
Book Section:
Wallace, C orcid.org/0000-0002-2366-5692 (2022) Beyond the jurisdiction: Law schools, the LLB and 'global' education. In: Dunn, R, Maharg, P and Roper, V, (eds.) What is Legal Education for? Reassessing the Purposes of Early Twenty-First Century Learning and Law Schools. Routledge , London . ISBN 9781003322092

https://doi.org/10.4324/9781003322092

Beyond the Jurisdiction: Law Schools, the LLB and "Global" Education

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Abstract

Law schools are increasingly international in terms of composition, with some UK Schools teaching large numbers of non-UK based students at undergraduate level, employing increasing numbers of non-UK trained legal academics and providing students with opportunities for study abroad and overseas summer schools. Nevertheless, the curriculum remains largely domestically focused. This is harmful not only for the education of future lawyers, many of whom will need to operate in an increasingly internationalised professional environment, but also for the claims of a law degree to be a liberal or critical education or an education for citizenship.

Using the literature around education for cultural sensitivity, this paper argues that if law schools design their curricula to ensure that students are exposed to jurisdictional difference, presenting the domestic legal system as culturally specific and one of many, rather than the norm, they will be well placed to foster awareness of and respect for difference which builds the ability to work across cultures.

Introduction

In Birks' *What Are Law Schools For?*, Clarke and Tsamenyi, writing from an Australian perspective, painted a picture of increasing interest in internationalisation within the curriculum, largely deriving from the increased importance of international law and cross border issues in professional practice.[1] Over 20 years later, many UK Law Schools are international in composition, with large numbers of students and staff originating from around the globe,[2] The 2014 Research Excellence Framework Statement comments that both public international law and EU law were fields in which large numbers of outputs had been submitted,[3] although,

[1] Eugene Clark and Martin Tsamenyi, 'Legal Education in the Twenty-First Century: A Time of Challenge' in Peter Birks (ed) *Pressing Problems in the Law Volume 2. What Are Law Schools For?* (Oxford University Press 1996)
[2] According to the Higher Education Statistical Agency data of 2019/20, 27% of law school staff and 22% of law students are not UK nationals. HESA, 'Where do they work, come from and go to?' (*HESA*) <https://www.hesa.ac.uk/data-and-analysis/staff/location> accessed 3 May 2021. The statistics do not break down to show distribution between institutions, but anecdotally there are more international students at more traditional 'pre-92' law schools than at more modern institutions.
[3] The Research Excellence Framework (REF) is a periodic review of research outputs, impact, and culture within UK institutions of Higher Education. For the report see: Research Excellence Framework, 'REF 2014 Panel Overview Reports' (2015) <https://www.ref.ac.uk/2014/panels/paneloverviewreports/> (main panel C subpanel 20) accessed 12 September 2021

echoing Birks in 1996, they also commented that comparative work tended to focus more on common law than civil law systems.[4] All Law Schools are, and should be, seeking to take a global view: in an interconnected world, where technology of all types brings us closer together, and where destructive populist politics at times seeks to push us further apart, one of the things that law schools should be for is the building of international connections and global citizens. However, despite much discussion of the necessity of an internationalized curriculum, most undergraduate curricula at law schools in England and Wales remain predominantly, and determinedly, focused on the single jurisdiction of England and Wales.

In this chapter, I argue that it is essential for the credibility of the undergraduate law degree as a good general education and as an education for citizenship that we consider critically the implications of the failure of the discipline to respond effectively to the call to internationalise. This is in addition to the important professional reasons for the internationalisation of the law degree framed by Clark and Tsamenyi and argued well elsewhere.[5] We need to consider manageable and realistic concrete steps to improve the situation; proposals for entirely new and radical curricula are exciting but rarely possible to implement across the board, particularly given the current approach of the regulator in England and Wales, the Solicitors Regulation Authority (SRA). I therefore go on to draw on literature on intercultural education to propose an approach which is more modest than an entire curriculum change, but more effective than simply proposing individual modules, compulsory or otherwise. In doing so, I suggest that the most significant way in which an LLB degree can develop a global perspective is, perhaps counter-intuitively, not to teach about 'other' legal systems but to teach more deeply and critically about the one in which we are based.

The internationalisation of (legal) higher education

In order to understand the need for internationalisation within law schools, and within the curriculum in particular, we need first to consider what internationalisation means within the higher education context as a whole. Knight has argued that internationalisation is a complex concept within higher education, traditionally referring to schemes and networks which connect universities across the globe, both research and student education focused, but which also covers student recruitment and the content of academic programmes.[6] Within this varied activity, Harrison observes that attempts to internationalise curricula and pedagogy have generally been less successful than the processes of building international networks and schemes. In particular, ambitions to expose students who do not travel to the personal development benefits of exposure to cultural diversity have largely been unrealised. The drivers for internationalisation are

[4] Peter Birks, 'Editors Preface' in Peter Birks (ed) *Pressing Problems in the Law Volume 2. What Are Law Schools For?* (Oxford University Press 1996) viii

[5] For example, Ana Speed, 'Academic Perspectives on Teaching International Family Law in Higher Education Institutions in England and Wales' (2020) 54 (1) The Law Teacher 69-102

[6] Jane Knight, 'Internationalization Remodelled: Definition, Approaches and Rationales' (2004) 8 Journal of Studies in International Education 5-31

multiple both at the sectoral and institutional levels and include the need to educate students to participate in a global labour market, the building of transnational alliances, the need to generate income for universities, and the attraction for universities to develop a global 'brand'.[7] Whilst economic drivers have become increasingly predominant,[8] Stier has identified ideologies of internationalisation around idealism – the solving of global problems – and educationalism – the value for individual growth – which move beyond the straightforward needs of the labour market.[9] The achievement of the goals of these ideologies require not just the creation of international networks and programmes, such as exchange programmes, but also the internationalisation of the curriculum itself.

Within the higher education sector, law is no exception to this drive for internationalisation. The extent of a law school's commitment to internationalisation may depend on the position of the institution in which it is situated and whether that institution is seeking to engage internationally, develop a global brand, and recruit students from overseas. In addition to the observations about the international composition of staff and students in law schools,[10] it is not unusual to see law schools with significant international networks and activity; the 2014 REF statement refers to work having international impact and to impressive international collaborations in some law schools.[11] However, notwithstanding institutional priorities, the increased globalization of the legal labour market means that, for some time, including in more than one chapter in Birks' *What are Law Schools For?,* arguments have been made that the undergraduate curriculum in law needs to have more international content, no matter the composition of the student body within the law school or the ambitions of the institution in which it is situated.[12]

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[7] Philip G. Altbach and Jane Knight, 'The Internationalization of Higher Education: Motivations and Realities' (2007) 11 Journal of Studies in International Education 290-305

[8] Jane Knight, 'Internationalization Remodelled: Definition, Approaches and Rationales' (2004) 8 Journal of Studies in International Education

[9] Jonas Stier, 'Taking a critical stance toward internationalization ideologies in higher education: idealism, instrumentalism and educationalism' (2004) 2 (1) Globalisation, Societies and Education 1-28

