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## Cross-Boarder Teaching and Collaboration

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## E. CROSS-BORDER TEACHING AND COLLABORATION

By **Kimberly D. Ambrose, William H. D. Fernholz, Catherine F. Klein, Dana Raigrodski, Stephen A. Rosenbaum & Leah Wortham<sup>1</sup>**

### 1. Introduction

Since the publication of *BEST PRACTICES FOR LEGAL EDUCATION*,<sup>2</sup> the globalization of both legal education and law practice has exploded. Today's lawyers increasingly serve border-crossing clients or clients who present with transnational legal issues. As law schools expand their international programs, and enroll increasing numbers of non-U.S. law students, law students transcend cultural and legal borders. As a result, they deepen their understanding of — and sharpen their critical perspective on — their own national systems. Similarly, U.S. law teachers are increasingly called to engage in border-crossing teaching and other academic pursuits.

*BEST PRACTICES* did not address these issues. This section's primary aim is to identify best practices for law teachers engaged with non-U.S. or "international" learners<sup>3</sup> who study or train in a U.S.-style learning environment, either in the United States or abroad.<sup>4</sup> This section also addresses collaboration of U.S. law teachers with their counterparts abroad in such areas as developing innovative teaching and clinical legal education, training and research. It identifies eight guiding principles that cut across types of international learning and then applies these principles to three specific contexts: 1) teaching international students in U.S. law school settings; 2) integrating international students in U.S.-based clinics; and 3) collaborating in legal education and reform efforts with law teachers abroad.<sup>5</sup>

### 2. Cross-Cutting Principles

Eight important guiding principles apply across all cross-border teaching contexts:

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<sup>1</sup> Readers for this section were Elizabeth Baldwin, Jeff Giddings, Carole Silver, and Richard J. Wilson.

<sup>2</sup> ROY STUCKEY AND OTHERS, *BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP* (2007) [hereinafter *BEST PRACTICES*].

<sup>3</sup> This section uses the term "international" students to refer to law students who come to the U.S. for a graduate degree (typically LL.M. or J.S.D./Ph.D.) after university education outside the United States. For many such students, English is their second language. Similarly, legal academics who mostly studied, trained, and teach abroad are referred to as "international" teachers or academics.

<sup>4</sup> Cross-border aspects of U.S. legal education take many forms, including summer study programs abroad; academic credit for study at a non-U.S. law school; LL.M. degrees for students with initial degrees in law from outside the United States; J.D. degrees for students who have lived abroad including those with university degrees from other countries; doctrinal courses on international, comparative, and transnational topics, and integration of those perspectives in traditional courses; international journals and moot court competitions; clinical education programs with international dimensions; and teachers and students working with counterparts abroad on legal education reform efforts.

<sup>5</sup> The specific areas of focus were selected based on the authors' experience with growing trends and teaching opportunities for U.S. law teachers. The recommended practices, however, have broad application to other models of cross-border collaboration.

*Develop intercultural effectiveness.*

Teachers and administrators must develop their own intercultural effectiveness,<sup>6</sup> as well as the effectiveness of the lawyers and law students they are educating and training.<sup>7</sup> Cross-cultural education requires effective, culturally appropriate communication.<sup>8</sup>

*Teachers and administrators must acknowledge assumptions that impede learning and communication.*

International students may misunderstand U.S. legal principles or culture, and U.S. students working cross-culturally may bring their own misunderstandings. Likewise, teachers must be aware of their own assumptions. Before traveling, teachers should seek information regarding the host country's law and legal systems, the role of lawyers and other legal professionals in its legal system, and its history, literary works, or film, which can help both them and their students understand the host cultures and recognize false or misleading assumptions.

*Teachers should "design backward" by defining the outcome desired by the learner.<sup>9</sup>*

Teachers designing courses or programs for international lawyers, students, or academic counterparts must take into account the ways these learners are likely to use the training in future practice or legal education contexts, which may be different from those in the U.S.

