

A Cosmopolitan Ethos for Our Future Lawyers

Antonios E. Platsas

Associate Professor, Faculty of Law, National Research University Higher School of Economics, Russia. Address: 20 Myasnitskaya Str., Moscow, 101000 Russian Federation. E-mail: aplatsas@hse.ru



Abstract

This article advocates the strengthening of the spirit of cosmopolitanism in modern legal education. In contrast to the epistemic environment of predominantly domestic and nation-oriented discourses across law schools and faculties around the world, the analysis proceeds with a number of propositions as to what ought to be done to improve legal education, especially at first-degree level. Relevant propositions are set out under a proposed cosmopolitan ethos for law. Recognition is given to current fundamentals of legal education and the fact that law is still a predominantly domestic discipline, which is otherwise this contribution's hypothesis. The article posits that a certain re-alignment of the subject's overall educational ethos ought to materialise for the benefit of the discipline, as well as for the benefit of future law graduates. To this effect, the author argues that it is the ethos of cosmopolitanism which ought to be directly introduced to the academic learning of law. Accordingly, this essay acts as an invitation for the re-invigoration of liberal education in law in accordance with a new ethos of excellence, a cosmopolitan ethos. Moreover, whilst partial recognition is given to the need for the mastery of positive law amongst law graduates, this contribution attempts to differentiate itself from current legal orthodoxy in educational terms in that it expects and proposes the combination of mastery of positive law with a cosmopolitan ethos in the orders of our future law graduates.



Keywords

cosmopolitanism; legal education; liberal education; epistemology; globalisation; inter-disciplinarity; multi-disciplinarity; comparative legal studies.

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Introduction

It is not a secret: law is an insular academic discipline. With the exception of international and comparative law, the subject of law is destined — almost by definition and certainly by configuration — to mostly engage itself with domestic cognitive matter. Naturally, domestic lawyers often deem local law 'domestic', even if such a type of law may come from elsewhere. For instance, the Greek Civil Code borrows substantial legal matter from the German Civil Code, which, in turn, drew material from Byzantine law (as Roman law defines the German Civil Code). The Japanese corporate law significantly resembles American corporate law. The

English Sale of Goods Act has affected Scandinavian Sale Law, and so on and so forth. Such examples are numerous. In the essence of the matter, law is a national, domestic exercise in cognitive and didactic terms. This, of course, is directly antithetical to the epistemological position of sciences; indeed, it is antithetical to the epistemological position of semi-theoretical disciplines, such as economics. This essay promotes the idea that, in the wider confines of liberal education, future law curricula, especially in first-degree programmes, ought to (further) ‘internationalise’ their approach, especially through the introduction of a more cosmopolitan ethos to our law students. The paper proceeds on the widely accepted hypothesis that academic law curricula, especially at first-degree level, are still largely oriented to domestic law.

Never a *Landesjurisprudenz*

Speaking to his fellow academics, a German scholar had once cautioned that it would be a repugnant idea for the subject of law to deteriorate into *Landesjurisprudenz*,¹ a sort of provincial domestic study of theoretical matter. The German scholar was right. Law to him, as well as to the author of this study, was and, for most intents and purposes, still is rather unfortunately one of those traditional and conservative subjects of academia, notwithstanding the fact that law thrives on traditional legal doctrines and related matter. Law is a conservative subject.

Lawyers are not always particularly effective in communicating ideas across their national legal borders. Somehow, they seem to have been ‘programmed to operate’, almost by default, by reciting mostly domestic chapter and verse or by thinking in mostly domestic legal terms. Whilst this could be sufficient for producing effective and functional legal automata at the domestic level, such a prototype of legal education does not guarantee the production of cosmopolitan jurists. Particularly problematic is the fact that ‘[c]oncepts associated with legal education, legal professions and lawyers *do not travel well*’, even within the same legal family [of systems] or between contexts in a single jurisdiction³. Lawyers do not seem to have a perfectly clear vision of their world, which is still predominantly rooted in the Westphalian system⁴. Whereas a new polycentric and multipolar world is on the rise, we in law operate on mostly old national legal devices. Equally, coming to the defence of the predominantly nation-oriented⁵ nature of our subject, the reader is reminded that ‘early modern education [as a whole] was typically aimed at nation-building, which meant efforts to shift people’s loyalties from the bonds established in their local communities to the nation as the center of economic, moral cultural, political and social gravity [...]’. The function of education was therefore not only related to the *rationalisation*⁶ of an increasingly knowledge-based society or life world. Education was also geared towards *nationalisation*⁷ of life

¹ Von Ihering R. *Geist des Römischen Rechts*. Vol. 1. Leipzig, Brockhaus, 1924, P.15, as quoted in Smits J. *Convergence of Private Law in Europe: Towards a New Ius Commune?* E. Örüçü, D. Nelken (eds.). *Comparative Law: A Handbook*. Oxford, Hart Publishing, 2007, p. 230.

² Emphasis added.

³ Twining W. *A Cosmopolitan Discipline? Some Implications of “Globalisation” for Legal Education*. *International Journal of the Legal Profession*, 2001, no. 8, p. 28.

⁴ Bethlehem D. *The End of Geography: The Changing Nature of the International System and the Challenge to International Law*. *European Journal of International Law*, 2014, no. 25, p. 17.

⁵ See Nussbaum M. *Cultivating Humanity in Legal Education*. *University of Chicago Law Review*, 2003, vol. 70, pp. 265, 275.

⁶ Emphasis in original.

⁷ Emphasis in original.

worlds⁸. So was, and to a great extent still is, law. The historically modern study of law has been a central part of the enterprise known as the ‘nation-state’.

Cosmopolitanism, one would like to propose, addresses exactly this problem: it recognises the diverse approaches taken by lawyers around the world. Peculiarly, to this day, our discipline generally neglects the fact that different lawyers around the world address similar legal problems by taking different approaches to such problems, only for them to often reach similar results (subject to exceptions in certain areas of law)⁹. As such, the discipline operates, at primary degree level, in a sort of epistemic limbo. For instance, law graduates, nurtured in domestic law, are not actually aware of the fact that ‘their mind set has been shaped out of their own legal culture and, more particularly, out of the environment in which they studied’¹⁰. Even more remarkably, the discipline does not yet seem to fully recognise that transnational legal processes change the face of states¹¹. Accordingly, law changes at a faster pace than legal education does. Lawyers are, to this day, creatures of intellectual habit who operate predominantly using established domestic legal devices. Our lawyers are domestically indoctrinated. Yet they do not comply with a single doctrine or a set of beliefs that students of other disciplines comply with in their studies and their enquiries (whether academic or professional). An American lawyer is educated and trained in a different way than, for instance, a French lawyer. Our lawyers may think global but still largely focus local¹². It is posited that a cosmopolitan ethos in law degrees around the world will certainly remedy this unfortunate and epistemically provincial state of affairs.