[10] HESA, 'Where Do They Work, Come From and Go To?' (*HESA*) <https://www.hesa.ac.uk/data-and-analysis/staff/location> accessed 3 May 2021

[11] Research Excellence Framework, 'REF 2014 Panel Overview Reports' (2015) <https://www.ref.ac.uk/2014/panels/paneloverviewreports/> (main panel C subpanel 20) accessed 12 September 2021

[12] Eugene Clark and Martin Tsamenyi, 'Legal Education in the Twenty-First Century: A Time of Challenge' in Peter Birks (ed) *Pressing Problems in the Law Volume 2. What Are Law Schools For?* (Oxford University Press 1996) ; Ana Speed, 'Academic Perspectives on Teaching International Family Law in Higher Education Institutions in England and Wales' (2020) 54 The Law Teacher; See also Nicholas Grief, 'The Pervasive Influence of European Community Law in the United Kingdom' in Peter Birks (ed) *Pressing Problems in the Law Volume 2. What Are Law Schools For?* (Oxford University Press 1996); William Twining, 'A Cosmopolitan Discipline? Some Implications of "Globalisation" for Legal Education' (2001) 8 (1) International Journal of the Legal Profession, 23-36; Jessica Guth and Tamara Hervey, 'Threats to Internationalised Legal Education in the Twenty-First Century UK' (2018) 52 (3) The Law Teacher 350-370; Danielle Ireland-Piper. 'Teaching Public Law in a Comparative Paradigm: Virtues and Vices' (2019) 53 (1) The Law Teacher 102-118

These arguments tend to focus on either the labour market for legal professionals, or the nature of the discipline itself. The first task of this chapter is to make a further specific case for the internationalisation of the legal curriculum: that it is necessary in order to achieve the objective of developing global citizens. The LLB degree in England and Wales is a 3-year general undergraduate degree, which forms one way of fulfilling the first, academic, stage of qualification as a barrister and, until 2021, as a solicitor. It is well documented that only a minority of law graduates in England and Wales go on to practice law,[13] and therefore, attention needs to be paid to the broader labour market, not just the needs of the legal professions, and to the overall objectives of undergraduate higher education. This means that the non-economic drivers of internationalisation also need to be considered: the importance of a global mindset for individual educational development, and for the achievement of non-economic national and global goals.[14] In the next section, it will be argued that the first obstacle to the achievement of those objectives through an undergraduate law degree is the extent to which the law degree in England and Wales, unlike most other academic degrees, has traditionally been, and continues to be explicitly jurisdictional and thus tied to a particular place.

Out of the ordinary: the resistance to internationalising the undergraduate legal curriculum

Law is a discipline where learning at undergraduate level is tied to a particular jurisdiction, a place and a set of people. Whilst introductory books about law as a subject of study often highlight the discipline's breadth in terms of areas of life covered, they rarely mention that the concepts and ideas studied are likely to be, at least partially, those developed in one small part of the world only.[15] 'Introduction to Law' books may highlight the need to learn how to find European or international legal materials, but in general skills such as legal research and legal reasoning are presented with no explicit indication that this is not a universal way of doing it, but one confined to a particular jurisdiction and legal culture.[16] This is by no means intended as a criticism, but rather as a sign of how implicit the geographical and jurisdictional limitation of the law degree is. In this section, I want to make this point explicit: the jurisdictional nature of the undergraduate law degree is not an inevitable state of affairs and in some respects, it is extremely unusual. It is unusual even within law degrees. Postgraduate taught degrees tend to be much more international in scope, at least in terms of content, and attract more students from outside

[13] See The Law Society entry trends: in 2019-20, over 25,000 students were accepted onto undergraduate law degrees, whilst 6344 traineeships were registered. Law Society, 'Career Advice Becoming a Solicitor' (Law Society, 25 November 2020) <https://www.lawsociety.org.uk/en/career-advice/becoming-a-solicitor/entry-trends> accessed 12 September 2021. In the same year, 402 trainee (pupil) barristers started their first six months pupillage, and 522 started their second six months. Bar Standards Board, 'Pupillage Statistics' (Bar Standards Board, 22 July 2021) <https://www.barstandardsboard.org.uk/news-publications/research-and-statistics/statistics-about-the-bar/pupillage.html> accessed 12 September 2021.

[14] Jonas Stier, 'Taking a critical stance toward internationalization ideologies in higher education: idealism, instrumentalism and educationalism' (2004) 2 Globalisation, Societies and Education

[15] McBride's well known introductory book specifically refers to studying English Law. Nicholas J. McBride, *Letters to a Law Student* (Pearson 2007) 3-4

[16] For example, Emily Finch and Stefan Fafinski, *Legal Skills* (Oxford University Press 2015)

the UK largely because they are aimed at those students. Many PhD theses are on EU or international law or take comparative or cross jurisdictional approaches.[17]

A good indication of the specificity of this focus is a comparison with the requirements of other university subjects, as expressed through the Subject Benchmark statements produced by the UK's Quality Assurance Agency (QAA), which are intended to set a baseline across the UK of what graduates should be able to "know, do and understand" at the end of studying a particular degree.[18] The Subject Benchmark Statement for Law promotes a jurisdictional approach to the study of the law, stating in its contextual statement that

> the study of law may focus on one or more jurisdictions …(requiring) knowledge of the main features and principles of whatever legal system is (or systems are) being considered.[19]

It does refer to understanding the law in a global context but gives no indication of what that might mean. This permission to focus on one country or area only is extremely unusual amongst disciplines; other Subject Benchmark Statements either assume that the discipline is not tethered to one territorial space (for example, scientific disciplines[20], but also, sociology and politics) or specifically insist that the curriculum stretch beyond one country or state (for example business management, English, and history). Even in area studies – degrees with an interdisciplinary curriculum focusing on a particular area of the world, and thus necessarily tethered in space - the Benchmark Statement requires some element of comparison with other areas and some reference to transnational links.[21] And for degrees in languages, cultures and societies, which may focus on one particular country where the target language is spoken, the Benchmark Statements emphasise the benefits of learning about a culture and language other than one's own cultural

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[17] The Higher Education Statistical Education data for 2019/20 indicate that, whilst 17.5% of undergraduate law students in the UK were from outside the UK, that figure rises to 31% for taught postgraduate students and that over half of UK law PhD students are from outside the UK. HESA, 'Where do they work, come from and go to?' (*HESA*) <https://www.hesa.ac.uk/data-and-analysis/staff/location> accessed 3 May 2021

[18] QAA, 'Subject Benchmark Statements' (*QAA*, 03 December 2020) <https://www.qaa.ac.uk/quality-code/subject-benchmark-statements> accessed 30 July 2021

[19] QAA, 'Subject Benchmark Statement: Law' (*QAA*, November 2019) <https://www.qaa.ac.uk/docs/qaa/subject-benchmark-statements/subject-benchmark-statement-law.pdf?sfvrsn=b939c881_18> accessed 9 February 2021

[20] Sawir has argued that academics in scientific disciplines are more likely to assume that their discipline is inherently international and thus require no particular effort to 'internationalise' curriculum or pedagogy: Erlenawati Sawir, 'Academic Staff Response to International Students and Internationalising the Curriculum: The Impact of Disciplinary Differences.' (2011) 16 (1) International Journal for Academic Development 45–57

[21] QAA, 'Subject Benchmark Statement: Area Studies' (*QAA*, December 2019) <https://www.qaa.ac.uk/docs/qaa/subject-benchmark-statements/subject-benchmark-statement-area-studies.pdf?sfvrsn=1ee2cb81_5> accessed3 May 2021

starting point.[22] It seems, therefore, that, amongst degree programmes where it would seem possible to constrain the subject of study to one geographical space that is the cultural starting point of most of the students on the degree programme, law is the only discipline where this is explicitly permitted, and no international or comparative element required. This removes one important pressure to internationalise curriculum content: the QAA simply does not require it.

