

## **International Externships – It's Not Too Late to Catch Up! How Effective Programs Can, and Should, Provide Students the Critical Skills, Social Justice Values and Knowledge for Global Practice**

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**Abstract:** As legal practice becomes increasingly global, law schools in the U.S. are expanding opportunities to gain international experience. In an international externship, a student spends a semester working and learning outside the U.S. These externships offer the chance to improve legal skills and develop cross-cultural sensitivity by raising awareness of a lawyer's responsibilities to the global community. Students also gain knowledge of law and practice in a different legal system, make valuable connections for future employment, and, in many circumstances, improve language proficiency. A number of factors prevent schools from offering programs and students from taking advantage of them. First is the potential for a poor outcome: students may end up wasting valuable time and money in a poorly supervised setting far from home and supportive systems. Unprepared students can act as a drain on overseas lawyers and legal organizations that are looking for resources. Finally, ignorance about the advantages of international study for student career objectives makes students reluctant to pursue these experiences. However, the benefits from a well-run international externship are significant, not just for student career and skills opportunities, but for the critical social justice values such programs provide to future advocates in an interdependent globe. This article offers a set of recommendations for an effective international semester-in- practice program and provides insight into all phases of the process: counseling students; setting up new sites; designing the accompanying international seminar; collaborating with study abroad and international clinical programs; and incorporating knowledge of bias to increase cultural competence. For schools seeking to build on an existing program or establish a new one, this article provides a necessary rationale, a detailed blueprint, and a call to action. The focus is on externship faculty in law schools in the U.S., but the guidelines may also be useful to educational institutions outside the U.S. seeking to expand their international experiential learning opportunities.

**Part I** 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. This section points out that legal training in countries outside the U.S. already promotes international experiences for the majority of students and that American students will likely 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. It provides results from a small survey on international externships and an overview of the variety of programs offered. It explains how law schools should engage students in study abroad and international opportunities to increase their legal knowledge, cultural competence, and understanding of the value of global interdependence.

**Part III** provides a guide for the design of a successful program with the following components: effective student counseling, establishment of international sites, and the creation of an accompanying seminar. It describes the seminar, assessments, goal setting, and guided student reflections to maximize the acquisition of values and skills critical to global practice. Models from Seattle University Law School are provided as examples where relevant. This section also

discusses the importance of international externships in the growing pedagogy relating to cultural sensitivity and awareness of biases and inequality. It describes the unique impact of international externships on future lawyer's awareness of global interconnectedness and moral responsibility. Wherever their future practice, law students need to acquire these skills and social justice values to engage in domestic and international practice in both public and private settings. The article concludes with a call for the expansion of international externship programs to adequately prepare all students for this future work.

## Table of Contents

### Introduction

<b>I. International Externships: a Key Strategy for Education for Global Lawyering .....</b>	
<b>II. International Externships and Study Abroad .....</b>	
A. ABA Standards .....	
B. The Current Landscape: Study Abroad and International Externships.....	
<b>III. Guide for the Design of an Effective Program .....</b>	
A. Effective Student Counseling .....	
a. Long term Career Goals .....	
b. Prior Experience Living Outside the U.S. ....	
c. Preparation .....	
i. Developing and Enhancing Non-English Language Skills.....	
ii. Classes in International Law and Comparative Law, Study Abroad, and Research Assistant Positions in International Law	
iii. Externships, Clinics and Practical Experience in the U.S.....	
iv. Health and Safety .....	
B. Establishment of International Sites.....	
a. Benefits of Approved Sites.....	
b. Factors to Consider When Approving a New Site.....	
c. Communicating with Supervisors.....	
C. Development of an International Externship Seminar .....	
a. Time Zones and Technology.....	
b. Course Content and Readings .....	
i. Student Assessment, Reflection and Communication with Supervisor ...	
ii. Substantive Legal Knowledge.....	
1. International Legal Research.....	
2. Comparative Law.....	
3. Transitional Justice.....	
4. Use of International Law in U.S. Courts.....	
iii. Skills Training.....	
1. Working Effectively with Interpreters and Translators.....	
2. Cross Cultural Competence and Creativity .....	
3. Explicit and Implicit Bias.....	
4. Identifying and Addressing Secondary Trauma.....	
5. Report Writing.....	

6. Oral Presentations.....	
iv. Professionalism and Values .....	
1. Global Responsibility, Interconnectedness and Social Justice.....	
2. Reflections on Multi-Culturalism and Bias in the U.S.....	
IV. Conclusion .....	

## **Part I. International Externships: a Key Strategy for Education for Global Lawyering**

Many Americans, living in a country of approximately 328 million people,<sup>1</sup> with a landmass of over 3,796 million square miles,<sup>2</sup> are ignorant about the degree to which the U.S. is interdependent with the rest of the world. As climate change, trade wars, and real wars continue to escalate,<sup>3</sup> focusing solely on domestic issues can avoid a feeling of being overwhelmed. Why then should students gain international experience, just when they are creating a roadmap for their future legal careers? Because if they don't gain this experience early on, they risk missing out on the critical skills, values and knowledge needed to engage in the global practice that is their future.

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.<sup>4</sup> Many Americans responded with an urge to close the borders and leave those afflicted with the disease to their fate.<sup>5</sup> A small number of people felt the need to try

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<sup>1</sup> United States Census Bureau, U.S. and World Population Clock, <https://www.census.gov/popclock/>

<sup>2</sup> United States Census Bureau, This does not include Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands, <https://www.census.gov/geo/reference/state-area.html>

<sup>3</sup> See UN Climate Change Summit 2019, <https://www.un.org/en/climatechange/> UN News: Neither Side Stands to Benefit in US-China Trade Spat, UN says <https://news.un.org/en/story/2019/02/1031921> UN News, More Children Killed by Unsafe Water than bullets, says UNICEF Chief, <https://news.un.org/en/story/2019/03/1035171>.

<sup>4</sup> Center for Disease Control and Prevention, 2014-2016 Ebola Outbreak in West Africa, <https://www.cdc.gov/vhf/ebola/history/2014-2016-outbreak/index.html>; 2014-2015 West Africa Ebola Crisis: Impact Update, <http://www.worldbank.org/en/topic/macroeconomics/publication/2014-2015-west-africa-ebola-crisis-impact-update>; Unfortunately the Ebola epidemic is again resurging in 2019. See Chelsea Gulinson, The Network For Public Health Law, Ebola Outbreak 2018-2019: An Escalating Health Crisis (Jan 15, 2019), [https://www.networkforphl.org/the\\_network\\_blog/2019/01/15/1091/ebola\\_outbreak\\_2018-2019\\_an\\_escalating\\_health\\_crisis](https://www.networkforphl.org/the_network_blog/2019/01/15/1091/ebola_outbreak_2018-2019_an_escalating_health_crisis).

<sup>5</sup> Naina Bajekal, London and Aryan Baker, TIME, Ebola Health Care Workers Face Hard Choices (Oct 13, 2014), <http://time.com/3502002/ebola-liberia-sierra-leone-doctors-nurses/>

and help, volunteering as medical personnel, raising money and sending supplies.<sup>6</sup> 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.<sup>7</sup>

Having recently visited Kenya and Ethiopia 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.<sup>8</sup> I was no stranger to living and working internationally,<sup>9</sup> but the experience reminded me afresh that my colleagues and students needed firsthand information about *why* such exposure is important. I developed Seattle University's International Externship Program to provide that experience for our students and this article to encourage others to do the same.

Exposure to international issues is not at the top of most lawyers' minds, even if it 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"<sup>10</sup> pointed out that two of the six cases heard in one week 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. . ."<sup>11</sup> 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."<sup>12</sup>

Justice Breyer's observations have been echoed by many in the legal academy, including clinical educators, who seek to increase law student participation in international issues.<sup>13</sup> Yet legal education to expose and prepare American law students to practice in the international legal arena has not kept pace. Despite increases in international opportunities in the U.S. at the undergraduate level,<sup>14</sup> American law schools now lag behind our European and Australian

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<sup>6</sup>Jen Christensen and Debra Goldschmidt, 'Out of control': How the world reacted as Ebola spread,"

<https://www.cnn.com/interactive/2014/11/health/ebola-outbreak-timeline/>

<sup>7</sup> Supra note 5.

<sup>8</sup> 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.

<sup>9</sup> I moved to the U.S. from England as a young child. In high school, college and graduate school I spent time living and working in France, Germany and the People's Republic of China.

<sup>10</sup> STEPHEN BREYER, *THE COURT AND THE WORLD: AMERICAN LAW AND THE NEW GLOBAL REALITIES* 3 (2015).

<sup>11</sup> *Id.* at 4.

<sup>12</sup> *Id.*

<sup>13</sup> 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). For a recent history of the clinical legal education movement see 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 CLIN. 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. 32, 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 CLIN. L. REV. 615, 617 (2006).

<sup>14</sup> For data on U.S. undergraduate study abroad see *The Power of International Education, U.S. Study Abroad*, <https://www.iie.org/en/Research-and-Insights/Open-Doors/Data/US-Study-Abroad>

counterparts. A 2010 Amsterdam Law Forum essay on the *Internationalization of Legal Education*<sup>15</sup> 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. It described how European exchange programs originating from the Bologna Process<sup>16</sup> and the Erasmus Program<sup>17</sup> have impacted large numbers of European students.<sup>18</sup> European universities now include a semester or year of study abroad in their legal education programs;<sup>19</sup> Australian legal education has also increased the availability of study abroad programs, clinics, and internship/externship opportunities.<sup>20</sup> In the United States, as discussed below, law student international experience is relatively rare.

This scarcity of U.S. law school international opportunities is surprising given the decades long interest in the topic. Calls for globalization of legal education arose following World War II: a greater understanding of international tensions would give lawyers and others the skills to avoid future conflicts among nations.<sup>21</sup> The focus included not just conflict resolution but also emphasis on the internationalization of trade and commerce.<sup>22</sup> 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”.<sup>23</sup> In his article written almost 45 years ago in 1975, he specifically mentioned the non-traditional skills needed for “the interpersonal and policy-directed profession of presentation and diplomacy.”<sup>24</sup>

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<sup>15</sup>Joan Majoney, THE INTERNATIONALISATION OF LEGAL EDUCATION, <http://amsterdamlawforum.org/article/viewArticle/144/289> (2010).

<sup>16</sup> The Bologna Process is an inter-governmental cooperation between 48 European countries in the field of higher education. See European Commission, Education and Training, The Bologna Process and the European Higher Education Area, [https://ec.europa.eu/education/policies/higher-education/bologna-process-and-european-higher-education-area\\_en](https://ec.europa.eu/education/policies/higher-education/bologna-process-and-european-higher-education-area_en)

<sup>17</sup> European Commission, 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. <https://ec.europa.eu/programmes/erasmus-plus/>

<sup>18</sup> European Commission, Erasmus+, The EU programme for education, training, youth and sport (2014-2020) [https://ec.europa.eu/programmes/erasmus-plus/resources/documents/erasmus-annual-report-overview-factsheets\\_en](https://ec.europa.eu/programmes/erasmus-plus/resources/documents/erasmus-annual-report-overview-factsheets_en) (2017).

<sup>19</sup> Majoney, *supra* note 15.

<sup>20</sup> See Tim Connor, Nola M. Ries, Nicola Ross, Kevin Sobel-Read & Daniel Matas, *Becoming Global Citizens And Global Lawyers: Incorporating International Work And Study Experiences Into The Australian Law School Curriculum* 25 CLIN. L. REV. 63 (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 LEGAL EDUC. 69 (2011)

<sup>21</sup> 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 No.1 (1976).

<sup>22</sup> *Id.* at 509 n.2.

<sup>23</sup> *Id.* at 510.

<sup>24</sup> *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.

When few American law schools had clinics and none had externships,<sup>25</sup> Trakman asserted that the best way to investigate interdisciplinary realities of legal development was at their source. “Beneficial extraterritorial borrowings only become truly meaningful when the innovator has understood the economic, political and social climates in which the law originated.”<sup>26</sup> Trakman endorsed student exchanges, both for U.S. law students studying abroad and for international students coming to the U.S.<sup>27</sup> 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.”<sup>28</sup>

Calls for globalizing legal education and a belief that law schools would embrace the concept soon followed.<sup>29</sup> In 1998, only ninety law schools offered summer abroad programs and several offered clinical trainings in internships.<sup>30</sup> By 2011, the number had increased to over two hundred.<sup>31</sup> However, the prediction that American legal education would become globalized did not come true. Writing in 2005, Carole Silver pointed out that many law firms are involved in

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<sup>25</sup> Roger S. Haydock, *Clinical Legal Education: The History and Development Of A Law Clinic*, WM MITCHELL LAW REV, Vol. 9, Iss. 1 (1983) (describing the founding of one of the first law clinics at William Mitchell College of Law in 1973).

<sup>26</sup> Trakman, *supra* note 5, 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 Tokyo, Japan

<sup>27</sup> Trakman, *supra* note 5, at 517. He pointed 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.

<sup>28</sup> Trakman, *supra* note 5, at 528. He goes on to add 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.

<sup>29</sup> 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 (1998). See also TREVOR C.W. FARROW, *ETHICAL LAWYERING IN A GLOBAL COMMUNITY* (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 (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 US 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, No. 3 (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 add courses on particular countries); and David. E. Van Zandt, *Leadership in Legal Education Symposium: Globalization Strategies for Legal Education*, 36 U. TOL. L. REV. 213, (2004) (arguing that the US preeminence means that students can still focus on the US system and find their skills valued overseas).

<sup>30</sup> Daly, *supra* note 29, at 1245.

<sup>31</sup> Robert E. Lutz, *Reforming Approaches to Educating Transnational Lawyers: Observations from America*, 61 J. LEGAL EDUC. 449 (2012).

international law and do have offices based outside the U.S..<sup>32</sup> Yet for the most part, internationalization is done through hiring foreign trained lawyers to work in their home jurisdictions.<sup>33</sup> U.S. law firm jobs are now being transferred off shore due to the high cost of American legal fees.<sup>34</sup> 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..<sup>35</sup> Yet American law offices on the whole remain U.S.-centric<sup>36</sup> and most law schools offer few international law courses and do not promote interaction between foreign and U.S. trained law students.

For law students and lawyers wishing to venture outside the U.S, the clinical legal community has raised concerns about the historical tendency towards cultural imperialism that such interactions can continue to foster.<sup>37</sup> Some argue that the empathy and social justice norms embodied in the clinical movement offer hope in overcoming this history.<sup>38</sup> Yet even the idea that U.S. trained professors can export the clinical teaching movement to other countries carries with it an assumption of superiority that can easily be perceived as counter-productive by both sides.<sup>39</sup> Efforts to provide a blueprint for successful collaboration have resulted in worthwhile prescriptions for involvement of host country colleagues, immersion in the local culture, and ways to sustain collaboration.<sup>40</sup>

Nonetheless, many educators are uneasy about the ways in which cultural imperialism permeates these interactions, even if this is due to unconscious bias rather than explicitly endorsed beliefs. 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.<sup>41</sup> Some believe U.S. faculty and law students should stay home. Yet a stark reality remains: even if no cross-cultural education and exchanges take place, U.S. lawyers, uneducated and unaware, will still likely have a disproportionate role in shaping future legal, political and economic systems around the globe.

In 2005, and again in 2011, groups of over thirty professors from universities in the U.S. and abroad met to discuss ways to globalize the core law school curriculum.<sup>42</sup> The first conference,

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<sup>32</sup> 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). For more on the characteristics of foreign-trained lawyers in the US market, See Carole Silver, *The Case of the Foreign Lawyer: Internationalizing the U.S. Legal Profession*, 25 FORDHAM INT'L L. J. 1039 (2002).

<sup>33</sup> *Id.*

<sup>34</sup> Lutz, *supra* note 16.

<sup>35</sup> The LLM Guide lists 58 law schools in the U.S. offering programs. <https://llm-guide.com/schools/usa/concentration/public-international-law-international-organizations>

<sup>36</sup> Lutz, *supra* note 16.

<sup>37</sup> Daniel Bonilla, *Legal Clinics in the Global North and South: Between Equality and Subordination – An Essay*, 16 YALE HUM. RTS. & DEV. L. J. 176, 176-7 (2013).

<sup>38</sup> 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).

<sup>39</sup> 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 CLIN L. REV. 131 (2008).

<sup>40</sup> Peggy Maisel, *The Role of U.S. Law Faculty in Developing Countries: Striving for Effective Cross-Cultural Collaboration*, 14 CLIN L. REV. 465 (2008).

<sup>41</sup> Deena R. Hurwitz, *Lawyering for Justice and the Inevitability of International Human Rights Clinics*, 28 YALE J. INT'L L. 505, 520-1 (2003).