The Law School Does Not (Have To) Prepare Practitioners Only

One often presumes that an entrant to a school or faculty of law is an individual who is mainly driven by a desire to become a law practitioner or, at the very least, a professional who will engage with law and legal practice in one way or another. Nothing, of course, could be more damaging to the discipline of law than the peculiar obsession of law academics and law students relating things to matters which cannot always (and perhaps ought not to) be related to one another, namely the theoretical and academic examination of law (with or without a practice-oriented learning diet) with legal practice. Whilst legal theory and legal practice are inseparable friends, they serve different purposes during the course of one’s path within the realm of law. Academic law is one thing; the practice of law is quite another. It is only human for our law students, their parents and law academics to wish to link the theoretical examination of law to future employability in law; however, this is not the main aim of our operations at the schools and faculties of law. Our aim is to produce excellent legal minds. The cultivation of intellect amongst our student body is what we in academic law are predominantly expected

⁸ Rönström N. From Globalist to Cosmopolitan Learning: On the Reflexive Modernization of Teacher Education. *Ethics and Global Politics*, 2012, no. 4, p. 202.

⁹ In relation to this, one may wish to refer to the leading presumption of comparative law, the *presumption similitudinis*: Zweigert K., Kötz H. *An Introduction to Comparative Law*. Oxford Univ. press, 1998, p. 40. N.B. the presumption is rebuttable: Kötz H. Trento Project and its Contribution to the Europeanization of Private Law in M. Bussani, U.Mattei (eds.). *The Common Core of European Private Law*. The Hague, Kluwer Law International, 2003, p. 212.

¹⁰ Steiner E. *French Law: A Comparative Study*. New York, Oxford, Oxford Univ. press, 2010, p.199.

¹¹ With regard to the fact that such processes change the face of states, see e.g. Kim M., Heger Boyle E. Neoliberalism, Transnational Education Norms, and Education Spending in the Developing World, 1983–2004. *Law and Social Inquiry*, 2012, p. 367 ff.

¹² Twining W. *Cosmopolitan Legal Studies*. *International Journal of the Legal Profession*, 2002, no. 9, p. 102.

to do. Let us, therefore, be permitted to propose that the academic and theoretical study of law is to be cultivated in academic environments, while the practice-oriented training in law is to be cultivated in vocational and practice-oriented environments. Law schools and law faculties nurture legal minds; they are not a preparatory stage for one's professional legal development. After all, '[m]ost will nowadays agree that legal education should be more than a vocational training for the practice of the profession in a particular jurisdiction'¹³. The author posits that it is up to law graduates to make a conscious decision as to whether or not they wish to follow a practitioner's path following graduation. This decision is not to be made by the state, a ministry or some other remote body to prepare them through a vocation-oriented sort of academic provision by implying a certain choice to them. The imposition of a certain professional world view on our future law graduates does not present us with an ideal option, and it certainly falls foul of the tenets of a liberal education. Let it be emphasised and remembered that in the faculties and schools of law, we, first and foremost, develop free academic personalities who are expected to excel at law. It is up to these free personalities to make choices regarding their future professional development, education and training upon graduation. It is for them alone to do so. The rest of us must offer them perfect choice, for perfect choice is all we can and ought to offer them. But we need to do so by inspiring them to law and its multiferous manifestations (not streamlining them to law, as can often be the case) and by inspiring them to a new ethos of legal cosmopolitanism, a new ethos of excellence. Additionally, whether these personalities become legal practitioners is a very different question. For the avoidance of misunderstanding, one does not advocate the full disengagement of the theoretical study of law from all practice-oriented exercises (and vice versa). Mutual borrowings between the academic learning of law and the vocational and more practice-oriented training in law are possible and often desirable, albeit less frequently than one might presume. Rather, one proposes a re-invigoration, a re-alignment of law curricula towards what the academic study of law ought to be: academic law. It is, therefore, the aim of this paper to promote the spirit of cosmopolitanism, predominantly through the academic learning of law, as legal practice, by definition, tends to operate by considering domestic matter¹⁴.

It is vital for law educators to realise and appreciate that the study of law, as a largely nation-oriented exercise, is a recent historical phenomenon. Nor is it always ideal, as already stated, to relate the study of law to employability in law, another recent trend in academic legal circles. Arguably, not all of our students study law to pursue law-related professions and/or environments. When students from all over Europe flocked to study law in medieval Bologna, they did not do so out of so-called employability considerations, even though one could certainly argue that those Bologna law graduates were equipped with an excellent type of legal education, which *in turn* could transform them into excellent jurists. This is exactly the point that one wishes to put forward in arguing in favour of a cosmopolitan type of legal education for our lawyers: by instilling the ethos of cosmopolitanism we could inspire them to law; by inspiring them to law, we could prepare excellent, rigorous, future lawyers. To put it bluntly: law is not taught¹⁵; law is learnt through nurturing. To learn law, one must aspire to law. But to aspire to law, one must aspire to what the author calls a cosmopolitan legal ethos, a world-class ethos of excellence in law. Is that to say that a cosmopolitan legal ethos is a *sine qua non* of modern legal education? Not necessarily, and certainly not automatically. Yet, to this author, it seems at

¹³ Dedek H., *de Mestral* A. Born to be Wild: The Trans-Systemic Programme at McGill and the De-Nationalization of Legal Education. *German Law Journal*, 2009, no. 19. p. 889.

¹⁴ This proposition is not one which is free from exceptions. Thus, European lawyers would readily attest these days that national European legal practice becomes increasingly internationalised.

¹⁵ E.g. *Husa J.* Turning the Curriculum Upside Down: Comparative Law as an Educational Tool for Constructing Pluralistic Legal Mind. *German Law Journal*, 2009, no. 10, p. 914.

the very least peculiar that the students of Irinerius may have had a greater chance to acquire a cosmopolitan legal ethos in their studies in medieval Bologna than the myriads of lawyers who graduate from modern law schools in Europe, America and elsewhere. Thus, the question will not be what sort of education we could have for our future law graduates, but rather what sort of education we *ought* to provide for them. One can ‘produce’ lawyers who excel in acquiring excellent legal substance and legal procedure skills during their academic years, and during their years of initial legal training), but is that the same as ‘producing’ excellent jurists?