Thornton and Shannon have argued that what internationalisation in legal education is there exists because the professions seek it.[23] One obvious explanation for the lack of international focus of the undergraduate law degree in England and Wales is, therefore, the fact that the legal profession in England and Wales, particularly acting through their regulator, does not seek it. Indeed, Menis has argued that, historically, the legal academy has never really delivered on the promise of a liberal legal education overall because the need to comply with professional regulations is too strongly felt and compliance with the professional requirements takes too much time to make space for other elements in the curriculum.[24] In order to fulfil the requirements of professional qualification, a law degree has needed to be designated a Qualifying Law Degree (QLD), meaning that it complies with the requirements of a Joint Statement of the Law Society and the Bar in terms of programme content and skills taught.[25] Notably, the Joint Statement has required that 50% of a qualifying law degree must be spent on the foundations of legal knowledge: public law, EU law, criminal law, law of obligations, property law and equity. It also explicitly refers to the need to learn the law of England and Wales and the rules of English law. Only one of the foundations requires a focus outside of the UK and the position of EU law remains in question following the UK's departure from the European Union on 31st January 2020.[26] This has in itself limited the amount of international and comparative content that has traditionally been able to be included in an LLB.

From 2021 onwards, the route to qualifying as a solicitor will move away from the QLD approach and will instead require candidates to have an undergraduate degree (although not necessarily a law degree) or equivalent qualification or experience, to take and pass the Solicitors Qualifying Examination (SQE), in two parts, and to undertake two years qualifying work

[22] QAA, 'Subject Benchmark Statement: Languages, Cultures and Societies' (*QAA*, December 2019)<https://www.qaa.ac.uk/docs/qaa/subject-benchmark-statements/subject-benchmark-statement-languages-cultures-and-societies.pdf?sfvrsn=4ce2cb81_4> accessed 3May 2021

[23] Margaret Thornton and Lucinda Shannon, '"Selling the Dream": Law School Branding and the Illusion of Choice' (2013) 23 (2) Legal Education Review 249

[24] Susanna Menis, 'The liberal, the vocational and legal education: a legal history review – from Blackstone to a law degree' (2000) 54 (2) The Law Teacher 285-299

[25] The Joint Statement can be found here: Solicitors Regulation Authority, 'Joint Statement on the Academic Stage of Training' (*SRA*) <https://www.sra.org.uk/students/academic-stage/academic-stage-joint-statement-bsb-law-society/> accessed 3 May 2021

[26] For discussion of the impact of Brexit on the curriculum see Jessica Guth and Tamara Hervey, 'Threats to internationalised legal education in the twenty-first century UK' (2018) 52 (3) The Law Teacher; Chloë J. Wallace and Tamara K. Hervey, 'Brexit and the Law School: From Vacillating Between Despair and Hope to Building Responsibility and Community' (2019) 53 (2) The Law Teacher

experience.[27] The impact which this will have on undergraduate law degrees is likely to be variable and remains unclear; research by Gilbert in September 2020 demonstrated that, at that point, three-quarters of law school websites did not indicate that the SQE would have any impact on their degrees.[28] In particular, law schools which have an internationally diverse undergraduate student body and who thus have a high number of students who wish to have their law degree recognised as part of qualification in another country are unwilling to make changes that affect the willingness of those overseas regulators who had previously recognized the QLD to recognize any new degrees. Ironically, therefore, until the position of those regulators becomes clear, more internationalised law schools may be less willing to take the opportunities for curriculum reform which the SQE theoretically offers. And, whilst the number of law students progressing to careers as barristers is extremely small, it is not yet clear what the attitude of the bar will be to law degrees which depart from the framework of the QLD. All of this may disincentivize the removal or reduction in coverage of existing core subjects which is theoretically permitted by the SQE, with the notable exception of EU law, which is barely covered in the Statement of Legal Knowledge on which the SQE is based,[29] and which regulators outside of the EU typically do not require as a core qualifying subject. Guth and Hervey have argued, therefore, that 'elite' institutions which recruit the bulk of non-UK students and whose students are most frequently recruited by global law firms, are likely to make fewer changes to their curricula as a result of the SQE, whereas other institutions may be more likely to develop degrees that promise that graduates will be SQE-ready.[30] As Gilbert notes, however, this is currently speculation, and the COVID-19 pandemic may have further hindered the future planning of law schools. Therefore, it remains unclear whether and to what extent the SQE will change law degrees and, in particular, will give law schools more effective choice in their curriculum.

Birks argued in his preface to *What Are Law Schools For?* that a besetting problem for legal education was the fact that the legal profession, in his view, whilst retaining substantial control over access to the legal profession, shows a lack of respect for the value of university legal education.[31] Here, I would add that many regulators, including the SRA, show a particular lack of understanding of the need for an internationalised legal curriculum, in terms of the needs of

[27] For further information see Solicitors Regulation Authority, 'Solicitors Qualifying Examination (SQE)' (*SRA*, May 2021) <https://www.sra.org.uk/students/sqe/> accessed 30 July 2021 During a transitional period, students who have started their degree before the end of 2021 or accepted a place on a degree before 21 September 2021 will be able to opt for the 'new' or 'old' qualification routes.

