austin, Catherine Martin Christopher, & Darby Dickerson, “Will I Pass the Bar Exam: Predicting Student Success Using LSAT Scores and Law School Performance,” 45 *HOFSTRA L. REV.* 753 (2016-2017) and Scott Johns, *A Statistical Exploration: Analyzing the Relationship (If Any) between Externship Participation and Bar Exam Scores*, 42 *OKLA. CITY U. L. REV.* 281 (2017-2018).

⁵⁷ Andrew Moore, Cara Cunningham & Margaret Costello, *The Globalization of Legal Education*, 92 *MICH. B. J.* 41 (2013) (pointing out that law schools in Michigan account for three of the seven existing dual degree programs between the continental U.S., Canada, and Mexico).

⁵⁸ Chambliss, *supra* note 56, at 2624 (arguing for increased transparency and regulation regarding law school alliances). The alternative discussed in Part III, lawyers practicing as global citizens, with personal and social responsibility, may have seemed idealistic and unattainable.

⁵⁹ Robert V. Percival, *The Globalization of Environmental Law*, 26 *PAC. ENVTL. L. REV.* 451 (2009).

⁶⁰ Berman, *supra* note 14, at 193, 195-96 (citing funding as one of the challenges in making the clinic sustainable).

⁶¹ Andrew Mitchell, Bruce Oswald, Tania Voon & Wendy Larcombe, *Education in the Field: A Case Study of Experiential Learning in International Law*, 21 *LEGAL EDUC. REV.* 69, 91 (2011) (citing challenges in setting up an Australian experiential study abroad program).

have closed and social distancing requirements have reduced in-person contact. The related economic crisis may further diminish interest in international experience, even as the pandemic underscores the interconnectedness of the global economy.⁶²

Given these current circumstances, it might seem strange to advocate for all law schools to introduce international externships now. Yet externships offer a way to address many of the problems that have prevented the creation of international law experience for U.S. law students. Moreover, as this article discusses below, the experience gained from living and working outside one's home country contributes to critical lawyering skills.

B. Barriers and Solutions to the Lack of International Law Experiences

A review of the barriers impeding international legal education, discussed in *Tahoe I* and *Tahoe II*, provides both an explanation for the lack of progress and some solutions. One set of obstacles is the difficulty of making curricular changes in American legal education. Without a large-scale effort like the European Bologna Process and Erasmus Program, curriculum reform necessary to create change across all law schools is challenging.⁶³ Since relatively few American law faculty have themselves studied abroad, they lack the personal knowledge of how transformational such experiences can be. And, as discussed below in Part II.A, the ABA Rules make the initial investment in study abroad programs appear daunting and represent an additional burden to students struggling with the increasing cost of law school education.

Yet there are solutions to these barriers. International externships, while initially creating a smaller impact than curricular reform, offer some important advantages. Almost every law school in the U.S. has an externship program of some size, and most have full-time options.⁶⁴ Credits for externship seminars and field placements count to-

⁶² The COVID-19 pandemic has had a more negative impact on activity than anticipated, and economic recovery is projected to be more gradual than previously forecast. There is an unusually high degree of uncertainty around the projected economic forecast. For more information on this report, visit; INT. MONETARY FUND, WORLD ECONOMIC OUTLOOK UPDATE: A CRISIS LIKE NO OTHER, AN UNCERTAIN RECOVERY (June 2020), <https://www.imf.org/~media/Files/Publications/WEO/2020/Update/June/English/WEOENG202006.ashx?la=en>.

⁶³ Steven C. Bennett, *When Will Law School Change*, 89 NEB. L. REV. 87, 103-4 (2010) (citing academic checks and balances, faculty preferences, diffuse leadership, lack of a clear vision, and the law school culture of competition and conformity as reasons for the slow pace of curricular reform).

⁶⁴ According to the 2016-2017 Center for the Study of Applied Legal Education, "Almost 58% of schools allow students to extern full-time during a fall or spring academic

wards the students' degree requirements and fulfill the ABA requirement for experiential learning. These credits are usually charged at the same rate as other credits, and they are also covered by student financial aid and scholarships. Travel to international externships pose additional costs, but the length of a full-semester externship can make such opportunities more affordable than short term two to three-week study abroad courses.⁶⁵ Further, high cost of living standards in the United States make some international externships more affordable than domestic ones especially when compared to lower costs for housing and food in many other countries.

Externship faculty are often hesitant to start an international externship program due to lack of expertise and fear that externships outside the United States may not be as rewarding. But, as discussed below in Part II.B, an increase in resources in recent years has provided solutions to many of these concerns. Even when faculty start only a small program, they benefit from increasing their own knowledge of international law, sites, and colleagues. Those with resources to do an international site visit, even if only rarely, immediately gain a sense of the transformational impact for students. This leads to even greater encouragement and more specific counseling and preparation of students to pursue such opportunities.

Practical impediments to international externships can also be addressed more easily than barriers to the large-scale curricular reforms advocated by *Tahoe I* and *II* conference participants. Finding externship sites that provide quality mentoring, supervision, and work is easier due to the International and Semester Away Externship Subcommittee's efforts to create an international externship database.⁶⁶ The move to remote learning caused by the coronavirus

term. Of those schools, 51% allow full-time externships in the vicinity of the law school, 58% allow full-time externships anywhere in the United States where the student has identified an eligible placement, and 40% allow full-time externships in other countries." ROBERT R. KUEHN & DAVID A. SANTACROCE, THE 2016-2017 SURVEY OF APPLIED LEGAL EDUCATION, CENTER FOR THE STUDY OF APPLIED LEGAL EDUCATION (CSALE) 14 (2017), <https://www.cleaweb.org/resources/Documents/CSALE%20Report%202016-17.pdf>.

⁶⁵ For students who may not have the time for a full semester abroad, the shorter programs are still a good introduction to international experiences, especially if the student still gains some legal experience back in the United States. For an extensive review of the benefits of study abroad programs, see Eileen Kaufman and Louise Harmon, *Innocents Abroad: Reflections on Summer Abroad Law Programs*, 30 T. JEFFERSON L. REV. 69 (2007). See Section III below for more on the benefits of international experiences.

⁶⁶ For syllabi, seminar topics, and information about their monthly conference calls and shared database on international externships, see INTERNATIONAL & SEMESTER AWAY EXTERNSHIPS, LEXTERNWEB, <https://www.lexternweb.org/remote-and-international-placements> (last visited Sept. 5, 2020). These topics are also discussed in greater detail in my next article entitled "*International Externships – Everyone Can Do Them, and Everyone*

has reduced previous concerns about doing a video conference class or accommodating students in different time zones; all law school faculty now have greater familiarity with videoconference technology and asynchronous curricula. Most site supervisors are also now used to videoconference meetings, and most students, already digital natives, have become more sophisticated in using technology for legal work. Perhaps unexpectedly, the explosion of remote work during the coronavirus pandemic has made the nuts and bolts of implementing an international externship of any size much more familiar.

For more students to take advantage of these opportunities, information about the accessibility and benefit of international experiences must be made available. Almost all students can plan to do an international externship and still do other internships, jobs, externships, and clinics. All such experiences build skills, knowledge, and values while developing networks for post-graduation employment. Gaining or improving proficiency in another language is a benefit of many international externships but is not a prerequisite. The demand for fluent English speakers with American post-graduate (as compared to many other countries with undergraduate) legal training means that every student can participate. Adequate assistance with the application process ensures that all students can take advantage of these opportunities.

American externship programs have a relatively well-defined framework that includes seminar, self-assessment, and guided reflection.⁶⁷ These features guarantee that students will not only experience the benefits of international externships, but also be able to convey those benefits to employers, colleagues and clients. Such benefits have also been extensively studied and documented in the business community.⁶⁸ While American companies, law firms, and government agen-

Should: Blueprint for a Successful Program."

⁶⁷ See LEAH WORTHAM, SUSAN BROOKS, ALEXANDER SCHERR & NANCY MAURER, *LEARNING FROM PRACTICE: A TEXT FOR EXPERIENTIAL LEGAL EDUCATION* (3rd ed. 2016) [hereinafter WORTHAM et al.]. See also *BUILDING ON BEST PRACTICES: TRANSFORMING LEGAL EDUCATION IN A CHANGING WORLD* (Deborah Maranville, Lisa Radtke Bliss, Carolyn Wilkes Kaas, Antoinette Sedillo Lopez eds., 2017) [hereinafter Maranville et al.].