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<sup>6</sup> See, e.g., Chapter 6, Section E, *Intercultural Effectiveness*, below; Susan Bryant, *The Five Habits of Cross-Cultural Lawyering*, 8 CLINICAL L. REV. 33 (2001); Nancy E. Dowd, Kenneth B. Nunn & Jane E. Pendergast, *Diversity Matters: Race, Gender, and Ethnicity in Legal Education*, 15 U. FLA. J. L. & PUB. POL'Y 11, 40 (2003); Patricia A. Massey & Stephen A. Rosenbaum, *Disability Matters: Toward a Law School Clinical Model for Serving Youth with Special Education Needs*, 11 CLINICAL L. REV. 271, 285-94 (2005); Michael Perlin, *Half-Wracked Prejudice Leaped Forth: Sanism, Pretextuality, and Why and How Mental Disability Law Developed as It Did*, 10 J. CONTEMP. LEGAL ISSUES 3 (1999). While useful in consciousness-raising for the teacher and student, these articles focus on intercultural effectiveness as applied to a typical J.D. program setting.

<sup>7</sup> The most recent Carnegie Foundation report uses the French term, "formation," when referring to the intensive socialization, professionalization, and values-shaping that law students undergo, i.e., the "apprenticeship" of professionalism and purpose. WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND & LEE S. SHULMAN, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* 84, 128-29, 185-86 (2007).

<sup>8</sup> Sometimes the broader term, "cultural fluency," is used to discuss the same concept. See, generally, MICHELLE LEBARON, *BRIDGING CULTURAL CONFLICTS: A NEW APPROACH FOR A CHANGING WORLD* (2003).

<sup>9</sup> See, generally, JOHN BIGGS & CATHERINE TANG, *TEACHING FOR QUALITY LEARNING AT UNIVERSITY* 13-14 (4th ed. 2011) (advocating "constructive alignment," which, like backward design, focuses on learning objectives); *Teaching Teaching and Understanding Understanding* (19-minute video explaining the basics of John Biggs' work), available at <http://www.daimi.au.dk/~brabrand/short-film/script.html>, archived at <http://perma.cc/L97N-YAG3>.

*Law teachers should approach cross-cultural work as an opportunity for all involved to learn from each other.*<sup>10</sup>

Teachers are not endowed by citizenship with the authority to tell others “how to do it right.” One can provide information on “how we do it in America,” but should not assume that is “the answer” for how things should be done elsewhere. Teachers should maximize the opportunities for cross-cultural dialogue and find opportunities for international students or visiting academics to provide learning opportunities by sharing perspectives from their home countries.<sup>11</sup>

*Teachers and students rediscover the culture, law, and legal system of their home countries when they “see it from the outside.”*

Cross-cultural legal dialogue helps both the teacher and student critically examine their own culture and legal system.

*Effective collaboration should recognize the comparative advantage of the participants.*

As teachers plan their courses and programs, they should be mindful of the prior experience and education of their students. U.S. collaborators must recognize the expertise of their colleagues educated outside the United States and validate it.

*Programs in which teachers or students move to an unfamiliar culture should provide support for their comfort, safety, and mental well-being.*

Teachers and administrators need to consider cultural assumptions that could result in student misunderstanding and frustration, both inside and outside the classroom. Hosting international visitors cannot be limited to just “the academic program.” Hosts must consider the visitors’ housing, transportation, access to food, and other services and support.

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<sup>10</sup> Leah Wortham, *Aiding Clinical Education Abroad: What Can Be Gained and the Learning Curve on How to Do So Effectively*, 12 CLINICAL L. REV. 601, 675-76 (2006) [hereinafter Wortham, *Aiding*]. For a candid exchange on perceived and real inequities in cross-border relationships between legal academics, see Daniel Bonilla, *Legal Clinics in the Global North and South: Between Equality and Subordination — An Essay*, 16 YALE HUM. RTS & DEV. L.J. 1 (2013); James J. Silk, *From Empire to Empathy? Clinical Collaborations Between the Global North and the Global South — An Essay in Conversation with Daniel Bonilla*, 16 YALE HUM. RIGHTS & DEV. L.J. 41 (2013).

<sup>11</sup> On the importance of developing intercultural effectiveness in a non-U.S. legal educational context, see, e.g., 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 CLINICAL L. REV. 131 (2008); Peggy Maisel, *The Role of U.S. Law Faculty in Developing Countries: Striving for Effective Cross-Cultural Collaboration*, 14 CLINICAL L. REV. 465, 496-97 (2008); Jill J. Ramsfield, *Is “Logic” Culturally Based? A Contrastive, International Approach to the U.S. Law Classroom*, 47 J. LEGAL EDUC. 157 (1997).