<sup>42</sup> See 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*

*Tahoe I*, sought to introduce international, comparative and transnational law into the core law school curriculum.<sup>43</sup> The second, *Tahoe II*, had the goal of promoting intercultural legal competence.<sup>44</sup> *Tahoe II* also developed learning outcomes to allow law students to acquire the skills, attitude and knowledge viewed as critical to global lawyering.<sup>45</sup> Both conferences highlighted that interacting with individuals outside the U.S. increased lawyers' ability to communicate with individuals from a diverse background here at home. Both conferences had worthwhile goals, but barriers to their achievement 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.<sup>46</sup>

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.<sup>47</sup> Yet at the end of the second workshop six years later, "Tahoe II" conference participants recognized that the barriers were still formidable. The conference report suggested that even the second report would not be "the last word on the subject."<sup>48</sup>

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. This further undercut efforts to ensure that U.S. legal education would become truly globalized; law schools confronted the economic reality of reduced class size and tightened budgets.<sup>49</sup> Some came to believe only top ranked and well-resourced law schools could invest in alliances to promote international integration.<sup>50</sup> Others hoped competition for applicants might lead some schools to advertise international experiences as a path to global practice.<sup>51</sup> That globalized legal practice might come to mean large firms, attached to corporate clients, with practices furthering global inequality, is both real and alarming.<sup>52</sup> Even as faculty in areas such

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*Curriculum*, 1 PAC. MCGEORGE GLOBAL BUS. & DEV. L. J. 267 (2005) [hereinafter Gevurtz et al.], and Franklin A. Gevurtz, *Report Regarding the 2011 Pacific McGeorge Workshop on Promoting Intercultural Legal Competence (The "Tahoe II" Conference)*, 26 PAC. MCGEORGE GLOBAL BUS. & DEV. L. J. 63 (2013) [hereinafter Gevurtz].

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*, at 20.

<sup>49</sup> Natalie Kitroeff, *The Best Law School Are Attracting Fewer Students* (Jan 26, 2016, 9:18 AM), <https://www.bloomberg.com/news/articles/2016-01-26/the-best-law-schools-are-attracting-fewer-students> (Bloomberg news reports that as late as 2016, almost ten years after the recession began, law schools still face significant challenges).

<sup>50</sup> Elizabeth Chambliss, *Colloquium: Globalization and the Legal Profession: Organizational Alliances by U.S. Law Schools*, 80 FORDHAM L. REV. 2615 (2012).

<sup>51</sup> Andrew Moore, Cara Cunningham & Margaret Costello, *The Globalization of Legal Education*, 92 MICH B. J. 40 (2013) (pointing out that law schools in Michigan account for three of the seven existing dual degree programs between the continental US, Canada, and Mexico).

<sup>52</sup> Chambliss, *supra* note 50 (arguing for increased transparency and regulation regarding law school alliances).



as environmental law point out *all* law is global,<sup>53</sup> and student exposure to value formation in occurs in clinics<sup>54</sup> and study abroad<sup>55</sup> programs, options are limited and require resources.

What steps can be taken when budgets are still tight? Increased interaction between foreign and U.S. students<sup>56</sup> are important for those American law students who don't pursue opportunities to study abroad. But such interactions will not provide the learning experience anticipated by Leon Trakman's exhortation to investigate international law "at its source."<sup>57</sup> International externships offer this immediate experiential learning opportunity. They do not require large scale changes at the level of law school curriculum and they can be tailored individual student needs and abilities. With a modest outlay of resources they can positively impact participating externship *faculty* as well as students. Done with the proper training, accompanied by a seminar to support the student at the field placement, this experiential learning can result in a transformation.<sup>58</sup> The resulting student awareness of global responsibility 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.<sup>59</sup> International externships offer a potential solution to a problem that has persisted for decades.

## **Part II. International Externships and Study Abroad**

### **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 in Chapter 3 of the ABA Standards and Rules of Procedure for Approval of Law Schools 2018-2019.<sup>60</sup> Externship faculty should also review five additional Standards—306 *Distance Education*, 307 *Studies, Activities and Field Placements Outside the U.S.*, 310 *Determination of Credit Hours for Coursework*, 314 *Assessment of Student Learning*, and 315 *Evaluation of Program of Legal Education, Learning*

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<sup>53</sup> Robert V. Percival, *The Globalization of Environmental Law*, 26 PACE ENVTL. L. REV. 451 (2009).

<sup>54</sup> See William L. Berman, *Why not an International Clinical Legal Exchange Program? Is It Worth the Schlep?* 21 CLIN. L. REV. 171, 193, 195-6 (2014) (citing funding as one of the challenges in making the clinic sustainable).

<sup>55</sup> 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).

<sup>56</sup> Carole Silver, Symposium: The Future of the Legal Profession: *Getting Real About Globalization and Legal Education: Potential and Perspectives for the U.S.*, 24 STAN. L. POL'Y REV. 457 (2013).

<sup>57</sup> Trakman, *supra* note 21.

<sup>58</sup> See Tim Connor, Nola M. Ries, Nicola Ross, Kevin Sobel-Read & Daniel Matas, *Becoming Global Citizens And Global Lawyers: Incorporating International Work And Study Experiences Into The Australian Law School Curriculum* 25 CLIN. L. REV. 63, 80-88 (2018) (describing Australia student reflections of personal and professional transformation of international internships).

<sup>59</sup> For more on the transformative impact of international experience on creativity see the section on Cross Cultural Competence in the Development of the International Externship Seminar in Part III Subsection C (b)(iii)(2) below.

<sup>60</sup> ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2018-2019 Ch. 3 (AM. BAR ASS'N 2018), [https://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2018-2019ABAStandardsforApprovalofLawSchools/2018-2019-aba-standards-chapter3.pdf](https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2018-2019ABAStandardsforApprovalofLawSchools/2018-2019-aba-standards-chapter3.pdf)

*Outcomes, and Assessment Methods.*<sup>61</sup> This section describes issues for international placements, and covers relevant parts of Standard 304 and other standards on international issues.

International externships include special characteristics related to both classroom and supervisor. Section 304(a)(5) provides some flexibility in equivalencies for the classroom instructional component. International externships require the student to be remote and do not allow for student attendance at a school-based seminar (unless video conference options are offered). 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.”<sup>62</sup> Remote placements are usually full-time and therefore also require a director to determine adequate credit hour ratios. These issues, as well as suggestions on the process for inquiring about the supervisor’s training and experience, are discussed further in Part III below.

There is some overlap between Standards 306 and 307. Standard 306, *Distance Education*, is relevant to international externships because it regulates those circumstances when students are separated from faculty and each other for more than one third of the instruction, and the instruction involves the use of synchronous or asynchronous technology.<sup>63</sup> This Standard governs regular online instruction and classes and sets limits on the number of credits that can be awarded.<sup>64</sup> Standard 307 refers directly to *Field Placements outside the U.S.* 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.<sup>65</sup> Standard 307(c) specifically lists field placements outside the U.S. as one of the programs considered to be sponsored by an ABA approved law school.<sup>66</sup> It also incorporates the general requirements of Section 304, discussed in Part III below, as the relevant guidelines.<sup>67</sup>

Some international externships are included as part of study abroad programs but it is less resource intensive to begin an international externship program as a stand-alone program. However the general standards that apply to study abroad programs provide a useful comparison. They are supplemented by three additional documents: the Criteria for Approval of Foreign Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools,<sup>68</sup> the Criteria for Approval of Foreign Summer and Intersession Programs Established

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<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> Many programs believed they needed to avoid or conform to this standard and designed their seminar so that instruction for international externs took place as a group before the students left for their sites, then reconvened afterwards for debriefing and reflection.

<sup>65</sup> Standard 307(c).

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2018-2019, Criteria for Approval of Foreign Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools, [https://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2018-2019ABASStandardsforApprovalofLawSchools/2018-2019-aba-standards-foreign-semester-year-long-study-abroad.pdf](https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2018-2019ABASStandardsforApprovalofLawSchools/2018-2019-aba-standards-foreign-semester-year-long-study-abroad.pdf)

by ABA-Approved Law Schools,<sup>69</sup> and the Criteria for Accepting Credit for Student Study at a Foreign Institution.<sup>70</sup>

The criteria governing semester and year-long (as well as summer) programs place responsibility for administering and monitoring such programs on the ABA-approved law school. The process requirements are similar to 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 numbers limited to those appropriate for the content, facilities, faculty, administrative support, and educational goals.<sup>71</sup> 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.<sup>72</sup> It also states a primary goal of a well-planned international externship.

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.<sup>73</sup> The requirements evidence the belief that such programs need adequate administrative support for safety and liability reasons, and a director fluent in both English and the host country language.<sup>74</sup> The criteria cover requirements for a library, student eligibility, physical facilities, and state department travel information.<sup>75</sup> Evaluation of the program as a whole is done by a student written evaluation at the end of the semester and through questionnaires administered on an annual basis along with an initial site visit at the five year mark and then every seven years.<sup>76</sup> The requirements for the summer study-abroad programs follow roughly the same format, except that they are slightly less rigorous in areas such as library access.<sup>77</sup>

The third document, Criteria for Accepting Credit for Student Study at a Foreign Institution, establishes accountability on the part of the ABA-accredited law school and

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<sup>69</sup> ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2018-2019, Criteria for Foreign Summer and Intersession Programs Offered by ABA-Approved Law Schools in a Location Outside the U.S., [https://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2018-2019ABASStandardsforApprovalofLawSchools/2018-2019-aba-standards-foreign-summer-intersession.pdf](https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2018-2019ABASStandardsforApprovalofLawSchools/2018-2019-aba-standards-foreign-summer-intersession.pdf)

<sup>70</sup> ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2018-2019, Criteria for Accepting Credit for Student Study at a Foreign Institution, [https://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2018-2019ABASStandardsforApprovalofLawSchools/2018-2019-aba-standards-credit-for-student-study-foreign-institution.pdf](https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2018-2019ABASStandardsforApprovalofLawSchools/2018-2019-aba-standards-credit-for-student-study-foreign-institution.pdf)

<sup>71</sup> ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2018-2019, Criteria for Approval of Foreign Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law School, [https://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2018-2019ABASStandardsforApprovalofLawSchools/2018-2019-aba-standards-foreign-semester-year-long-study-abroad.pdf](https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2018-2019ABASStandardsforApprovalofLawSchools/2018-2019-aba-standards-foreign-semester-year-long-study-abroad.pdf)

<sup>72</sup> *Id.*, at 87 Section I D (The Program)

<sup>73</sup> *Id.*, at 88, Section II (Faculty and Staff)

<sup>74</sup> *Id.*, at 89, Section II C. Student fluency in the host country language is not required; but instructional time cannot include additional time needed for interpretation. The 750 minutes of course time should include visits to at least two legal institutions in the host country.

<sup>75</sup> *Id.*, at 90-91, 94

<sup>76</sup> *Id.*, at 94.

<sup>77</sup> *Supra* at 69.

emphasizes credit for courses “related either to the socio-legal environment of the country in which the foreign institution is located, or (courses having) an international or comparative focus.”<sup>78</sup> 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.<sup>79</sup> The ABA accredited law school must assess the student’s language capability if participating in instruction given in a language other than English.<sup>80</sup> Similar to the other criteria for foreign study, library access, support, state department travel warning, disclosures<sup>81</sup> and student evaluation are required.<sup>82</sup> Since some schools offer externships in addition to regular study abroad classroom instruction, the requirements reference Standard 304 and add that “faculty supervision must be individualized and integrated with classroom work to ensure that the credit allowed is commensurate with the educational benefit to the participating student.”<sup>83</sup>

Standards 310, 314 and 315 are applicable to international externships and provide relevant information for sites that are full-time and remote. Standard 310 on the *Determination of Credit Hours for Coursework* provides 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.<sup>84</sup> The ratio of 1 credit for 3 hours of total time (not less than one hour of classroom time and two hours out of class student work per week for 15 weeks) is set out in 310(b)(1).<sup>85</sup> 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.”<sup>86</sup>

The Managing Director’s Guidance Memo on Standard 310 issued in May of 2016<sup>87</sup> clarifies that 50 minutes can be counted as one hour of faculty instruction. It also explains that this new standard replaces the previous 700 minutes for 1 credit ratio, increasing the new amount of minutes to 750, but now allowing time to be included for a final exam (many externship programs have a paper instead of a final exam).<sup>88</sup> “Standard 310 does two basic things: (1) it requires that schools “adopt, publish, and adhere to written policies and procedures for determining the credit hours that it awards for coursework,” and (2) it establishes the amount of student work (in class and out of class) schools must require in awarding academic credit.”<sup>89</sup> International externships will likely use a combination of approaches.

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<sup>78</sup> *Supra* at 70

<sup>79</sup> *Id.*, at 98 Part I, A 4(b).

<sup>80</sup> *Id.*, at 98 Part I, A 6.

<sup>81</sup> *Id.*, at 98-9.

<sup>82</sup> *Id.*, at 94.

<sup>83</sup> *Id.*, at 90. *See also* p. 94, Part X C 3(e) for adding new externship sites.

<sup>84</sup> *Supra* at 60.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> ABA Section of Legal Education and Admissions to the Bar, Managing Director’s Guidance Memo, Standard 310, (2016).

[https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/governance/documents/2016\\_standard\\_310\\_guidance\\_memorandum.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governance/documents/2016_standard_310_guidance_memorandum.pdf)

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

According to the memo, the “equivalent amount of work” requirement also applies to international externship and distance education courses.<sup>90</sup> As many directors may want to offer some online materials as part of their international externship *seminars*, the distance education rules are useful to review. These rules are based on Department of Education guidance that requires an “institution that is offering asynchronous online courses . . . to determine the amount of student work expected in each online course in order to achieve the course objectives, and to assign a credit hour based on at least an equivalent amount of work as represented in the definition of credit hour.”<sup>91</sup>

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 insure 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).<sup>92</sup>

The memo does not require scientific precision, but rather that the school document the effort and process used to come to a conclusion.<sup>93</sup>

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.<sup>94</sup> 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.<sup>95</sup> Both can be addressed in international externships as long as the specific goals of an international externship program are incorporated into the assessment tools. As Section III describes, this can be done most easily through an accompanying seminar. The program should provide tools for assessment in 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 progress at the end of the semester.<sup>96</sup>

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<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*, at 5.

<sup>93</sup> *Id.*

<sup>94</sup> *Supra* at 60, p 23

<sup>95</sup> *Id.*

<sup>96</sup> At Seattle University School of Law we include the ten skills and four values based on the MacCrate Report; *See Legal Education and Professional Development – An Educational Continuum*, 1992 A.B.A. SEC. LEGAL EDUC. & ADMISSIONS TO THE BAR, [http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/2013\\_legal\\_education\\_and\\_professional\\_development\\_maccrate\\_report.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2013_legal_education_and_professional_development_maccrate_report.authcheckdam.pdf). 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 actually 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)

## B. The Current Landscape: Externships in an International Setting

While the ABA Standards provide clear guidance on the components of a good program, externship and clinical faculty may feel overwhelmed with the challenge of evolving standards and the complexity of an international setting. Framing the requirements of the standards as support for a strong program helps communicate two important trends. First, the pedagogical value of externships is increasingly accepted by both the clinical and doctrinal community.<sup>97</sup> 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.<sup>98</sup>

Designers of international externship programs certainly benefit from the recent period of externship expansion throughout the United States.<sup>99</sup> For some, this is a recognition of the value that experiential learning offers to law students, their future employers and their future clients. For others, it represents a worry that law schools may cut clinical opportunities and replace them with externships in the face of budgetary concerns. Despite such worries, there is a growing belief that externships can complement, not undercut, clinical offerings.<sup>100</sup> They provide a real-world experience, building upon the clinic model of a small caseload with pedagogy at every step. They also help students develop self-directed learning techniques to guide them in their future careers. In the case of international externships that locate students outside the law school in another country, they build skills in comparative analysis, creativity and cultural humility that cannot be gained in any other way. For students interested in real life international experiences, an externship is an important step in the progression to a full case load in a broad array of substantive legal settings, limited only by the ability of the program to find, supervise and approve the off-site supervisors. Recognition of this value provides support for beginning an international program, even a small one.

A survey of externship programs before the Externship 8 Conference in Cleveland Ohio in March of 2016 had a limited response,<sup>101</sup> but gives a fairly representative picture of the types of international experiential learning programs currently offered. It lends support for the growing belief that such programs are critical to attract students, regardless of the slow pace of the legal academy to provide training on global lawyering.<sup>102</sup> Like domestic externships, international

<sup>97</sup> See Kelly S. Terry, *Externships: A Signature Pedagogy for the Apprenticeship of Professional Identity and Purpose*, J LEGAL EDUC, Vol. 59, No. 2 (November 2009).

<sup>98</sup> 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>

<sup>99</sup> J. P. Ogilvy & Sudeb Basu, *Externship Demographics Across Two Decades with Lessons for Future Surveys*, CUA Columbus School of Law Legal Studies Research Paper No. 2012-5 (2012) (At least 190 ABA accredited law schools offer externships for credit.)

<sup>100</sup> Kelly Terry, *supra* note 97.

<sup>101</sup> Survey on file with the author. 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 in the description of the variety of such programs. For an article discussing a more extensive survey of externships generally See Sudeb Basu, J.P. “Sandy” Ogilvy *Externship Demographics Across Two Decades With Lessons For Future Surveys* 19 CLIN. L. REV. 1 (2012).