[28] Andrew Gilbert, 'Preparing for the Exam? – Law School Websites and the SQE' (*Association of Law Teachers*, 9 October 2020) <http://lawteacher.ac.uk/sqe/preparing-for-the-exam-law-school-websites-and-the-sqe/ > accessed 25 April 2021

[29] Solicitors Regulation Authority, 'Statement of Knowledge' (*SRA*, February 2021) < https://www.sra.org.uk/solicitors/resources/cpd/competence-statement/statement-legal-knowledge/ > accessed 3 May 2021

[30] Jessica Guth and Tamara Hervey, 'Threats to internationalised legal education in the twenty-first century UK' (2018) 52 (3) The Law Teacher

[31] Peter Birks, 'Editors Preface' in Peter Birks (ed) *Pressing Problems in the Law Volume 2. What Are Law Schools For?* (Oxford University Press 1996) viii

the profession.[32] The point can be made by means of a comparison with the Scottish situation. Da Lomba, Fletcher and Zahn argue that the Scottish law degree tends to have a more international and comparative perspective than that of England and Wales because, in part, of the relative openness which the Scottish legal system has traditionally had towards external influences.[33] Whilst the SRA require very little attention to be paid either to transnational law or to conceptual or theoretical legal study, the Law Society of Scotland appears to have a rather more positive view towards extra-jurisdictional learning. Da Lomba, Fletcher and Zahn speculate that Brexit could push the Scottish curriculum to even greater coverage of international law, and a rejection of the notion that a legal education could or should be limited to one jurisdiction.[34] The problem in England and Wales therefore is not so much that the profession, through its regulator, continues to have an influence on the undergraduate law degree, but rather that the relevant regulator(s), including those outside the UK, have a narrow view of what legal education and training require, paying little attention to extra-jurisdictional learning and the study of supranational and intergovernmental legal orders and legal pluralism. Despite all the arguments that a global law degree is necessary for global legal practice, the professional regulators do not seem to be requiring it at undergraduate level, and it is thus harder to make the case that it is necessary and that space for it needs to be found. If we are therefore to assume that the attitude of the SRA is unlikely to change, and that the impact of the arrival of the SQE is unclear but does not give rise to optimism, this leads us to the conclusion that, compared with other university disciplines, the law degree has an additional hurdle to face in achieving the already difficult task of a genuinely internationalised curriculum.[35] In the next part of this chapter, I will consider why it is imperative for that hurdle to be crossed, and through the framework of Nussbaum's concept of educating for world citizenship, what we can focus on in order to achieve it.

Towards global citizenship: the need for a global law degree

In the first section of this chapter, it was argued that the internationalisation of legal education needs to be focused not only on the legal labour market but also on the ability of the degree to deliver the kind of general intellectual training that any degree requires, and that the QAA Subject Benchmark Statement for Law particularly highlights as the goal of an undergraduate

[32] Eugene Clark and Martin Tsamenyi, 'Legal Education in the Twenty-First Century: A Time of Challenge' in Peter Birks (ed) *Pressing Problems in the Law Volume 2. What Are Law Schools For?* (Oxford University Press 1996) ; Ana Speed, 'Academic Perspectives on Teaching International Family Law in Higher Education Institutions in England and Wales' (2020) 54 The Law Teacher; See also Nicholas Grief, 'The Pervasive Influence of European Community Law in the United Kingdom' in Peter Birks (ed) *Pressing Problems in the Law Volume 2. What Are Law Schools For?* (Oxford University Press 1996); William Twining, 'A cosmopolitan discipline? Some implications of "globalisation" for legal education' (2001) 8 (1) International Journal of the Legal Profession, 23-36; Jessica Guth and Tamara Hervey, 'Threats to internationalised legal education in the twenty-first century UK' (2018) 52 (3) The Law Teacher 350-370; Danielle Ireland-Piper, 'Teaching public law in a comparative paradigm: virtues and vices' (2019) 53 (1) The Law Teacher 102-118

[33] Sylvie Da Lomba, Maria Fletcher and Rebecca Zahn, 'Scottish Legal Education after Brexit' (2019) 53 (2) The Law Teacher 138-147

[34] Ibid

[35] Neil Harrison, 'Practice, problems and power in 'internationalisation at home': critical reflections on recent research evidence' (2015) 20 Teaching in Higher Education

law degree.[36] Degrees are not just about employment prospects and the labour market. Even the 2019 Augur Review, with its controversial references to 'low-value HE' and troubling reliance on efficiency savings rather than government support, takes as a premise that amongst the key purposes of a university education is improving citizens' ability to fulfil their potential in non-employment related ways, including engaging with civic and political life.[37] The Browne Review, which led to the current English higher education funding system, begins by asserting: "Higher Education matters. It helps to create the knowledge, skills and values that underpin a civilised society."[38] This suggests an often-used formulation; that a university education creates and develops good citizens as well as good workers. This is replicated in the literature around the internationalisation of the curriculum; Harrison refers to two, often opposing, paradigms of 'global worker' and 'global citizen'[39] and it is certainly common nowadays for universities to claim to provide a global citizenship education, however that is defined.[40] This position is supported by Nussbaum, who has argued that a liberal university education which cultivates and develops the whole person must educate for world citizenship.[41]

Nussbaum's emphasis on global rather than national citizenship alone is, however, particularly important for undergraduate legal education. Citizenship is frequently conceptualised as tethered to a nation state, and as a project of belonging to that state.[42] National citizenship plays a role in policing boundaries between people; if some are citizens, then others are not. The law does a lot of the work of maintaining those boundaries around local/national citizenship. In the UK, as in many countries, it does so in ways which give privileged access to citizenship through money and education. The law also authorises heavy monitoring and policing of naturalised citizens and those from migrant backgrounds.[43] More broadly, when faced with a diverse and/or international student body, it makes no sense to argue that a law degree is about creating good citizens of England and Wales alone. Expressing it in those terms makes clear the colonial roots of the reach

[36] QAA, 'Subject Benchmark Statement: Law' (*QAA*, November 2019) <https://www.qaa.ac.uk/docs/qaa/subject-benchmark-statements/subject-benchmark-statement-law.pdf?sfvrsn=b939c881_18> accessed 9 February 2021

[37] UK Secretary of State for Education, 'Independent Panel Report to the Review of Post-18 Education and Funding' (May 2019) < https://www.gov.uk/government/publications/post-18-review-of-education-and-funding-independent-panel-report> accessed 10 February 2021, 15

[38] Lord Browne, 'Securing a Sustainable Future for Higher Education: An Independent Review of Higher Education Funding and Student Finance [Browne Report]' (*UK Department for Business, Innovation and Skills,* 12 October 2020) <https://www.gov.uk/government/publications/the-browne-report-higher-education-funding-and-student-finance> accessed 10 February 2021, 14

[39] Neil Harrison, 'Practice, Problems and Power in 'Internationalisation at Home': Critical Reflections on Recent Research Evidence' (2015) 20 Teaching in Higher Education

[40] For discussion see Gerardo L. Blanco, "Global citizenship education as a pedagogy of dwelling: re-tracing (mis)steps in practice during challenging times" (2021) 19 (4) Globalisation, Societies and Education; For an analysis of the divergent typologies of what is meant by global citizenship education, see Karen Pashby, Marta da Costa, Sharon Stein, and Vanessa Andreotti, "A Meta-review of Typologies of Global Citizenship Education" (2000) 56 (2) Comparative Education 144-164

[41] Martha Nussbaum, *Cultivating Humanity: A Classical Defense of Reform in Liberal Education* (Harvard University Press 1997)

[42] See for example Nira Yuval-Davies, *The Politics of Belonging: Intersectional Contestations* (Sage 2011), particularly Chapter 2

[43] See for example Devyani Prabhat, *Britishness, Belonging and Citizenship: Experiencing Nationality Law* (Policy Press 2018)

of higher education and particularly the connection between the 'exportability' of English legal education and the relationship between common law and empire. A focus on the global does not automatically avoid these risks: critical literature on global citizenship highlights the extent to which globalism and internationalism can and often do entrench colonialist relations.[44] However, without a clear and deliberate focus on a critical and decolonised concept of world citizenship, English legal education remains in that colonial space, teaching non-British citizens, many of whom come from formally colonised countries, how to be British citizens. A change in focus is thus essential.