*Collaboration over time is more effective than a single short visit or short-term relationship.*<sup>12</sup>

Effective collaboration requires trust, respect, and mutual understanding, which only can be gained over time. The most effective cross-national collaborations occur when all parties take the time to know each other beyond the specific professional task at hand. Long-term collaborations in teaching, student exchange, and research and writing generally entail more than “strictly professional” exchanges, but also require attention to developing relationships.

### 3. Working with International Students in U.S. Law Schools

The number and size of graduate-level law programs have grown immensely in the past decade, particularly those serving students previously educated in other countries.<sup>13</sup> The increased enrollment of foreign-educated LL.M. candidates in U.S. law schools requires law teachers to reconsider their methods of teaching.

Most international students are similar to one another in that they speak English as a second language, have law degrees from their home countries, and chose to leave those countries to continue their legal education. But paradoxically, international students are most similar to one another in their diversity. First, international students vary in legal culture. As a result, foundational U.S. legal concepts may have no analogue in their home country. Alternately, international students may adopt false assumptions about U.S. law based on concepts from their own legal culture. Second, students vary widely in their prior legal experience. Finally, nations have divergent methods of legal education.<sup>14</sup>

As a result, international students expect many different things from U.S. law schools and teachers. The recommendations below aim to assist law teachers in addressing this diversity, primarily by being mindful of several of the following cross-cutting principles described above, particularly awareness of assumptions, backward design, the potential for mutual learning, the comparative advantage in knowledge, and mutual trust, respect, and understanding, built over time.

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<sup>12</sup> Wortham, *Aiding*, at 676-678.

<sup>13</sup> Carole Silver, *Internationalizing U.S. Legal Education: A Report on the Education of Transnational Lawyers*, 14 *CARDOZO J. INT'L & COMP. L.* 143 (2006) [hereinafter Silver, *Internationalizing*]; Carole Silver, *The Case of the Foreign Lawyer: Internationalizing the U.S. Legal Profession*, 25 *FORDHAM INT'L L.J.* 1039 (2002).

<sup>14</sup> For practical, culturally appropriate perspectives on how to approach teaching of international students, particularly those for whom English is a second language, see, e.g., Julie M. Spanbauer, *Lost in Translation in the Law School Classroom: Assessing Required Coursework in LL.M. Programs for International Students*, 35 *INT'L J. LEGAL INFO.* 396 (2007); Carole Silver, *States Side Story: Career Paths of International LL.M. Students, or “I Like to Be in America,”* 80 *FORDHAM L. REV.* 2383 (2012); Silver, *Internationalizing*; Mark E. Wojcik & Diane Penneys Edelman, *Overcoming Challenges in the Global Classroom: Teaching Legal Research and Writing to International Law Students and Law Graduates*, 3 *LEGAL WRITING: J. LEGAL WRITING INST.* 127 (1997); Robin Nilon, *The Calculus of Plagiarism: Toward a Contrastive Approach to Teaching Chinese Lawyers*, 2 *S.C. J. INT'L. L. & BUS.* 1 (2005-2006); Marian Dent, *Designing an LL.M. Curriculum for Non-Western-Trained Lawyers*, 13 *PERSP. TEACHING LEGAL RES. & WRITING* 87 (2005); Elizabeth L. Inglehart, *Teaching U.S. Legal Research Skills to International LL.M. Students: What and How*, 15 *PERSP. TEACHING LEGAL RES. & WRITING* 180 (2007).

### a. LL.M.-Specific Curriculum

International students have not experienced a U.S. undergraduate education nor the first-year J.D. curriculum. In order to understand their classes, international students need knowledge of, and training in: (1) common law methods, (2) institutions of United States governance, and (3) judicial procedure.

