Overview of Remarks

1. Globalization and the Legal Profession
2. Global lawyer regulation is in flux
3. Global legal education is in flux
4. What’s a legal educator to do?
Preaching to the Choir?

My Background & Scholarship

• **Transparency:**
  - *E.g.*: Int’l Lawyer Year-in-Review articles; Paris Forum; IBA WTO Resolutions; ABA-Brussels Bar Agreement

• **Exploration & Mapping:**
  - *E.g.*: The WTO & the GATS, the Bologna Process, antitrust initiatives, FATF, MDPs, & regulatory objectives

• **Commentary:**
  - *E.g.*: The Legal World is Flat; The New Service Providers’ Paradigm; Trends in Global Lawyer Regulation

• **Reform Proposals:**
  - Rule 5.1; an umbrella organization for global regulators, etc.
1. Globalization & the Legal Profession

Source: WTO Secretariat Report on Legal Services, S/C/W/38 (June 2010), at ¶7

The Global Dimension is... Global

Chart 2: Global Legal Services Market Segmentation: 2008
Percentage share by value

Source: 2010 WTO Secretariat Report, supra, at ¶5
Globalization Affects All US States

#1: Texas ($264 billion)
#37: Nebraska ($7.5 billion)
#50: Hawaii ($732 million)

Source: US gov't website TradeStats Express

2012 Exports of NAICS .TOTAL

2012 NAICS Total All Merchandise Exports from Nebraska

2012 Exports of NAICS .TOTAL

in thousands [$ USD]

Canada 7,458,644,218
Mexico 1,904,340,836
China 1,809,229,794
Japan 468,344,541
South Korea 320,286,690
Australia 263,271,135
Netherlands 182,507,356

Russian Federation 178,316,951
Hong Kong 154,517,148
Germany 147,351,736
Italy 101,823,265
Belgium 96,921,260
Taiwan 94,647,090
This isn’t just about “Big Law”

† 2010 Foreign-born US population

↑ NOTE… the states for which the 2010 data shows the largest immigration increase

Darker colors = higher percents

Impact of Immigration & Technology

• **1960:** About two-thirds of all states had *less than 5 percent* foreign-born

• **2010:** About two-thirds of all states had *more than 5 percent* foreign-born

• **2010:** 27% of the 25+year old foreign-born have a bachelor’s degree or higher

• The median age of the foreign-born population is below the national median age

• *See* Terry, *The Legal World is Flat* re the impact
Global Legal Work isn’t likely to Decrease

Telling...

Thousands of international attorneys gathered in Boston in October to attend the week-long International Bar Association’s 2013 Annual Conference. On Oct. 9, Harvard Law School’s Program on the Legal Profession hosted one of the conference’s featured events at HLS: "Preparing for the Future—Changes in Structures, Technology & Regulation," a keynote address and panel discussions that focused on the future of the global legal profession.

HARVARD LAW SCHOOL Program on the Legal Profession
Part 2: Global Lawyer Regulation is in Flux

See Terry, Mark & Gordon, *Trends and Challenges in Lawyer Regulation*, 80 Fordham Law Review 2661 (2012) [uses this framework]


“Must Know” Events

“Must Know” Events

Slater & Gordon

Alternative business structures

and their influence...

Symposium on Alternative Business Structures for the Delivery of Legal Services

Panel 1: Survey of the ABS Landscape in England, Australia, the U.S. and Canada

Panel 2: The Effect of Regulating Business Structures on the Supply and Cost of Legal Services
More Examples re Access, Costs & Regulation

October 15, 2013

Transforming Regulation and Governance in the Public Interest

• After global conversations, agreed to develop in 2½ years:
  • Principle-based, risk-based, proactive regulation
  • Will adopt regulatory objectives
  • Will accommodate new business models & enhance access to justice & affordable legal services

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JACOBY & MEYERS, LLP and JACOBY & MEYERS USA, LLC,

1 of 3 suits (& CT-NJ); 2nd Circuit reinstated

• Suit challenges Rule 5.4
• Argues for affordable and accessible legal services
• Relies inter alia on UK & Australia and 1st Amendment

Background Info Worth Knowing

“Creative Disruption” happens when:
• Customers would be willing to pay less and get less (overserved customers)
• Some customers aren’t getting served at all because of cost (underserved customers)

