Globalization, Legal Practice, & Education

AALS Workshop on the
Future of Legal Education and the
Future of the Profession
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Prof. Laurel S. Terry (LTerry@psu.edu)

Session Overview

• The Global Dimension of Law Practice
• Challenges in achieving a coordinated and consistent regulatory scheme
• Fashioning approaches to legal education
  – Some general observations
  – Leveraging LL.M. Students
  – Views from a global practitioner
I. The Global Dimension of Law Practice

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

Asia-Pacific, 9.40%
Europe, 36.50%
Americas, 54.10%

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

Source: Office of Trade and Industry Information (OTII), Manufacturing and Services, International Trade Administration, U.S. Department of Commerce.

*All states except Hawaii and Wyoming had 2010 exports in the billions

Slide content from Jim Jones at the May 2009 CCJ-Globalization Conference

States in Which NLJ 250 Firms Have Offices
(This is significant because of imputation rules)
Concentration of Fortune 1000 Companies

<table>
<thead>
<tr>
<th>Companies Range</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - 9 Fortune 1000 Cos.</td>
<td>98</td>
</tr>
<tr>
<td>10 - 20 Fortune 1000 Cos.</td>
<td>118</td>
</tr>
<tr>
<td>21 - 30 Fortune 1000 Cos.</td>
<td>58</td>
</tr>
<tr>
<td>Over 30 Fortune 1000 Cos.</td>
<td>94</td>
</tr>
</tbody>
</table>

Source: Fortune 500, May 2009

Companies with In-House General Counsels

<table>
<thead>
<tr>
<th>Companies Range</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - 99 Companies</td>
<td>12</td>
</tr>
<tr>
<td>100 - 499 Companies</td>
<td>98</td>
</tr>
<tr>
<td>500 - 999 Companies</td>
<td>1,000 - 2,999 Companies</td>
</tr>
<tr>
<td>3,000+ Companies</td>
<td>5,127</td>
</tr>
</tbody>
</table>

Source: ACC data.

Slide content by Jim Jones at the May 2009 CCJ-Globalization Conference

Slide content by Former ACC Gen’l Counsel Susan Hackett (5/09 CCJ Conf.)
This is More Than a Big Law Phenomenon

- In 2009, 12% of U.S. population was foreign born (more than 36 million)
  - More than 17 states (one-third) had a foreign-born population that was ≥10%
  - Examples: California (26.8%), Nevada (18.9%), Florida (18.5%), Massachusetts (14.4%), Washington State (12.3%), and Rhode Island (12.2%)
  - Selected cities: LA (39%), San Jose (38%), NY (35%), Boston (25%), Austin (20%), Chicago (20%), Denver (15%) Charlotte (13%), Nashville (11%), Columbus (10%)

Sources: ABA Commission on Ethics 20/20 Proposed Model Rule on Pro Hac Vice Admission & U.S. Census Bureau, 2009 American Community Survey


BRICs: Brazil, Russia, India, China

South Africa has now joined this group which is now known as “BRICS”

This Shift will affect clients & thus lawyers

II. Is There a Coordinated Regulatory Regime?

• Not really...we are at the very beginning stages of such efforts:
  – ABA Commission on Ethics 20/20
  – Association of the Bar of the City of New York
  – Int’l Groups
    • E.g., Int’l Bar Assoc., Int’l L. Assoc. Hague Principles, IILACE, APEC, Terry “global lawyer regulator umbrella group” proposal)
  – Council of Bars and Law Societies of Europe (CCBE)
  – Conference of Chief Justices
    • Discipline cooperation with the CCBE & Law Council of Australia
What Issues do Global Regulators Face?

• **Who regulates:**
  – Self-regulation, co-regulation, other models? See, e.g., UK Legal Services Board

• **What is regulated:**
  – Should regulators regulate services or providers? See, e.g., Law Society of Upper Canada, UK LSB

• **When should regulation take place:**
  – Should regulation be ex-ante or post-hac? See, e.g., New South Wales, Australia.


What Issues do Regulators Face? (2)

• **Where:**
  – In a virtual world, where may lawyers practice and who should regulators have jurisdiction over?

• **How:**
  – Should regulators use an outcomes-based approach or a rules-based approach? See New South Wales & UK LSB

• **Why:**
III. What Should Legal Educators Do?

Recognize that....

– We live in a global world
– Students from all law schools will need to be prepared to represent clients with global needs
– Ideas and developments from outside the US may migrate to the US - even if not ultimately successful
– You don’t have to become a global expert in order to expose students to law’s global dimension
– 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

- The global dimension of law is pervasive
- Regulatory challenges for lawyers exist
- Efforts are underway to achieve a more consistent & coordinated approach, but....
- Your students may encounter tough issues
- You owe it to them to expose them to these issues.
- Have confidence that you can do it!

To Read More About It...

- ABA Commission on Ethics 20/20
  - [http://www.americanbar.org/groups/professional_responsibility/aba_commission_on_ethics_20_20/initial_proposals.html](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/](http://www.stanford.edu/group/lawlibrary/cgi-bin/iaole/wordpress/)
- LawWithoutWalls Materials
  - [http://www.lawwithoutwalls.org/](http://www.lawwithoutwalls.org/)
- Fall 2011 Fordham Symposium on Globalization and the Legal Profession
- Archived programs at, *inter alia*, Harvard, Stanford, Georgetown, MSU, Akron, & Hofstra
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 1:11, 4:02 and 11:99). See also 2009 Service Providers article, "The Legal World is Flat," and other "Global Legal Practice"... To read my law review articles on the topics listed below, please visit my "Publications By Topic" section of my webpage.


- Antitrust initiatives directed towards the legal profession, including the EU’s Professional Services Competition Initiative (See 4:06, 4:29).

- the APEC Legal Services Initiative (See 10:09).

- Australian Legal Profession Developments, (See 2:08, 3:09)

- the Bolzano Process (See 3:06, 4:05; see also 1:11)

- Classification Systems for Counting Legal Services (See 10:06, 4:07)

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