<sup>102</sup> 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, RAND CORPORATION (2003).

externships come in a variety of descriptions. Asked whether they had any type of “international externship,” “practicum” or “placement program.”<sup>103</sup> 51% of respondents said they had a program; 25% said they did not; 13 % said they were considering one.<sup>104</sup> Programs ranged from students externing at set locations in specific semesters (32%) to those schools which allowed students flexibility in both sites and semesters (66%).<sup>105</sup> Although fall and spring externships offer a longer time at the site and often a more substantive experience, the majority of programs of survey respondents took place in the summer.<sup>106</sup> The range of placements was surprisingly diverse: 42% of respondents had sites in civil for-profits, 79 % had civil non-profits, 47 % had judicial sites, and 47% had criminal placements.<sup>107</sup>

A classroom component with regular live classes conducted with remote technology was offered by 22 % of respondents:<sup>108</sup> 21% of respondents provided the seminar at the international site, while 16% offered the seminar before or after the semester.<sup>109</sup> Under half of the respondents, 42 %, offered reflection and other assignments in lieu of the seminar.<sup>110</sup> While 54 % of programs had faculty teaching and supervising in the program, an additional 26% also employed staff.<sup>111</sup>

When asked about additional courses for students expanding their qualifications for international experiences, only 15% of law schools responded that they offered law school credit for language classes, with 57 % offering no credit at all.<sup>112</sup> The 38 % that did offer *some* kind of support for language classes either offered a version of Spanish for Lawyers,<sup>113</sup> or facilitated law student participation in classes at the undergraduate institution connected with the law school.<sup>114</sup> Asked about other ways to expose students to international settings, the majority of law schools, 73 %, offered study abroad programs and a smaller number, 42 %, offered non-law related international community service projects.<sup>115</sup>

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.<sup>116</sup> The highest participation in international programs occurred as part of a study abroad program, an area that has been steadily

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<sup>103</sup> See Survey *supra* note 101.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.* The increased focus on contemporaneous learning, begun in 2016 and still present in the revised ABA 2018-19 Standards, makes this approach a little more challenging.

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> *Id.* Seattle University Law School has offered the class for a number of years and began giving credit in fall of 2018.

<sup>113</sup> *Id.* For more information about Victoria Ortiz who authored the casebook 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.

<sup>114</sup> See Survey *supra* at note 101.

<sup>115</sup> *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.

<sup>116</sup> *Id.*

growing even though other attempts to globalize the curriculum have been slow.<sup>117</sup> The survey showed that there are a variety of programs and options available. It also demonstrated that there is an interest in doing more. For the 13% who responded that they *are* considering a program, and for others who have seen the challenges, the following section provides encouragement.

### **Part III. Guide for the Design of an Effective Program**

Tracking the growth in externships themselves, externship *pedagogy* has rapidly evolved over the past ten years.<sup>118</sup> Faculties have been using it to design and implement their programs in increasingly sophisticated ways.<sup>119</sup> Nowhere is the benefit of a pedagogical approach more important than in an international or remote placement. The reasons for this are many and easy to understand. The student will be spending a whole semester away from the law school working with a judge or attorney who may not be familiar with legal training in the United States. A large number of credits will be earned (and paid for) by the student as most such placements are full-time. Supplemental activities available for students at the law school must be replaced with other alternatives. Care must be taken that a student placed in countries with fewer resources does not negatively impact local institutions. The students' own immediate social and academic groups will likely be smaller due to their physical relocation, resulting in the need to plan for regular student contact. The student will be in a learning atmosphere that is both stimulating and potentially overwhelming; the responsibility for ensuring that the student can handle these challenges to gain in both skills and values is a large one.

Addressing these issues in a comprehensive manner necessitates a plan and resources. The *American Association of Law Schools (AALS) Externship Subcommittee on Remote and International and Placements* is one such resource that has been meeting since 2014.<sup>120</sup> Participants discuss best practices and share and develop resources that are available on the website.<sup>121</sup> All are welcome and can join the calls at any time even if they have no current plans to expand internationally. In examining externships through an international and remote lens, the participants review externship fundamentals relevant to any externship program.

Those considering the development or expansion of an international externship program often have concerns as to how to begin. This section sets out some suggested best practices in each of the following areas: A) effective student counseling; B) careful establishment of sites, including cultivation of site supervisor relationships and supervision skills; and, C) development of a seminar with foundational skills, values and knowledge, and topics relevant to an international externship.

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<sup>117</sup> James P. White, *A Look at Legal Education: The Globalization of American Legal Education*, 1285 IND. L. J. 1985 (2007).

<sup>118</sup> For a selected bibliography of books and articles relating to the design, critique and pedagogy of legal externships compiled by J. P. Ogilvy (Catholic) & Harriet Katz (Rutgers-Camden) see <https://www.dropbox.com/s/fea4o25r71rx8xc/LexternWebBibliography-updatedFINAL3-16.docx?dl=0>.

<sup>119</sup> *Id.*

<sup>120</sup> AALS Externship Subcommittee on Remote and International Placements <https://www.lexternweb.org/remote-and-international-placements> I first started this group as a way to encourage and learn from others doing international externships. I now co-host it with Sue Schechter (UC Berkeley), Amy Sankaran (University of Michigan) and June Tai (University of Iowa). The group meets monthly via videoconference during the academic year.

<sup>121</sup> *Id.*



## A. Effective Student Counseling

Counseling students about international externships should be done as soon as possible after students have begun law school. For the student, deciding which courses and prerequisites to take and determining how to use limited experiential learning credits will vary according to each law school's curriculum. Improving language skills and obtaining experience in the U.S. to prepare for the international externship are important foundations for success. For the externship faculty, finding an existing good site, or approving a new one that will meet the student's learning goals and be willing to accept the student, may require building a new relationship. All are tasks that take time and careful planning.

The first step is to initiate an in-person conversation with the student to discuss how the externships will fit into their career plans after graduation. It is best to set aside at least a half hour for the meeting and request that the student send both a resume and transcript ahead of time. Over the course of several years I have developed two forms<sup>122</sup> for these meetings. The first is for my notes and kept by our program as a reference for any future communication with the student (*Student Appointment Form*). The second is a handout that is filled in with an individual plan (*Student Clinic Externship Planning Guide*) so students can take it with them. I also send a follow up email after the meeting as a brief summary that sets out the possible experiences and courses a student might engage in over the three-year period.

The *Student Appointment Form* allows me to identify information from the student's resume and transcript before the meeting. This includes areas of interest (derived from law student memberships, previous thesis topics, etc.) previous externships, knowledge of a language other than English, relevant work experience, internships and legal clinics. The form also has a place for the student's graduation date, GPA, and grades in Legal Writing courses: these last are especially useful for positions which require strong writing skills. I fill in some notes before the meeting and then keep a record of information given to the student during the meeting.

Some externship faculty may not feel the need to do a lot of planning with a motivated student who has identified a placement on their own and is well qualified in terms of language skills and other experiences. But my goal is to make these experiences accessible for *every* student who is interested, and, to try to interest *every* student in some kind of international experience. Experience talking to students has taught me their initial interest in international opportunities may get lost in the pressure and complexity of law school; my hope is by inspiring them to plan they will take advantage of experiences to develop the values and skills to become a global lawyer. Careful planning helps a student see a path forward to gaining those qualifications and makes the process less intimidating.

The second form, the *Student Clinic Externship Planning Guide*, has two charts to be filled in during the meeting. One includes a list of *possible* experiences and credits over the course of six semesters: summer after the first year, fall and spring of second year, summer after second year, and fall and spring of third year.<sup>123</sup> Students at Seattle University can begin doing externships in the summer after their first year and are eligible to earn credit for full-time away

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<sup>122</sup> Both of these forms are available with the author and posted on the Lextern website <https://www.lexternweb.org/remote-and-international-placements>

<sup>123</sup> We expand the form out for students in our part-time program and shorten it for students in our LLM and MLS programs, but the concept is the same.

externships starting in the summer of their second year. While some students choose summer externships for an international experience, most prefer the fall or spring of their third year since international placements often require a 3 to 4 month minimum. Fifteen-week fall and spring semester externships tend to be more substantive in terms of the work and opportunities afforded. Information about the student's past and planned activities is listed here and I counsel students on how to maximize their use of credits.<sup>124</sup>

The second is a chart for the experiences that have given the student skills in the following areas: 1) client interviewing and counseling, negotiation and dispute resolution, transactional work; 2) pre-trial practice and trial skills (Rule 9); 3) research and writing (e.g. judicial positions, impact litigation) and 4) other specialization (policy, business, in-house counsel, legislative, international etc.).<sup>125</sup> There are many ways legal skills can be grouped,<sup>126</sup> but this format encourages students to consider how each externship, clinic, internship or job provides them different skills. It emphasizes they cannot gain *all* skills in just one experience. It also helps them avoid repeating similar externship and skills while ignoring others. The fourth category (specialization) allows us to identify together what kind of practice they hope to focus on. It is often possible to incorporate the specialization into each of the three skills areas. For instance, a student interested in immigration law might want to work for a legal services provider to get interviewing skills, do an immigration deportation defense clinic to get trial skills, and work for an immigration court or for a United Nations organization working with refugees as part of their judicial experience. Students who come to law school with previous legal work can also assess the relevance of that experience to their overall professional development and fill in the chart with these prior experiences.

#### **a. Long-term Career Goals**

In counseling students on careers in international law, several questions should be explored even if they cannot be fully answered. These include whether the students want to work in the private or public sector, whether they hope to live in the U.S. or abroad, what kind of previous exposure they have had to living outside the U.S., and even questions of citizenship and nationality.<sup>127</sup> In many schools, students who hoped to practice in international law tended to focus on the fiercely competitive job market and the slim chances of landing a coveted job as an international human rights lawyer. Now, with most U.S. based lawyers very likely to encounter

<sup>124</sup> *Id.* Seattle University limits students in the bottom half of the class to 15 credits of experiential learning and no full-time credits. With a plan to study needed bar tested courses, students may be approved to earn 21 credits and do full-time externships.

<sup>125</sup> *Id.*

<sup>126</sup> See McCrate Report Supra note 96, See also Marjory M. Schultz and Sheldon Zedeck *Predicting Lawyer Effectiveness: A New Assessment for Use in Law School Admission Decisions August 2009* [CELS 2009 4th Annual Conference on Empirical Legal Studies Paper](https://iaals.du.edu/projects/foundations-practice) and Educating Tomorrow's Lawyers Foundations for Practice <https://iaals.du.edu/projects/foundations-practice>

<sup>127</sup> Students may have an unrealistic expectation of the ease of getting work visas for non-U.S. law firms and organizations and should be encouraged to research immigration laws and visa in the countries where they hope to practice. For example, the US Department of State Family Liaison Office publishes a very useful handout that includes information on the following: American Law Firms with International Locations; Recruiters; General Sites to Find Legal Jobs; Intergovernmental Organizations; NGO's; Working Locally; Entrepreneurship; and General Job Search Tips and Additional Resources. U.S. DEP'T OF STATE: FAMILY LIAISON OFFICE, RESOURCES FOR LAWYERS GOING OVERSEAS (FEB. 2016) <https://www.state.gov/documents/organization/253915.pdf>

international law questions in all areas of law, faculty should encourage students to value international experiences for a broader set of long term career goals.

International externships in the public and private sector educate students who hope to work in international business and those who wish to gain policy positions with government entities and non-profits. In-house counsel at large international corporations increasingly deal with international issues on a routine basis. Students who acquire the knowledge and experience from studying and working abroad can gain an important skill set any of these options are part of their future career plan. Students working in family law, consumer law, employment and labor law, and other areas within a small firm, government or non-profit practice can expect to encounter international law issues and also to work with individuals here in the U.S. from diverse backgrounds. If law schools are to prepare students for these roles, international externships, along with clinics, study abroad, and other internships, should be discussed and encouraged. Exposure to issues of global interdependence and social justice, when coupled with the experience of actually living and working outside the U.S., can provide a unique and transformative learning experience.

For those students committed to living and working abroad for the long term, education about the types and requirements of work visas in their chosen country of future employment is critical.<sup>128</sup> Many law students may not be aware that other countries, similar to the U.S., have restrictions on work and residence.<sup>129</sup> Identifying these potential barriers early helps students think about whether they can look for long term employment with foreign organizations or must apply to American firms and companies operating offices outside the United States. These requirements also apply to some internships and externships. For example, students interested in working at the European Union generally need to have citizenship in a member country; the same is true for externs at the African Union.<sup>130</sup>

#### **b. Prior Experience Living Outside the U.S.**

Ascertaining the amount and kind of a student's previous experience traveling and living outside the U.S. is important in effectively advising students. These experiences are valuable in both preparation and motivation, but students from lower income or minority backgrounds may have had fewer of these opportunities.<sup>131</sup> This is a crucial reason not to require this kind of previous experience before a student can apply for an international externship. Such students should be encouraged and supported. Because of their experiences as marginalized members of American society, they often have additional skills in cross-cultural sensitivity and awareness of bias that can strengthen their applications and their contribution to the work of their sites. As discussed below, further developing these two skills is a core component of the both the classroom and field placement experience.

For students who have had previous international experience, inquiry into the experience, and their attitudes to the people with whom they interacted, is critical. With the expansion of

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<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> [https://epso.europa.eu/how-to-apply/eligibility\\_en](https://epso.europa.eu/how-to-apply/eligibility_en) & <http://aucareers.org/>

<sup>131</sup> Data on race and income of students studying abroad at undergraduate level is instructive. Jennifer Simon & James W. Ainsworth, *Race and Socioeconomic Status Differences in Study Abroad Participation: The Role of Habitus, Social Networks, and Cultural Capital*, 2012 ISRN EDUC. (2012).

study abroad programs at the undergraduate level,<sup>132</sup> faculty might assume that a semester abroad in Europe will have developed a student's cultural competence, understanding of another culture, language skills and general ability to live away from family and home. However, none of these skills and values should be taken for granted, especially since some study abroad programs provide students with a very structured experience that lacks real contact with the country's residents and may not have taught concrete skills.<sup>133</sup>

### **c. Preparation**

All students planning to do an international externship need advice on the special skills and preparation necessary to ensure a successful experience. At a minimum, students should consider enhancing or developing non-English language skills, gaining some work experience in the U.S. legal system, taking some courses in international law prior to departure, and taking adequate precautions to ensure a safe and healthy trip. This next section gives more detail on student advising in each of these areas.

#### **i. Developing and Enhancing Non-English Language Skills**

American students pursuing a career in international law clearly have one advantage: they speak, understand, read and write English fluently. Unfortunately, English is sometimes the only language that they speak. In many circles, Americans-- other than those immigrants who know the language of their country of origin<sup>134</sup> -- are infamous for their inability to speak a language other than English. Data on second language instruction in America compared with the rest of the world is illuminating.<sup>135</sup> Throughout Europe, a second language (most commonly English) is introduced to children as young as 5 years old.<sup>136</sup> By the time of graduation from high school (secondary school) fully 85% of Europeans have six years of instruction in a second language and can speak it almost fluently.<sup>137</sup> An additional 25% speaks at least three languages and a smaller number, 10%, speak four languages.<sup>138</sup> Even in less industrialized countries with far

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<sup>132</sup> Neil Kemp, *The International Education Market: Some Emerging Trends*, 85 INT'L HIGHER EDUC. 13 (2016).

<sup>133</sup> Different perspectives on coddling of today's students often focus on diversity issues in ways that misunderstood racial bias and the impact of trauma, but the shift in education to a consumer focus may be one reason why study abroad programs do not always lead to closer connections with the foreign country. US News and World Report, *Stop Coddling College Students* (June 8, 2017) <https://www.usnews.com/opinion/knowledge-bank/articles/2017-06-08/intellectual-protectionism-in-higher-education-doesnt-help-students>

<sup>134</sup> According to U.S. census data, approximately 10% of U.S. residents are Limited English Proficient (LEP), meaning that they speak English not at all or at least less than very well. *Detailed Languages Spoken at Home and Ability to Speak English for the Population 5 Years and Over: 2009-2013*, U.S. CENSUS BUREAU 2009-2013 AMERICAN COMMUNITY SURVEY (Oct. 28, 2015), <http://www.census.gov/data/tables/2013/demo/2009-2013-lang-tables.html>

<sup>135</sup> David S. Clark, *American Law Schools in the Age of Globalization: A Comparative Perspective*, Symposium 2009: A Legal Education Prospectus: Law Schools Emerging Frontiers, 61 RUTGERS L. REV. 1037 (2009) (describes American law students' low rate of fluency in another language).