The Inevitable Anathema of Prevalence of *Homines Speciales* in the Law School

In addition to law being an insular subject, academic lawyers ideally present themselves as (and often are) highly specialised scientists. In the interests of economy of space, one will not examine the validity of such a claim here, but even a naïve person would readily observe that the division of law scholars in academic environments is predominantly based on persons of highly specialised expertise. Academic legal environments today comprise *homines speciales*. This clearly comes at a high price: law schools and law faculties around the world employ specialised academic personnel who often fail to observe and aspire to the overall epistemic unity of the subject of law, notwithstanding the fact that such specialised personnel may often be incapable of aspiring to the overall epistemic unity of academic subjects as a whole. The paradox here is that, whilst these academics have to deliver a liberal type of generalist education, their very professional outlook points to specialism. Again, for avoidance of misunderstanding, one does not advocate the reduction or the limitation of specialisations, as these clearly serve a purpose. This division of academic personnel is universal practice across academic disciplines and higher academic institutions around the world. However, the over-specialisation of law academics (and by extension the over-specialisation of law students) may eventually separate academic law from the overall epistemic unity of the discipline of law. To put it in other words, it is essential for law specialists in academic environments to appreciate and inspire to the overall unity of the subject of law when they proceed with their otherwise specialised enquiries (whether in research terms or in didactic terms). Even so, one’s affection for their law specialisation ought not blur their vision towards the wider unity of academic law as a whole.

A Thought Experiment: Law Academics Prescribing Law Degrees to a Greater Extent

One of the peculiarities of law is the fact that it is regulated by different legal players across different states. Whilst perfectly democratic as an exercise, one often ponders how this affects the epistemic position of law. Perhaps the fact that law degrees around the world are regulated by different legal players causes law to be a convoluted educational reality in real terms. The fact remains: law is regulated by different legal stakeholders around the world, which creates a sort of epistemic chaos. For instance, in many European countries the ministries of education prescribe the structure, content and the length of law degrees¹⁶. In England and Wales, much of the first law degree is prescribed by non-academic bodies, namely the Bar Standards Board and the Solicitors Regulation Authority¹⁷. In the United States, law degrees are characterised by an emphasis on le-

¹⁶ Twining W. *Cosmopolitan Legal Studies*, p. 101.

¹⁷ *Academic Stage Handbook v. 1.4* (Bar Standards Board and Solicitors Regulation Authority, July 2014).

gal training¹⁸, with a ‘growing but ambivalent’¹⁹ use of adjunct faculty for economic reasons²⁰. Neither approach is, of course, ideal. In the former case, as in many continental educational systems, a political body prescribes the law degree; whilst in the latter case, that of England and the United States, a practitioner’s office effectively carries out the same responsibilities, even though some might opine that in such a case academic degrees are *de facto* deemed to be semi-professional degrees. Legal education, therefore, seems to thrive on chaos, as Sexton once said:

‘[T]he description of [law] schools and curricula provided [...] displays an astonishing variety of form: the smallest school has 40 students, the largest over 40,000; some accept students after secondary school, others only after a university education; some operate under regulatory schemes that govern the degree-granting process, others in a *laissez-faire* environment; some qualify their graduates *ipso facto* for law practice, others (as in the United States) provide only a predicate for a competency exam, which in turn qualifies successful candidates for law practice, and still others operate without regard for competency exams’²¹.

Peculiarly, law academics around the world do not seem to be doing enough in prescribing overall frameworks for academic law degrees. To put things into pragmatic perspective, law academics have ultimately little say in the way overall degrees (especially at first-degree level) are formulated, even though this rule comes with notable exceptions. Ultimately, first law degrees are frequently influenced by factors outside of legal educators’ control. One could argue that this is a positive state of affairs. Others would argue that this can be perceived as a negative status quo. Also, there exist epistemic misunderstandings in the way many law academics perceive the academic study of law. Law is not like medicine, where professionals traditionally have a considerable say in the way medical degrees are formulated and delivered. Law is about preparing legal minds. One, therefore, questions the interference of political and practitioner forces in the prescription of academic law degrees: the former’s motives might proceed beyond legal educational ideals, whilst the latter might overemphasise vocational skills in the academic learning of law. As such, one also questions the overemphasis on legal training in otherwise academic law degrees. Law schools and faculties are not necessarily about employment preparation; nor are they employment points for practitioners to be readily offered a career path. Law schools and faculties may, of course, choose excellent law practitioners in enriching their faculties; however, such a practice should be the exception, rather than the rule, in the academic learning of law. Concurrently, one observes that, under the current status quo, there is close to utter apathy in academic first law degrees vis-à-vis cosmopolitan understandings of the legal world, a theme is not even mentioned in the relevant prescriptions of law degrees.

The Ideal of Liberal Education

The ideal of liberal education expects us to nourish free academic personalities. In any case, there seems to be in principle compatibility between educational orthodoxy in law, liberal legal education, and cosmopolitanism. Cosmopolitanism offers our future lawyers a new sense of freedom, arising out of the appreciation for diversity. Liberal education expects universities to

¹⁸ Sheppard S. (ed.). *E. Allan Farnsworth: Introduction to the Legal System of the United States*. 4th ed. Oxford University Press, 2010, p. 21.

¹⁹ Siegel D. The Ambivalent Role of Experiential Learning in American Legal Education and the Problem of Legal Culture. *German Law Journal*, 2009, vol. 10, p. 816.

²⁰ *Ibid.*

²¹ Sexton J.F. Out of the Box. Thinking About the Training of Lawyers in the Next Millennium. *University of Toledo Law Review*, 2001, vol. 33, p. 189.

recognise the primacy of the intellect²². Such education does not necessarily prepare students for becoming professionals²³. This type of education treats our academic citizens, our students, as individuals, whilst expecting them to willingly commit themselves to education²⁴. Finally, liberal legal education is one which stresses the need for the development of cognitive capacities such as analytical skills, reflection and self-discovery in addition to emphasising moral education²⁵. Close to the above, it is posited that future liberal legal education can only strengthen out of a new spirit of cosmopolitanism.

A Cosmopolitan Ethos for Future Lawyers

Cosmopolitanism has to do with the creation of world-class citizenry. Cosmopolitanism, therefore, effectively relates to a moral commitment to the universal human community²⁶. The idea of cosmopolitanism was conceived and developed in ancient Greece through the teachings of Democritus, Socrates, Plato, Diogenes and Hierocles. Overall, Greek cosmopolitanism hovered between the philosophical forces of cynicism and stoicism. In modern times, the idea of 'cosmopolitanism is rooted in philosophy, ethics, and education and maintains that there are universal values across cultures and peoples, yet it also demands respect for legitimate differences'²⁷. The modern recalibration of the notion of cosmopolitanism has been established through the writings of Kant²⁸. Kantian cosmopolitanism is of liberal ilk, as is the ilk of those who built upon Kant's liberal cosmopolitanism, namely, Mannheim, Elias, Adorno and Arendt amongst others²⁹.

Cosmopolitanism in law has to do with the creation of world-class legal citizenry. The idea of cosmopolitanism in law, however, is a sort of *terra incognita*³⁰. This state of affairs can be generally credited to the rise of the nation-state from 1648 and, by extension, the rise of legal-political nationalism in Europe (and beyond) from the 19th century (even though one could argue that so-called political romantic nationalism was already existent in the scholarly writings of 18th century Europe). Whilst the idea of cosmopolitanism is rather foreign to law, innate cosmopolitanism holds a long tradition in at least one area of law: international law³¹. Other-

²² Burridge R., Webb J. The Values of Common Law Legal Education: Rethinking Rules, Responsibilities, Relationships and Roles in the Law School. *Legal Ethics*, 2007, vol. 10, p. 77 citing Newman J. *The Idea of a University*. Notre Dame, University of Notre Dame Press, 1982.