Most crucially, these students need to learn the skills of U.S.-style critical thinking and writing within an experiential context. LL.M.-specific legal analysis, research and writing courses are crucial to an effective LL.M. program curriculum. The “IRAC”<sup>15</sup> format of the traditional legal memorandum has been a successful model for learning these skills. Many international LL.M. students already have years of practical legal experience. Their prior experience may help them and their peers integrate theory, doctrine, and practice through complex and challenging writing assignments.<sup>16</sup>

### b. Learning Environment<sup>17</sup>

Law teachers must balance being inclusive and respectful of students’ learning styles while at the same time challenging students to leave their comfort zone. Many international students may be reluctant to speak in class. It is, therefore, crucial to create a safe environment to encourage international student participation. From the first class, the teacher should incorporate research about growth mindset,<sup>18</sup> which suggests teachers should reassure students that mistakes are inherent to the learning process. Students learn only if they are aware of their mistakes and understand how to correct them. This is most likely to occur when student-faculty contact is frequent and teachers provide individualized feedback and support.

International students may be more comfortable speaking to one another, or may be willing to speak up in class if given an opportunity to formulate their answer in advance. Several approaches are possible:

- (1) Students take a minute to write an answer, then read or paraphrase their answers to the class;
- (2) Think, pair, share: Students formulate a response, then share it with their neighbor;
- (3) Students work in ad-hoc groups on in-class assignments;
- (4) Students collaborate in teams on longer-term assignments;<sup>19</sup>
- (5) Peer-teaching: Students take the place of the teacher and challenge each other’s ideas.

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<sup>15</sup> Issue-Rule-Analysis-Conclusion. *See, e.g.*, Courtney Lee & Tim Nacarrato, *Legal Skills for Law School & Legal Practice 4-6* (Univ. of the Pacific, McGeorge Schl. of Law, n.d.), available at <http://www.mcgeorge.edu/Documents/week1LegalSkills.pdf>, *archived at* <http://perma.cc/97AD-Q4MV>.

<sup>16</sup> BEST PRACTICES.

<sup>17</sup> *Id.*, text at notes 353.

<sup>18</sup> *See, e.g.*, CAROL S. DWECK, *SELF-THEORIES* (2000).

<sup>19</sup> BEST PRACTICES, text at notes 321-323 (reviewing Hess Components).

Many students come from cultures where there is a clear hierarchy between teacher and students. In order to foster respect and inclusion, the teacher should emphasize that education in the U.S. is a mutual enterprise where both teacher and student are learning and may contribute to each others' education.<sup>20</sup> Students should understand that it is acceptable for them to ask questions and to challenge the teacher and one another.

International students offer an extraordinary comparative law perspective. Teachers should encourage, and at times require, that students share their comparative perspective on specific subjects and evaluate U.S. law in that light. Such evaluative assignments are at the apex of Bloom's taxonomy of learning<sup>21</sup> and enhance students' feelings of inclusion.<sup>22</sup>

Teachers should be careful not to judge the intellectual sophistication of individual students based on their English-language skills. Teachers need to set high goals — assuming the students' intellectual sophistication — and then provide the time and feedback needed to reveal that sophistication.<sup>23</sup> Faculty should strive to balance academic and language support with progressively heightened grading expectations. They should set narrow, challenging, and well-defined mastery learning goals rather than grade goals.<sup>24</sup>

### **c. Effective Teaching and Assessment Methods for International Students**

*Make everything permanent.*

Because of the challenges of learning in a second language, international students thrive when they are able to review material multiple times. Teachers should use methods and distribute materials that allow students to continue learning after class. This will alleviate students' tendency to take notes without actively listening. Teachers may record their lectures or write short class introductions and post those to a course website. They should also post their Power Point slides, model answers, and handouts.

*Employ multiple methods of instruction, including discussion.*<sup>25</sup>

International students accustomed to less confrontational interpersonal communications may view the Socratic method as overly-aggressive and intimidating. Moreover, many of these students come to the United States accustomed to passive learning through lectures. As a result, it may be challenging for teachers to maintain an engaging classroom and open discussion. While slides, handouts, and structured

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<sup>20</sup> *Id.*

<sup>21</sup> See RAYMOND J. WLODKOWSKI, ENHANCING ADULT MOTIVATION TO LEARN: A COMPREHENSIVE GUIDE FOR TEACHING ALL ADULTS 154-55 (3d ed. 2008).

<sup>22</sup> BEST PRACTICES, text at notes 372-381.

<sup>23</sup> *Id.*, text at note 342.

<sup>24</sup> *Id.*, text at note 350.

<sup>25</sup> *Id.*, text at notes 420-422.



lectures help students overcome language and comprehension issues, these tools can discourage active listening and engagement.