Nussbaum's manifesto for education for global citizenship emphasises the development of three things through a curriculum: the capacity for critical examination of oneself and one's own traditions; the ability to see oneself as a human being bound to all other human beings, rather than simply as part of one region or group; and the capacity to put oneself into the shoes of another through what she refers to as narrative imagination.[45] The first, she argues, needs to happen through a requirement to study philosophy; the second through a required course of study relating to other cultures, as well as ensuring that discipline-focused courses are not restricted to the study of one perspective or culture; and the third through the study of subjects such as literature which require the use of the imagination.

Nussbaum further observes that the US system, which requires two years of general education at university prior to specialisation, is more suited to the development of world citizens, because she sees a single discipline focus as lacking in the diversity of perspectives which is necessary to develop global citizenship.[46] This is true although, arguably, fixable; as she shows herself, it is possible to set curricula within disciplines which achieve the goals that she is aiming at. Within a law curriculum, it is possible to devise relevant compulsory courses in philosophy and jurisprudence; this has at least in the past been common in English universities,[47] and remains quite usual in legal education systems of continental Europe.[48] It is also possible to develop the narrative imagination through courses in law and literature and law and film.[49] These are all

[44] Sharon Stein, "The Persistent Challenges of Addressing Epistemic Dominance in Higher Education: Considering the Case of Curriculum Internationalization" (2017) 61 (S1) Comparative Education Review S25-S50; Karen Pashby, Marta da Costa, Sharon Stein, and Vanessa Andreotti, "A Meta-review of Typologies of Global Citizenship Education" (2000) 56 (2) Comparative Education

[45] Martha Nussbaum, *Cultivating Humanity: A Classical Defense of Reform in Liberal Education* (Harvard University Press 1997) 9-10

[46] Martha Nussbaum, 'Educating for Citizenship in an Era of Global Connection' (2002) 21 Studies in Philosophy and Education 289–303,292

[47] In 2000, Roger Cotterell wrote that "…jurisprudence has a moderately secure place in undergraduate law curricular in the UK at present…" Roger Cotterell, "Pandora's Box: Jurisprudence in Legal Education" (2000) 7 (3) International Journal of the Legal Profession 179-187, 179

[48] Eva Steiner, *French Law: A Comparative Approach* (Oxford University Press 2010) 201-204. For discussion of the place of the sociology of law in German law degrees, see Stefan Machura, 'Milestones and Directions: Socio-Legal Studies in Germany and the United Kingdom' (2020) 21 (7) German Law Journal 1318

[49] For further discussion of this aspect of Nussbaum's work, see Ian Ward, 'Legal Education and the Democratic Imagination' (2009) 3 (1) Law and Humanities 87-112

additional courses which call on increasingly tight resources, and Twining's preference for a four-year degree is understandable,[50] but, whilst this approach is disincentivised and has practical issues, it remains possible.

The focus of this chapter, however, is on Nussbaum's second requirement: the development of the ability to see oneself as a human being bound to all other human beings, by ensuring that the study of other cultures is required, and study is not focused solely on one perspective or culture. This second requirement is extremely challenging, if not impossible, for a legal education which fixes itself firmly within the boundaries of a single jurisdiction. Such a curriculum cannot and should not present the law of one jurisdiction as relevant to all human beings, but, because only one jurisdiction is taught, no connection can be made between the law and values of one jurisdiction and one legal culture, and those of others. Indeed, Husa has argued that there is a 'hidden curriculum' within a nationally focused law degree that the law taught is to be preferred.[51]

One illustration of this problem can be found in the teaching of the rule of law within an English law degree. The rule of law is typically taught as a specific principle;[52] one of a number of principles that underlies the UK constitution. Because it is presented as a feature of the UK constitution, the fact that the same principle applies in other jurisdictions is not highlighted. On top of this, nowadays, English-educated students will also have been subject during their school days to the teaching of Ofsted-mandated 'British Values.'[53] These values include a number that are demonstrably not specifically British, and no more visible in the UK than in other places: democracy; individual liberty; mutual respect and tolerance. But in that list of 'British values' is the rule of law. Might this mean that some students will come to their university studies with a view already in place that the rule of law is a peculiarly British concept? If no comparative or international perspective is presented, some students could easily come to believe that the rule of law is a British conception which, because it has been presented to them as self-evidently good, demonstrates the superiority of Britishness over other cultures or identities. This may also support the development of an embedded notion that the rule of law is unequivocally positive, making them resistant to its many critiques. This is unlikely to be the intention of many

[50] William Twining, *Blackstone's Tower: The English Law School* (Sweet and Maxwell 1994) Chapter 3; See also Peter Birks, 'Editors Preface' in Peter Birks (ed) *Pressing Problems in the Law Volume 2. What Are Law Schools For?* (Oxford University Press 1996) viii for a suggestion that the three-year law degree is under considerable pressure.

[51] Jaakko Husa, 'Turning the Curriculum Upside Down: Comparative Law as an Educational Tool for Constructing the Pluralistic Legal Mind' (2009) 10 (6-7) German Law Journal 913-926

[52] One of the most popular constitutional law textbooks refer to it as "an envelope that contains a set of more specific principles." Mark Elliott and Robert Thomas, *Public Law* (Oxford University Press 2017) 65

[53] UK Department of Education, 'Promoting Fundamental British Values as part of SMSC in Schools: Department Advice for Maintained Schools' (2014) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/380595/SMSC_Guidance_Maintained_Schools.pdf> accessed 11 February 2021. It is particularly notable that, according to this document, respect for English law forms part of British values. The guidance applies only in England, but this juxtaposition makes clear the illogical nature of the construction.

contemporary teachers of constitutional law, but it is, likely be the outcome for at least some students of a focus on one jurisdiction. It serves as a significant barrier to effectiveness not only of a global legal education but also to a critical, decolonised, and anti-racist curriculum.

This example illustrates the difficulty of fostering world citizenship, in Nussbaum's terms, within a single jurisdictional law degree as it is traditionally taught. The inclusion of 'foreign' or international or global law for instrumental reasons related to the jurisdiction of England and Wales or to the practice of law within England and Wales does not necessarily address this point because it remains jurisdiction-centric. Even if this were not so, token courses on 'foreign law' or 'international law' do not achieve what Nussbaum is trying to achieve, because teaching them as disconnected from the core of what is being studied means that they are presented or perceived as an 'exotic other' or an extra.[54] And, as Harrison observes, an internationalized curriculum is not just about content but also about affecting students' ways of thinking and of seeing the world.[55]

In the final part of this chapter, I want to suggest a rethinking of what we centre when we build a law curriculum, in order to support the development of an internationalized curriculum in these terms. This reorientation may in some cases be quite subtle, and certainly need not require a major change in what is taught, or increase in the quantity of what is taught, which is often a point of resistance in discussions about introducing a more comparative element into the curriculum.[56] Done carefully, however, such a reorientation will be sufficient to create a law curriculum much more suitable for the task of developing world citizens.