²³ Burridge R., Webb J., op. cit., p. 77.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Flood J., Lederer P. *Becoming a Cosmopolitan Lawyer*. *Fordham Law Review*, 2011-2012, vol. 80, p. 2514.

²⁷ Coryell J., Spencer B., Sehin O. *Cosmopolitan Adult Education and Global Citizenship: Perceptions From a European Itinerant Graduate Professional Study Abroad Program*. *Adult Education Quarterly*, 2014, vol. 64, p. 145 quoting Appiah K. *Cosmopolitanism: Ethics in a World of Strangers*. N.Y., Norton, 2006 and Langran I. *Global Citizenship, Governance, and Identity in the Post-Westphalian Age*. Paper presented at the annual meeting of the Northwestern Political Science Association in Philadelphia, November 2011.

²⁸ E.g. Sato Y. *Towards the Institutionalization of Cosmopolitan Law-Making*. *Alberta Law Review*, 2009, vol. 46, p. 1146.

²⁹ Kemple T. *Mannheim's Pendulum: Refiguring Legal Cosmopolitanism*. *UC Irvine Law Review*, 2014, no. 4, p. 292.

³⁰ Platsas A. *Enhancing the Cosmopolitan Element in the Law Curriculum: The Lessons of Comparative Law*. D. Frenkel(ed.). *Legal Theory, Practice and Education*, Atiner Athens 2011, p. 42-43.

³¹ Gordon G. *Innate Cosmopolitan Tradition of International Law*. *Cambridge Journal of International and Comparative Law*, 2013, no. 2, p. 906.

wise, lawyers have little interaction with the idea of cosmopolitanism. Moreover, law academics often pragmatically assume the reciprocal relationship between the nature of their legal system and the nature of legal education leaves little space for universal thinking to flourish in the academic element of their legal education³². As Dainow stated in the 1960s:

‘There is naturally a direct reciprocal influence between the nature of a legal system and the pattern of legal education. The nature of the former promotes the method of the latter, which in turn perpetuates the original character of the system. The program of law studies and the method of legal education establish and fix the fundamental understanding and the mode of thought which condition the individual for his entire professional career’³³.

Furthermore, Kamba, writing in the 1970s was aware of the problem: ‘One is inclined to think that the solutions of one’s legal order are the only possible ones’³⁴.

Not much has changed since the 1960s and the 1970s when Dainow and Kamba shared their views. Legal systems affect legal education, and legal education perpetuates the original character of legal systems. This is far from ideal. At best, academic legal education can be deemed conservative and relatively stable. At worst, legal education can be deemed as a static state of affairs. Our law students often tell us that predictability, the law itself (as in norms and structures), is what they want in their studies³⁵. Our response, as law academics, ought to be that the creation of excellent academic personalities with the potential of becoming excellent legal professionals (or indeed in any other professional field) is our goal. The understanding of law and related legal skills form only one element (indeed the most important element for many) for training a law graduate. Our law graduates must be prepared for future challenges rather than assume their roles through a parochial sort of legal education. To prepare such graduates for the future, it is not sufficient to equip them with relevant substantive legal skills and transferrable skills only. As law is a ‘traditional’ subject, one’s recommendation would be for a cosmopolitan ethos, which would define the studies of our future lawyers. This type of ethos would certainly come in agreement with the ever-growing recognition of cosmopolitan law itself. After all, cosmopolitan law is expected to offer a better framework for the future citizens of the world³⁶.

Academic educators, on the other hand, do not just enable their disciples to pursue knowledge. Our purpose is also to build and mould excellent academic personalities³⁷. Academic citizenry is acquired through the mastery of cognitive substance, but also through the formulation of excellent character. Legal educators must be constantly reminded of their dual role. Whilst ‘doctrinal mastery of positive law’³⁸ is part and parcel of the academic element of one’s legal education, the mastery of such law is not to be seen as the only leading element of modern legal education. Our future lawyers must excel not only in law itself, but they must also be able to

³² Steiner E. op. cit. p. 199 quoting Dainow J. *The Civil Law and the Common Law: Some Points of Comparison*. *American Journal of Comparative Law*, 1967, no. 15, p. 428.

³³ Dainow J. op. cit., p. 428.

³⁴ Kamba W. *Comparative Law: A Theoretical Framework*. *International and Comparative Law Quarterly*, 1974, vol. 23, p. 491.

³⁵ Arthurs H.W. *Law and Learning in an Era of Globalisation*. *German Law Journal*, 2009, no. 10, p. 638.

³⁶ Sato Y. op. cit., p. 1160.

³⁷ For a detailed discussion on liberal legal education see e.g. *Burridge R., Webb J.*, op. cit., pp. 74 — 80.

³⁸ Dedek B., de Mestral A. Op.cit. P. 896 referring to *Leibfried S., Möllers C., Schmid C., Zumbansen P.* *Redefining the Traditional Pillars of German Legal Studies and Setting the Stage for Contemporary Interdisciplinary Research*. *German Law Journal*, 2006, no. 7, p. 661 and *Dedek H.* *Recht der Universität: “Wissenschaftlichkeit” der Juristenausbildung in Nordamerika*. *Juristenzeitung*, 2009, vol. 64, pp. 540, 541.

deal ‘with people from different countries, different cultures, with different world views [...]’³⁹. A cosmopolitan ethos for our law graduates would certainly allow us to maintain more actively the notion that we are not simply academic educators who deliver knowledge to our student body. This ethos would actually enable us to maintain to a certain extent that we produce or, at the very least, attempt to produce excellent academic and culturally sensitive personalities. Accordingly, one cannot overemphasise the character-building qualities of a cosmopolitan legal ethos for our academic law citizens.