⁶⁸ See Tammy Orahod, Larisa Kruze, & Denise Easley Pearson, *The Impact of Study Abroad on Business Students' Career Goals*, 10 *FRONTIERS: THE INTERDISC. J. OF STUDY ABROAD*, Fall 2004, at 117 (explaining that the business world believes international experiences develop decision making, cultural awareness, innovation, and a holistic approach. Further, students do not always list these experiences on their resumes even though the majority describe an increase in skills, personal growth, and career interests); Stevan Trooboff, Michael Vande Berg, & Jack Rayman, *Employer Attitudes toward Study Abroad* 15 *FRONTIERS: THE INTERDISC. J. OF STUDY ABROAD*, 2007-2008 (describing the results of a study documenting that both CEO's and human resource specialists value study abroad in hiring and prioritize longer stays and experiential learning); A. Harder, A. Andenoro, T.G. Roberts, N. Stedman, M. Newberry III, S.J. Parker, & M.T. Rodriguez, *Does Study Abroad*

cies regularly deal with non-US law in trade, privacy, family law, the environment, and health, most law schools still do not promote international experience or require courses in international law.⁶⁹ In contrast, many American professionals outside of law, as well as lawyers in other countries, have this experience.⁷⁰ Ironically, as the pandemic related economic recession has led to job insecurity and a rise in xenophobia, individuals with international experiences may actually hold the key to economic development and innovation. For example, because of their experience living outside the U.S., immigrants bring new ideas, economic innovations, and new resources.⁷¹ The benefits of international experience are needed now more than ever.

What steps can be taken when budgets are still tight? Increased interactions between foreign and U.S. students are important for those American law students who do not pursue opportunities to study abroad.⁷² But such interactions will not provide the learning experience anticipated by Leon Trakman's exhortation to investigate international law "at its source."⁷³ International externships, whether stand alone or combined with study abroad programs, offer this immediate experiential learning opportunity. They do not require large scale changes at the level of the law school curriculum. They can be tailored to individual student needs and abilities. And with a modest outlay of resources, they can positively affect participating externship faculty as well as students. Done with the proper training, accompanied by a video-conference seminar to support the student at the field placement, this experiential learning can result in a transformation.⁷⁴

Increase Employability?, NACTA J., Mar. 2015 (documenting the importance of describing the study abroad in terms of experiential learning and increased cultural awareness).

⁶⁹ This 2009 blog on Mainstreaming International Law in Legal Education is representative of the debate and lack of courses that still exists today. Lisa J. Laplante, *Mainstreaming International Law in Legal Education*, MARQUETTE U. INT'L L. IN LEGAL EDUC. (Nov. 19, 2009), <https://law.marquette.edu/facultyblog/2009/11/mainstreaming-international-law-in-legal-education/>.

⁷⁰ See research on the impact of study abroad on business students, *supra* note 68.

⁷¹ In an NPR interview with Exequiel (Zeke) Hernandez, he pointed to data that shows while immigrants are only about 14 percent of the population, they are involved in founding 40 percent of all startups in the US and from 45 to 47 percent of Fortune 500 Companies. Hernandez credits one of the reasons for this is that immigrants engage in "recombination." "They have had certain experiences where they grew up, then they come to the United States and they are able to recombine experiences that they've seen in both locations and identify opportunities." *When Immigrants Come to the U.S., Investments Often Follow*, Marketplace Tech, (June 30, 2020), <https://www.marketplace.org/shows/marketplace-tech/trump-administration-foreign-workers-visas-tech-companies-investment-money/>. For more on this research, see Part III below.

⁷² See Silver, *Getting Real About Globalization* *supra* note 14.

⁷³ Trakman, *supra* note 24, at 513.

⁷⁴ See Connor et al., *supra* note 22 (describing Australian student reflections of personal and professional transformation because of international internships).

The awareness of global responsibility acquired by students will carry forward into their interactions with lawyers and clients outside the U.S., leading to further cross-cultural interactions in their own professional and personal lives.⁷⁵ The recent horrific killings of black Americans has intensified the Black Lives Matter movement, founded in 2013 following the acquittal of a man responsible for shooting an African American teenager. Protesting police brutality and racially motivated violence against black people, the movement has shown the need for urgent action to address racism around the globe, particularly at a time when the coronavirus pandemic has intensified economic inequality. At this critical time, American law schools can take an important step in ending their isolation from international law. International externships offer a practical solution to a problem that has persisted for decades.

PART II. INTERNATIONAL EXTERNSHIPS AND STUDY ABROAD

Most law schools offer externships in legal practice opportunities in their local geographic area,⁷⁶ but they are increasingly expanding to a national market. Expanding further to an international setting can seem intimidating but is feasible in externships, since they are individualized. Developing study abroad programs requires more resources but can be done collaboratively. This section demonstrates that with some planning, both opportunities are doable. It provides an overview of relevant ABA Standards and a description of current programs.

A. ABA Standards

Law school faculty adding or expanding an international externship program in the U.S. must be aware of the requirements set out in Standard 304 *Experiential Courses: Simulation Courses, Law Clinics and Field Placements*, in Chapter 3 of the ABA Standards and Rules of Procedure for Approval of Law Schools 2020-2021.⁷⁷ These sections are important to ensure a successful ABA site visit and provide useful guidance for establishing a program. Issues relevant for international placements are covered in parts of Standard 304 and in the following additional sections: Standard 307, *Studies, Activities, and Field Placements Outside the U.S.*; Standard 310, *Determination of Credit*

⁷⁵ I include more on incorporating cross-cultural lawyering into the seminar for international externships in my next article entitled “*International Externships – Everyone Can Do Them, and Everyone Should: Blueprint for a Successful Program.*”

⁷⁶ KUEHN & SANTACROCE, *supra* note 64.

⁷⁷ AM. BAR ASS’N, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2020-2021 (2020), https://www.americanbar.org/****_to_the_bar/standards/2020-2021/2020-21-aba-standards-and-rules-chapter3.pdf- [hereinafter ABA STANDARDS].

*Hours for Coursework; Standard 314, Assessment of Student Learning; and Standard 315, Evaluation of Program of Legal Education, Learning Outcomes, and Assessment Methods.*⁷⁸

Standard 304, which covers externships in general, provides useful guidance regarding seminars, supervisors, and credit hours. Like clinics, externships must include a seminar or a reflective equivalent. Section 304(a)(5) provides some flexibility in equivalencies for the classroom instructional component.⁷⁹ International externships require the student to be remote and do not allow for student attendance at a school-based seminar. The flexibility in the standards, however, allows for many opportunities for “faculty-guided reflection” other than a synchronous or in-person seminar.⁸⁰

Unlike clinics, externships also require site supervisor oversight in addition to faculty involvement. This increases the responsibility for directors to select and monitor a site and supervisor to ensure quality in learning outcomes and assessment. Section 304(d)(1) explains that the supervisor need not be a licensed attorney but can be “an individual otherwise qualified to supervise.”⁸¹

Standard 307 refers directly to *Field Placements Outside the United States* and specifies that student participation may not exceed more than two-third of the credits required for the degree, if the credits are obtained in a program sponsored by an ABA approved law school.⁸² Section 307(c) specifically lists field placements outside the U.S. as one of the programs considered to be sponsored by an ABA

⁷⁸ *Id.* at 21. Standard 306 “Distance Education,” was reserved and deleted in August 2020. Standard 306 previously regulated those circumstances when students are separated from faculty and each other for more than one third of the instruction, and the instruction involved the use of synchronous or asynchronous technology. Its guidelines and limitations on the number of credits that could be awarded for education delivered in this way were no longer relevant as many law schools moved classes online. Deletion of Standard 306 will considerably reduce the challenge of creating an international externship program that complies with the ABA Standards.

⁷⁹ *Id.* at 19. Standard 304 (a) requires that simulation courses, law clinics, and field placements must be primarily experiential in nature and meet six requirements. 304(a)(5) includes “provide a classroom instructional component; or, for a field placement, a classroom instructional component, regularly scheduled tutorials, or other means of ongoing, contemporaneous, faculty-guided reflection.” *Id.*

⁸⁰ Alternatives include an intensive before or after the semester, and synchronous sessions by video conference. Asynchronous options can be substituted where time zone differences make simultaneous participation in a live videoconference call unworkable.