Towards a model of intercultural legal education

In order to understand what this reorientation might look like; we need to consider the field of intercultural education. Intercultural education is'designed to teach people how to live and function in cultures other than their own'[57] and, more generally, to work effectively across cultures. It is usually particularly focused on 'sojourners' - people who, for one reason or another, are living in a culture other than the one they feel most part of - but can be relevant to everyone. It is a specialist field of education, however, because of the highly practical nature of what is being learned: it is not learning about other cultures in a theoretical or textbook sense, but learning how to move between cultures, change one's behaviour and respond to different cultural orientations and approaches. Intercultural education is intended to inculcate a quality known as intercultural sensitivity: an awareness of cultural difference combined with the skills to respond

[54] For discussion of the problems with these types of courses, particularly when taught in upper years of study, see Jaakko Husa, 'Turning the Curriculum Upside Down: Comparative Law as an Educational Tool for Constructing the Pluralistic Legal Mind' (2009) 10 (6-7) German Law Journal

[55] Neil Harrison, 'Practice, Problems and Power in 'Internationalisation at Home': Critical Reflections on Recent Research Evidence' (2015) 20 Teaching in Higher Education

[56] Danielle Ireland-Piper, 'Teaching Public Law in a Comparative Paradigm: Virtues and Vices' (2019) 53 (1) The Law Teacher

[57] R. Michael Paige, 'On the Nature of Intercultural Experiences and Intercultural Education' in R. Michael Paige (ed) *Education for the Intercultural Experience* (Intercultural Press 1993) 1

effectively to that cultural difference. People with this kind of intercultural sensitivity can also develop intercultural competence: the ability to work and live with people from different cultural backgrounds and to function within different cultures.

This emphasis on sojourners and on intercultural sensitivity ought to give a sense of how intercultural education can apply to jurisdictional legal education. If we accept that in most cases an undergraduate legal education will be focused on a 'home' jurisdiction, to become the basis of world citizenship that education must enable students to move from the cultural context of the 'home' jurisdiction into the cultural context of other jurisdictions. Law graduates need not become 'natives' of more than one jurisdictional culture; as Twining has observed, there is a difference between transnational specialists in the legal profession, which is a very specific category of practitioners, and of making students properly aware of the geographical spread of legal systems and concepts.[58] The process and experience of intercultural education will be very different for law students and graduates trying to understand the complexities of global law than for, for example, international students or migrants trying to navigate the challenges of social interaction and friendships within a new culture. Nevertheless, intercultural educators argue that a tendency towards ethnocentrism – the assumption that the world view of your own culture, or of one particular culture, is universal or at least more widely spread than it actually is – makes working within a different culture a more emotionally intense and difficult experience and makes it harder to get it right.[59] Thus, a student in an English law school who assumes that the rules, institutions and culture of English law are the norm will find working in a global legal context equally difficult and find it equally hard to get right. It ought, therefore, to be an objective of a law degree to move students beyond legal ethnocentrism.

The framework used in this chapter to reflect on this issue is Milton Bennett's developmental model of intercultural sensitivity.[60] This is a model of growth of intercultural competence, derived through grounded theory, which indicates increasingly sophisticated ways of dealing with cultural differences, moving from an ethnocentric position to what Bennett refers to as a position of ethnorelativity, where one can move easily between cultures. What is important and extremely helpful for the purposes of this argument is the way in which, rather than focusing on learning about 'the other culture' Bennett's framework emphasises the importance of focus on oneself and one's own positioning.

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[58] William Twining, 'A Cosmopolitan Discipline? Some Implications of "Globalisation" for Legal Education' (2001) 8 (1) International Journal of the Legal Profession; Faulconbridge and Muzio suggest that much of the training to develop specific transnational specialism takes place within law firms, not law schools: James R Faulconbridge and Daniel Muzio, 'Legal Education, Globalization, and Cultures of Professional Practice' (2009) 22 Georgetown Journal of Legal Ethics 1335-1360

[59] R. Michael Paige, 'On the Nature of Intercultural Experiences and Intercultural Education' in R. Michael Paige (ed) *Education for the Intercultural Experience* (Intercultural Press 1993) 6

[60] Milton J. Bennett, "Towards Ethnorelativism: A Developmental Model of Intercultural Sensitivity" in R. Michael Paige (ed) *Education for the Intercultural Experience* (Intercultural Press 1993)

We can start to understand this framework by looking at the two extremes of the continuum. At one end of the spectrum, Bennett places denial; a state of lack of awareness of any cultural difference.[61] Extreme ethnocentricity is created by isolation or by separation. Nowadays, isolation is relatively rare, in the sense that very few people are completely isolated from other cultures, but separation can be created within closed communities of dominant cultures that choose to have relatively little contact with those outside and to make little effort to learn about them. People in denial will not perceive differences because they are not prepared to accept that they exist or, if they cannot avoid accepting their existence, they are likely to see them as overgeneralised binaries. At the other end of Bennett's spectrum is integration.[62] A fully integrated individual is someone who functions outside of any particular culture and therefore can move easily between them – the much-discussed 'citizen of nowhere'.[63] An integrated individual has no cultural 'default' and makes choices within each cultural context as appropriate to the activity and context. On the negative side, fully integrated individuals in fact do not belong to any culture and can feel marginalised within all of them, which can create significant psychological trauma in some circumstances.

Bennett's spectrum is about an individual journey, and his approach builds a series of educational interventions which supports people moving in a healthy way from one stage to another to avoid trauma and alienation. Like any developmental model this linearity can be criticised. However, this chapter does not propose the design of a curriculum to move students along this spectrum, if only because individuals within diverse student bodies will have very different starting points. What this spectrum can usefully be used for, however, is to diagnose where our curricula might sit on it, and from there to suggest changes in approach to teaching which can support the development of law students into global citizens with an intercultural competence as far as legal systems are concerned.