<sup>136</sup> Kat Devlin, *Learning a foreign language a 'must' in Europe, not so in America*, PEW RESEARCH CTR (July 13, 2015), <http://www.pewresearch.org/fact-tank/2015/07/13/learning-a-foreign-language-a-must-in-europe-not-so-in-america>

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

fewer resources devoted to education, early introduction to a second language is considered a key component in education. For example, in many African countries, where the predominant language may be that of a foreign power due to the history of imperialist control, fully 50% begin the teaching of a second language by age 6 and by graduation 85% also speak third language.<sup>139</sup> Many Africans speak three or more languages, especially since retention of regional languages is strongly encouraged.<sup>140</sup>

Lack of second language instruction puts many American students at a disadvantage compared to their international peers. Emphasis on English is not merely a result of America's historical unification of a diverse set of immigrants into one nation,<sup>141</sup> it is also based on the predominance of English throughout the world as the language of global communication.<sup>142</sup> Nonetheless, even if only some international externships require proficiency in a language other than English, all students should be encouraged to gain experience in at least one other language. Externship faculty should communicate the importance of learning a second language as part of preparing for global practice. Encouraging students to begin early increases their likelihood of obtaining a placement and confers the benefits of increased cultural competence (as discussed below, language offers important windows into culture) and future job opportunities.<sup>143</sup> Learning another language also counteracts the implicit message that a monolingual English-speaking American conveys: expecting others to speak in their language can easily be read as a sign of superiority that triggers both recent and older incidences of colonialism and aggression. In addition, new neuroscience research has demonstrated the benefits of second language acquisition for brain development and several articles have described both expected and surprising advantages of bilingualism for practicing attorneys.<sup>144</sup>

In evaluating a student's language proficiency and ability to assist in legal practice in a foreign language in another country, both simple and sophisticated tools are available. American students generally start language study much later than in other countries and are sometimes overly optimistic as to their ability.<sup>145</sup> When asked, some students who have taken courses in the U.S. will be able to recall the last level of oral and written communication attained, but may not understand realistically how this translates into drafting documents in a law office or

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<sup>139</sup> *Id.*

<sup>140</sup> Africa: The Most Multilingual Continent In The World Has Few Translators Associations <http://www.lexis.pro/news/africa/africa-the-most-multilingual-continent-in-the-world-has-few-translators-associations-1398/>

<sup>141</sup> New York Times, Fiskensov, Edward B., *The Controversy Over Bilingual Education In America's Schools; One Language Or Two* (Nov.10, 1985).

<sup>142</sup> World numbers on speakers of English. Gary F. Simons, *Ethnologue: Languages of the World, Nineteenth edition*. Dallas, Texas: SIL International. <http://www.ethnologue.com>

<sup>143</sup> For data on jobs for which second language competence is an advantage see [http://ec.europa.eu/eurostat/statistics-explained/index.php/Foreign\\_language\\_skills\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Foreign_language_skills_statistics)

<sup>144</sup> Jayesh M. Rathod, *The Transformative Potential of Attorney Bilingualism*, 46 U. MICH. J. L. REFORM 863 (2013) For additional information on the benefits of being bilingual see The Cognitive Benefits of Being Bilingual at [https://dana.org/CEREBRUM/2012/THE\\_COGNITIVE\\_BENEFITS\\_OF\\_BEING\\_BILINGUAL](https://dana.org/CEREBRUM/2012/THE_COGNITIVE_BENEFITS_OF_BEING_BILINGUAL)

<sup>145</sup> The U.S. is widely considered to be monolingual except for those immigrants who bring their native language with them. By contrast 56% of Europeans report being able to speak two languages. See Supra 144, [https://dana.org/CEREBRUM/2012/THE\\_COGNITIVE\\_BENEFITS\\_OF\\_BEING\\_BILINGUAL](https://dana.org/CEREBRUM/2012/THE_COGNITIVE_BENEFITS_OF_BEING_BILINGUAL)

interviewing clients. Those who have spent some time studying or living abroad will have a much better grasp of their ability. For students who are unsure, but who will need a certain level of language for their international externship, there are several affordable professional assessments.<sup>146</sup>

Once students have an idea of their proficiency in speaking, understanding, reading and writing the language needed, they can begin planning how to improve their level. Even students who have a high degree of proficiency will likely need to refresh their skills.<sup>147</sup> Breaks between law school semesters over the holidays can often afford just enough time to do a quick study abroad program,<sup>148</sup> giving students a reality check as to their current knowledge, as well as the motivation and the tools to improve. Such experiences do not have to take place only outside the U.S., and all students, taking into account the limitations of time and money, can be encouraged to trade conversational practice with an immigrant who is new to the U.S. and interested in learning English.<sup>149</sup> Language acquisition plans can include individual study guides,<sup>150</sup> individual tutoring, as well as language immersion programs, both privately owned and funded through undergraduate institutions.<sup>151</sup> Encourage students who have some previous language study, whether in high school or in college, to reprise this learning and improve their language proficiency, even if they cannot realistically achieve fluency. Regardless of where the students end up living and practicing, the ability to know another language (or more) in addition to English will expand their professional and personal horizons.<sup>152</sup>

While the problem of the low rate of language study in the U.S. lies outside the control of law schools,<sup>153</sup> there are steps faculty can take to increase support for second language acquisition throughout the legal academy. Law schools encouraging access to language classes fall into two categories: those that allow credit for language classes to count towards a law degree,<sup>154</sup> and those which offer or arrange for the classes without giving credit.<sup>155</sup> While both approaches are better than no foreign language classes, giving credit allows students to carve out

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<sup>146</sup> Two companies that do language testing in the U.S. are Language Testing International (uses two raters) [www.languagetesting.com](http://www.languagetesting.com) and ALTA Languages (uses one rater with spot checking) [www.altalang.com](http://www.altalang.com)

<sup>147</sup> See *Can you Lose Your Native Language* <http://www.bbc.com/future/story/20180606-can-you-lose-your-native-language> (providing information on the results of a study that showed how easy it to forget your native language) See also Schmid, Monika S. and Teodora Mehotcheva, 2012. Foreign language attrition. DUTCH JOURNAL OF APPLIED LINGUISTICS 1(1): 102-124. (arguing for a distinction between this type of attrition and attrition involving second languages acquired implicitly in an immersion setting, See also Park. E. Sung, *Language Attrition*, (March 2018) (arguing that proficiency in the first language increases the proficiency of a second language)

<sup>148</sup> See ABA for Law Students. <https://abaforlawstudents.com/stay-informed/summer-study-abroad-law-school-programs/>

<sup>149</sup> See for example <https://llm-guide.com/news/2019/01/summer-law-programs-2019-legal-english-us-law>

<sup>150</sup> Examples of on line courses for learning languages include Babbel <https://welcome.babbel.com/> and Rosetta Stone [www.rosettastone.com](http://www.rosettastone.com)

<sup>151</sup> See <https://www.brooklaw.edu/intellectuallife/centerforlawlanguageandcognition/legallanguageinstitute/overview?> And <https://www.usfca.edu/law/academics/llm/english>

<sup>152</sup> See Jayesh Rathod *supra* note 144

<sup>153</sup> See David Clark *supra* note 135.

<sup>154</sup> See ABA Survey on Law School Curricula 2012. [http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/2012\\_survey\\_of\\_law\\_school\\_curricula\\_2002\\_2010\\_executive\\_summary.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2012_survey_of_law_school_curricula_2002_2010_executive_summary.authcheckdam.pdf).

<sup>155</sup> *Id.*

much needed time in their schedules, elevates the importance of the skill through formal inclusion in the law school curriculum, and increases the chance that students will gain expertise in legal vocabulary and documents. The publication of the casebook “Spanish for Lawyers” by Victoria Ortiz, offers a way to address faculty concerns that language study alone should not qualify for law school credits.<sup>156</sup> These classes also appeal to those students focused primarily on practice within the U.S. where Spanish language skills can be crucial in parts of the country with strong ties to Latin America. A further goal would be to emulate international law training. Many schools in Europe, Latin America, Africa and Asia prepare their students for global practice by offering classes on foreign law in the language of the foreign country, and routinely promoting the acquisition of a second language as an important skill for lawyers.<sup>157</sup>

**ii. Classes in International Law and Comparative Law, Study Abroad, and Research Assistant Positions in International Law**

Classes on international law, international legal systems, and comparative law give students a framework from which to understand their international externships.<sup>158</sup> These classes increase students’ ability to provide substantive assistance at their sites and enhance the likelihood that their applications will be accepted.<sup>159</sup> Most students have fairly limited choices in their first year curriculum,<sup>160</sup> but they can select from a variety of courses in the second year and can also consider study abroad programs with international law curricula for the summer following their first or second years. Courses available at most law schools include those that focus on public international law (including refugee law and human rights law) and those that cover private international law (such as international arbitration, international business law and trade).<sup>161</sup>

Courses such as comparative law, administrative law, and Indian Law introduce students to legal systems that are different from the common law approach. Comparative law courses develop students’ abilities to see different perspectives on problem solving and enhance the skills needed for cultural competence. Administrative law is valuable as an introduction to the concepts of a civil code and helps students conceptualize the role of judges, evidentiary rules, and due process relevant to understanding many international legal systems. Indian law, with its focus on treaties and stark inequality in bargaining power, can introduce legal issues that arise when sovereign nations deal with one another.

Students interested in study abroad programs should look for programs that afford opportunities for serious language study and/or substantive engagement with legal practice in the host country in addition to doctrinal courses. Students who can do internships in the host country benefit most when some of the same criteria for international externships (see below section b) are applied. Emphasizing the need for practice with lawyers and judges in the host country helps students sift through various options and make good choices. For those unable to secure an international externship abroad, traveling before or after the program of study can be tempting,

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<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

<sup>161</sup> *Id.*

but it is better for a student to get substantive experience in the U.S. and still do a short period of study abroad, than to spend a whole summer gaining only classroom experience and a long vacation.<sup>162</sup>

One other important avenue to gain international legal experience is as a research assistant for professors teaching courses in international law. Since students don't always have the opportunity to enroll in many classes that cover international issues, working as a research assistant for a professor allows them to learn about the substantive area of law, gain deeper familiarity with a particular legal issue, and increase exposure to resources for international legal research.

### **iii. Externships, Clinics and Practical Experience in the United States**

Exposure to U.S. law in practice settings serves two important goals. The first is short-term and related to the student's experience at the international externship. Working in an American legal setting provides a comparative perspective helpful in preparing and orienting the student. For instance, a student who is going to the International Criminal Court benefits from exposure to a criminal court in a U.S. jurisdiction. On the practical side, students gain familiarity with the rules of evidence, learn approaches to direct and cross examination, and are often exposed to the use of interpreters to facilitate courthouse communication. At the theoretical level, seeing issues in a domestic setting before observing them at an international tribunal exposes the differences between the two dispute resolution processes and establishes a valuable baseline for understanding criminal prosecution and defense.

The second goal is long-term and related to future employment outside the United States. Many international legal positions prioritize hiring of law graduates who have gained some experience in the United States before working abroad. Clinic and externship opportunities maximize the student's first chair participation in legal tasks and increase the likelihood of an initial legal job in the U.S., often a prerequisite for international positions. Clinics with a focus on international human rights and immigration law are especially helpful but clinics providing experience in community development, farmworker's rights, administrative law or intellectual property and trademark are helpful depending on the student's interest. Even students who hope to do an international career should be advised of the benefits of developing connections to a U.S. law office in case they wish to practice in the U.S. at some future date.

### **iv. Health and Safety**

Planning an externship also requires attention to issues of health, safety and security. As members of the legal profession, we are tempted to view this preparation through the lens of legal liability.<sup>163</sup> In her article, *Going Global Managing Liability In International Externship*

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<sup>162</sup> Counseling students on this topic requires a delicate balance. Students often see the chance to travel as a way to relax after a challenging year and those who do a study abroad class are often inspired to want to do further study abroad later. However, students who are able to get some US legal experience in the summer in addition to the short study abroad, are less likely to give up their dream of an international externship if they have some legal US experience on their resumes.

<sup>163</sup> For a thorough review of the issue of liability see Kathleen M. Burch, *Going Global Managing Liability In International Externship Programs-A Case Study*, 36 J.C. & U.L. 455 (2010); Vincent R. Johnson, *Americans Abroad: International Educational Programs and Tort Liability*, 32 J. C. & U. L. 309 (2006).



*Programs-A Case Study*, Kathleen Burch provides a guide to managing risk in the design and implementation of an international externship program.<sup>164</sup> She covers the cases where students sued their educational institution, the institution's duty to exercise reasonable care in the placement of students, and the differences between undergraduate and graduate programs.<sup>165</sup> Given that concerns about liability can lessen the desire of any law school to start an international externship program, directors will be encouraged to know that her conclusion is that international externship programs are more cost effective, expose the law school to less risk, and provide the student with greater learning opportunities than study abroad programs.<sup>166</sup> In law schools connected with an undergraduate institution, externship faculty should establish connections with undergraduate study abroad programs for information on health insurance and travel guidance.

### **Establishment of International Sites**

Faculty setting up an effective international program must determine if a site, whether selected by the student or already approved by the law school, is appropriate for the student's learning and social justice goals and long-term career plans. Each program may wish to develop a list of approved sites with both geographic and substantive law diversity. The practice area likely to appeal to many students is international human rights law. However, if a law school wants all interested students to study abroad, it is best to establish a variety of opportunities. Using domestic externships as a guide, schools should seek placements in areas of in-house counsel, criminal, trade, commercial arbitration and mediation, health, intellectual property, environmental, labor law, immigration, judicial, and human rights. An array of sites also supports the goal of educating every student on the lawyer's obligation to promote social justice and awareness of global interdependence. Faculty should also consider sites in the U.S. that involve substantial work with international partners. In expanding student opportunities faculty should avoid creating a Eurocentric program and look for opportunities in Asia, Africa, Latin America and Russia.<sup>167</sup>

#### **a. Benefits of List of Pre-approved Sites**

There are several benefits to beginning a program with a list of approved sites.<sup>168</sup> An existing relationship with a site increases the likelihood of successful student placement, particularly for schools outside the top tier, since international institutions regularly receive many applications. Establishing the relationship requires identifying your school's strengths and determining how they will fit the qualifications required at the international site. For example, Seattle University

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<sup>164</sup> Burch *supra* note 163

<sup>165</sup> *Id.*

<sup>166</sup> *Id.*

<sup>167</sup> The International and Remote Externships Sub-Committee has compiled a database with sites used by participating law schools. It is available at Lextern, <https://www.lexternweb.org/remote-and-international-placements> See <https://www.lexternweb.org/best-practices>

<sup>168</sup> *Id.*

Law School's strong writing program<sup>169</sup> allows us to provide students who are well prepared to draft a wide range of documents in English, one of the languages used by many international agencies. Directors should look to current student language capabilities and connections with existing study abroad programs as sources for additional strengths.

An existing relationship with a site also allows you to identify the qualifications the site is looking for in applicants, and to advise students on how to develop those characteristics. If you are able to send strong applicants to sites that are looking, they will likely call on you when positions come open unexpectedly and notify you of early deadlines. These connections are useful if there are complicated application processes in which a student application may be lost.<sup>170</sup> Communicating that you have a program that helps prepare (and in some cases select) appropriate students allows sites to rely on the applicants you send to be capable, culturally competent, and respectful of the legal tasks and supervisors.

Partnerships with international organizations require culturally sensitive communication if they are to flourish. An in-person visit is best as faculty can then meet supervisors face to face and see where externs will work. They can get a sense of the opportunities (such as sitting in on court proceedings, interviews, etc.) that will supplement the day to day work and gain an understanding of the cultural and geographic situation the student will encounter. Given budgetary constraints, it will not be feasible to visit every new site. However, if the site is well-regarded, likely to be available for a number of years, and one that students will learn from, a visit is recommended and will be well worth it in the long run. When budget restrictions and distance make the initial visit too difficult to arrange in person, the meeting should still be arranged with an audio and video connection, and *not* left to discussion via email.

Some law schools rely on faculty in international law with existing relationships to do site visits and approve sites. This can be a productive way to begin, but transitioning to direct contact with the externship faculty is best if students will earn credit as part of an externship program. Externship faculty are most knowledgeable about the process of supervising an extern, setting goals, and using skills such as reflection. They can communicate the norms of clinical education, share the contents of the accompanying seminar, and deal with any problems that arise. For those externship faculty with limited international experience, the process of interacting with supervisors from a different cultural background also expands their cultural competence. They may feel daunted should remember that in directing an externship program they are constantly becoming familiar with working in new areas of law in which they have not practiced

#### **b. Factors to Consider When Approving a New Site**

Given the obvious benefits of placing a student in an established site, what factors favor a new opportunity? The degree to which this problem arises is determined by the number of existing sites in the program. Assuming your program has some offerings in Asia, Africa, Europe

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<sup>169</sup> U.S. News, Best Legal Writing Programs, <https://www.usnews.com/best-graduate-schools/top-law-schools/legal-writing-rankings> (last visited April 27, 2019) (the latest US News and World Report ranks the Seattle University Law School Legal Writing Program as second in the country).

<sup>170</sup> United Nations, Inspira-Human Resource Gateway, <https://inspira.un.org/psp/PUNA1J/?cmd=login&languageCd=ENG&> (United Nations' website that can be complicated and confusing for students to navigate. Simple tips on which boxes to check and which to avoid can increase the chances of a successful placement)

and Russia, the answer lies in whether the student has prior connections, particular skills (especially language ability) and/or long-term goals that cannot be addressed at the current sites. For students who grew up speaking, or had previous extensive study, in a second language, identifying a site that will allow them to improve to a level of high proficiency or fluency is one reason to establish a new opportunity. Even in countries where the number of people speaking that language may be relatively small,<sup>171</sup> knowledge of a second language is desirable in today's global market.<sup>172</sup> Some students pursue a site because they have worked there prior to law school or because it is in a country where they hope to practice law. Making connections with legal sites in that country has the benefit of exposing (or re-exposing) the student to the language and culture; it also increases the chances of long-term employment.<sup>173</sup>

Where there is a strong benefit to the student pursuing a new opportunity because of either language or geographic location, other considerations must still be reviewed. If the agency or non-profit is small or understaffed, the experience may not be worthwhile. The process itself of establishing the site offers a window into the site's capacity. Whether supervisors will return calls, review materials, and deal with challenges of arranging communication across time zones, are all indications of whether they have the resources and motivation necessary to supervise a student.<sup>174</sup> A site that has sufficient capacity is also likely to continue to exist and help develop the student's professional network.