⁸¹ ABA STANDARDS *supra* note 77 at 18. This allows flexibility for sites such as smaller non-governmental organizations or government agencies where supervisors are not attorneys but have experience and skills in policy or research. *Id.*

⁸² *Id.* at 21-22. The maximum number of credits a student could earn in a single semester externship course is 15, not more than one sixth of the 90 credits typically required in a three year program, and still under a fifth of the overall minimum of 83 credit hours in Standard 311 (a).

approved law school.⁸³ International externships can be attached to study abroad programs, but maintaining a relationship with a group of individual international sites requires fewer resources than setting up a larger study abroad program.⁸⁴ Standard 307 also incorporates the general requirements of Section 304 as the relevant guidelines.⁸⁵

International placements are usually full-time and therefore require attention to credit hour ratios.⁸⁶ In addition to Standard 307, Standards 310, 314, and 315 provide relevant information. Standard 310 on the *Determination of Credit Hours for Coursework* gives guidance on how much time to allocate for the seminar versus for the field placement for those programs that split the credits between field placement and seminar.⁸⁷ The ratio of one credit for three hours of total time (not less than one hour of classroom time and two hours out of class student work per week for fifteen weeks) is set out in 310(b)(1).⁸⁸ It is modified for field placements in 310(b)(2) to be “at least an equivalent amount of work as required in subparagraph (1) of this definition for other academic activities including simulation, field placement, clinical, co-curricular, and other academic work leading to the award of credit hours.”⁸⁹ International externships will likely use

⁸³ *Id.*

⁸⁴ *Id.* Standard 304 requires that faculty direct and teach in an international externship program but allows a non-faculty supervisor on site internationally. In contrast study abroad programs require an *on-site* program director who is a tenured, tenure-track, or full-time faculty member with adequate background and time to devote to the program.

⁸⁵ See ABA STANDARDS, *supra* note 77, at 20.

⁸⁶ These issues, as well as suggestions on the process for inquiring about the supervisor’s training and experience, are discussed in my next article, “*International Externships – Everyone Can Do Them, and Everyone Should: Blueprint for a Successful Program.*”

⁸⁷ See ABA STANDARDS, *supra* note 77, at 22. Standard 311 is worth noting to the extent that it deals with the limitation on hours spent outside of “regularly scheduled class sessions.” Standard 311 (a) states “[a] law school shall require, as a condition for graduation, successful completion of a course of study of not fewer than 83 credit hours. At least 64 of these credit hours shall be in courses that require attendance in regularly scheduled classroom sessions or direct faculty instruction.” Because international externships are full-time, with most programs splitting credits between the seminar and field placement, a large percentage of credits earned in these courses count against the cap on hours spent *outside* of regularly scheduled class sessions. However, most programs limit the number of externship credits a student can earn, and with careful planning, a student can do a full-time externship without limiting other curricular choices, such as editing a journal or completing an independent study in other semesters.

⁸⁸ *Id.* For example, a student might earn 15 credits by doing a weekly 37.5 hour per week externship for fifteen weeks while attending a seminar that has additional 12 hours of class time with required written assignments (including a research paper) and readings taking an additional 24 hours.

⁸⁹ *Id.* The Managing Director’s Guidance Memo on Standard 310, issued in May of 2016, clarifies that fifty minutes can be counted as one hour of faculty instruction. AM. BAR ASS’N, MEMORANDUM FROM THE ABA’S MANAGING DIRECTOR ON STANDARD 310 (2016). https://www.americanbar.org/and_admissions_to_the_bar/governancedocuments/2016_standard_310_guidance_memorandum.pdf.

both ratios since some credit hours are awarded to the seminar (or reflective equivalent) while the majority of the credit hours are earned based on work done at the externship site.⁹⁰

Standards 314 and 315 both cover assessment. Standard 314, *Assessment of Student Learning*, requires that law schools use both formative and summative assessment methods to measure and improve student learning.⁹¹ Standard 315, *Evaluation of Program of Legal Education, Learning Outcomes, and Assessment Methods*, requires the dean and faculty to evaluate the program of education, learning outcomes, and assessment methods for courses.⁹² Both require an international externship course to incorporate the specific goals of the course into the assessment tools.⁹³ Any international experience, whether study abroad or externship, should provide tools for assessment of values and skills, opportunities for students to get feedback from faculty as well as supervisors, and a process for eliciting a summative assessment of the student's success on meeting the goals of the course at the end of the semester.⁹⁴

Those who wish to begin a study abroad program, should note that the criteria governing semester and year-long (as well as summer) programs place responsibility for administration and monitoring on the ABA-approved law school.⁹⁵ Two additional documents, Criteria

⁹⁰ When thinking about the hours awarded for work at the *placement*, the following is of some help:

“For courses such as clinics and field placements, where students typically log the hours they spend engaged in clinic or field placement work, the determination should be straightforward. The school should design the clinic or field placement to ensure that the required number of logged hours plus the time spent in any classroom sessions and preparing for those sessions equals or exceeds the “not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks” specified in Standard 310(b)(1).” AM. BAR ASS'N, MEMORANDUM FROM THE ABA'S MANAGING DIRECTOR ON STANDARD 310 (2016). The memo does not require scientific precision, but rather that the school document the effort and process used to reach a conclusion.

⁹¹ See ABA STANDARDS, *supra* note 77, at 24-5.

⁹² *Id.*

⁹³ I discuss how to do this with an accompanying seminar in my next article entitled “*International Externships – Everyone Can Do Them, and Everyone Should: Blueprint for a Successful Program.*”

⁹⁴ At Seattle University School of Law, we have modified the ten skills and four values developed in the MacCrate Report; See Robert MacCrate, *Legal Education and Professional Development—An Educational Continuum*, A.B.A. Sec. Legal Educ. & Admissions to the Bar (1992). Subsequent critiques of the MacCrate report have pointed out that listing the values *after* the skills diminishes their importance, when in fact logic would suggest they appear *before* the skills, so we have put them first in our assessment tool. Critics have also noted that the values were not actually representative of the views of the private bar, a critical fact made more conspicuous by the complete silence of the report surrounding this lack of agreement. Russell Pearce, *MacCrate's Missed Opportunity: The MacCrate Report's Failure to Advance Professional Values Symposium*, 23 PACE L. REV. 575 (2002-2003).

⁹⁵ AM. BAR ASS'N, CRITERIA FOR PROGRAMS OFFERED BY ABA-APPROVED LAW

for Programs Offered by ABA-Approved Law Schools in a Location Outside the United States,⁹⁶ and Criteria for Accepting Credit for Student Study at a Foreign Institution,⁹⁷ provide details.

B. The Current Landscape: International Externships and Study Abroad

The ABA Standards provide clear guidance on the components of a good program, but many externship and clinical faculty feel overwhelmed with the challenge of evolving standards and the complexity of an international setting. The requirements for a strong program underscore two important trends that should encourage faculty. First, the pedagogical value of externships is increasingly accepted by both the clinical and doctrinal community.⁹⁸ Second, support for rigorous and well-structured programs is being codified to protect both externship programs and faculty from the pressures caused by law school budgetary challenges.⁹⁹

Those wishing to develop an international externship program benefit from the recent period of externship expansion throughout the

SCHOOLS IN A LOCATION OUTSIDE THE UNITED STATES, https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2019-2020/19-aug-revised-criteria-for-programs-offered-by-aba-approved-law-schools-in-location-outside-us.pdf (2020) [hereinafter ABA Criteria].

⁹⁶ *Id.* At its meeting on August 22-24, 2019, the Council approved the Criteria for Programs Offered by ABA-Approved Law Schools in a Location Outside the United States, which replaces the Criteria for Foreign Summer and Intersession Programs Offered by ABA-Approved Law Schools in a Location Outside the United States and the Criteria for Approval of Foreign Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools of the ABA Standards and Rules of Procedure for Approval of Law Schools. The proposed changes were circulated for Notice and Comment and became effective upon approval. The changes have been incorporated into the online version of the Standards and are included in the published ABA Standards and Rules of Procedure for Approval of Law Schools.

⁹⁷ *Id.* The requirements are like those for approving domestic law courses: faculty responsibility for formulating the program; faculty approval of the academic content; content consistent with the same standards as U.S.-based classes; and student numbers limited to those appropriate for the content, facilities, faculty, administrative support, and educational goals. The specific requirement that “a substantial portion of the academic program must relate to the socio-legal environment of the host country or have an international or comparative focus,” underscores the goal of all study abroad programs. An academic advisor must develop a written plan of the student’s educational objectives, along with a method for evaluating the student’s attainment (not unlike the assessment reflection and evaluation required in experiential learning under Standard 304) of the goals.

⁹⁸ See Kelly S. Terry, *Externships: A Signature Pedagogy for the Apprenticeship of Professional Identity and Purpose*, 59 J. LEGAL EDUC. 2 (2009); See generally WORTHAM ET AL. and MARANVILLE ET AL. *supra* note 67.

⁹⁹ Association of American Law Schools – Section on Clinical Legal Education Glossary for Experiential Education, <https://www.aals.org/wp-content/uploads/2017/05/AALS-policy-Vocabulary-list-FINAL.pdf> (last visited Feb. 4, 2020).