Law is a subject which traditionally swings between generality and particularity⁴⁰. However, a new development is the intensification of such a dialectic beyond domestic realities vis-à-vis a spectrum of ‘jurisdictions, traditions and cultures’⁴¹. In a sense, cosmopolitan law offers us a unique opportunity for interaction across borders⁴². Of course, the proposed model of cosmopolitanism is one which asks future lawyers not to be detached from time and place⁴³. Our proposed model of cosmopolitanism balances the local with the universal. Perhaps then cosmopolitanism as a whole and cosmopolitan law in particular would help future jurists to assume a stand somewhere between the traditional extremes of generality and particularity in domestic and extra-national legal enquiries and discourses. Even leading legal educational systems are in need of a new cosmopolitan ethos for their future law graduates. In the USA, which otherwise provides a setting for a particularly inward-looking⁴⁴ educational legal reality, the cosmopolitanisation of law curricula becomes more pressing than ever. Peculiarly, the perplexing term of globalisation (as opposed to cosmopolitanisation) is a preferred term in the USA. Semantics aside, American legal education (just like European legal education) is in need of recalibration. In Europe, too, the so-called ‘Europeanisation’ of legal curricula might also result in a ‘paradigm shift away from the study of law as the study of a “system” of positive law of a certain jurisdiction, and towards a de-contextualised, maybe more abstract study of legal questions that reach beyond jurisdictional boundaries’⁴⁵. As such, in legal educational terms, Europe, seems to be in a slightly better position than the United States and elsewhere due to the extra-national binding nature of modern European Union law and European human rights law, which directly affect European legal curricula. Additionally, in Europe, there is currently a flourishing of numerous law exchange programmes. Furthermore, as Twining reminds us, in a country like the UK (and by extension in any other EU country), there remain only a few areas ‘of [...] law or practice today that are wholly domestic’⁴⁶. This, he opines, is an example

³⁹ *Martini C., Susler D.* Inside Out: Going Global Should Be for Everyone. Chicago Lawyer, October 1, 2011 as cited in *Silver C.* Getting Real About Globalization and Legal Education: Potential and Perspectives for the U.S. Stanford Law and Policy Review, 2013, no. 24, p. 460.

⁴⁰ *Twining W.* A Cosmopolitan Discipline? Some Implications of “Globalisation” for Legal Education International Journal of the Legal Profession, 2001, no. 8, p. 33.

⁴¹ *Ibid.*

⁴² *Kleingeld P.* Kant’s Cosmopolitan Law: World Citizenship for a Global Order. Kant’s Review, 1998, no.2, p. 75.

⁴³ *Cf. An-Na’im A.* Globalization and Jurisprudence: An Islamic Law Perspective. Emory Law Journal, 2005, vol. 54, p. 31.

⁴⁴ For an explanation of the reasons behind the resistance of the American legal educational model to reform, see *Fine T.* Reflections on U.S. Law Curricular Reform. German Law Journal, 2009, no.10, pp. 729–734. On the narrow and domestic-oriented model of the prevailing model of the US legal education, see *Nussbaum M.* *Op. cit.* Pp. 276–277.

⁴⁵ *Dedek H., de Mestral A.* *op. cit.*, p. 896.

⁴⁶ *Twining W.* Cosmopolitan Legal Studies, pp. 99–100.

of how our discipline becomes increasingly cosmopolitan⁴⁷. In any case, even beyond Europe, international organisations currently affect the global education policy⁴⁸. It can be said that this effect will also be felt in due course in legal curricula, which in all probability will resemble an ethos of excellence based on the cosmopolitan legal education ideal.

The following sections will examine the subject in the context of globalisation and its forces. In this respect, one wishes to initially propose that globalisation and cosmopolitanism contradict one another. The former, an economic phenomenon, wishes to impose uniformity; the latter, a philosophical–sociological phenomenon, wishes to promote the appreciation of diversity and the creation of only certain convergence. Cosmopolitanism can accommodate globalisation. Globalisation does not necessarily accommodate cosmopolitanism. Globalisation unites, while cosmopolitanism fragments and unites. Globalisation is a robust and dynamic force. Cosmopolitanism is a subtle and serene force. Law, unsurprisingly, occupies a middle ground between these two phenomena. Nonetheless, globalisation has affected and continues to affect modern law significantly. As Arthurs maintained, globalisation bears four effects on law: first, the perception of the rule of law has consciously or unconsciously changed to the point that it now ‘emphasizes the protection of economic interests against encroachments of the state’⁴⁹; second, future generations of law students and academic law staff may feel more at ease with global law than with domestic law⁵⁰; third, globalisation seems to have effectively strengthened the national executives and judiciaries which participate in the globalisation phenomenon (to the detriment of the power of legislatures around the world)⁵¹; and fourth, globalisation has disassociated the idea of law from the idea of the state⁵² (for the wrong reasons one may wish to add, as globalisation started out as an economic phenomenon, paying little attention to legal theory or, more precisely, to general jurisprudence). Where does this leave us in legal educational terms? Clearly, if we are to inspire a stronger cosmopolitan ethos in our students, we need to ensure that legal education starts from the traditional-cultural understanding of the rule of law. Additionally, in legal educational terms, cosmopolitanism should, in principle, be related to a democratic understanding of the legal world (as opposed to the limitation of the powers of legislatures through globalisation). Finally, cosmopolitan learners ought to appreciate the idea of disassociating law from the nation-state.

Globalisation has also affected the identity of certain law schools around the world. We shall not examine here the emptiness of the terms ‘global law school’ and ‘global lawyer’, as these terms are like clanging cymbals, devoid of any real substance for educators in law (and in all probability for the overwhelming majority of law practitioners and graduates). Terms such as ‘global legal education’ might sound great for the purposes of marketing law courses, but offer little to a comparative legal scholar in real terms (especially when there is no such thing as a ‘global’ legal education)⁵³. Nonetheless, ‘the phenomenon of globalisation’ has resulted in ‘[u]niversities hir[ing] more foreign faculty, offer[ing] courses in English, creat[ing] exchange

⁴⁷ *Ibid.*, p.100.

⁴⁸ E.g. *Kim M., Heger Boyle E.*, *op. cit.*, p. 374.

⁴⁹ *Arthurs H.* *Op. cit.*, p. 633.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*, p. 634.

⁵² *Ibid.*, p. 635.

⁵³ The author has previously discussed the feasibility of so-called global type of legal education; see *Platsas A.* *A Cosmopolitan Ethos within a Global Law Curriculum: Comparative Law as its Promoter.* *Global Studies Journal*, 2009, no. 2, p. 57.

programs, and emphasiz[ing] the foreign language capabilities of incoming applicants⁵⁴. These are all satisfactory developments when it comes to the further internationalisation of academic environments, but arguably these developments do not actually offer what ought to be actively sought: a genuine cosmopolitan legal ethos for future lawyers. Such an ethos would materialise through the application of different learning diets from the ones currently on offer.