### **c. Communicating with Supervisors**

The preparation required for a productive supervisor meeting – reviewing the background (history, work, etc.) of the agency, curriculum vitae of the supervising attorney, and any other relevant material—lays the foundation for the future student orientation and the accompanying externship seminar. To maximize chances for a successful relationship, externship faculty should do their own cultural competence preparation before initiating contact. The conversation should include questions about necessary student qualifications, any problems previous students have encountered, and inquiry into the application process. The externship faculty should explain that the student will have access to legal research resources that may supplement those of the hosting organization. Having a contact person with whom you can correspond about the process is extremely helpful. It can also alleviate student stress in international settings which entail requirements of lodging, health certification, travel requirements and visas, many of which have their own processes and deadlines.

The meeting should also include a discussion of the supervisor's background with a focus on what prior experiences and skills the supervisor has that are necessary to supervise effectively.

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<sup>171</sup> For information on world languages See Rick Noack and Lazaro Gamio, The Washington Post, The World's Languages, in 7 Maps and Charts, <https://www.washingtonpost.com/news/worldviews/wp/2015/04/23/the-worlds-languages-in-7-maps-and-charts/> (April 23, 2015), and Nicole, Accredited Language Services, The 10 Most Common Languages (Jan 09, 2019), <https://www.accreditedlanguage.com/2016/09/09/the-10-most-common-languages>

<sup>172</sup> Jayesh Rathod *supra* note 144.

<sup>173</sup> *Id.*

<sup>174</sup> Sometimes the requirements and responsibilities described in the documents will cause supervisors to say they don't have the time to perform these activities and didn't see the "internship" that way at all. This should lead to a careful discussion with the student about the pros and cons of pursuing the opportunity, especially if it cannot be approved as an externship.

Be sure to use an interpreter to communicate if the supervisor is not fluent in English. In explaining the goal of your own externship program, to increase student awareness of international law, cultural competence and global citizenship, as well as general legal skills, you will gain useful information about the supervisor's views and knowledge in these areas. Providing information on the role of supervising attorneys in externships in the U.S. is an opportunity to communicate about the pedagogy of a mentoring lawyer and learn how the supervisor's own legal education has influenced her development of both lawyering and supervisory skills. In sharing how your program seeks to provide students with a progressive development of legal skills, professionalism and awareness of social justice, it is likely you will gather new information about ways to supplement student learning in these areas. The ABA requirement that law schools provide instruction to supervisors to assist them in training law students means that most programs provide free CLE's on a frequent basis to supervisors. While this has not typically been done for supervisors outside the U.S., technologies such as webinars, whether in English or with an interpreter, mean that law schools should consider providing similar information to international site supervisors.<sup>175</sup>

In communicating with any future site, inquire about any language requirements. The site may be one that regularly works with clients who not speak English and looking for externs with particular language fluency. However, supervisors may also be looking for fluent English speaking externs to help produce documents if the supervisors are not native English-speakers. Students who have spent at least twelve years in grade school and another three or four in college to work and perfect their English language can be of great assistance, especially since law school will have added new vocabulary and precise use of language.

Students who are fluent in the supervisor's language will be able to speak directly with a supervisor who does not speak English well. Yet externship faculty should never have the student act as an interpreter and should provide an interpreter and translator when needed.<sup>176</sup> Best practice is to have a conversation when the site is approved, and then another conversation as part of a mid-semester meeting.<sup>177</sup> Gaining a concrete sense of the tasks the student will be performing allows for a full discussion with the student about how this will help in the acquisition of legal skills. Networks of professors and organizations such as AALS Externship Subsection on Remote and International Placements,<sup>178</sup> Global Alliance for Justice Education (GAJE)<sup>179</sup> and Bridges Across Borders Southeast Asia Legal Education (BABSEA)<sup>180</sup> are also useful resources. Members of these groups may have prior contacts with the sites in question, be in closer geographic proximity, and able to make inquiries.

Even if you are limited to email communication, thinking about the ways such communication can create a feeling of respect is critical, especially in communicating with

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<sup>175</sup> At Seattle University, we are exploring ways to implement a webinar on supervision and feedback to be available for all supervisors. This is also a resource for discussion by the AALS Subcommittee on Remote and International Externships.

<sup>176</sup> As discussed below, working effectively with an interpreter requires someone who is skilled (and ideally, certified) in both languages and aware of ethical requirements and impediments to accurate interpreting.

<sup>177</sup> See Laurie Barron *Learning How to Learn: Carnegie's Third Apprenticeship*, 18 *CLIN. L. REV.* 659 (2011)

<sup>178</sup> AALS Externship Sub-committee on Remote and International Placements *supra* note 120.

<sup>179</sup> The Global Alliance for Justice Education, <http://www.gaje.org/> For a list of international clinical organizations See <https://www.lexternweb.org/international-organizations>

<sup>180</sup> Bridges Across Borders Southeast Asia Legal Education is an organization which supports sites in Southeast Asia <https://www.babseacle.org>

countries that have experienced a colonial history. In interacting with all supervisors, faculty should remember that American behavior is often considered to communicate condescension, imperiousness and superiority. Pay special attention to the tone and demeanor of all communication. If you send written materials, such as guidelines or a manual, be sure to have them translated if the supervisor is not a fluent English speaker. The respect and trust this communicates are well worth the cost.<sup>181</sup>

## **B. Development of An International Externship Seminar**

Even without far-flung international sites, creating a seminar for students in a diverse range of field placements has long been both an ideal and a challenge for externship faculty throughout the United States.<sup>182</sup> Some have recommended abolishing this requirement.<sup>183</sup> But the need to comply with the ABA Standards for Approving Legal Education (Standards), coupled with the growing acknowledgement that a live class represents a “best practice” for legal education,<sup>184</sup> has encouraged faculty to continue to spend time and energy in designing and implementing externship seminars.

Online modules<sup>185</sup> may be useful in an international externship program, but the Standards underscore the seminar’s reputation as an effective vehicle for education, and, with the benefits of technological innovation, a seminar can help students engage throughout the semester. The preference for a seminar is further underscored by the requirement that for students earning three or more credits “the opportunity for student reflection must be provided contemporaneously.”<sup>186</sup> The number of faculty who teach international externship seminars, as discussed in Section II, is still quite small, but the rewards, for students and faculty alike, are great. This section provides guidance on the nuts and bolts of setting up a seminar as well as recommendations for content. It describes the substantive knowledge, skills and social justice values that should be covered.

### **a. Time Zones and Technology.**

Conducting a live class can be difficult when spanning several different time zones. For classes that consist of a small group of students in time zones within a 12 hour span, a joint class can be held with some participants joining in the morning and others in the evening.<sup>187</sup> Where time zones are too spread out, a half to full-day intensive delivered to the students in a group

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<sup>181</sup> Although automatic translation is readily available and continues to improve, do not use it for important communications with supervisors. The chance for error is still too high.

<sup>182</sup> Erica Eisinger, *The Externship Class Requirement: An Idea Whose Time Has Passed*, 10 CLIN. L. REV. 659 (2004)

<sup>183</sup> *Id.*

<sup>184</sup> For two wonderful resources, *See* Best Practices on Legal Education and Building on Best Practices <https://www.lexternweb.org/best-practices>

<sup>185</sup> For a good list of on line resources *See* LegalED, <http://legaledweb.com/home>

<sup>186</sup> ABA Standards *supra* note 65

<sup>187</sup> Many websites provide time zones for the globe. *See* for example <https://www.worldclock.com/time-zone-map/> (last visited on May 27, 2019). For an article discussing some of the challenges from a business perspective *See* Jacob Simon, *GlobalEDGE, Time is Money: How Time Zones Impact International Business*, <https://globaledge.msu.edu/blog/post/1562/time-is-money-how-time-zones-impact-inte> (Oct 04, 2013).

before departure and then division of the class into two groups is best.<sup>188</sup> A syllabus can set out weekly or biweekly meetings of one to two hours throughout the semester, with the exact day and time adjusted once students are at their sites. Occasional needs to reschedule a class due to work or vacation plans are generally not too difficult if classes are small and students have a clear expectation that classes are required.

Once concerns about a time zone are addressed, faculty must decide which technology best meets the needs of the program.<sup>189</sup> Not surprisingly, law students, especially those who belong to the generation known as “digital natives”, will often be quite familiar with the concept of connecting to others half way around the world.<sup>190</sup> In determining which technology to use, faculty have an ever-expanding array of possibilities, ranging from the best known Skype, to Web Ex, Adobe Connects, and Zoom.<sup>191</sup> Almost all offer the ability to have up to ten or more students who are able to hear and see one another arrayed on a computer screen.<sup>192</sup> Most also provide the ability to display content such as a power-points, video recordings, and other instructional material.<sup>193</sup> Whatever the technology chosen, students must be counseled to locate good internet connections (wireless is usually not good enough) and they must receive a brief orientation prior to the first class. Most students will have a laptop that has both a camera and microphone imbedded in the computer, but where this is not the case a relatively inexpensive microphone (and camera) can be purchased and loaned to the student for the duration of the class.<sup>194</sup>

For those used to the challenges of maintaining attention and focus during a one or two-hour conference call, an audio-video class session is a pleasant surprise and brings the benefits of face to face communication.<sup>195</sup> Even though students and faculty are physically distant this kind of classroom setting creates community. The cohesion and bonding generate trust and engagement that in turn promotes learning; it also supports students who are isolated from the

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<sup>188</sup> Participants in the AALS International and Remote Externship Sub-Committee have discussed the potential for sharing teaching responsibilities to accommodate students throughout the globe. For more on the work of this sub-committee See <https://www.lexternweb.org/remote-and-international-placements>.

<sup>189</sup> See <https://www.lexternweb.org/technology-for-remote-placements> (The International and Remote Sub-committee provides information on three commonly used technologies: Adobe Connects, Web Ex and Zoom).

<sup>190</sup> Liana Loewus, Skype visits keep writers close to young readers, <https://www.edweek.org/ew/articles/2017/03/22/virtual-class-visits-link-book-authors-to.html>, (March 21, 2017) (Students are increasingly using this in the classroom from a young age Virtual Class Visits Link Book Authors to Students); Microsoft, Skype blog, How Teachers Are Bringing the World to Their Students via Skype in the Classroom <https://blogs.skype.com/skype-classroom/2013/10/07/how-teachers-are-bringing-the-world-to-their-students-via-skype-in-the-classroom/> (Oct 07, 2013); and for the advantages and disadvantages of digital classrooms on learning, See Terry Heick, The elements of a digital Classroom, <https://www.teachthought.com/technology/the-elements-of-a-digital-classroom/> (Nov 06, 2018).

<sup>191</sup> For details about rates and options available, See the company websites available at <https://www.webex.com/> (last visited March 26, 2019), <http://www.skype.com/en/>, [www.adobe.com](http://www.adobe.com) and <http://zoom.us>.

<sup>192</sup> *Id.*

<sup>193</sup> *Id.*

<sup>194</sup> Cameras and microphones are readily available in stores and on Amazon, [https://www.amazon.com/s?k=camera+to+computer&hvadid=78615135760071&hvbmt=bp&hvdev=c&hvqmt=p&tag=mh0b-20&ref=pd\\_sl\\_3h7p9yzecf\\_p](https://www.amazon.com/s?k=camera+to+computer&hvadid=78615135760071&hvbmt=bp&hvdev=c&hvqmt=p&tag=mh0b-20&ref=pd_sl_3h7p9yzecf_p)

<sup>195</sup> Studies have long shown that human beings are wired, through evolution, to read and respond to visual cues. Some research has shown that as much as 80% of human interaction is conveyed through visual cues.

law school community and their peers.<sup>196</sup> Using the technology to facilitate in-class exercises poses some challenges but these can be overcome with some practice. The development of closer bonds for students also allows new and innovative teaching methods.<sup>197</sup> For instance, students in one international seminar decided to make a video recording of one of their assigned reflections and post the finished video to the website so we could all view them. This option to do a video recorded reflection was also available to another class held on site at the law school for but was not chosen by the students in domestic placements; it felt too intimidating for students who had a weaker connection to one another.

## **b. Course Content and Readings**

For faculty with no prior experience working in international law, determining the course content can seem daunting. It is best to keep several principles in mind: 1) the seminar is building on previous knowledge gained by students who should (with proper counseling) have prepared for an international externship by taking other courses in international law; 2) the students are gaining additional specific skills and knowledge at their sites (even though this learning will be different for every student), and 3) the externship faculty's role, as is true in every other externship seminar, is not to function as a holder of expertise in each subject area, but rather to help each student develop the skills, knowledge, attitudes and values to be a self-motivated and reflective learner. An externship involving international law, whether the site is in the U.S. or abroad, is a unique place for students to examine the values that go into professional and personal development. Using externship pedagogy, all faculty, regardless of experience in international matters, can help their students develop a critical and comparative perspective on their roles as U.S. trained lawyers. The goals and content of the ideal externship seminar are a topic about which much has been written,<sup>198</sup> and this article will not review those discussions at length. However, in describing the elements of an effective seminar below, I have divided the topics into four categories: i) student assessment, reflection and interaction with a supervisor; ii) substantive legal knowledge; iii) relevant skills; and, iv) professionalism in the international externship setting, including both career and social justice issues.

## **i. Student Assessment, Reflection and Communication with Supervisor**

One of the key differences between externships and clinics is that the faculty member is not the primary supervisor of the student's legal work. One disadvantage, that the faculty has less direct knowledge of the student's day to day work environment, can be partially overcome by providing a framework in which the skills of self-assessment, goal setting and supervisor relationships can be consciously identified and explicitly taught. The student experience of coming into a new work environment, separate from the academic setting, is true for all

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<sup>196</sup> Faculty participating in the AALS Externship Sub-Committee on Remote and International Placements who have used asynchronous methods which involve student blogs and written assignments instead of live class discussion, have observed that these alternatives do not result in the same level of student connection to one another.

<sup>197</sup> For a useful bibliography on the use of technology in the classroom See Adam Tollison, Technology in the Classroom: The Teacher's Perspective, <https://digitalcommons.collin.edu/cgi/viewcontent.cgi?article=1002&context=quest> (2017).

<sup>198</sup> See Elizabeth G. Ford, *Toward A Clinical Pedagogy Of Externship*, 22 CLIN L REV 113 (2015).

externships, but the international field placement further heightens the student sense of being both alone and independent.

Beginning the seminar with a discussion of the ways in which the externship is a bridge into practice requires that students be provided with the tools to understand and determine their own learning trajectory.<sup>199</sup> Externship programs around the U.S. and throughout the rest of the world<sup>200</sup> routinely identify a core set of legal skills and professional attributes or values. In the U.S., these have typically been built from surveys of practicing attorneys.<sup>201</sup> At Seattle University School of Law, the categories are based on those defined in the “The MacCrate Report”<sup>202</sup> and include: problem solving, legal analysis, legal research, factual research, written communication, oral communication, client counseling, negotiation and business transactions, litigation and trial, policy advocacy, ethical decision making, and workplace (includes communication, workload, innovating).<sup>203</sup> Values include competent representation, promotion of justice, fairness and morality, improvement of the profession, and professional self-development.<sup>204</sup>

While skills and values have been identified and developed for years by clinicians throughout the U.S.<sup>205</sup> and around the globe,<sup>206</sup> some are of heightened importance in the international externship setting. Students in international externships should assess their levels in both skills and values with a special focus on cultural competence and comparative legal analysis since international field placements offer unique opportunities to evaluate and develop these skills. This assessment then forms the basis on which the student, working with their supervising attorney on site, can develop a plan for learning during the semester.<sup>207</sup>

Long discussed in externships<sup>208</sup> and increasingly emphasized as a necessary part of legal education,<sup>209</sup> reflection is another critical ingredient in every externship<sup>210</sup> seminar. Recent research on learning theory explained in books such as *Make It Stick: The Science of Successful*

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<sup>199</sup> *Id.*

<sup>200</sup> Global Alliance for Justice Education, Richard Grimes and Ben Fitzpatrick, *Social Justice and Curriculum Development – the Case for Problem-based Learning*.

<sup>201</sup> See McCrate Report *supra* note 96

<sup>202</sup> *Id.*

<sup>203</sup> *Id.*

<sup>204</sup> *Id.*

<sup>205</sup> See Linda F. Smith, Jeff Giddings, Leah Wortham, *Risks And Rewards Of Externships: Exploring Goals And Methods* (2017).

<sup>206</sup> See Frances Ridout Deirdre Gilchrist Jeremy Dunn, *ICJLE Immigration University Clinics and Regulation: A Working Case Study* (2018); See also Elizabeth Curran Liz Curran, Isobel Ryder, Caroline Stevens, *Reframing Legal Problems: Educating Future Practitioners Through An Interdisciplinary Student Clinic* (2018); See also, Model Les McCrimmon, Ros Vickers and Ken Parish, *Online Clinical Legal Education: Challenging The Traditional* (2016); See also Janet Thompson Jackson and Susan R. Jones, *Law & Entrepreneurship In Global Clinical Education* (2018);

<sup>207</sup> The student survey of skills and values, along with the form for the initial plan, mid-semester review and end of semester targeted on line survey, are available from the author.