United States.¹⁰⁰ Early recognition of the value that externships offer to law students, their future employers, and their future clients was sometimes countered by a worry that law schools would cut clinical opportunities and replace them with externships. However, growing evidence provides support for the crucial role of both experiences; externships complement, but do not supplant, clinical offerings.¹⁰¹ They provide a real-world experience in a variety of law practices and courtrooms outside the law school, building upon the clinic model, which has a small caseload with pedagogy at every step. With supervision from both externship faculty and practitioners, externships also help students develop self-directed learning techniques and professional mentors to guide them in their future careers.

A survey of externship programs before the Externship 8 Conference in Cleveland, Ohio in March of 2016 had a limited response;¹⁰² but the survey gives a picture of the international experiential learning programs offered. It lends support for the argument that such programs are critical to attract students, regardless of the slow pace of the legal academy to provide training on global lawyering.¹⁰³

Like domestic externships, international externships come in a variety of descriptions. Asked whether they had any type of “international externship,” “practicum,” or “placement program,”¹⁰⁴ fifty-one percent of respondents said they had a program; twenty-five percent said they did not; and thirteen percent said they were considering one.¹⁰⁵ Programs ranged from students externing at set locations in specific semesters (thirty-two percent), to those schools which allowed students flexibility in both sites and semesters (sixty-six percent).¹⁰⁶ Although fall and spring externships offer a longer time at the site and a more substantive experience, the majority of programs of survey respondents took place in the summer.¹⁰⁷ The range of placements was

¹⁰⁰ J. P. Ogilvy & Sudeb Basu, *Externship Demographics Across Two Decades with Lessons for Future Surveys* 19 *CLINICAL L. REV.* 1, 5 (2012) (at least 190 ABA accredited law schools offer externships for credit).

¹⁰¹ For more on externship pedagogy see Terry, *supra* note 98.

¹⁰² Survey on file with the author [hereinafter Survey]. The survey was sent out to 31 schools participating in the Externship Listserv. Responses were more likely to come from schools with a program, but the data is still useful because of the descriptions of the variety of such programs. For an article discussing a more extensive survey of externships generally see Ogilvy & Basu, *supra* note 100.

¹⁰³ See RAND study on numbers of *Americans* who believe in the importance of exposure to global issues as a future advantage in employment. TORA K. BIKSON, GREGORY F. TREVERTON, JOY S. MOINI, & GUSTAV LINDSTROM, *NEW CHALLENGES FOR INTERNATIONAL LEADERSHIP: LESSONS FROM ORGANIZATIONS WITH GLOBAL MISSIONS* (2003).

¹⁰⁴ See Survey, *supra* note 102.

¹⁰⁵ See *id.*

¹⁰⁶ See *id.*

¹⁰⁷ See *id.*

surprisingly diverse: forty-two percent of respondents had sites in civil for-profits, seventy-nine percent had civil non-profits, forty-seven percent had judicial sites, and forty-seven percent had criminal justice placements.¹⁰⁸

A classroom component with regular synchronous classes conducted with remote technology was offered by twenty-two percent of respondents;¹⁰⁹ twenty-one percent of respondents provided the seminar at the international site, and sixteen percent offered the seminar before or after the semester.¹¹⁰ Less than half of the respondents, forty-two percent, offered reflection and other assignments in lieu of the seminar.¹¹¹

Fifty-four percent of programs had faculty teaching and supervising in the program; an additional twenty-six percent also employed staff.¹¹² Numbers of students participating in the international externship programs were typically low, ranging from less than five a year to a high of about thirty.¹¹³

When asked about additional courses that help students prepare for international experiences, fifteen percent of law schools responded that they offered law school credit for language classes, and fifty-seven percent offered no credit at all.¹¹⁴ The thirty-eight percent that gave non-law credit for language classes either offered a version of Spanish for Lawyers,¹¹⁵ or facilitated law student participation in classes at the undergraduate institution connected with the law school.¹¹⁶

While fifty-one percent of all the schools offered international ex-

¹⁰⁸ See *id.*

¹⁰⁹ See *id.*

¹¹⁰ The increased focus on contemporaneous learning, that began in 2016, supports the use of a seminar and makes this approach more challenging. Contemporaneous learning is still a requirement in the revised ABA 2020-2021 Standards. Standard 304(a)(5), ABA STANDARDS, *supra* note 77, at 17.

¹¹¹ See Survey, *supra* note 102.

¹¹² See *id.* Not all those who direct and teach in externship programs are in faculty positions, although the Standards use that term to describe the individual responsible for externship requirements. For instance, Standard 304(a)(6) requires that field placements “provide direct supervision of the student’s performance by the faculty member; or, for a field placement, provide direct supervision of the student’s performance by a faculty member or a site supervisor.” ABA STANDARDS, *supra* note 77 at 19.

¹¹³ See *id.*

¹¹⁴ *Id.* Seattle University Law School has offered the class titled *Lawyering in Spanish* for several years and began giving credit in the fall of 2018. *Lawyering in Spanish* is a one-year course allowing students to obtain a total of two credits. As part of the course students are required to volunteer at a local non-profit once each month assisting and shadowing both bilingual and non-bilingual attorneys.

¹¹⁵ *Id.* For more information about Victoria Ortiz who authored a casebook, *Spanish for Lawyers*, see <http://www.ggu.edu/shared-content/faculty/bio/victoria-ortiz.gsp>. It is an excellent resource and can be used to address concerns from faculty who are reluctant to approve such a course for law school credit without a substantive text.

¹¹⁶ See Survey, *supra* note 102.

ternships, seventy-three percent had study abroad programs and forty-two percent had non-law related international community service projects.¹¹⁷ The highest participation in international programs occurred as part of a study abroad program, an area that has been steadily growing even though other attempts to globalize the curriculum have been slow.¹¹⁸ The survey showed there are a variety of programs and options available; it also demonstrated there is interest in doing more. For the thirteen percent who responded that they are considering a program, and for all who are hoping to persuade their law schools to expand an existing program, the following section provides reasons to do so.¹¹⁹

PART III. THE IMPACT OF INTERNATIONAL EXPERIENCES

The benefits of international experiences can be transformational. Both current research and the students' own words support this description. This section describes these benefits in the areas of creativity and comparative analysis, cross-cultural humility, awareness of bias, and global citizenship.

International experiences have a significant positive impact on the cognitive processes that support creativity and help develop critical lawyering skills in communication and problem solving. The data from business, science, and the arts support this connection. The legal community needs these skills as much as any other profession.

Moreover, living and working outside the United States places students in environments that force them to operate as a minority within a different majority culture. For students with privilege, this can broaden their understanding of power and difference. Even students from marginalized communities in the U.S., who have already experienced the perspective of being a minority, encounter sharply critical views of U.S. culture from the majority group in another country.

Finally, these experiences foster global citizenship for U.S. law students and prepare them to address social justice issues at home and elsewhere. These benefits have special resonance in the context of the Black Lives Matter movement. As Part IV discusses more fully, inter-

¹¹⁷ *Id.* A few such service programs were law related and others were based at the affiliated undergraduate institution, but most directors of externship programs indicated that these were not closely coordinated by the law school itself. *Id.*

¹¹⁸ See generally James P. White, *A Look at Legal Education: The Globalization of American Legal Education*, 1285 IND. L. J. 1985 (2007).

¹¹⁹ Details on how to counsel students, select externship sites, and design an international externship seminar are included in my next article entitled "*International Externships – Everyone Can Do Them, and Everyone Should: Blueprint for a Successful Program.*"

national experience for both white students and students of color gives them both confidence and insight to effectively combat institutionalized racism.

A. *Creativity and Comparative Analysis*

Students in international externships experience significant gains in creativity and comparative analysis, a phenomenon that professions outside the law have both studied and recognized. These gains occur in large part because of the impact that living in more than one country and culture can have.

Studies of international experiences have focused on how these experiences can lead to the ability to generate new and useful ideas. Researchers have assessed creative insight in problem solving tasks, generation of remote but effective associations, and production of creative stories and divergent ideas.¹²⁰ To further assess creativity supporting cognitive processes, they used an idea sampling task and measured ability to “spontaneously access unconventional or normatively inaccessible ideas and to recruit ideas from foreign cultures.”¹²¹ Extensive multicultural experiences has been found to be positively related to factors long familiar to clinical educators: creative performance, including insight learning, remote association, and idea generation; and creativity-supporting cognitive processes, including retrieval of unconventional knowledge and recruitment of ideas from unfamiliar cultures for creative idea expansion.¹²²

These researchers identified two different mental processes at work: a generative process, i.e. retrieving or seeking out information to generate an idea; and an explorative process, scrutinizing an idea to further modify or transform it.¹²³ Learned routines and prior conventional knowledge of a culture may limit generation of creative thought. By contrast, exposure to a new and different culture can affect creativity positively. People learn new ideas and concepts and, at the same time, see that similar things may have different functions and implications.¹²⁴

The authors of this study discussed the implications of their re-

¹²⁰ See, Angela Ka-yee Leung, William W. Maddux, Adam D. Galinsky & Chi-yue Chiu, *Multicultural Experience Enhances Creativity: The When and How*, 63 *AMERICAN PSYCHOLOGIST* 169-181 (2008). See also Carmit T. Tadmor, Adam D. Galinsky & William W. Maddux, *Getting the Most Out of Living Abroad: Biculturalism and Integrative Complexity as Key Drivers of Professional and Creative Success*, 103 *J. PERSONALITY AND SOC. PSYCHOL.* 520, 520-42 (2012).