A cosmopolitan legal ethos for our future graduates will predominantly, if not exclusively, emanate through the flourishing of comparative legal studies⁵⁵. Comparative law is the cosmopolitan answer of modern law. Comparative law *is*, by definition, configuration and design, the subject that can, and ought, to drive the need for a more cosmopolitan legal education for future lawyers. Comparative law creates a better understanding of one's legal system⁵⁶, but more importantly, it 'creates the awareness of the place of one's own legal system in an international legal order in development'⁵⁷. It is the author's conviction that the cosmopolitan ethos of our future law graduates would be greatly enhanced through socio-legal enquiries in their studies, i.e. through appreciation of domestic socio-legal realities, as well as through appreciation of foreign socio-legal realities. Legal history is a subject that would enhance the cosmopolitan ethos of our law students. The study of law and economics would also be beneficial, especially for our European law students (as American law students are already privileged to undertake this subject in their legal studies). Our list would not be complete if we failed to include legal theory and international law, classic fields of legal enquiry that deal with different understandings and perceptions of the legal world. One is reminded here that 'international legal analysis teaches the importance of *pluralism and multi-disciplinarity in legal analysis*^{58,59}. With regard to the theme of inter-disciplinarity/multi-disciplinarity, it should be stated that, whilst inter-disciplinary/multi-disciplinary studies are not necessarily a priority in the creation of a cosmopolitan legal ethos amongst our students, such studies should eventually define the modern law curriculum and indirectly promote a more cosmopolitan understanding of law (in that other disciplines are more epistemically unified than law). It is, therefore, hoped that future law curricula will address the issue of inter-disciplinarity and multi-disciplinarity, especially if such a provision further strengthens the cosmopolitan ethos of our law graduates.

In any case, our future law graduates need to aspire to what has been termed as 'informed, culturally sensitive coexistence'⁶⁰. Not all of our lawyers will excel in the practice of European or international law. They do not have to. Nevertheless, it becomes a crucial question whether our lawyers in the 21st century ought to be educated and operate as 20th century lawyers. These days a wide variety of 'situations invoke legal issues that transcend legal (or sovereign) boundaries'⁶¹. Perhaps, Chesterman is correct in stating that 'our [future] lawyers need[...] to be comfortable

⁵⁴ Goedde P. Globalized Legal Education, Human Rights Lawyering, and Institutional Form: The Case of A Refugee Law Clinic in South Korea. *Clinical Law Review*, 2014, p. 375.

⁵⁵ E.g. Nussbaum M., op. cit. P. 275; Platsas A., op.cit. P. 62, 66–69; Platsas A. Enhancing the Cosmopolitan Element in the Law Curriculum: The Lessons of Comparative Law. D. Frenkel (ed.). *Legal Theory, Practice and Education*, pp. 43–47.

⁵⁶ Zweigert K., Kötz H., op. cit. P. 21; Akkermans B. Challenges in Legal Education and the Development of a New European Private Law. *German Law Journal*, 2009, no. 10, p. 807.

⁵⁷ Ibid.

⁵⁸ Emphasis in the original.

⁵⁹ Menkel-Meadow C., op. cit., pp. 106–107.

⁶⁰ Coryell J., Spencer B., Sehin O., op.cit., p. 145.

⁶¹ Menkel-Meadow C., op. cit., p. 99.

in multiple jurisdictions⁶². For this to occur, legal educators must ensure that the intercultural competency of their student bodies is nourished. Williams alerts us to the fact that three elements establish such a competency: first, the cognitive element (knowing about other cultures); second, the affective element (being able to be flexible in adapting to new situations); and third, the behavioural element (resourcefulness and skills when dealing with situations affected by cultural aspects)⁶³. Lawyers too need to aspire to such skills. They do not have to be experts in more than one jurisdiction or in more than one system of law (e.g. regional law or international law), but they, at the very least, should be capable of understanding foreign legal matter through a spirit of cosmopolitanism and intellectual openness. Above all, they must be driven by the appreciation of diversity⁶⁴. After all, this is what cosmopolitans do. However, our future law graduates should also be able to recognise the need for an *ius commune* in designated and culturally neutral areas of law in addition to the fact that *ius cogens* considerations ought to occasionally define their thinking⁶⁵. To recap, a legal ethos of excellence aspiring to cosmopolitanism ought to be balanced: sensitive to foreign legal cultures, but also cognizant of the need for unity in certain areas of law⁶⁶.

Designing an excellent legal education syllabus that has cosmopolitan credentials remains, or, at the very least, ought to remain, the responsibility of law educators (save for the constraints imposed on them by governmental and/or professional bodies). One, therefore, presumes a minimum degree of academic freedom in the design of law curricula around the world, for, if there is no such freedom, the question of a cosmopolitan legal education becomes close to irrelevant. In any case, academic freedom ought to allow us to succeed in that in which we, in legal education, may have failed already: open up things, but also to demarcate things. Discipline and imagination ought to define our operations, as Zweigert and Kötz remind us elsewhere. Achieving the right balance between a strict legal element and a more liberal one in a modern law curriculum can be achieved through a stronger sense of cosmopolitan orientation in our law curricula. Again, this presumes a minimum degree of academic freedom, including the freedom from interference during the course of building academic curricula. Furthermore, legal educators are actually asked to move away from the narrow confines of educational navel-gazing. To be more precise, the author has observed law colleagues from around the world spending a considerable amount of their academic life in ‘perfecting the specific’, i.e. the subject(s) which they would deliver. Whilst most legitimate as an exercise, this exercise is in itself problematic in that excellent colleagues find themselves operating in the wider confines of dysfunctional legal syllabi. Almost perfectly balanced subjects, in legal educational terms, may be compromised by out-of-date educational frameworks. It follows that it is the strategic educational blueprints in law, which we must first rightly tune. A re-orientation of such syllabi towards the cosmopolitan would be nothing short of a great opportunity to correct generalities, as well as the specificities, in the delivery of our subject.

⁶² *Chesterman S.* The Evolution of Legal Education: Internationalization, Transnationalization, Globalization *German Law Journal*, 2009, no. 10, p. 877.

⁶³ *Williams R.* The Reflective Model of Intercultural Competency: A Multidimensional, Qualitative Approach to Study Abroad Assessment. *Frontiers: The Interdisciplinary Journal of Study Abroad*, 2009, vol. 18, pp. 289–290.

⁶⁴ Cf. *Glenn H.* Integrating Civil and Common Law Teaching Throughout the Curriculum: The Canadian Experience (2002–2003). 21 *Penn State International Law Review* 74; Glenn concludes that the appreciation of the diverse is the object of transnational legal education.

⁶⁵ On a similar vein *Burridge* and *Webb* note that ‘[l]ocalism and internationalism [...] are integral to the study of law’: *Burridge R., Webb J.*, op. cit., p. 92.

⁶⁶ For interesting parallels with regard to universalist and particularist understandings of modern law, see *Menkel-Meadow C.*, op. cit., pp. 111–112.