This matters because of imputation rules.
Part 3: Legal Education is in Flux

• Global Reassessment of Legal Education
  – US: ABA Task Force on Legal Education
  – UK: Legal Education & Training Review
  – Canada: Task Force Report on Common-Law Degree
  – “Day 1” studies by NCBE, UK, Australia, Canada

• Legal education in English throughout the world – who will win the “credentials” war?
  – E.g. in China, Japan, France, Ireland, Germany, UK

• Impact on legal education of alternative providers in the “lawyer space”

ABA Task Force on Legal Education (1-14)

Broader Delivery of Legal and Law-Related Services:
The delivery of legal and law-related services today is primarily by J.D.-trained lawyers. However, the services of these highly trained professionals may not be cost-effective for many actual or potential clients, and some communities and constituencies lack realistic access to essential legal services. To expand access to justice, state supreme courts, state bar associations, admitting authorities, and other regulators should devise and consider for adoption new or improved frameworks for licensing or otherwise authorizing providers of legal and related services. (cont.)
ABA Task Force on Legal Education (1-14)

This should include *authorizing bar admission* for people *whose preparation may be other than* the traditional four-years of college plus three-years of classroom-based law school education, and *licensing persons other than holders of a J.D. to deliver limited legal services.* The current misdistribution of legal services and common lack of access to legal advice of any kind requires innovative and aggressive remediation. (P. 3)

http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/report_and_recommendations_of_aba_task_force.authcheckdam.pdf

Part 4: What’s A Legal Educator To Do?

– **Systemically**: Monitor developments & adjust

– **Recognize**: Ideas from outside the US may migrate to the US - even if not ultimately successful

– Students from *all* law schools will need to be prepared to represent clients with global needs

– You don’t have to become a global expert in order to expose students to global perspectives

– Impediments can be overcome (limited class time, limited prep time, & confidence issues)
Overcoming the Impediments

- **Class Time:**
  - A one minute “aside” can make students aware of the global dimension

- **Class Prep Time:**
  - Find someone who knows your field to tell you 1-5 items you can read.* The CCBE “Committees” webpage can be very useful. See http://www.ccbe.org/index.php?id=25&L=0

- **Confidence:**
  - You don’t have to master the global dimension of EVERY issue. Pick 1-2 issues & 1-2 documents.


Conclusion

- Law and regulation is part of a global conversation
- Regulatory challenges for lawyers exist
- These are likely to affect US legal education
- You owe it to your students to expose them to global perspectives
- Have confidence that you can do it!
Thank you!

Questions?

To Read More About It...

- ABA Task Force on the Future of Legal Education,
  - http://www.americanbar.org/groups/professional_responsibility/taskforceonthefutureoflegaleducation.html

- ABA Commission on Ethics 20/20
  - http://www.americanbar.org/groups/professional_responsibility/aba_commission_on_ethics_20_20/initial_proposals.html

- CCBE Committees Page,

- International Association of Legal Ethics (and ILECs)
  - http://www.stanford.edu/group/lawlibrary/cgi-bin/iaole/wordpress/

To Read More About It...

By Laurel Terry

Global Legal Practice Resources Webpage:
http://www.personal.psu.edu/faculty/l/s/lst3/globalprac.htm

Links to Publications by Topic:
http://www.personal.psu.edu/faculty/l/s/lst3/

Presentations Page:
http://www.personal.psu.edu/faculty/l/s/lst3/presentations.htm

SSRN page: http://ssrn.com/author=340745

My Presentations Webpage:

- Global Developments in general (see 3-11, 9-02 and 11-08) See also 2008 Service Providers article, “The Legal World is Flat”, and other “Global Legal Practice”

  To read my law review articles (or testimony) on the topics listed above, please visit my “Publications By Topic” section of my webpage

- Alternative Business Structure (ABS) developments (including the UK’s Legal Services Act 2007, Australia’s publicly traded law firms, EU, and OECD developments)

- Antitrust initiatives directed towards the legal profession, including the EU’s Professional Services Competition Initiative (see 3-06, 4-09)

- the APEC Legal Services Initiative (see 10-09)

- Australian Legal Profession Developments (see 8-08, 5-09)

- the Bologna Process (see 3-06, 1-05; see also 1-11)

- Classification Systems for Counting Legal Services (see 10-04, 4-07)

http://www.personal.psu.edu/faculty/l/s/lst3/presentations.htm