Class discussion may be better suited to the educational needs of LL.M. students or other graduate law students, though the teacher may run the risk of unintentionally favoring those students most proficient in English.<sup>26</sup> Discussion reinforces an atmosphere of mutual learning suitable to more seasoned students. Teachers must guide the discussion and beware of tendency toward silence that may be exhibited by habitually passive learners.<sup>27</sup> To improve classroom discussion participation, teachers should use planned open-ended questions, and consider circulating reflection questions in advance of class.

Teachers may also use group exercises, assigned student presentations, and periodic written assignments. Collaborative exercises, including peer feedback, promote active learning and intercultural effectiveness.<sup>28</sup> Faculty should establish clear rules for permissible collaboration to avoid ethical lapses, especially because expectations in U.S. law schools may differ from those in prior educational settings.

Context-based learning and problem solving can be particularly effective with international students.<sup>29</sup> Especially in mixed J.D.-LL.M. classes, international students provide a resource for faculty to enrich the classroom with diverse examples from legal practice.

*Use constructive assessments.*

Because LL.M. students are less likely to be familiar with U.S. legal and academic culture, properly conceived assessments — which alert the students to what skills are (and are not) being assessed — are particularly important.<sup>30</sup> Teachers should expressly tie learning goals to assessment criteria.<sup>31</sup> Teachers should gradually increase the difficulty of assignments assessed throughout the semester, and explain the heightened expectations to the students. Criteria-referenced assessments<sup>32</sup> help teachers see beyond language issues and help students stay motivated despite language difficulties.

#### **4. Incorporating International Students into U.S. Clinical Law Programs**

Many international students (including those already teaching or practicing law in their home country) come to the United States specifically to observe and participate in experiential learning. Incorporating these students into a U.S.-based clinical law

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<sup>26</sup> *Id.*, text at notes 642-658.

<sup>27</sup> *Id.*, text at note 658.

<sup>28</sup> *Compare id.*, text at notes 364-371.

<sup>29</sup> *Id.*, text at notes 455-474.

<sup>30</sup> *Id.*, text at notes 766-771.

<sup>31</sup> *Id.*, text at notes 730-735.

<sup>32</sup> *Id.*, text at notes 718-729.

program is an “emerging practice” that can create a rich learning environment for all students to learn the skills needed to communicate and work in a changing world.<sup>33</sup> As clinical legal education spreads globally, international academics pursuing a law degree in the U.S. can also learn about a model of clinical legal education that may inform the development of clinical programs suited to their own countries.<sup>34</sup> The following recommendations provide guidance, consistent with the cross-cutting principles, for U.S. clinical law programs that offer or seek to offer clinical opportunities to international students.

*Design backwards by assessing and acknowledging students’ goals and background knowledge and skills.*

In determining clinic placement and design for international students, and consistent with the above design principle, clinic faculty must consider the knowledge, skills, and values international students will need to achieve their goals. International students may be preparing to practice law in the United States or they may be returning to their home countries to practice law, teach, or work in government or court systems. International students and clinical faculty should consider what different clinics offer in terms of transferrable skills, and for students who wish to enter academia in their home countries, what transferrable teaching methods will be modeled. The teacher should discuss goals with the students to find out the students’ own goals.

Because clinic students generally work on real cases, the ability to meet ethical standards of attorney competence under supervision is required. While international students may lack familiarity with U.S. legal systems and culture, they may have extensive experience working in their home countries; this can enhance their ability to practice in a clinical setting and offset their lack of substantive knowledge. When placing international students in clinics, faculty should be familiar with the students’ legal cultural background.

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<sup>33</sup> For a general discussion of the importance of promoting interaction between international and U.S. law students to prepare U.S. graduates to work in a global environment, 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) [hereinafter Silver, *Getting Real*].