¹²¹ Leung et al., *supra* note 120 at 170.

¹²² *Id.* at 179.

¹²³ *Id.* at 171.

¹²⁴ *Id.* at 172.

search for management and education.¹²⁵ But developing complex cognitive abilities is equally important for lawyers, fostering an increased readiness to seek out ideas from diverse sources.¹²⁶ This improvement in creativity has implications for the kind of problem solving critical for legal work. It can help lawyers to access unconventional knowledge about legal systems, social norms, and regulatory structures back in their own cultures.¹²⁷

Research on contributions of immigrants to the U.S. economy has also studied how living in more than one country influences creativity. For example, although immigrants are only about fourteen percent of the population, they are involved in the founding of about forty percent of all startups in the U.S.¹²⁸ According to Exequiel Hernandez, a professor at the Wharton School of Business, one of the reasons for immigrant participation in business is that they are disproportionately involved in innovation: “(Immigrants) engage in what we call recombination. They have different experiences than others. They have had certain experiences where they grew up, then they come to the United States and they are able to recombine experiences that they’ve seen in both locations and identify opportunities.”¹²⁹

These benefits for creativity depend on how long and at what depth individuals experience foreign cultures.¹³⁰ This fact supports a longer externship experience, with the extern integrated into practice in the host country’s legal system. Another set of studies highlighting the importance of living abroad (not just traveling abroad) to enhance creativity also demonstrated that these experiences can be retained.¹³¹ Priming foreign living experiences, by asking participants to write about their international experiences and then take an assessment, temporarily enhanced the creative tendencies for participants who had previously lived abroad.¹³² The enhanced creativity and professional success of bicultural individuals compared to those with only one cultural experience was attributed to a greater capacity for integrative complexity, an ability that involves considering and combin-

¹²⁵ *Id.* at 177.

¹²⁶ For a discussion of the importance of creativity in legal work particularly in negotiation, see Carrie Menkel-Meadow, *Aha? Is Creativity Possible in Legal Problem Solving and Teachable in Legal Education*, 6 HARV. NEGOT. L. REV. 97, 97-144 (2001).

¹²⁷ Leung et al., *supra* note 120.

¹²⁸ See Hernandez, *supra* note 71.

¹²⁹ *Id.*

¹³⁰ Tadmor et al., *supra* note 120.

¹³¹ See William W. Maddux and Adam D. Galinsky, *Cultural Borders and Mental Barriers: The Relationship Between Living Abroad and Creativity*, 96 J. OF PERSONALITY AND SOC. PSYCHOL. 1047 (2009).

¹³² *Id.* at 1047.

ing multiple perspectives.¹³³

These studies included both Masters of Business Administration students and undergraduates in the U.S. and in Europe, but not law students. They confirmed the positive correlation between living abroad and creativity across several measures, including those measuring insight, association, and generation.¹³⁴ Further research demonstrating how exposure to multiple cultures enhances creativity for law students would provide additional understanding of the benefits of this experience and would also help students describe the skill to future employers.

B. Cross-Cultural Humility

Awareness of the need to develop cross-cultural humility, sometimes referred to as cross-cultural competence, intercultural competence, or cultural sensitivity, confronts the international extern and study abroad student every day, leading to rich discussions and comparative perspectives. While students in the United States may interact with people from many different cultures, international externs experience a different culture in every aspect of their lives: where they live, what they eat, and how they travel, worship, work, and play. Not only does this show them that there are different ways to do everything, it shows them that other cultures also believe their way is best.

While the term cultural competence is used in much of the literature, the term “cross-cultural humility” places a greater emphasis on avoiding dominance or superiority by one particular group. The idea that cultural competence is a skill that can be “achieved” has also been challenged: no one can reach a state of “competence,” and all must acknowledge their ignorance and instead cultivate a sense of “cross-cultural humility.” The term “humility” also implies a growing appreciation of the role that bias, both explicit and implicit, plays in cross-cultural communication.

Development of this humility is evident in the reflections of Seattle University School of Law students engaged in international externships. Externs often notice differences in the balance between work and leisure time. They contrast the American belief in the value of working hard at all hours, with other cultures’ emphasis on the virtue of devoting time to family, friends and nonwork pursuits.¹³⁵ They also

¹³³ Tadmor et al., *supra* note 120.

¹³⁴ Maddux & Galinsky, *supra* note 131 at 1047.

¹³⁵ One student in a French-speaking chambers at the International Criminal Tribunal for the former Yugoslavia initially felt guilty about not being productive while taking time for social interaction, but later concluded that both her efficiency and professional relationships improved.

notice differences in communication and organization in the workplace. In describing a “flatter” hierarchy in a placement, one student observed:

*In line with this “flat structure” is the idea that one should set one’s own deadlines. For the most part, interns give their supervisors deadlines of when they will have a specific assignment done. I think in the larger U.S. culture the supervisor would hand out the deadline. Our team does it this way because only the intern knows how much work they’ve got on their plate, and which assignment is of the highest priority. The staff also believes that by managing their own workload, interns will further develop their organization and time management skills. They will also learn how to use their own judgment in prioritizing tasks.*¹³⁶

Another student commented on respect for diversity.

*Outside of this, I think one aspect that is unique to the culture of the International Criminal Tribunal For the Former Yugoslavia (ICTY) is that it is part of the UN. The UN brings with it many special aspects. For example, during the weeks of the 1st and 8th of March, International Women’s Day is celebrated. I could not imagine the average American law firm holding multiple events regarding International Women’s Day.*¹³⁷

Educators in both externship¹³⁸ and clinical¹³⁹ pedagogy have endorsed cross-cultural humility as a critical skill for lawyers. The influence of America’s multi-ethnic groups¹⁴⁰ is growing. The value of this skill for Americans, and its importance for effective work in any setting, is also encouraged by such diverse groups as the U.S. military¹⁴¹

¹³⁶ Law Student Reflection (Fall 2016) (On file with author). All journal excerpts within this article are reprinted with express permission of the student.

¹³⁷ Law Student Reflection (Spring 2015) (On file with author).

¹³⁸ Resources in this area are plentiful: see Jeffrey Blumberg, *Sitting by the Well: The Case for Intercultural Competency Training in International Experiential Learning*, 43 U. BALT. L. REV. 395 (2014). See also LEAH WORTHAM, SUSAN BROOKS, ALEXANDER SCHERR & NANCY MAURER, “LEARNING FROM PRACTICE: A TEXT FOR EXPERIENTIAL LEGAL EDUCATION (3rd ed. 2016). LEARNING FROM PRACTICE has separate chapters on Cultural Competence (Chapter 6) and Racial Bias (Chapter 7). *Id.*

¹³⁹ Susan Bryant and Jean Koh Peters are the authors of a rich source of books and articles on cultural competence skills developed in clinics. See Susan Bryant, Elliott S. Milstein, & Ann Shalleck, *TRANSFORMING THE EDUCATION OF LAWYERS : THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY* 2014, Susan Bryant and Jean Koh Peters, “Reflecting on the Habits, Teaching about Identity, Culture, Language, and Difference” (Chapter 15), Susan Bryant and Jean Koh Peters, “Talking about Race” (Chapter 16)

¹⁴⁰ U.S. Census Data shows that by the year 2045, whites will no longer be a majority in the U.S. population. *The US will become ‘minority white’ in 2045, Census projects* William H. Frey March 14, 2018 <https://www.brookings.edu/blog/the-avenue/2018/03/14/the-us-will-become-minority-white-in-2045-census-projects/>

¹⁴¹ PAULA CALIGIURI, NOE RAYMOND, RIAL NOLAN, ANN M. RYAN & FRITZ DRASGOW, *TRAINING, DEVELOPING AND ASSESSING CROSS-CULTURAL COMPETENCE IN MILI-*

and the Peace Corps.¹⁴² Legal educators have developed sophisticated tools to assess their students' cross-cultural humility and to establish learning goals to increase it.¹⁴³ Some faculty suggest looking to the medical school model which emphasizes that cultural competence encompasses learning the attitudes, values, knowledge, and skills required to interact with individuals from a different cultural background.¹⁴⁴ Across professions, understanding of cross-cultural humility has moved beyond the belief students need only study the habits and customs of other countries.¹⁴⁵ In place of analysis of the "other", educators currently focus on self-awareness about one's own culture and the ability to inquire and communicate without preconceptions.¹⁴⁶

C. Awareness of Bias

The connection between cross-cultural humility and both implicit and explicit bias helps explain the power differential imbedded in any cross-cultural communication. Equipping students with an under-

TARY PERSONNEL (2011), https://www.researchgate.net/profile/Fritz_Draggow/publication/277788792_Training_Developing_and_Assessing_Cross-Cultural_Competence_in_Military_Personnel/links/560e978d08ae0fc513ed8cc0/Training-Developing-and-Assessing-Cross-Cultural-Competence-in-Military-Personnel.pdf.