Many, if not most, English law degrees, it is contended, remain at the cultural denial stage at the far end of Bennett's continuum. They exist in an isolated space, often demonstrating little awareness of cultural approaches to law beyond that of England and Wales, and lead students to assume that all legal systems are the same as 'our' legal system. Students who have studied A level law, for example, will have studied a syllabus entirely focused on the legal system of England and Wales. Those who have not may be getting the bulk of their knowledge about the legal system from the news and from popular culture, neither of which gives anything more than an anecdotal impression of legal diversity, if that.[64] This is understandable; we should not expect students starting our degree programmes to know a lot about the subject. The concern, however, is when our degrees do not do much to challenge this. Specific legal subjects – contract law, tort law, criminal law – are often taught without explicit mention or recognition that this is the law of

[61] Ibid, 30-34
[62] Ibid, 59-65
[63] See then-Prime Minister Theresa May's speech to the Conservative Party Conference 5th October 2016: BBC, 'Conservative Conference: Theresa May's Speech in Full' BBC (London, 5 October 2016) <https://www.bbc.co.uk/news/av/uk-politics-37563510> accessed 14 February 2021
[64] For discussion of the popular cultural tendency to present law as culturally homogenous and the challenges that this creates for legal education, see Chloë J. Wallace, 'Law, culture and Euro-crime: using *Spiral* to teach French law' (2014) 48 (2) The Law Teacher 154-165

England and Wales, and that other systems or traditions may do things differently, let alone any understanding of what those differences might be. When aspects of our law come from, or are influenced from, 'outside', notably from EU law, this is frequently not mentioned, cementing the perception of laws which are untouched by external influence.[65] And, as Stychin suggests, when that influence must be confronted, it presents 'the other' as a threat to a harmonious legal or constitutional order, rather than as something which may enhance it.[66]

A slightly different case here is constitutional law, where, because of the nature of the UK Constitution, courses typically start with an explanation of why the UK Constitution is 'different'. Even there, however, there is a temptation to move swiftly onto why the British approach might be seen to be better or has been preferred. This remains a very ethnocentric approach to teaching the subject but equates more to Bennett's second stage: defence.[67] Here, other approaches are recognised as existing but place them in a hierarchy with, typically, our approach at the top. Guth and Hervey argue, for example, that a traditional legal education curriculum risks presenting domestic law, implicitly, as the best, thus reinforcing damaging colonialism and nationalism in its various forms.[68] Bennett suggests that the defence stage can also incorporate reversal where we see other cultures as superior to our own. This might be seen in an approach of seeing codified constitutions, or entrenched human rights declarations, as inherently desirable without clearly analysing the weaknesses of systems which incorporate this element.

Bennett's work, therefore, helps to identify a way of addressing the ethnocentricity of the undergraduate law curriculum. Between the two extremes of denial and integration, discussed above, Bennett moves through six stages and shows what types of educational interventions are necessary to move from one step to another. This movement has an overarching theme: that what matters is an increasingly complex understanding of 'otherness.' In terms of individual intercultural education, the more people become aware of the fact that difference is complex, and

[65] For a specific discussion of the issues this poses in the context of Brexit see Chloë J. Wallace and Tamara K. Hervey, 'Brexit and the Law School: from vacillating between despair and hope to building responsibility and community' (2019) 53 (2) The Law Teacher 221-229

[66] For discussion, see Carl F. Stychin, 'Rethinking legal methods after Brexit' (2019) 53 (2) The Law Teacher 212-220

[67] Milton J. Bennett, "Towards Ethnorelativism: A Developmental Model of Intercultural Sensitivity" in R. Michael Paige (ed) *Education for the Intercultural Experience* (Intercultural Press 1993) 34, 41

[68] Eugene Clark and Martin Tsamenyi, 'Legal Education in the Twenty-First Century: A Time of Challenge' in Peter Birks (ed) *Pressing Problems in the Law Volume 2. What Are Law Schools For?* (Oxford University Press 1996) ; Ana Speed, 'Academic Perspectives on Teaching International Family Law in Higher Education Institutions in England and Wales' (2020) 54 The Law Teacher; See also Nicholas Grief, 'The Pervasive Influence of European Community Law in the United Kingdom' in Peter Birks (ed) *Pressing Problems in the Law Volume 2. What Are Law Schools For?* (Oxford University Press 1996) ; William Twining, 'A Cosmopolitan Discipline? Some Implications of "Globalisation" for Legal Education' (2001) 8 (1) International Journal of the Legal Profession, 23-36; Jessica Guth and Tamara Hervey, 'Threats to Internationalised Legal Education in the Twenty-First Century UK' (2018) 52 (3) The Law Teacher 350-370; Danielle Ireland-Piper, 'Teaching Public Law in a Comparative Paradigm: Virtues and Vices' (2019) 53 (1) The Law Teacher 102-118

that 'other' experience or perspective is just as varied and nuanced as our own, the better people are at being culturally sensitive and thus recognising and adapting to difference. Applying that to an undergraduate law curriculum suggests that the more students learn to be aware of complex differences between one's own legal system and that of another, the more graduates will show cultural sensitivity and cultural competence and be able to operate within a global environment.

To understand further how this might work, we need to look more closely at Bennet's step by step approach. Generally speaking, movement within the ethnocentric side of the spectrum requires ridding oneself bit by bit of the idea that one's own culture is the default. So, to move out of denial it is necessary simply to discover that cultural differences exist, by means of cultural awareness activities. This takes us to defence, where we are aware of cultural differences but tend to hierarchise cultures and, usually but not always, place our culture at the top of that hierarchy. At its worst, this can look like overt colonialism or white supremacy. Bennett emphasises that the cause of this problem is not simply misunderstanding the 'other' but having a mindset which insists on hierarchies and rankings, with an instinctive necessity either to demonstrate that 'our' approach is better than the others or, conversely, that another approach is necessarily better than ours. To move beyond this, we need to maintain awareness of difference, but shift the focus onto similarity, equivalence, and globalism; developing an understanding of the ways in which diverse people, cultures, or systems can co-operate and the common ground they have available to do so. This is an important step but contains within it a dangerous tendency to revert back to semi-denial by what Bennett refers to as 'minimisation.'[69] Minimising involves forgetting that difference does not prevent co-operation and thus seeks to minimise and draw focus from diversity out of fear that common ground will be lost. The risk of cycling from minimisation back to full denial means that the next phase is particularly important. Indeed, Bennett refers to it as a 'paradigmatic barrier' because, he argues, it requires us to move from absolutism and binaries (good/bad; right/wrong) to relativism; a major cognitive shift within Western thought. Knowledge of others can take us up to this barrier, but it can take us no further. To cross it and enter the more ethnorelative acceptance phase, we need cultural self-awareness: a recognition that we too operate within a culture that is distinctive, complex, and open to criticism. This self- awareness is what moves us away from seeing our own culture as the norm, default, or ideal-type, and others as different, special, and divergent. It should move us, if we have already absorbed the existence of difference and of common ground, towards an acceptance that cultures provide different methods of understanding, ordering, and interpreting what is around us and that one culture is not more real or true than any other. It is this realisation in turn that helps with understanding the complexity of the other because, once we accept that our complex and nuanced culture is no more true or normative than any other, we need to accept that all other cultures are also complex and nuanced. And once this is done, it is much more straightforward to move from one cultural frame to another without essentialising and with instead an effort to understand the complexities and nuances of the unfamiliar cultural frame.

How, then, should this apply within an undergraduate law curriculum? There is insufficient space within this chapter to launch a complete argument that law can be equated to the kinds of

[69] Ibid, 41-46; Milton J. Bennett, "Towards Ethnorelativism: A Developmental Model of Intercultural Sensitivity" in R. Michael Paige (ed) *Education for the Intercultural Experience* (Intercultural Press 1993) 34, 41-46

cultural systems that Bennett is talking about. However, a good working definition of culture would cover behaviours and norms of societies and organisations. The concept of legal culture is contested, but Blankenberg, for example, considers legal cultures to include legal norms and institutions as explanatory of the way in which people within, and impacted by, legal systems behave.[70] Ehrmann considers legal rules to be cultural rules, in so far as they are rules which condition behaviour, together with ideas about what the law is and how it ought to work which are conditioned by history and by social circumstances.[71] Even if one does not accept that legal cultures exist or that legal rules are cultural rules, it is argued here that there are sufficient similarities between legal systems and cultural systems to make it possible to equate the two. At the very least, it is a useful exercise to look at Bennett's three ethnocentric phases and how to move out of them and consider how they might apply within a law curriculum.