<sup>34</sup> For a detailed account of the development of the legal clinical education movements in Africa, Asia, Latin America, and Europe, see Jeff Giddings, Roger Burrridge, Shelley A.M. Gavigan & Catherine F. Klein, *The First Wave of Modern Clinical Education: The United States, Britain, Canada, and Australia*, in THE GLOBAL CLINICAL MOVEMENT 3-22 (Frank S. Bloch, ed. 2011); David McQuoid-Mason, Ernest Ojukwu & George Mukundi Wachira, *Clinical Legal Education in Africa: Legal Education and Community Service*, *id.* at 23-36; Bruce A. Lasky & M.R.K. Prasad, *The Clinical Movement in Southeast Asia and India: A Comparative Perspective and Lessons to Be Learned*, *id.* at 37-52; Mariana Berbec-Rostas, Arkady Gutnikov & Barbara Namyslowska-Gabrysiak, *Clinical Legal Education in Central and Eastern Europe: Selected Case Studies*, *id.* at 53-69; Erika Castro-Buitrago, Nicolás Espejo-Yaksic, Mariela Puga & Marta Villarreal, *Clinical Legal Education in Latin America: Toward Public Interest*, *id.* 69-86; Cai Yanmin & Jay Pottenger, Jr., *The “Chinese Characteristics” of Clinical Legal Education*, *id.* at 87-104. See also T.O. Ojienda & M. Oduor, *Reflections on the Implementation of Clinical Legal Education in Moi University, Kenya*, 2 INT’L J. CLINICAL LEGAL EDUC. 49 (2002); Tan Cheng Han, *Change and Yet Continuity — What Next After 50 Years of Legal Education in Singapore?*, SING. J. LEGAL STUD. 201 (2007); B.B. Pande, *Moral and Ethical Issues Confronting Students’ Legal Aid Clinics in the Outreach of Legal Services to the Resource-less and the Poor*, 1 J. NAT’L L. UNIV., DELHI 34 (2013).

Some of the core skills students develop in clinics include oral advocacy, interviewing and counseling, and writing in English. Different types of clinics may emphasize certain skills over others. For example, a post-conviction advocacy clinic may require intensive brief writing with strict deadlines. A domestic violence clinic may require intense, time-sensitive client interviewing and counseling. Prior to matching a student with a particular clinic, it is helpful to understand her initial level of comfort communicating in English, while recognizing that her skills can improve over time.

*Maximize opportunities for inclusion and challenge.*

As mentioned above, it is important to create a safe and inclusive learning environment when working with international students, which also challenges them. For clinic students, this means choosing a clinic where they can actively participate. Litigation clinics where students practice under local practice rules may not be suitable for LL.M. students who do not meet eligibility requirements. A preferred clinical opportunity would allow the student maximum participation — such as a tribal court clinic which might have more flexible rules for admission to practice, a transactional clinic where international LL.M. students might be on equal footing with their J.D. classmates, or possibly an immigration clinic where the international students could share cultural knowledge and experience.

In order to create an inclusive learning environment, clinicians must understand and appreciate the benefits of adding an international student perspective to their clinic and must possess (or be willing to develop) intercultural effectiveness, as indicated in the principles above. Clinical supervisors should be prepared to provide additional support where needed, which can mean spending more time — particularly up front — to ensure that the international student has the cultural contextual background to do clinic work.

*Assign students to work in teams.*

Teaming international students with U.S. students in a clinic can be a beneficial experience for both, but requires thought and support from the clinical supervisor. U.S. law students who have cross-cultural experience working or studying abroad may be most comfortable working with international students — but it is important not to make assumptions. Clinic supervisors should prepare students for cross-cultural team experiences by facilitating conversations about goals and expectations as well as troubleshooting issues that may come up around workload, division of labor, and communication.<sup>35</sup> During regular supervision meetings, the supervisor may need to encourage meaningful participation by international students who may defer to teammates they perceive to be more familiar with the context.<sup>36</sup>

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<sup>35</sup> See, e.g., Barbara Glesner Fines, Margaret Sova McCabe & Sophie Sparrow, Using Team Based Learning to Teach Collaborative Practice Skills (Instit. for L. Teaching and Learning Summer Conf., June 17-18, 2010), available at <http://lawteaching.org/conferences/2010/handouts/plenary-UsingTeamBasedLearning.pdf>, archived at <http://perma.cc/MHL9-WCGM>; Janet Weinstein, Linda Morton, Howard Taras & Vivian Reznik, *Teaching Teamwork to Law Students*, 63 J. LEGAL EDUC. 36 (2013).