<sup>208</sup> See Rebecca B. Rosenfeld, *The Examined Externship Is Worth Doing: Critical Self-Reflection And Externship Pedagogy*, 21 CLIN L REV 127 (2014).

<sup>209</sup> ABA Standards in 2015-16 added reflection as a required part of legal education.

<sup>210</sup> See Rosenfeld *supra* note 207. See also Leah Wortham, Alexander Scherr, Nancy Maurer, Susan L. Brooks, *Chapter 8 Reflection and Journal Writing. Learning From Practice: A Text For Experiential Legal Education* (2016).



*Learning*<sup>211</sup> has further reinforced the role that reflection plays in helping students connect current skills and knowledge to previous experiences, extracting principles to apply them to future understanding. Reflection also serves to highlight the comparison of both similarities and differences between the students' international experience and their exposure to legal education and practice in the United States.

Successful discussion and establishment of a student learning plan for the semester requires feedback from a supervisor. Preparing students to solicit such feedback involves teaching familiar skills of effective oral and written communication. When surveyed<sup>212</sup> and asked informally, many students respond that they acquired a basic understanding of working with a supervisor prior to starting law school. However, levels of skill in this area vary greatly. A few students may not have previously held a job while others are starting law as a second career. Informal knowledge of working with supervisors may even include commonly held myths and misconceptions. Faculty should review good techniques,<sup>213</sup> and describe cultural variations, providing resources in case of tension or misunderstanding that may arise when supervisors and students come from different backgrounds.<sup>214</sup> Normalizing the likelihood of misunderstanding and emphasizing the resolution of conflict as a critical skill to be learned helps underscore the importance of cross-cultural communication.

## **ii. Substantive Legal Knowledge**

Like seminars for domestic externships, the international seminar will usually include students working in a variety of fields, from health law to criminal justice and human rights, trade to environmental or poverty law. Study of most substantive law will be done at the student's site, but a few topics, including international legal research, comparative law, transitional justice, and use of international law in U.S. courts, will be relevant for all.

### **1. International Legal Research**

Given the specialized resources needed for much of international placements, international legal research is a critical skill for students to learn early in the semester, and if possible, should be covered during an in-person intensive class before they leave the U.S. The best person to act as a resource for this class is the law school law librarian who specializes in international legal research.<sup>215</sup> Many sites, particularly international judicial externships such as the International Criminal Court and the Inter-American Court on Human Rights, will have their own internal databases for students to use. An introduction to these databases help students familiarize themselves with these resources ahead of time. The class on international legal research also

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<sup>211</sup> Brown, Roediger and McDaneil, *Make It Stick, The Science of Successful Learning*; See also Jennifer M. Cooper and Regan A.R. Gurung, *Smarter Law Study Habits: An Empirical Analysis Of Law Learning Strategies And Relationship With Law GPA* (last updated Feb 14, 2018).

<sup>212</sup> Timothy Casey, *Reflective Practice in Legal Education: The Stages of Reflection*, 20 CLIN. L. REV. 317 (2014).

<sup>213</sup> We provide a hand-out on working with supervisors.

<sup>214</sup> Useful approaches can be found in books from the Harvard Negotiation Project Douglas Stone and Sheila Heen *Thanks for The Feedback: The Science and Art of Receiving Feedback Well* (2015) and "Difficult Conversations: How to Discuss What Matters Most" which includes reference to cross cultural approach.

<sup>215</sup> For resources in your area if you don't have someone at your school see International Law Librarian Association. <http://iall.org/>

reminds students that the law library's resources are easier to access with the help of a librarian who can search for the articles or databases in the U.S. and send them to the students if there are problems with technology and printing at their sites.<sup>216</sup> Having a face to face meeting with the law librarians reduces student reluctance to ask for help, and allows students to see them as experts in specific fields of legal research and enthusiasts who welcome questions.<sup>217</sup>

## 2. Comparative Law

While international legal research is a specialized topic, comparative law is usually a whole separate course. The goal is not to cover the subject thoroughly but to remind students of how legal systems differ so they can use this knowledge to interpret and understand the systems in which they operate. A base comparison of the common law system with one which relies on a civil code can help students unpack and reflect on the differences they are likely to see at a more individual level.<sup>218</sup> For example, students in the international Criminal Court at The Hague noticed that the judges in each tribunal varied greatly on the weight they give to cross

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<sup>216</sup> A resource list that SU Law Librarian, Bob Menanteau, provided to one international externship seminar included the following resources: the *Europa World Yearbook* (entry for every state in the world that includes political background information and a snapshot of current economic activity); Redden's *Modern Legal Systems Cyclopedia* and *Legal Systems of the World* (basic information on a state's legal system with Redden's work focusing on the legal environment and the *Legal Systems* set providing information on the legal system within a cultural context); *JuriGlobe* (common law, civil law, mixed systems, etc.); *Globalex* (for exposition on a state's legal system written by lawyers from the state); the *World Factbook* published by the Central Intelligence Agency; annual reviews on human rights published by agencies such as the U.S. Department of State (*Country Reports on Human Rights*), Freedom House; *Nations of the World* from the Law Library of Congress offers an up to date set of links to primary resources for states around the world; *Constitutions of the Countries of the World* for an up to date and authoritative English translation of a state's constitution; *WorldLII* (aggregators for foreign statutory law and cases mostly utilizing original language sources); *United Nations Treaty Collection* and the *World Treaty Index* (bilateral treaty obligations with an online component with updated information); *Multilateral Treaties Deposited with the Secretary-General* (development-related treaties generated by the United Nations); customary law *eHRAF World Cultures* (is a source for original information in this area) ; *ELDIS* (comprehensive resource for international development information); *Development Gateway* (country and topical information); *Institute of Development Studies from the University of Sussex* (UK)(international development activities; *DEC*, the Development Experience Clearinghouse (largest repository of USAID reports and documentation); *Australia Development Gateway*; *R4D* (*Research for Development Database*) United Kingdom's Department for International Development; *United Nations Research Institute for Social Development* and the *United Nations Development Program* (development research); *International Research Development Centre* in Canada; *World Bank Group* (research publications, statistics, country information, and worldwide development news); *International Monetary Fund* ; Asian Development Bank *ADB* (human development, gender issues, good governance, and economic growth); *Inter-American Development Bank* (children and youth to urban development and housing); *EBRD* (27 countries in Eastern Europe and Central Asia environmental initiatives and legal developments); *Directory of Development Organizations* (list of over 70,000 organizations throughout the world); *United Nations Children's Fund* (children's issues from child protection to water, environment and sanitation); *United Nations Development Program*, the *Human Development Report* (annual guide to global human development with analysis of major issues and updated statistical information); *United Nations Conference on Trade and Development*; and The United Nations Entity for Gender Equality and the Empowerment of Women, *UNWOMEN*, (topical reports on various issues related to women); *UN Interagency Network on Women and Gender Equality*

<sup>217</sup> I am deeply indebted to the wonderful Seattle University international law librarians, Bob Menanteaux, Barbara Swatt Engstrom and Stephanie Wilson who have provided training and resources for students in my seminar.

<sup>218</sup> For one example, See Colin B. Picker *International Law's Mixed Heritage: A Common/Civil Law Jurisdiction*, 41 VAND J TRANSNAT'L L, Vol. 41, Issue 4 (October 2008), pp. 1083-1140

examination and the role of due process.<sup>219</sup> Reminding students of the way each judge's legal tradition influenced this perspective enabled students to avoid favoring the approach most similar to their own, and instead engage with the concepts, advantages and disadvantages inherent in all systems. This more sophisticated approach is not only crucial for a future lawyer in a global practice, it opens the student's eyes to the many ways in which the two strands<sup>220</sup> are imbedded in U.S. law.

### 3. Transitional Justice

Transitional justice is another area familiar to most students from previous exposure to international law, yet important to reflect upon during any international externship. The United Nations defines transitional justice as "an approach to systematic or massive violations of human rights that both provides redress to victims and creates or enhances opportunities for the transformation of the political systems, conflicts, and other conditions that may have been at the root of the abuses."<sup>221</sup> Student legal work abroad is newly influenced by their perspective as an outsider. Exposure to the idea of transitional justice is a conduit into the mind and body politic of the community for whom the legal decisions being constructed will have meaning.<sup>222</sup> A student working at the International Criminal Tribunal for the Former Yugoslavia (ICTY) read in the newspapers about the popular views of the court back in Serbia.<sup>223</sup> An extern for the Kenyan Truth Justice and Reconciliation Commission traveled into the countryside to see people coming forward to tell of the abuses suffered at the hands of perpetrators still at liberty.<sup>224</sup> These experiences bring to life how the two strands of punitive and restorative justice function and illustrate the goals in dealing with a legacy of systematic or massive abuse. "The first is to gain some level of justice for victims. The second is to reinforce the possibilities for peace, democracy, and reconciliation. To achieve these two ends, transitional justice measures often combine elements of criminal, restorative, and social justice."<sup>225</sup> Comparing and contrasting how a tribunal such as the International Criminal Court determines criminal responsibility with the Kenyan Truth Justice and Reconciliation Commission focus on reconciliation gives students a chance to reacquaint themselves with the fundamental concepts of any legal system.<sup>226</sup>

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<sup>219</sup> Student journal reflections for classes from 2012- 2019 on file with \the author.

<sup>220</sup> Colin Picker, *supra* note 218.

<sup>221</sup> Definition of transitional justice can be found at

[http://www.un.org/en/peacebuilding/pdf/doc\\_wgll/justice\\_times\\_transition/26\\_02\\_2008\\_background\\_note.pdf](http://www.un.org/en/peacebuilding/pdf/doc_wgll/justice_times_transition/26_02_2008_background_note.pdf)

<sup>222</sup> Patricia E. Standaert, *The Friendly Settlement of Human Rights Abuses in the Americas*, 9 DUKE J COMP & INT'L L 519-542 (1999) One student commented that working at the ICTY had reinforced a commitment to the importance of restorative justice and the impact of work in prevention. Student video reflection.(On file with author) (Fall 2015)

<sup>223</sup> United Nations International Criminal Tribunal for the former Yugoslavia,

<http://www.icty.org/en/about/chambers/acquittals> (noting ICTY acquittals were often met with dismay by the witnesses)

<sup>224</sup> For a brief video, see the Kenyan Truth Justice and Reconciliation Commission video and Ronald C. Slye's, THE KENYAN TJRC: AN OUTSIDER'S VIEW FROM THE INSIDE.

<sup>225</sup> [http://www.un.org/en/peacebuilding/pdf/doc\\_wgll/justice\\_times\\_transition/26\\_02\\_2008\\_background\\_note.pdf](http://www.un.org/en/peacebuilding/pdf/doc_wgll/justice_times_transition/26_02_2008_background_note.pdf)

<sup>226</sup> See also Takemura, Hitomi, *Reconsidering the Meaning and Actuality of the Legitimacy of the International Criminal Court* (May 12, 2012). Amsterdam Law Forum, Vol. 4, No. 2, pp. 3-15, 2012.

#### 4. Use of International Law in U.S. Courts

The use of international law as a tool in addressing social injustices in the U.S is often unknown to many students, and unfortunately, to many U.S. lawyers. A class on the use of international law in U.S. courts incorporates a connection between international and domestic law, and fosters student awareness that they are learning skills they will need for future practice.<sup>227</sup> Examples of using international law in U.S. courts can run the gamut from a U.S. corporation being sued for a death in Palestine<sup>228</sup> to lawyers in the U.S. bringing in international law from outside the U.S. to demonstrate solitary confinement is a violation of human rights and should be abolished.<sup>229</sup> Students can learn that, contrary to stereotypical views of the U.S. as the most advanced country in the world, human rights protections in America often lag behind those of other industrialized democratic countries, particularly when it comes to ratification of human rights treaties.<sup>230</sup>

Substantive law issues should also be addressed by students individually at their sites. Incorporating these topics into class discussion and student written reflections has the added advantage of pushing students to look for articles and information that relate these subjects to their own practical experiences. Requiring a written paper on a topic relevant to the student's site and of interest to them in their long-term career deepens the connection and provides the faculty with examples for future classes.

#### iii. Skills Training

The complete list of skills<sup>231</sup> employed by an extern in an international setting is as varied as any externship in the United States. Nonetheless, the following section discusses a list of skills particularly suited to students in international externships that can easily be covered during a semester long seminar. These skills are often covered in seminars for sites within the U.S., but the international setting heightens the students' ability to utilize them in ways not consistently encountered at every U.S. site.

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<sup>227</sup> One student at the ICTY commented: "Although I have accomplished many goals in law school I have continued to develop new goals as well. I am still interested in gaining experience in international law, but this goal has been refined into more specific areas. I am also more open to working in the United States immediately following law school in order to gain more experience and then apply to work in the international law arena. Furthermore, I am more aware of how international law is affected by domestic law and have a better understanding of how I can work domestically while still being involved in international law issues." Law Student Reflection (Spring 2017) (On file with author.)

<sup>228</sup> Zaha Hassan, "When Caterpillars Kill": Holding U.S. Corporations Accountable for Knowingly Selling Equipment to Countries for the Commission of Human Rights Abuses Abroad, 6 *SAN DIEGO INT'L L.J.* 341 (2005) *See also* Abate, Randall S., *Climate Change, the United States, and the Impacts of Arctic Melting: A Case Study in the Need for Enforceable International Environmental Human Rights* *STAN. J. INTERNAT'L L.* Vol. 43A, No. 3, 2007.

<sup>229</sup> Kathryn D. DeMarco, *Disabled By Solitude: The Convention On The Rights Of Persons With Disabilities And Its Impact On The Use Of Supermax Solitary Confinement*, 66 *U. MIAMI L. REV.* 523 (2012)

<sup>230</sup> The U.S. often refuses to sign international treaties. For more on this, see Bradley, Curtis, *Unratified Treaties, Domestic Politics, and the U.S. Constitution*. *Harvard International Law Journal*, Vol. 48, 2007; Duke Law School Legal Studies Paper No. 161. (discussing the tension between US Constitution and international law affecting the decision of whether or not the US decides to sign international treaties)

<sup>231</sup> *See* Section (i) above on assessment and evaluation

## 1. Working Effectively with Interpreters and Translators

The ability to work effectively with an interpreter or translator has been recognized as a critical skill by both the American legal academy<sup>232</sup> and by practitioners and judges of the United States' highest professional organization, the American Bar Association.<sup>233</sup> Law students in an international externship, even if they are fluent in the language(s) used at their site, will usually find themselves in a setting where they can appreciate the role that interpretation and translation play in the work of lawyers *and* decision makers.<sup>234</sup> The high level of skill needed to act as a bilingual attorney or judge, or to work with an interpreter<sup>235</sup> or translator<sup>236</sup> in either role, is immediately apparent for students in non-English speaking countries who see the limits of their own language ability as well as that of visiting family and friends in day to day activities.

This topic should cover an understanding of the difference between language in a professional and informal setting as well as the student's own language acquisition process. Even those students working in countries where the dominant language is English will notice differences in grammar, spelling and vocabulary.<sup>237</sup> These experiences can provide insight into the experience of individuals in the U.S. for whom English is not their first language. While this topic is introduced as part of student counseling early on this class should further develop these concepts, stressing how the precision of meaning is always in jeopardy when more than one language is used, and that oral communication of language is deeply enmeshed with cultural cues, delivered by human beings with inflection, tone and facial expressions.<sup>238</sup>

Students drafting documents in a language other than English should be educated about how glossaries and other technical assistance for fonts and spell check can help check consistency throughout documents.<sup>239</sup> For students drafting documents in English, particularly in sites where supervisors are not fluent speakers, should be provided with information on techniques (and technology)<sup>240</sup> so that they can check both accuracy and readability.<sup>241</sup>

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<sup>232</sup> See Gillian Dutton, Beth Lyon, Jayesh M. Rathold, & Deborah M. Weissman, *Promoting Language Access in the Legal Academy*, 13 U. MD. L.J. RACE RELIG. GENDER & CLASS 6 (2013).

<sup>233</sup> See ABA Standards for Language Access In Courts, Standing Committee on Legal Aid and Indigent Defendants, Available at [https://www.americanbar.org/content/dam/aba/administrative/legal\\_aid\\_indigent\\_defendants/ls\\_sclaid\\_standards\\_for\\_language\\_access\\_proposal.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_standards_for_language_access_proposal.authcheckdam.pdf)

<sup>234</sup> For ways in which this can influence decisions in international settings, see Almqvist, Jessica M., *The Impact of Cultural Diversity on International Criminal Proceedings* (September 2006). J INTERN'L CRIM JUST, Vol. 4, Issue 4, pp. 745-764, 2006 and Joshua Karton, *Lost in Translation: International Criminal Tribunals and the Legal Implications of Interpreted Testimony* VAND J TRANSNAT'L L, Vol. 41, No. 1, 2008.