¹⁴² One successful international externship program at American University is led by a faculty member who used his own Peace Corp experience to develop a curriculum and write an article on the course. See Blumberg, *supra* note 138.

¹⁴³ See Andrea A. Curcio, Teresa E. Ward & Nisha Dogra, *A Survey Instrument to Develop, Tailor, and Help Measure Law Student Cultural Diversity Education Learning Outcomes*, 38 NOVA L. REV. 177, 187 (2014).

¹⁴⁴ *Id.* See also ASS'N OF AMERICAN MED. COLLEGES, CULTURAL COMPETENCE EDUCATION FOR MEDICAL STUDENTS, <https://www.aamc.org/system/files/c/2/54338-cultural-comped.pdf> (last visited Sept. 6, 2020). Cultural and linguistic competence is a set of congruent behaviors, knowledge, attitudes, and policies that come together in a system, organization, or among professionals that enables effective work in cross-cultural situations. "Culture" refers to integrated patterns of human behavior that include language, thoughts, actions, customs, beliefs, and institutions of racial, ethnic, social, or religious groups. "Competence" implies having the capacity to function effectively as an individual or an organization within the context of the cultural beliefs, practices, and needs presented by patients and their communities. *Id.* at 1.

¹⁴⁵ Gert Hofstede's country comparison, although it has been criticized, may be useful information for students in each country. See *Why is Culture So Important*, GEERT HOFSTEDE, <https://geerthofstede.com/culture-geert-hofstede-gert-jan-hofstede/6d-model-of-national-culture/> (last visited Sept. 6, 2020). Cultural differences are important to identify and respect. See also Julia Ann Gold, *ADR Through A Cultural Lens: How Cultural Values Shape Our Disputing Processes*, 2005 J. DISP. RESOL. 289 (2005) (describing cultural attitudes to dispute resolution).

¹⁴⁶ See Silver, *Getting Real About Globalization*, *supra* note 14, at 460 who writes "[p]ut another way, inter-cultural competency can be understood as involving three elements: cognitive, which "refers to possessing knowledge about cultural norms, values, behaviors and issues"; affective, which "relates to the flexibility to adapt to new situations and open-mindedness to encounter new values"; and behavioral, which includes "resourcefulness, problem-solving skills and culturally appropriate people skills.""

standing of colonialism,¹⁴⁷ privilege,¹⁴⁸ the impact of microaggressions,¹⁴⁹ and the anger and frustration that result from years of oppression,¹⁵⁰ is equally important for any journey outside the U.S. to engage in legal work. As previously discussed, inequality between the U.S. and the rest of the world leads some to view sending students abroad (unless to a developed country) as a continuation of the oppression that U.S. capitalism and world dominance has wrought.¹⁵¹ Providing students with information and skills to understand their own and others' biases helps them begin to address this tension. It can also allow them to share their increased awareness of bias, based on America's painful history of slavery and racism, with their international colleagues.

The sense of shared challenges around the globe can provide hope to students from marginalized communities and reduce their sense of isolation. This in turn, leads to a sense of commitment and an understanding of greater complexity.

Before the ICTY, I worked directly with clients suffering injustice before the criminal justice system in the U.S. I worked along [sic] passionate individuals who protested against the injustices in the system by fighting mass incarceration and the school to prison pipeline. They shaped and enhanced my perspective on the criminal justice system and all its flaws. I left my 2L year thinking that I wanted to work in criminal justice reform and advocate for policy change. I was privileged to have direct client interaction with immigrants, refugees, and various defendants. I worked in a system where individuals were targeted based on race, gender, and money. I found the system to be biased and the clients I interacted with were targets of a larger misfortune plaguing the American system. I began to wonder whether a system without criminal justice could exist? With images of lynching in the South, could a community hold each other accountable without a criminal justice system focused on restorative and rehabilitative justice? Or would anger fuel retributive justice, an eye for an eye?.

Before I used to argue that the law was inherently biased based on those individuals of power who shaped it. But one thing is certain in my legal career, I will continue to fight against injustice by continuing to explore how justice is shaped and defined.¹⁵²

¹⁴⁷ See Monika Batra Kashyap, *Unsettling Immigration Laws: Settler Colonialism and the U.S. Immigration Legal System*, 46 *FORDHAM URB. L. J.* 548 (2019).

¹⁴⁸ For resources, see WORTHAM ET AL., *supra* note 67.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ See Maisel, *supra* note 46 at 467-9,472-90.

¹⁵² Law Student Reflection, (Fall 2014) (On file with author).

The Black Lives Matter movement has focused many of America's citizens on the work necessary to debias our institutions.¹⁵³ Raising awareness of these issues as they are addressed outside the United States has two important benefits. First, it reminds students that implicit biases arise out of processes for human development and learning that are common to all human beings. This fact recognizes that these biases have negative impacts and need to be addressed if we are to work in a just legal system. It also reaffirms that working to reduce their influence on ourselves and others is a shared responsibility.

Second, raising student awareness can provide numerous examples of the way that explicit bias has supported the development of a *global* economy, society, and environment that disproportionately oppresses certain groups. As discussed below, this evidence of the effect of explicit bias in other countries, seen from the outside, helps develop student understanding of its impact in the United States.

D. *Global Citizenship*

Increasing law student awareness of global citizenship is another desired outcome of international experiences. The tension between teaching students to take responsibility for global issues while also preparing for a global job market has led to skepticism of whether global citizenship can be achieved. A divergence can arise between faculty who want students to get traditional private and public sector law jobs and those who want to help students challenge the neoliberal structure of corporate law. This divergence may further decrease support for the belief that teaching global citizenship is possible. Yet renewed interest in dismantling colonial structures of oppression around

¹⁵³ The impact of the Black Lives Matter and the enormous shift it has helped to bring in racial justice is still being understood. Polls suggest that between 15 million to 26 million people have participated in the Black Lives Matter movement and that widespread involvement across the United States has produced some significant changes in a relatively short period of time - from dismantling police departments, to passing laws banning chokeholds, to removing Confederate symbols from both public property and private companies. Larry Buchanan, Quoc Trung Bui, & Jugal K. Patel, *Black Lives Matter May Be the Largest Movement in U.S. History*, N.Y. TIMES (July 3, 2020), <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html>. The movement also stands on the shoulders of many individuals and organizations. Opal Tometi, one of the Black Lives Matter founders credits the work of the previous generation of civil rights leaders and places herself firmly in that tradition. “‘Ours is part of a longstanding quest for justice. . . . there’s not some great new master plan. But we know that the justice that we’ve been calling for, for generations, has yet to be achieved. We have taken the baton and are using the tools of our age.’” Patti Widener, *Black Lives Matter co-founder Opal Tometi: ‘We have taken the baton’*, FINANCIAL TIMES (August 14, 2020) <https://ft.com/-c1bb-47b6-b4c5-7795b1a66cac>.

the globe provides further evidence of the urgency of this task.¹⁵⁴

Studies of law students in Australia¹⁵⁵ and of universities training global citizens¹⁵⁶ demonstrate these two goals do not have to be in conflict. One study explored how international higher education experts conceptualize the global citizen or the “ideal global graduate” and found that the term described a mindset of moral and transformative cosmopolitanism.¹⁵⁷ The authors hypothesized that “a neoliberal global citizen is educated to be successful in a capitalist society where goals are individual, and professional skills and development are about productivity and prosperity.”¹⁵⁸ They contrasted this with a “moral cosmopolitanism” that “recognizes the values that bind humanity together and is based on an assumption that all cultures overlap in their vocabulary of values in ways that make conversations possible.”¹⁵⁹ Reviewing several studies that defined global citizenship as “personal and social responsibility, cultural awareness and competence” the authors concluded that educating a global workforce for productivity and prosperity was not incompatible with developing “critical and ethical global citizens.”¹⁶⁰ This article uses the term “global citizenship” in this latter sense.