To move out of denial, we need cultural awareness; to be aware of approaches other than the ones we are most familiar with. At its most basic, this suggests that early on in any law curriculum some introduction to legal diversity needs to be included. Avoiding the temptation to propose new compulsory courses, which is what causes the problem of overload referred to above, this can simply involve drawing attention to the specificity of what is being taught by making it clear that other systems do things differently. This is already done by necessity within most constitutional law courses, which usually teach in a limited way that other Western approaches to constitutions are available. A similar thing could be done in other subjects, simply by introducing students to the notion that, for example, the doctrine of consideration does not exist in many systems that derive from Roman law, or that the concepts of *actus reus* and *mens rea* are not used in the analysis of criminal offences in all systems. More ambitiously, the opportunities offered by technology to bring students across the globe together can be used to model and demonstrate legal diversity and allow students to learn from each other.[72]

Such a curriculum should avoid the tendency to hierarchise by asking questions about 'best' or 'preferred' legal solutions. However, students are quite likely to do this anyway. Instead, to move from this defence stage onto an understanding of common endeavour despite differences, there is value in learning about not only supranational legal orders, such as the EU and aspects of international law, but also of legal pluralism, to understand how individuals operate with multiple legal orders and the particular intersections between state and non-state law. Crucially, the role here is to emphasise commonalities which may in legal terms either be concepts used or, more likely, the human problems which need to be solved by the law and then ways in which solutions to those problems are found. This suggests an approach to teaching EU and international law, as well as other forms of supranationalism and legal pluralism which pays

[70] Erhard Blankenburg, 'Civil Litigation Rates as Indicators for Legal Cultures' in David Nelken (ed) *Comparing Legal Cultures* (Routledge 1997)
[71] Henry Ehrmann, *Comparative Legal Cultures* (Prentice-Hall 1976)
[72] For a good example of how this might work, see Bronwen Jones, Yasser Gadallah and Shaimaa Lazem, 'Facebook debate: facilitating international, intercultural knowledge exchange and collaboration in the field of international intellectual property law' (2019) 53 (3) The Law Teacher 279-297

attention to the different legal traditions which come together by, for example, understanding how the procedures of supranational courts are influenced by more than one legal tradition, that the content of supranational rules may be taken sometimes from one system and sometimes from another, and the ways in which legal pluralism can work.

Here we come to the paradigmatic barrier, which I argue the law curriculum needs to cross in order for it to be a genuinely liberal university education for world citizenship. Once the existence of differences and respect for common endeavour is established, the next step, according to Bennett, is looking back to one's legal system or culture, to understand why things are as they are. This might suggest a need for a revival in the teaching of legal history, at least in some form, and of the legal cultures which have significantly impacted English law: notably EU law but perhaps also Roman law and Islamic law[73]. Bennett's insight makes it clear that, whilst it may seem paradoxical, it is vitally important if the law of one jurisdiction is to be treated as the basis of an education for global citizenship that the cultural and historical specificity of that law be understood. More in-depth exposure to other legal cultures is useful as part of this process but needs to be carefully managed to avoid falling back into a state of defence or minimalism: the point is to observe, note and accept difference, rather than to essentialise, hierarchise or minimise.

Conclusion

In this chapter I have argued that a global perspective within the legal curriculum is important for a range of reasons, including the needs of the global legal labour market but also relating to drivers shared within the higher education sector as a whole and relating to claims that an undergraduate degree provides a general intellectual education for global, or world citizens. Many law schools have been able to engage successfully with sector-wide internationalisation strategies and processes by focusing on networks and student recruitment but have tended to focus less on developing an internationalised curriculum and, even there, have tended to focus on content, rather than approach: introducing specific modules or topics within modules, rather than on an overall approach and the building of an international mindset or intercultural competence. I have suggested that a key reason for this is that neither the SRA as regulator of solicitors profession nor the QAA as the regulator for higher education require law degrees to be internationalised as to content or approach, and that this places the discipline of law apart from other disciplines taught at university level. Without those external pressures, and with the competing pressures of space required for the QLD subjects, there seems to have been little impetus to internationalise the content of undergraduate law degrees, and in many respects, things have not moved on since the publication of What are Law Schools For?. This needs to

[73] For suggestions to this effect, see Carl F. Stychin, 'Rethinking legal methods after Brexit' (2019) 53 (2) The Law Teacher ; John Cotter and Elaine Dewhurst, 'Lessons from Roman law: EU law in England and Wales after Brexit' (2019) 53 (2) The Law Teacher 173-188; Imranali Panjwani, 'The ignored heritage of Western law: the historical and contemporary role of Islamic law in shaping law schools' (2020) 54 (4) The Law Teacher 562-577

change, not only to fulfil the promise of a law degree as a good general education, but also as a necessary, if not sufficient, step towards a critical and decolonised legal education system.

To propose a new approach to internationalisation, which may have more chance of success, I have further suggested that an internationalised law degree is not necessarily one which teaches certain sorts of international or supranational subjects, or teaches more than one jurisdiction in depth, but rather one which takes a particular approach to the jurisdiction which is being studied; developing legal intercultural awareness by learning about differences and by learning about the cultural and historical development and specificity of the jurisdiction studied. Much of what I have suggested can be done within the confines of a law degree as currently structured, particularly by moving a Foundations of Law or Introduction of Law course away from a focus on the specifics of the English Legal System and towards a more conceptual, global, and decolonised approach, and/or by taking a different angle on both core and optional modules within the curriculum. There is a strong case for creating core modules on international law and legal pluralism, in order to avoid placing too much weight on introductory modules, and many law schools will have sufficient expert staff to do this well, but this is not strictly necessary. Of course, as Twining has argued, a four-year programme would make it easier to fit all of this in, and we can see the benefits of this within Scottish legal education,[74] but equally it is not necessary. The most important thing is to position the English Legal System, not as the norm from which all other systems derive or deviate, but as one system amongst many, with its own history, peculiarities, and flaws, many of which can only be seen when the English system is contrasted with others.

It is, I suggest, only in doing this that we can move away from the tradition of an insular, colonial, and uncritical curriculum towards one that not only contributes to the development of global citizens, but also has the potential to be decolonised, anti-racist, and emancipatory. For that reason, whilst curriculum changes of this nature can be best justified at institutions with diverse cohorts in terms of the nationality/home country of students, they are essential to all legal curricula.

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[74] Sylvie Da Lomba, Maria Fletcher and Rebecca Zahn, 'Scottish Legal Education after Brexit' (2019) 53 (2) The Law Teacher 138-147

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