Modern legal educators would also commit a fundamental mistake if they saw their subject as one operating in isolation or insulation from the developments of our global age. Quite surprisingly; even advocates of a more internationalised legal education often simultaneously conceal and reveal a fear of foreign lawyers becoming better than the exclusively domestically educated lawyers⁶⁷. Obviously, as academics we do not (have to) see our domestic students with a more positive eye or be more concerned with them than we would be with our foreign students (even by way of mere implication). A more cosmopolitan type of education is the question, even if it is foreign students or, as it currently stands, postgraduates who mainly benefit from it in the first place. At this point, it must be noted that the situation is far from ideal in other areas of education (e.g. in primary and secondary education around the world). For instance, teacher reform in the 21st century can still be perceived as functional, with themes such as ‘economic growth, effectiveness and competitiveness’⁶⁸ dominating the educational agenda ‘at the expense of other important aims of education in the global era, such as the development of reflective and communicative capacities and education for cosmopolitan citizenship’⁶⁹. Yet, the transnationalisation of real life will inevitably lead to the transnationalisation of education. Equally, the transnationalisation of real law will eventually lead to the transnationalisation of legal education⁷⁰. Legal educators cannot afford to offer their students, what Husa has called ‘mono-understanding’, i.e. a single world-view of things based on one’s own legal system⁷¹. In this respect, *métissage*, a Canadian post-pluralist proposition for a type of legal education, is promising, though not perfectly sufficient from the comparative point of view (in that it seems to have been the empirical proposition of a domestic educational legal reality without taking into account legal traditions and educational realities beyond the West)⁷². Of course, legal education does not start or finish in the West. The ideal of a cosmopolitan legal education moves beyond mixed legal systems (whether these are found in the West or elsewhere). Equally, the legal educational experience of such systems is beneficial to our thinking of a better type of legal education, even if such mixed legal realities are limited by their very domestic divisions of law (e.g. between continental law and common law). Additionally, academic citizenship these days must come with an international, cosmopolitan type of educational passport. Professional citizenship requires the same. ‘We now deal with students who expect to move *countries*⁷³ a few times, seeing themselves as part of a global elite in a worldwide market of talent’⁷⁴. Long gone are the days when our academic citizens were educated in almost exclusively domestic academic environments, only for them to operate as professionals in almost exclusively domestic professional environments. For lawyers, the credential of a cosmopolitan education becomes ever more important due to the indisputably traditional character of our subject, which still largely refuses to become as extrovert as other epistemic disciplines. Thus, whereas a mathematician

⁶⁷ E.g. *Silver C.*, op. cit. P. 495: ‘But the U.S. is a more important receiving country for law students than it is a sending country, and as a result, *we risk educating a cadre of globally savvy competitor that domestic students cannot possibly match* in terms of experience and expertise relevant to navigating the challenges of a global practice environment’. Emphasis has been added in the italicised entries of this quotation.

⁶⁸ *Rönström N.*, op. cit., p. 194.

⁶⁹ *Ibid.*

⁷⁰ *Twining W.* A Cosmopolitan Discipline? Some Implications of “Globalisation” for Legal Education, p. 34.

⁷¹ *Husa J.*, op. cit., p. 919.

⁷² *Kasirer N.* Legal Education as *Métissage*. *Tulane Law Review*. 2004, pp. 481ff.

⁷³ Emphasis in the original.

⁷⁴ *Chesterman S.* The Globalisation of Legal Education *Singapore Journal of Legal Studies*, 2008, p. 63.

educated in Japan can freely move to any country and teach mathematics (subject to language and other relevant professional formalities), lawyers are constrained and often restrained by the peculiarities of their subject. The classic quote comes from the two leading scholars in the German comparative legal scholarship, Zweigert and Kötz, who rightly claimed that ‘[t]here is no such thing as “German” physics or “British” microbiology or “Canadian” geology’⁷⁵.

The pre-eminence of a cosmopolitan legal education in law schools of the future would mean that our lawyers would be carriers of a stronger intercultural sensitivity, which, in turn, would allow them to be better integrated within the concept of global citizenship, as Tarrant⁷⁶ put it, albeit referring to such a concept in a slightly different context. How is our call in favour of a cosmopolitan legal ethos compatible with what has elsewhere been coined as ‘global citizenship’? Ogden posits that global citizenship entails the existence of the following: global competence, global civic engagement and social responsibility⁷⁷. The existence of a cosmopolitan ethos in the minds of our future graduates is certainly compatible with global competence, as the appreciation of legal diversity promotes global cultural sensitivity. Global civic engagement and social responsibility are more problematic in one’s approximation of those two key characteristics of global citizenship with the concept of a cosmopolitan legal ethos. On the one hand, one could argue that a cosmopolitan legal ethos expected from our future lawyers would *enable* them to undertake global civic matters, whilst in our ever-smaller world, social responsibility within the domestic sphere is one which is enhanced by the flourishing of a cosmopolitan ethos amongst our academic citizens. After all, the spirit of cosmopolitanism includes the appreciation of the domestic sphere in legal and other matters.

In the long run, the intercultural sensitivity of our future law graduates ought to transform itself into intercultural proficiency. Coryell, Spencer and Sehin agree with a definition of intercultural sensitivity which suggests that such sensitivity is ‘knowledge, skills, and attitudes/beliefs necessary to work well with and respond effectively to people in cross-cultural settings’⁷⁸. Arguably, neither of those two levels of cosmopolitanism (intercultural sensitivity and intercultural proficiency) currently occupy the minds of the overwhelming majority of our law graduates. Perhaps, student exchange law programmes offer a sort of intercultural and academic familiarization which lies beyond the domestic, but it is not clear whether this promotes promote intercultural sensitivity.

One is also wary of the term ‘internationalisation of education,’ which might otherwise be perceived as a boilerplate catch-all expression used in an attempt to wash out the academic sins of often times arteriosclerotic and conservative academia around the world. It is, therefore, the case that the term is occasionally used as a sort of academic sponge, a magic wand, to wipe out the shortfalls of often national(ist) or, to put it more mildly, ‘nation-oriented’ academic education and curricula.

Law, the old, and the last, bastion of the romantic idea of the nation-state is, of course, the classical culprit of the predominantly nation-oriented studies in the academic environment.

⁷⁵ Zweigert K., Kötz H., op.cit, p. 15.

⁷⁶ Tarrant M. A Conceptual Framework for Exploring the Role of Studies Abroad in Nurturing Global Citizenship. *Journal of Studies in International Education*, 2010, vol. 14, pp. 433–451.

⁷⁷ Ogden A. *Education Abroad and the Making of Global Citizens: Assessing Learning Outcomes of Course-embedded, Faculty-led International Programming* (Unpublished doctoral thesis, Pennsylvania State University, 2010) available electronically at <http://site.valenciacollege.edu/inz/library/Study%20Abroad%20%20General/Education%20Abroad%20and%20the%20Making%20of%20a%20Global%20Citizen%20Dissertation.pdf> (accessed November 6, 2014).

⁷⁸ Coryell J., Spencer B., Sehin O. Op. cit., p. 148.