Students who had engaged in international experiences consistently experienced an increase in their “openness, tolerance, respect, and responsibility for self, others and the planet.”¹⁶¹ This research, based on actual student experience, is promising for advocates of global citizenship. Similarly, reflections of the students in international externships at Seattle University Law School demonstrate the power of comparison that occurs in an international setting. These reflective essays echo an enhanced awareness of both the student’s sense of individuality and belonging to a larger world.

This exposure has allowed me to reflect on the ways my own actions are influenced by my upbringing in the United States and contrast that with the people I have come in contact with at the International

¹⁵⁴ The Black Lives Matter movement has spread across the United States and around the globe, “with massive protests in the UK, Europe, and Canada.” Aleem Maqbool, *Black Lives Matter: From Social Media Post to Global Movement*, BBC (July 10, 2020), <https://www.bbc.com/news/world-us-canada-53273381>.

¹⁵⁵ Andrew Mitchell, Bruce Oswald, Tania Voon, & Wendy Larcombe, *Education in the Field: A Case Study of Experiential Learning in International Law*, 21 *LEGAL EDUC. REV.* 69 (2011).

¹⁵⁶ See generally Kathleen Lilley, Michelle Barker, & Neil Harris, *The Global Citizen Conceptualized: Accommodating Ambiguity*, 21 *J. STUD. IN INT’L EDUC.* 6 (2016).

¹⁵⁷ *Id.* at 8.

¹⁵⁸ *Id.* at 7.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.* at 10.

¹⁶¹ *Id.* at 13.

Maritime Organization. I have been able to evaluate the positive and negative traits which people from around the world associate with people from the U.S. Contrasting my own traits with others, has allowed me to assess which of those traits I possess, or do not possess. My broadened awareness of cultural competence is something I am certain will benefit my career as well as personal life when I return home to the U.S.”¹⁶²

Reflections by students in my international externship seminars at Seattle University School of Law support other research that experiencing and seeing the differences and inequality on a first-hand basis can increase, not decrease, student awareness and compassion. This awareness does not automatically lead to action, but it creates an environment conducive to seeking out the tools and motivation for global responsibility.

There is a compelling argument for the development of these qualities in tomorrow’s leaders. The numbers on inequality within the United States are alarming, and the coronavirus pandemic has further exacerbated the problem.¹⁶³ Yet even before the recent economic upheaval, the data on global inequality were staggering. According to a 2019 report from Credit Suisse, “The bottom half of wealth holders collectively accounted for less than 1% of total global wealth in mid-2019, while the richest 10% own 82% of global wealth and the top 1% alone own 45%.”¹⁶⁴

Credit Suisse’s analysis aligns with a briefing entitled “The G7’s Deadly Sins” from the international humanitarian group Oxfam; it points out that despite awareness of the growing gap, no progress to reduce it has occurred. “Wealth inequality (i.e. inequality in ownership of financial and non-financial assets) is also on the rise. More than half of total global wealth is owned by people living in G7 countries. The richest 10 percent of the population in all G7 countries owns approximately half or more of the country’s wealth, while the poorest 50 percent owns 10 percent or less.”¹⁶⁵

¹⁶² Law Student Reflection (Spring 2019) (On file with author).

¹⁶³ Research suggests that the virus intensifies inequality in both health and economic outcomes. Those in lower economic strata are likelier to catch the disease and die from it. Even those who remain healthy are likelier to suffer loss of income or health care as a result of quarantines. Research on influenza has found that in an epidemic, poverty and inequality can exacerbate rates of transmission and mortality for everyone. Max Fisher & Emma Bubola, *As Coronavirus Deepens Inequality, Inequality Worsens Its Spread*, N.Y. TIMES (Mar. 15, 2020), <https://www.nytimes.com/2020/03/15/world/europe/coronavirus-inequality.html>.

¹⁶⁴ CREDIT SUISSE RESEARCH INST., GLOBAL WEALTH REPORT 2019 (2019), <https://www.credit-suisse.com/media/assets/corporate/docs/about-us/research/publications/global-wealth-report-2019-en.pdf>.

¹⁶⁵ OXFAM, THE G7’S DEADLY SINS 1 (2019), https://assets.oxfamamerica.org/media/documents/The_G7s_Deadly_Sins.pdf.

Given the current problems in the areas of poverty, climate change, and health, creative solutions are in high demand. Law students with personal experience of international externships and study abroad programs can expect to acquire awareness of cultures and legal norms in the larger world, along with the motivation to work together to identify and solve such problems. Students who lack the experience of living outside the U.S. will not have the same chance to develop this sense of global citizenship.

*E. Lessons about Multiculturalism and Bias
in the U.S. and Abroad*

Added awareness of racism and multiculturalism in international settings has important ramifications for those societies as well as our understanding of our own history and America's multicultural society. Students with privilege are reminded of the ways in which many residents of the U.S. are insulated and isolated from the world at large.

Working in an international setting has increased my cultural competence 10-fold. Living in Washington State my whole life I previously had very little exposure to different cultures and people from other countries. I had no idea how isolated I was in my day-to-day life. I had experienced other cultures on trips to other parts of the world, but I never had the opportunity to live and work with people from all over the world on a day-to-day basis. At the legal affairs office there are eleven employees from ten different countries. Every day I have had opportunities to learn about new cultures and the way culture influences the ways people think and communicate with others.¹⁶⁶

Such students come to understand that the world looks critically on U.S. policy and that in areas of technology, environment, cultural, social and economic rights, the U.S. is often not the most advanced country. These students may also experience for the first time what it is like to be a minority in a different country, even if they are still working for institutions that are led by people with privilege.¹⁶⁷ This

¹⁶⁶ Law Student Reflection, (Spring 2019) (On file with author).

¹⁶⁷ "From the UN Security Council down to the army of unpaid interns (and fellows) who operate The Hague, I think there are serious questions about what we are all really doing here. One that seems to be often discussed is what is the justice sought: is it justice in the sense of a courtroom verdict of individual responsibility; is it justice in the sense of restoration of the victims and the community; is it justice in the sense of upholding the law; or is it justice in the sense of the will of the sovereign? I have enjoyed and struggled with answering these questions, but I wholly agree with the reflection question that they are important to understand. Applying this to international law, I think an important principle is that nothing occurs in a vacuum. Because of that reality, I have been become more and more aware of the larger social structures as I progress through my work, attend academic events, and research these topics independently." Law Student Reflection, (Spring 2015) (On file with author).

experience can give them a perspective that is not replicable if they remain within the U.S. where they are members of the dominant majority.

*Additionally, the atmosphere is very international. My team alone represents multiple countries and five continents. The effect? You are constantly reminded that you are a part of a larger picture. What does that have to do with the task at hand? I think it reminds people of the multiplicity of viewpoints had around the world, and how that must be taken into account. This is something that is very important within our own teams as well as in our work in recognizing the different backgrounds of the defendants and alleged victims.*¹⁶⁸

*Finally, the national and ethnic differences in the office are the most interesting to me and the most professionally productive for me. By “professionally productive” I mean the more I understand about how people from divergent backgrounds approach issues, the more confident I become in my ability to deal with complex clients and colleagues in the future. While I think navigating all aspects of office culture is useful, navigating deviating world views is, by far, the most interesting topic for me. Further, I believe accumulating more experiences and skills in this arena has a compounding effect on my future ability to relate to others: clients and colleagues alike.*¹⁶⁹

Students from marginalized communities often find their understanding of cross-cultural humility and bias is already developed by the realities of living in the U.S. Students from these communities can share knowledge of how implicit and explicit bias destroys the legitimacy of legal systems, dispute resolution mechanisms, and social structures in general.¹⁷⁰

As an immigrant and someone who has seen the product of discrimination, hatred, civil war, and human cruelty the value of justice, fairness, and morality have always been in the forefront of my mind. However, until this internship they were only one faceted. One commits a crime, one should get a trial, and one should get punished. The fairness element, although there in the sense that one always deserves a fair trial, was nothing more than: everyone deserves a fair trial. For me it was always about the victims, I never took on an objective lens.

¹⁶⁸ Law Student Reflection, (Spring 2015) (On file with author).

¹⁶⁹ Law Student Reflection, (Fall 2014) (On file with author).

¹⁷⁰ Examples of awareness of the impact of racism outside the United States can be seen in efforts to remove a statue of Cecil Rhodes from Oxford University see Kevin Rawlinson, *Cecil Rhodes Statue to Remain at Oxford After ‘Overwhelming Support,’* THE GUARDIAN (Jan. 29, 2016), <https://www.theguardian.com/////cecil-rhodes-statue-will-not-be-removed—oxford-university>. See also Tracy McVeigh, *Why Activists Brought the Black Lives Matter Movement to the UK,* THE GUARDIAN (Aug. 6, 2020), <https://www.theguardian.com/uk-news/2016/aug/06/black-lives-matter-uk-found-vital-social-justice> (citing the export of the Black Lives Matter movement to the United Kingdom).