<sup>235</sup> Interpreters are defined as providing oral communication, see ABA Standards on Language Access in Courts *supra* note 233 at 9

<sup>236</sup> Translators are defined as providing written communication, *Id* at 13

<sup>237</sup> Differences in British and American Spelling, <https://www.oxfordinternationalenglish.com/differences-in-british-and-american-spelling/>

<sup>238</sup> See Karton *supra* note 233.

<sup>239</sup> See Mass Legal Services, Legal and Social Service Glossaries in Various Languages, Massachusetts Law Reform Institute, <https://www.masslegalservices.org/content/legal-and-social-service-glossaries-various-languages> (March 03, 2014).

<sup>240</sup> The American Translators Association is a good place for resources to check translation. <https://www.atanet.org>

<sup>241</sup> Resources from the National Center for State Courts may be helpful. See <http://www.ncsc.org/languageaccess> In conversations with supervisors at the World Trade Organization, which provides information in English to

## 2. Cross-Cultural Competence and Creativity

Developing cross cultural competence (also referred to as inter-cultural competence, sensitivity and humility) is another area long highlighted by educators in the externship<sup>242</sup> and clinical<sup>243</sup> setting. Current understanding of this topic is influenced by a growing appreciation of the role bias (both explicit and implicit) plays in cross cultural communication.<sup>244</sup> Similar to the issue of interpretation and translation, cultural competence confronts the international extern almost every day. The value of this skill for Americans, and its importance for effective work in any setting, has long been understood by such diverse actors as the U.S. military<sup>245</sup> and the Peace Corps.<sup>246</sup> As American society becomes more aware and respectful of its multi-cultural heritage<sup>247</sup> legal educators have developed sophisticated tools to both assess the cultural competence of students and to set learning goals to increase it.<sup>248</sup>

Faculty in the international externship seminar will likely revisit this topic in some form or another in every class. Encouraging students to reflect on it orally and in writing and in both social and professional settings, leads to rich discussion and comparative perspectives.<sup>249</sup> Discussions of cultural competence have moved away from a belief that being culturally

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lawyers, policy makers and judges for whom English is not their first language, they explained they greatly value externs who can communicate effectively and often provide training on this topic to their staff.

<sup>242</sup> Resources in this area are plentiful: Blumberg, Jeffrey *Sitting by the Well: The Case for Intercultural Competency Training in International Experiential Learning*, 43 U BAL T L REV 395 (2014); Wortham, Leah; Brooks, Susan; Scherr, Alexander; and Maurer, Nancy, "Learning From Practice: A Text for Experiential Legal Education (3d ed.);" (2016). (Learning from Practice has a separate chapter on Cultural Competence (Chapter 6) and Racial Bias (Chapter 7).

<sup>243</sup> Susan Bryant and Jean Koh Peters are the authors of a rich source of books and articles on cultural competence. <http://guides.ll.georgetown.edu/teaching/diversity>

<sup>244</sup> *Id.*

<sup>245</sup> Caligiuri, Paula; Noe, Raymond ; Nolan, Riall ; Ryan, Ann M ; Drasgow, Fritz. (2011). *Training, Developing, and Assessing Cross-Cultural Competence in Military Personnel*. Available at: <https://apps.dtic.mil/dtic/tr/fulltext/u2/a559500.pdf>

<sup>246</sup> 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. Jeff Blumberg *supra* note 242.

<sup>247</sup> U.S. Census Data shows that by the year 2020 whites will no longer be a majority in the US population. <https://www.census.gov/programs-surveys/decennial-census/2020-census.html>

<sup>248</sup> Curcio, Andrea Anne and Ward, Teresa and Dogra, Nisha, *A Survey Instrument to Develop, Tailor, and Help Measure Law Student Cultural Diversity Education Learning Outcomes* NOVA L REV, Vol. 38, (2014)

<sup>249</sup> For instance students discussing work communication often comment on differences between their site and American hierarchical work spaces. 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." Law Student Reflection (Fall 2016) (On file with author) .Another student commented on respect for diversity. "Outside of this, I think one aspect that is unique to the culture of the 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." Law Student Reflection (Spring 2015) (On file with author)

competent is to study the habits and customs of each country in order to better understand them,<sup>250</sup> to a focus on self-awareness about one's own culture and the ability to inquire and communicate without preconceptions.<sup>251</sup> For students in an international externship, the focus should be on both. Some faculty<sup>252</sup> suggest looking to the medical school model which emphasizes that cultural competence encompasses learning the attitude (values), knowledge and skills<sup>253</sup> required to interact with individuals from a different cultural background.

The idea that cultural competence is a skill that can be "achieved" has been challenged from many sides, with perhaps the most important critique involving the idea that no-one can reach a state of "competence" and all will need to continuously learn more. Nonetheless, the AMA definition still sets out some important principles that are applicable in legal settings:

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 the 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.<sup>254</sup>

Students in international externships are also developing creativity. Reviewing research demonstrating how exposure to multiple cultures enhances creativity<sup>255</sup> encourages students to seek opportunities to learn from others. It also helps them describe the skill to future employers. The extensiveness of multicultural experiences has been found to be positively related to a number of factors long familiar to clinical educators: creative performance (insight learning, remote association, and idea generation) and creativity-supporting cognitive processes (retrieval of unconventional knowledge and recruitment of ideas from unfamiliar cultures for creative idea expansion).<sup>256</sup> The creative benefits depend on the extent to which individuals open themselves to foreign cultures,<sup>257</sup> supporting a longer externship with the extern integrated into the host country's legal system rather than a shorter trip. In another study, the enhanced creativity and professional success of bicultural individuals when compared to those who identified with only

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<sup>250</sup> Gert Hofstede's country comparison, although it has been criticized, may be useful information for students in each country. <http://www.geerthofstede.nl/> Cultural differences are important to identify and respect. See *ADR Through A Cultural Lens: How Cultural Values Shape Our Disputing Processes*, Julia Ann Gold, 2005 J. DISP. RESOL, 290

<sup>251</sup> Gold, *supra* note 255. See also Carole Silver *supra* note 13 p 460 who writes "Put 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." (Footnotes omitted.)

<sup>252</sup> Curcio et al *supra* note 248

<sup>253</sup> See Cultural Competence Education for Medical Students at <https://www.aamc.org/download/54338/data/>

<sup>254</sup> *Id.*

<sup>255</sup> See Maddux, William W., Leung, Angela K.-Y., Chiu, Chi-Yue, & Galinsky, Adam D. (2009). Toward a More Complete Understanding of the Link between Multicultural Experience and Creativity. *American Psychologist*, 64(2), 156-158. See also Tadmor, C., Adam Galinsky, and W. Maddux. "Getting The Most Out Of Living Abroad: Biculturalism And Integrative Complexity As Key Drivers Of Professional And Creative Success." *Journal Of Personality and Social Psychology* 103, no. 3 (2012): 520-542.

<sup>256</sup> See Maddux et al *supra* note 255.

<sup>257</sup> *Id.*

one culture was due to their greater levels of integrative complexity, an information processing capacity that involves considering and combining multiple perspectives.<sup>258</sup>

Another set of studies highlighted the importance of living abroad (not just traveling abroad) to enhance creativity<sup>259</sup> and demonstrated that these experiences can be retained; priming foreign living experiences temporarily enhanced creative tendencies for participants who had previously lived abroad.<sup>260</sup> Although these studies did not involve law students, they did include both Masters of Business Administration and undergraduate samples, in the U.S. and in Europe, and confirmed the positive correlation between living abroad and creativity across a number of measures (including those measuring insight, association, and generation).<sup>261</sup>

### 3. Explicit and Implicit Bias

Particularly relevant for students in international externships, the connection between cultural competence and both implicit and explicit bias helps explain the power differential imbedded in any cross-cultural communication. Equipping students with an understanding of privilege,<sup>262</sup> the impact of micro-aggressions<sup>263</sup> and the anger and frustration that result from years of oppression<sup>264</sup> is a prerequisite for any journey outside the U.S. to engage in legal work. In the view of many, inequality between the U.S. and the rest of the world, means that sending students abroad (unless to a developed country) is itself a continuation of the oppression that U.S. capitalism and world dominance has wrought.<sup>265</sup> Providing students with information and skills to understand their own and others' biases helps them begin to address this tension, and may allow them to share their increased awareness of bias, based on America's painful history, with their international colleagues.

### 4. Identifying and Addressing Secondary Trauma

The impact of inequality requires teaching another important skill for students in international externships: identifying and addressing secondary trauma. Secondary trauma, also defined as vicarious trauma,<sup>266</sup> describes the symptoms often experienced by those in professions interacting with individuals who are in traumatic situations. Other terms used for secondary trauma are compassion fatigue, secondary traumatic stress<sup>267</sup> and secondary victimization.<sup>268</sup> Originally diagnosed in family members of Jews who had survived the holocaust in WWII, vicarious trauma has gradually received more attention as a common

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<sup>258</sup> See Taddor et al *Supra* Note 253

<sup>259</sup> *Cultural Borders And Mental Barriers: The Relationship Between Living Abroad And Creativity* W. Maddux, Adam Galinsky,

<sup>260</sup> *Id.*

<sup>261</sup> *Id.*

<sup>262</sup> For resources, see Learning from Practice *supra* note 241

<sup>263</sup> *Id.*

<sup>264</sup> *Id.*

<sup>265</sup> See Peggy Maisel *supra* note 40 and Deena Hurwitz, *supra* note 41.

<sup>266</sup> (Perlman & Saakvitne, 1995)

<sup>267</sup> (Stemm, 1995, 1997)

<sup>268</sup> (Figley, 1982)

<sup>290</sup> Lester, Karle, State Bar of Wisconsin, *Understanding Lawyer Compassion Fatigue in Wisconsin: Public Defenders Participate in Study* (March, 2010).



workplace hazard for medical professionals and for lawyers and judges.<sup>269</sup> The emotional residue of trauma exposure, as law students hear stories of the pain, fear, and terror that trauma survivors have endured is a common mental health issue that is, unfortunately still all too easily ignored.<sup>270</sup> Unlike burnout, which can occur when tasks become routine and too familiar, vicarious trauma cannot be addressed simply by time off or a different job.

Related to Post Traumatic Stress Disorder (PTSD),<sup>271</sup> vicarious trauma is a state of tension and preoccupation with the stories and trauma experiences described by clients or litigants. It can lead to similar symptoms to PTSD<sup>272</sup> such as irritability, preoccupation with traumatic events, and withdrawal. Students at international tribunals such as the International Criminal Court,<sup>273</sup> the Documentation Center in Cambodia, or the Inter American Court on Human Rights, hear witness testimony, review evidence, and summarize eye-witness statements.<sup>274</sup> These tasks expose them to some of the worst atrocities committed by human beings against one another. The natural tendency to avoid talking or thinking about these abuses, combined with the heightened requirements of confidentiality which govern students in such settings, can lead to depression, a feeling of being overwhelmed, and psychological numbness.<sup>275</sup> While many tribunals do provide orientation<sup>276</sup> to the factors of secondary trauma, sometimes even the students' supervisors may be experiencing symptoms without it being recognized by colleagues. The vulnerability of students and other attorneys in such situations can be intensified by the compelling nature of the job and often heavy work-load. Adequate preparation of students in identifying and addressing the symptoms of secondary trauma should be included early in the semester. At the same time, sharing research on the "vicarious resilience" experienced by those who work with survivors of trauma enhances student ability to learn from and respect the clients, plaintiffs, and witnesses with whom they work.<sup>277</sup> Most students will

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<sup>270</sup> At the Wisconsin State Public Defender's Office, 34 percent of attorneys experienced vicarious trauma. The State Bar's Wisconsin Lawyers Assistance Program has been on the forefront of compassion fatigue study in attorneys. Dianne Molvig, *The Toll of Trauma*, 84-Dec WIS. LAW. 4 (2011).

<sup>271</sup> DSMIV definition of PTSD

<sup>272</sup> DSMIV symptoms of PTSD

<sup>273</sup> This includes the special tribunals that deal with human rights violations in countries such as the Former Yugoslavia, Lebanon and Rwanda.

<sup>274</sup> See for example European Court Of Human Rights, References to the Inter-American Court of Human Rights and Inter-American instruments in the case-law of European Court of Human Rights. Available at: [https://www.echr.coe.int/Documents/Research\\_report\\_inter\\_american\\_court\\_ENG.pdf](https://www.echr.coe.int/Documents/Research_report_inter_american_court_ENG.pdf)

<sup>275</sup> American psychiatric Association fact sheet, Vicarious Trauma, <https://www.counseling.org/docs/trauma-disaster/fact-sheet-9---vicarious-trauma.pdf?sfvrsn=2>

<sup>276</sup> United Nations, Security Council, *Letter dated 18 November 2013 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council*, [http://www.icty.org/x/file/About/Reports%20and%20Publications/CompletionStrategy/completion\\_strategy\\_18nov2013\\_en.pdf](http://www.icty.org/x/file/About/Reports%20and%20Publications/CompletionStrategy/completion_strategy_18nov2013_en.pdf) (Nov 13, 2013).

<sup>277</sup> See Pack, M. (2010). *Transformation in Progress: The Effects of Trauma on the Significant Others of Sexual Abuse Therapists*. *Qualitative Social Work*, 9(2), 249–265. <https://doi.org/10.1177/1473325009361008>. See also Pack, M. (2014). *Vicarious Resilience: A Multilayered Model of Stress and Trauma*. *Affilia*, 29(1), 18–29. <https://doi.org/10.1177/0886109913510088>

find their own combination of mindfulness and exercise to help deal with stress,<sup>278</sup> and most will also experience the satisfaction of vicarious resilience and helping others through legal work, which help to reduce the secondary trauma. Some will also gain perspective on the American tendency to overwork.<sup>279</sup>

## 5. Report Writing

Externship students will be familiar with writing briefs and drafting memos and e-memos<sup>280</sup> as these are routinely taught in law school legal writing courses. However, researching and writing a report, a necessary skill for many international tribunals and non-governmental organizations, may be a new experience. Covering the ways in which such reports are structured gives students a review of a skill they may be using in their externships, and also serves as an opportunity to highlight policy making and the other non-litigation approaches to dispute resolution.<sup>281</sup> Even those students who are not engaged in writing reports during their international externships will likely engage in report writing as part of future policy or legislative advocacy they do in the United States or abroad.

## 6. Oral Presentations

While many skills (such as client interviewing, negotiation, litigation, etc.) must be left to each student's individual learning plan to be covered as the particular site requires, oral presentation, benefits all students and is relevant to the class itself. Some full-time externships require a written paper as a way of adding additional academic credit to the externship. For international externships, a research paper allows the student to research a topic of interest and present it to the rest of the class, enhancing the understanding of comparative perspective from different sites in different countries. This assignment not only helps students increase their skills in research and writing, it also gives them a chance to increase

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<sup>278</sup>See The Path To Law Student Well Being at

[https://www.americanbar.org/groups/lawyer\\_assistance/events\\_cle/path\\_to\\_law\\_student\\_well-being\\_podcast\\_series/](https://www.americanbar.org/groups/lawyer_assistance/events_cle/path_to_law_student_well-being_podcast_series/)

<sup>279</sup> One student reflected on the strong respect for work life balance in The Hague and how it would have been criticized from an American perspective which itself had its weaknesses. "I didn't think a legal office, let alone a tribunal could operate in what I think many American lawyers would say is an ineffective way. But it does, and not only are all the deadlines met, but I think everyone genuinely wants to be here. The staff I work with really likes their work, but they also want to live their lives and are in a society where that is encouraged. This has really challenged my own perceptions on what it means to be a hard worker. There were certain jobs in the past where I would skip my breaks to keep working because I thought it was the "right" thing to do. But, in hindsight, that just burned me out quicker and I'm sure I could have done just as much work if I had taken a short break. The same is true for when I had appointments or other issues in my life spring up. Instead of dealing with the "life stuff," I would prioritize work and then try to quickly fix all the other things in my life. In the long run, that type of behavior is destructive. Here, I think you're not forced to compromise on your life as much as in America." Law Student Reflection (Fall 2016) (On file with author)

<sup>280</sup> Bowman, Mary and Brodoff, Lisa Ellen, *Cracking Student Silos: Linking Legal Writing and Clinical Learning Through Transference* 25 CLIN L REV 269 (2019)

<sup>281</sup> For helpful resources see TEDx Presentation Guidelines

[https://storage.ted.com/tedx\\_manufacturespeaker\\_guide.pdf](https://storage.ted.com/tedx_manufacturespeaker_guide.pdf); Tips for Writing Policy Papers <https://www-cdn.law.stanford.edu/wp-content/uploads/2015/04/White-Papers-Guidelines.pdf>; Policy Memos <https://www-cdn.law.stanford.edu/wp-content/uploads/2015/04/Policy-Memo-Guidelines-2.pdf>; Writing a Policy Paper [http://www.yorku.ca/lfoster/2006-07/sppa4115a/York%20-%20Policy%20Paper%20Modules/Policy\\_Paper\\_Writing\\_The\\_Extended\\_Version.htm](http://www.yorku.ca/lfoster/2006-07/sppa4115a/York%20-%20Policy%20Paper%20Modules/Policy_Paper_Writing_The_Extended_Version.htm) ; and Young, Eoin and Quinn, Lisa, *Writing Effective Public Policy Papers: A Guide for Policy Advisers in Central and Eastern Europe* [http://www.icpolicyadvocacy.org/sites/icpa/files/downloads/writing\\_effective\\_public\\_policy\\_papers\\_young\\_quinn.pdf](http://www.icpolicyadvocacy.org/sites/icpa/files/downloads/writing_effective_public_policy_papers_young_quinn.pdf)

their skill in oral presentation, a useful advantage for those whose career path will likely require the ability to present at conferences.<sup>282</sup>

Encouraging students to discuss their papers with their supervisors and seek out topics in their future field of practice also strengthens their relationship with their current supervisor and develops new networking opportunities. In approving a new site, explain this requirement to supervisors and invite their suggestions to the students so that externs can write a paper that is both interesting to the student and useful to lawyers and judges at the site. In some international externships, such as at the International Criminal Court at The Hague,<sup>283</sup> students are encouraged to do presentations at student-led brown bags. Even where there is no student-centered forum, externs can ask their supervisors about conferences, trainings and other seminars that relate to the area of international law they are studying.<sup>284</sup> Students can often attend an international conference and submit a poster topic or attend a relevant session if prepared in advance.