While the term ‘internationalisation’ is nowadays often used and abused in academia, one should not cast the stone of blame at academics wishing to pursue the so-called internationalisation agenda. Their motives must be largely noble. However, one wishes to query whether they readily relate such an internationalisation educational agenda with a cosmopolitan educational agenda. For those operating in law the question is of crucial importance: we already have subjects like international law and international human rights law integrated into our curricula, but is that to say that the mere inclusion of such subjects in our curricula internationalises our curricula? This is hardly the case. As such, one proposes that a truly internationalised type of legal education is one which comes with a genuinely cosmopolitan legal agenda. The question that needs to be answered then is: how strong ought such an agenda to be? The answer depends on a great variety of paragons, but one can argue that the stronger the cosmopolitan ethos of a law curriculum, the greater the inter-cultural sensitivity of the lawyers who follow such a curriculum.

The term ‘globalisation of legal education’ is equally as abused as the term ‘internationalisation of legal education’. A typical example of such abuse is the use of this term by certain institutions offering so-called ‘double-degree’ qualifications or, more interestingly, by certain other institutions which organize summer schools abroad. What precisely constitutes a global education when the degree is offered in two locations? Is the word ‘global’ another empty adjective of modern legal education? How does spending one’s summer in a foreign law school ‘globalise’ one’s studies? In any case, neither of the above approaches is anywhere near ideal, yet they are a start. Naturally, neither of the above approaches (legal studies across two jurisdictions and summer schools) stands for ‘globalisation of legal education’. Yet, we, as law academics, will not be excused for surrendering legal education to terms which are simply current or fashionable, or for surrendering our discipline to the forces of commercialisation (even more than we already have). So too is it important to register the globalist view of learning to an economics imperative (as opposed to a legal ideal). At this point, it would be important to note that it is the case that such a view of learning is otherwise representative of a neoliberal worldview⁷⁹. In any case, it remains to be seen whether the further commercialisation of academic legal education will compromise legal education around the world, more than it already has⁸⁰. On the other hand, there is an abundance of reasons as to why one’s preference towards cosmopolitan learning should prevail over one’s preference towards globalist learning. First, a cosmopolitan type of learning moves away from mere functionalism⁸¹; second, cosmopolitan learning is characterised by the ‘multidimensionality of the lifeworld’⁸² moving away from sole economic societal considerations⁸³; third, a cosmopolitan worldview aims at de-parachiolising learning⁸⁴; fourth, it de-nationalises education⁸⁵; fifth, it creates great awareness of modern challenges of the reflexive⁸⁶; and sixth, it enables us to avoid the fusion of institutionalised individualism with neoliberal individualism⁸⁷.

⁷⁹ E.g. *Nesiah V. Flat Earth for Lawyers without Borders? Rethinking Current Approaches to the Globalization of Legal Education*. *Drexel Law Review*, 2012 — 2013, no. 5, p. 375.

⁸⁰ *Chesterman S. The Globalisation of Legal Education*, p. 65.

⁸¹ *Rönnström N.*, op. cit., p. 209.

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

In concrete terms, cosmopolitan legal education, just as cosmopolitan education as a whole, is about relational and situational experiences. This type of education moves somewhat away from the widely dogmatic-doctrinal approach of the traditional academic legal environment and comes closer to a more dialectical relationship amongst cosmopolitan learners and enablers⁸⁸. This is legal education that does not use and abuse misleading and inflated terms, such as ‘global lawyer’⁸⁹. One, therefore, speaks here of cross-cultural experiential learning⁹⁰. Any school or faculty of law could in principle produce lawyers who function and think in legal terms. But are there schools or faculties of law truly which truly promote cosmopolitan legal thinking amongst their law students?

Our cosmopolitan legal learners will be graduates who have a strong sense of pluralism and fallibilism⁹¹. These terms are taken from a recent essay by Merry and De Ruyter, who use them in the slightly different context of moral cosmopolitanism. For us in law it is important that our law students have a regard for what lies beyond their known legal shores. One speaks here of a high degree of legal empathy⁹² as far as foreign legal solutions and legal techniques are concerned. In addition, it is essential for our cosmopolitan legal learners to appreciate the efficiency of their domestic solutions, but *also* (where this is the case) the greater efficiency of legal solutions abroad. Legal systems, just like human beings, are likely to err⁹³; they are likely to come up with inefficient legal devices and systems. Our cosmopolitan legal learners must be able to recognise weaknesses in their ‘own’ domestic systems. Yet, their responsibility to be able to do so lies ultimately with their enablers, law educators. It is cosmopolitan legal educators who will create cosmopolitan legal personalities.

Conclusion

A cosmopolitan ethos for our law graduates is being advocated stronger than ever before. In a world of advancing legal pluralism, declining authority of the nation-state and law students, who expect to be better equipped and prepared for future challenges in an ever smaller world, one cannot sustain the parochial, conservative and often unnecessarily heavily⁹⁴ doctrinal law curricula found across the globe. Law schools and faculties cannot simply close their eyes to forthcoming change. Whether indolent or conservative, the discipline of law as a whole has not quite achieved a more cosmopolitan and culturally sensitive type of education for its future jurists. Certain exceptions exist, but they often come out as compromised educational realities. One swallow does not make a spring, and the few examples of *marginally* cosmopolitan-oriented curricula do not actually alter the less than ideal state of affairs we face in law curricula.

Law educators hold great responsibility for not inspiring their students, for not taking a more pro-active role in the building of law curricula in various parts around the world (often permitting the prescription of such curricula to extra-academic bodies or institutions), and for not preparing students to acquire a more cosmopolitan ethos for the challenges of the future.

⁸⁸ Coryell J., Spencer B., Sehin O., op. cit., p. 153.

⁸⁹ Twining W. A Cosmopolitan Discipline? Some Implications of “Globalisation” for Legal Education, p. 31.

⁹⁰ Ibid.

⁹¹ Merry M., de Ruyter D. The Relevance of Cosmopolitanism for Moral Education. *Journal of Moral Education*, 2011, vol. 40, p. 9.

⁹² Ibid.

⁹³ Ibid. P. 10 (with regard to fallibilism in cosmopolitan moral education).

⁹⁴ Burridge R., Webb J., op. cit., p. 83.

Law is a magnificent epistemic field. Despite the convoluted nature of our subject, law excels in catering, where possible, for the social. The very calls of academic freedom should otherwise be best represented by our discipline, the discipline of law. Let us propose that the potential of our subject is not fully realised because it is constantly limited by its cognitive academic enquiries to largely ‘domestic’ matter. To be able to nourish academic law is one privilege that many would envy. To be able to study law and complete a law degree is one of the greatest accolades of one’s academic career. Law, for all its epistemic vices, still flies the flag of theoretical academic disciplines. Yet, close to the very beauty of our subject, comes great responsibility for legal educators. What are we to say to our future graduates when they turn to us to ask what we did to offer them a more cosmopolitan horizon, a more open-ended worldview, a world-class legal ethos in their thinking? What would our response be if their legal thinking had largely been confined to national legal matter instead of us taking that one great opportunity, that unique chance, to produce excellent cosmopolitan spirits?



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