Hence, I am organizing and synthesizing what I have learned thus far into my internship with my past beliefs.¹⁷¹

Students who are black, indigenous people, and people of color, also bring the perspective of those who have experienced the cruel history of slavery and its after-effects to an understanding of the interplay of cultural competence and bias in countries outside the United States. This may be a source of strength but also of potential trauma if they are triggered by additional bias they experience in an international setting.¹⁷² When this perspective is valued, students from marginalized communities can share their knowledge and use their skills in many settings, often with a strengthened confidence in their ability to do so.¹⁷³

My values of justice and equality inspired me to go to law school. I grew up knowing I wanted to help people who could not help themselves because I was aware of the desperate situation that faced victims of war. Helping Afghan victims of war was my first goal in pursuing a legal career but now that my knowledge of the world has expanded, I have goals of working in an international organization that has a broader impact. My values are still the same but now I have a more concrete idea of how I will implement them as a legal professional. The value I hold most dear is justice. I want to work in a career that stands for justice and implements justice worldwide. I will make my career decisions based on my larger goal of getting a job that promotes that value.¹⁷⁴

These experiences give students a way to evaluate their own career goals and identify areas of growth to succeed on their chosen path.

Overall, this experience has proven to me that I do want to work in international law post-law school. When I came to law school my goal was to always practice international law, but I was never sure in what capacity. Working and living in Europe opened my eyes to the difficulty of choosing to work in a very saturated industry. However,

¹⁷¹ Law Student Reflection, (Fall 2017) (On file with author).

¹⁷² A student at the International Criminal Tribunal For the Former Yugoslavia (ICTY) reflected “I have had to learn to ignore social realities when dealing with crimes committed against Muslims and women because I am so connected to those communities. Overall, I have learned that promoting justice, fairness, and morality is an ongoing battle that will continue to challenge me.” Law Student Reflection, (Fall 2017) (On file with author). These situations require attention on the part of faculty and highlight the need for ways to ensure good contact to provide support and avoid secondary trauma.

¹⁷³ “All the legal officers I’ve worked with have been inspiring in their own ways. They all come from such different backgrounds with different levels of experience under their belts and it encourages me to know that there isn’t one specific path you need to take to work for the UN.” Law Student Reflection, (Spring 2017) (On file with author). One Muslim student at the International Criminal Tribunal for Former Yugoslavia wrote of the important role that Islam can play in promoting transitional justice as part of his final paper.

¹⁷⁴ Law Student Reflection, (Spring 2017) (On file with author).

while in The Hague I realized that my willingness to move to different countries and continents makes it easier. My dream was to live in Europe and work for an international organization. After doing this internship I realize that there are many steps I need to take in order to achieve that dream. I need to gain experience, which I think will have to be somewhere in Africa, and I need to perfect my French to make myself more marketable.”¹⁷⁵

For all United States students, their understanding of both implicit and explicit bias comes from a society in which discrimination supported a system of enslavement followed by institutionalized racism that endures until today. While other students around the world may be citizens of former colonies or colonists and have that heritage to contend with, residents of the U.S. bring an awareness that slavery and racism demonstrate the logical extreme of one group’s belief in their superiority over another.

These lessons are sharply etched for us in the current moment. The experience of racism in the United States, and our attempts to unravel its effects on us as human beings, as lawyers, and as clinical teachers, is echoed by a renewed examination of racism, colonialism and inequality around the globe. This response demonstrates that America’s painful past can highlight the need for greater equality everywhere. Awareness of this universal movement can further enrich our own understanding of cross-cultural humility and make our solutions to address bias even more creative and effective.

Creating and expanding these international programs also forces us, as professors, to learn more about the outside world as we teach and learn with our students. The views held by law school faculty can be just as isolationist as those of our students. If we do not study, travel, and work outside the U.S. to gain knowledge and perspective, we may fall prey to the mindset that the U.S. alone has the solutions for the rest of the world. If we are to move beyond the historical antecedents of U.S. hegemony in law and legal education, we must prioritize the work with our international colleagues, finding ways to bring them to our conferences in substantive law and clinical education so that we may learn from them.¹⁷⁶ Rather than leaving the focus of international responsibilities and relationships to a few colleagues, we must seek to forge these connections at every level of the legal academy.

¹⁷⁵ Law Student Reflection, (Fall 2017) (On file with author). As of this writing, the student, now an attorney, is working in Ethiopia.

¹⁷⁶ See Arturo J. Carrillo, *Bringing International Law Home: The Innovative Role of Human Rights Clinics in the Transnational Legal Process*, 35 COLUM. HUM. RTS. L. REV. 527 (2004) (discussing the need to bring international colleagues to the United States and overcoming inherent barriers in international work).

PART IV. CONCLUSION

This article has reviewed the benefits of increasing student exposure to international law and global connectedness through international externships and study abroad programs for a reason: to respond to the common questions that will greet any effort to create such programs. Can international experiences lead students to engage in solving global inequality rather than turning away from it? Will these experiences develop the student's future career opportunities both within the U.S. and abroad? Could the creativity, innovation, and skill in recombination help address the global crises embodied in legal issues around the globe? For law school faculty, is devoting time to building a study abroad program or teaching an international externship seminar as important as helping students learn skills, build relationships, and contribute to social justice in the U.S.? Can these experiences really teach students something about working in the U.S. with diverse populations? At a time when budgets are tight, and student job prospects declining, are such experiences feasible and cost effective?

This article demonstrates that the answer to all these questions is yes. Equally important is the unasked question: what will happen if we *continue to fail* to create such experiences? By not expanding opportunities for students to engage in international settings, we run the risk of neglecting the education and background necessary to change the trajectory of the past. Having little exposure to international experiences and education about their responsibilities will not prevent the current generation of law students from engaging in global law in the future.¹⁷⁷ Without the necessary international experience to influence their decisions and understanding in a positive direction, some will refrain from engaging in international issues, while others will participate and repeat past mistakes. Without the enrichment of working and living in different systems, American students will miss out on the opportunity to develop their skills of recombination and innovation. Meanwhile, law students outside the US are gaining these skills and values necessary for global practice even if most American students are not.¹⁷⁸

Helping students succeed in international externships and study abroad programs requires nurturing and developing empathy, understanding, and responsibility—the ability to “think globally and *act* globally.” Establishing opportunities for students to examine their

¹⁷⁷ See Silver, *Getting Real About Globalization*, *supra* note 14.

¹⁷⁸ *Id.* at 475-76.

own values and actions further cements this education with experiences that avoid futility and powerlessness.

I was also amazed at the commitment of many to the idea of the multilateral trading system. Although it has been questioned in many forms of scholarship, and people tend to recognize this (and/or laugh about our inefficiencies), people generally believe strongly in the mission and philosophy of the WTO. The number of people who came for an internship or a short-term contract and who have stayed for 7, 15, 20 years is incredible. I find it admirable that it's not only seen as a job, but work that people seem to take pride in, and that regardless of differing interpretations of the goodness of international trade they believe is doing good work. That's the feeling I want to have, when and wherever I land in my career. And these are the people I love being surrounded by professionally: who tend to be focused, ambitious, and willing to work hard.¹⁷⁹

As the global clinical education movement has shown, interacting with clinical educators committed to social justice from around the globe provides a rich environment for our own education on innovation, analysis, cross-cultural humility, global practice, and ways to address bias and inequality. It pushes us to do our best to educate our American colleagues and to increase the exposure to global issues for students who stay at home. If we believe in the concept of international law, and shared values of human rights (political, economic, social, and environmental), we must endorse the goal of becoming educated to respect and support one another, especially as members of a profession with access to both power and privilege.

This commitment leads to increased support for organizations doing work that has international impact and for graduates who continue to develop these skills and values. We ourselves are more likely to engage in work with international human rights organizations and monitor U.S. companies as we work to address global inequality. In striving to support our students, we also gain a better understanding of global citizenship. As we face the challenges of pandemics, climate change, and predictions of increasing strife, we can already see the ways in which ignorance about each other's cultures fuels misconceptions and stereotypes. It would be an exaggeration to suggest that international externships and study abroad programs alone hold the key to solving these global problems, but they are an important step to educating future lawyers and giving them the tools to succeed.

¹⁷⁹ Law Student Reflection, (Fall 2014) (On file with author). As of this writing, the student is an attorney working in Washington, D.C.