Participating in conferences teaches students how lawyers learn from each other. It also helps stimulate their understanding of international law as a continually evolving set of rules which the students, as future lawyers, will help to develop.<sup>285</sup> Presenting paper topics in the seminar allows students to experience this give and take in a friendly, non-threatening setting and sharpens their ideas and organization for their papers. Encourage externs to develop these papers into a product that can be published, whether in a bar journal or law review; the experience will give them a skill for their resumes and help them demonstrate their commitment to developing the law. Recommending papers for law school awards<sup>286</sup> and other national commendations motivates their work on the final product. These presentations can be given to their peers in the U.S. once they have returned to the law school. As other students hear about the work of international externs their own knowledge of global issues and international law increases, inspiring them to seek out similar opportunities for themselves.<sup>287</sup>

### **iii. Professionalism and Values**

Professionalism includes both the development of a professional identity and the discussion of lawyers' responsibilities to the rule of law.<sup>288</sup> Issues to be covered range from details of an international resume to the values and principles espoused by lawyers who are global citizens.

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<sup>282</sup> See SMU DEDMAN SCHOOL OF Law, Externship Opportunities Spring 2016, <http://www.law.smu.edu/Media/Documents/Career%20Services/SPRING-2016-EXTERNSHIPS-for-Website.pdf> (Last visited June 02, 2019)

<sup>283</sup> See Cornell University, PhD Students At Cornell Tech, Pact-organized events, <https://orgsync.com/145056/chapter?welcome=true> (describing the "student brown bag").

<sup>284</sup> See <http://www.ila-hq.org/index.php/events> (International law Association listing various International law conferences within and outside the United States).

<sup>285</sup> See Takemura *supra* note 226

<sup>286</sup> CALI, etc. *CALI Excellence for the Future Awards*, CENTER FOR COMPUT. ASSISTED LEGAL INSTRUCTION, <https://www.cali.org/content/cali-excellence-future-awards> ABA Law Student Division recognizes student's achievements. Award Categories include: Diversity Award, Public Interest Award, Student Bar Association Award, Volunteer Income Tax Assistance Program Award, Member and Activity Award, Law School Newspaper Award. <http://abaforlawstudents.com/events/initiatives-and-awards/awards/>

<sup>287</sup> Seattle University has a Social Justice Monday in which students help pick speakers to talk about important issues. Other presentations can be to student organizations in the area of immigration/refugee law, criminal justice, environment, health, poverty law etc.

<sup>288</sup> See Kelly Terry, *supra* note 97.

Inviting a lawyer working in international law to present to the class on professionalism fulfills three goals. It introduces students to a professional who can assuage fears that there is only one straight path to an international career. It allows students to get detailed feedback on possible next steps from someone who herself may have recently been in their shoes. And it gives students the chance to establish a mentoring or collegial relationship with a future colleague. Helping students plan their careers before graduation (perhaps in another clinic or externship) and after law school (such as an LLM)<sup>289</sup> is important in all externships, but especially for those who may need to plan for foreign travel, additional language certifications, and a longer and more detailed resume. Externship faculty play a role in maintaining and nurturing relationships with these practitioners and should look for ways to invite them to participate in future conferences and trainings at their law school. One place to look for these guest speakers is in your law school's alumni directory. Alums who are working in international law inspire current students and offer additional connections due to shared law school experiences.<sup>290</sup> Since the seminar is held via video conference, inviting a guest lecturer to participate is relatively easy as long as they have good internet and a laptop with a camera and speaker.

Current practitioners can also help discuss a topic in the background of every international externship seminar: how to reconcile the inspiring goals and principles of international law with the reality of the current situation. One reason to spend time on this in the seminar is the danger of secondary trauma leading to a sense of despair. Even where students experience the law as positive, these discussions help them develop the maturity and patience to expect a career's worth of work for positive change, rather than an overnight conversion.<sup>291</sup> Another reason is so students can creatively and effectively develop their own sense of purpose.<sup>292</sup> In the face of global challenges, each of us wants to feel we are contributing to some forward movement; discussing this in class helps students, both during and after their externships, engage in a range of activities and organizations that are in keeping with their principles and goals.

## 1. Global Responsibility, Interconnection and Social Justice

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<sup>289</sup> At least 90 LL.M programs offer specific expertise in international law, in areas such as comparative and transnational law, admiralty, cross border legal studies, antitrust & economics, global legal studies, competition law, food law, human rights, immigration, arbitration, tax, and business and trade. *Programs by Category*, AM. B. ASS'N, [https://www.americanbar.org/groups/legal\\_education/resources/llm-degrees\\_post\\_j\\_d\\_non\\_j\\_d/programs\\_by\\_category.html](https://www.americanbar.org/groups/legal_education/resources/llm-degrees_post_j_d_non_j_d/programs_by_category.html) (last visited March 31, 2019).

<sup>290</sup> See for example Seattle University Law School Alum Rufus Yerxa who worked at the World Trade Organization (Seattle University School of Law Lawyer Spring 2014) <https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1113&context=thelawyer>.

<sup>291</sup> This issue comes up routinely in domestic clinics and externships. Quigley, William P., *Letter to a Law Student Interested in Social Justice* (October 1, 2007). DEPAUL J SOC JUST, Vol. 1, Iss 1, Fall 2007 and Lisa G. Lerman, *Professional and Ethical Issues in Legal Externships: Fostering Commitment to Public Service*, 67 FORDHAM L. REV. 2295 (1999).

<sup>292</sup> See Raj Raghunathan IF YOU'RE SO SMART, WHY AREN'T YOU HAPPY.

Covering global citizenship in the seminar underscores one a learning goal of international externships. The tension between teaching students to engage in global issues and also to prepare for a global job market makes some faculty wary of raising the issue. This is true for both those 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. Yet studies of law students in Australia<sup>293</sup> and of universities training global citizens<sup>294</sup> demonstrate these two goals do not have to be in conflict. One study explored how international higher education experts conceptualize the global citizen or related terms representing the “ideal global graduate” and found that the term described a mindset of moral and transformative cosmopolitanism.<sup>295</sup> 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.”<sup>296</sup> 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.”<sup>297</sup> 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.”<sup>298</sup>

Those students who had engaged in international experiences consistently experienced an increase in their “openness, tolerance, respect, and responsibility for self, others and the planet.”<sup>299</sup> This research is encouraging because it is based on actual student experience. Reflections of the students in my international externship seminar demonstrate a similar change.<sup>300</sup> It supports this article’s basic premise, that actually *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 State are alarming, but those on global inequality are positively staggering. According to a report from Credit Suisse, the top one percent of households “account for half

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<sup>293</sup>Mitchell, Andrew; Oswald, Bruce; Voon, Tania; Larcombe, Wendy, *Education in the Field: A Case Study of Experiential Learning in International Law*; 21 LEGAL EDUC REV 69. (2011)

<sup>294</sup> Kathleen Lilley, Michelle Barker, Neil Harris. *The Global Citizen Conceptualized: Accommodating Ambiguity* J STUD IN INTERNAT’L EDUC ( 2016).

<sup>295</sup> *Id* at 8.

<sup>296</sup> *Id.* at 7

<sup>297</sup> *Id.*

<sup>298</sup> *Id* at 10.

<sup>299</sup> *Id* at 13.

<sup>300</sup> “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 IMO. I have been able to evaluate the positive and negative traits which people from around the world associate with people from the US. 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 US.” Law Student Reflection. (Spring 2019)(On file with author)

of all assets in the world."<sup>301</sup> The 2015 Global Wealth Report put worldwide wealth inequality at a level "possibly not seen for almost a century."<sup>302</sup> The data also revealed a declining middle class and the alarming fact that the poorest half of the world's population owns just one percent of its assets.<sup>303</sup> Meanwhile, the number of "ultra-wealthy" people continues to climb. Credit Suisse's analysis is in line with a warning from the international humanitarian group Oxfam, issued in 2015, that the richest one percent of people on the planet would own at least half of the world's wealth by 2016.<sup>304</sup> While the Global Wealth Report in 2018 raised some hopes that wealth creation has shifted back to a pattern existing prior to the global financial crisis, of rising wealth for all, the report still warns that "wealth inequality has not yet fallen significantly."<sup>305</sup> Law students in international externships can expect to acquire awareness of cultures and legal norms in the larger world, along with the motivation to work together to solve global problems. Students who lack the experience of living outside the U.S. will likely not have the chance to begin developing this global responsibility.

## 2. Lessons for Multi-culturalism and Bias in the U.S.

The idea of global citizenship can be further developed by connecting it to inequalities in the United States. For students who return with an intent to practice here, the lessons about racism and multi-culturalism in international externships are broad and comparative; they also have important ramifications for our understanding of our own history and America's multi-cultural society. For students with privilege, it may be the first time they see the U.S. from a lens that is critical and different. For students from marginalized communities, it may be a chance to demonstrate their already developed strengths of looking at the world through other's eyes. For all students, it is an opportunity to 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 to situations outside the United States. Examining these learning opportunities demonstrates how these experiences can increase the commitment to social justice values for b our students, and for ourselves as clinical teachers in the United States and abroad.

For students with privilege, embarking on in international externship is often a reminder 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*

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<sup>301</sup> Global Wealth Report 2015 <https://www.credit-suisse.com/corporate/en/articles/news-and-expertise/global-wealth-in-2015-underlying-trends-remain-positive-201510.html>

<sup>302</sup> *Id.*

<sup>303</sup> The recent Brexit vote is just one manifestation of the inequality caused by globalizations, as well as the perception of inequality, for large numbers of people.

<sup>304</sup> Oxfam International, 62 people own the same as half the world, reveals Oxfam Davos report (2016). Available at: <https://www.oxfam.org/en/pressroom/pressreleases/2016-01-18/62-people-own-same-half-world-reveals-oxfam-davos-report>

<sup>305</sup> *Global Wealth Report 2018: US and China in the Lead*. <https://www.credit-suisse.com/corporate/en/articles/news-and-expertise/global-wealth-report-2018-us-and-china-in-the-lead-201810.html>



*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 they think and communicate with others.”*<sup>306</sup>

Such students soon realize that the world looks critically on U.S. policy and that in areas of technology, environment, and cultural, social and economic rights, the U.S. is often not the most advanced country. These students may 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.<sup>307</sup> This experience, if carefully interrogated through readings, reflection, and interactions in the seminar, 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.”*<sup>308</sup>

*“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.”*<sup>309</sup>

Students from marginalized communities who study abroad may find their understanding of cultural competence and bias is already developed by the realities of living in the U.S. This may be a source of strength but also of potential trauma if they are triggered by additional bias

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<sup>306</sup> Law Student Reflection. (Spring 2019)(On file with author)

<sup>307</sup> “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 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)

<sup>308</sup> Law Student Reflection (Spring 2015) (On file with author).

<sup>309</sup> Law Student Reflection (Fall 2014) (On file with author)

they experience while abroad.<sup>310</sup> Both situations require attention on the part of faculty and highlight the need for a seminar and other ways to ensure good contact to provide support.<sup>311</sup> These students have much to offer the international institutions where they work as their perspectives are often from lived experience.

*“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. Hence, I am organizing and synthesizing what I have learned thus far into my internship with my past beliefs.”<sup>312</sup>*

With the confidence gained in an international externship they will be able to strengthen these skills for use in many settings.<sup>313</sup> They will also have developed a belief that they can do so,

*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.<sup>314</sup>*

Even if they are still unsure of how they will do it.

*Before the ICTY, I worked directly with clients suffering injustice before the criminal justice system in the US. I worked along 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*

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<sup>310</sup> 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).

<sup>311</sup> See Connor et al, *supra* note 20.

<sup>312</sup> Law Student Reflection (Fall 2017) (On file with author)

<sup>313</sup> “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.” 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.

<sup>314</sup> Student Reflection (Spring 2017) (On file with author)



*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 the 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?*

*My work at ICTY has only increased my uncertainty of an effective criminal justice system. As I stare at vivid pictures and sift through documents all day, I question how a person could even fathom committing such an act, an act that shocks the human conscious? I find myself intentionally detaching myself from the photographs and the documents in order to objectively process the historical events. Do the victims receive justice for what they have endured? In an international community, how can a justice system not be politically charged and swayed? Is a justice system the best process in determining the truth of the matter? The complexity of the events the Accused is charged with unfolds into a complicated judicial process with multiple players and unclear evidence of what actually occurred. The system attempts to create a coherent timeline of historical facts.*

*My previous experiences in addition to this internship have added to my uncertainty of an effective criminal justice system. However, I fear that humanity is not as kind as the law in the way that justice will be served. 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.<sup>315</sup>*

For both groups, their understanding of bias (both implicit and explicit) comes from a society in which discrimination supported a system of enslavement and institutionalized racism that endures until today. While other students around the world may be members of former colonies or colonists, for residents of the U.S., slavery and racism demonstrate the logical extension of one group's belief in their superiority over another group. These lessons are sharply etched for us in the current moment. The experience of racism, and our attempts to unravel its effects on us as human beings and as lawyers, gives both students and professors additional insight into the interplay between bias and cultural competence. It is the hope of this author, that perhaps in some way we also can contribute this painfully obtained knowledge to a greater good. If so, our understanding of cultural competence will be enriched and our solutions to address bias may be even more effective.

Creating and expanding these international externship programs also forces us, as professors, to learn more about the outside world as we teach and learn with our students. Views of law school faculty can be just as isolationist as those of our students. If we do not travel and live outside the U.S. to gain both knowledge and perspective, we may fall prey to the mindset that the US alone has the solutions and the knowledge 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,

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<sup>315</sup> Law Student Reflection. (Fall 2014) (On file with author)

finding ways to fund and bring them<sup>316</sup> to our conferences in substantive law and clinical education so that we may learn and grow with them. 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.

#### IV. Conclusion

Even if one believes in the benefits of increasing student exposure to international law and global connectedness through international externships, the question will always arise, is such a program worth it? Can international experiences effectively 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? For law school faculty, is devoting time to building a program and teaching a seminar for (at least at first) a relatively small number of students, as important as helping students learn skills, build relationships, and contribute to social justice in the U.S.? Can these experiences really teach us something about working in the U.S. with diverse population?

This article hopes to demonstrate that the answer to all these questions is yes! But the more important question is, 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. Lack of exposure to international externships and education about their responsibilities does not prevent the current generation of law students from engaging in global law in the future,<sup>317</sup> without the necessary experience to influence their decisions and understanding in a positive direction. Meanwhile, law students outside the US are gaining these skills necessary for global practice even if most American students are not.<sup>318</sup> If we believe in the concept of international law, and shared values of human rights (political, economic, social, 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.

Helping students succeed in international externships requires nurturing and developing empathy, understanding and responsibility—the ability to “think globally and *act* globally.” Establishing opportunities for students to examine their own values and actions further cements this education with experiences that avoid futility and powerlessness.<sup>319</sup> Armed with new

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<sup>316</sup> Carrillo Arturo J., *BRINGING INTERNATIONAL LAW HOME: THE INNOVATIVE ROLE OF HUMAN RIGHTS CLINICS IN THE TRANSNATIONAL LEGAL PROCESS* (June 2004) (discussing the need to bring international colleagues, and overcoming inherent barriers international work).

<sup>317</sup> See Silver, *supra* note 32

<sup>318</sup> See Silver, *supra* note 32 at 475-6.

<sup>319</sup> “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, 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.” Law Student Reflection (Fall 2017) (On file with author)

“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),

knowledge and skills, students can use the law to respond to environmental degradation, as well as threats to human health, poverty and hunger, on a global scale.

As the global clinical education movement has shown, interacting with clinical educators committed to social justice from around the globe also provides a rich environment for our own education in multiculturalism, global practice, and addressing bias and inequality. It pushes us to do our best to educate our American colleagues and increases the exposure to global issues for students who stay at home. This 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 help our students, we ourselves gain a better understanding of global citizenship. As we face the challenges of 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 ludicrous to suggest that international externships alone hold the key to solving these global problems, but they are a small and important step to educating our future lawyers and giving them the tools to try.

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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." Student Reflection (Fall 2014) (On file with author)