<sup>36</sup> For a discussion of the benefits and challenges of assigning international and U.S. law students to work

*Consider cultural values in assignment of cases, supervision, and reflection.*

Certain cultural values may also affect an international student's comfort or ability to work on certain types of cases. For example, a female Muslim student might be uncomfortable representing a male criminal defendant. A student from certain sub-Saharan African or Muslim countries might be reluctant to do advocacy on behalf of LGBT youth. To ensure ethical practice and meaningful participation by international students, clinic supervisors must provide them with the opportunity to discuss their concerns at the beginning and throughout their clinic work in a non-judgmental environment. This dialogue should address assumptions the student may have about the client, the lawyer's role, and the nature of the legal work. And, as discussed in the above principles, the supervisor should also seek an understanding of the student's cultural perspective and acknowledge the supervisor's own assumptions. Sometimes a "try it and see" approach — where the international student is allowed to take a secondary role on a case by working behind the scenes or by observing teammates — can provide a rich learning experience for all. Supervisors should also seek opportunities early on to build on students' strengths and instill confidence through structured reflection — including writing and/or conversation. For example, in order to address a student's apprehension about interviewing a client, a teacher could encourage the student to reflect upon how her own experiences in the U.S. interacting with different people in unfamiliar settings can prepare her for how a client might feel during an interview. This reflection allows students, clients and the clinician to benefit from the global perspective that an international student brings.

## 5. Border-Crossing Collaboration among Academics

Transnational activities and awareness encompass more than acknowledging the increased enrollment of international students attending law schools in the United States. Through initiatives such as the Fulbright program, established in 1946,<sup>37</sup> and the enthusiasm of the Law and Development Movement (LDM) from the 1950s to the 1970s,<sup>38</sup> U.S. teachers and their counterparts have been crossing borders for many years. The collapse of the Soviet Union, Latin American military dictatorships and one-party states in Africa and Asia spawned a new wave of international efforts to reform legal institutions in Central and Eastern Europe,<sup>39</sup> developing countries,<sup>40</sup>

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in teams, see Silver, *Getting Real* at 488-91 (drawing on examples from outside of the law school context).

<sup>37</sup> For a brief history of the Fulbright program, see <http://us.fulbrightonline.org/history>, archived at <http://perma.cc/9S3Y-56EC>.

<sup>38</sup> For a critique of LDM, including recent "revisionist views" of the Movement, and its relationship to more recent endeavors in legal education reform abroad, see Wortham, *Aiding*, at 632-43; Richard J. Wilson, *Beyond Legal Imperialism: US Clinical Education and the New Law and Development*, in *THE GLOBAL CLINICAL MOVEMENT*, at 135-50.

<sup>39</sup> See, e.g., Wortham, *Aiding*, at 615.

<sup>40</sup> See, e.g., Jane Aiken, *Lessons from Nepal: Partnership, Privilege, and Potential*, 2 *WASH. U. GLOBAL STUD. L. REV.* 391 (2003); Thomas F. Geraghty & Emmanuel K. Quensah, *African Legal Education: A Missed Opportunity and Suggestions for Change: A Call for Renewed Attention to Neglected Means of Securing Human Rights and Legal Predictability*, 5 *LOY. U. CHI. INT'L L. REV.* 87 (2007); Haider Ala Hamoudi, *Toward a Rule of Law Society in Iraq: Introducing Clinical Legal Education in Iraqi Law Schools*, 23 *BERKELEY J. INT'L L.* 112 (2005); Catherine F. Klein & Ved Kumari, *Justice Education and the*

and other parts of the world. Access to information through the Internet and personal and professional contact through organizations and conferences<sup>41</sup> have increased the transnational flow of best practices in teaching and learning. International governmental entities like the European Union and United Nations Development Programme, along with a host of non-governmental and national donor agencies and foundations,<sup>42</sup> have promoted and funded legal education reform projects, training, consulting, and other forms of collaborative exchange.

In addition to general information about curriculum design, colleagues abroad often find it useful to have a framework of items to be considered in designing new program initiatives, *e.g.*, a clinical program, a legal ethics course, or in employing interactive teaching methods in the classroom. Academics should offer information on U.S. models as options from which to choose, rather than promote them as the ideal.<sup>43</sup>

U.S. teachers should talk with their international counterparts and, where appropriate, with students, about their career goals. In most countries, the study of law is pursued as an undergraduate degree, which may be seen as a form of general education, and it is useful to understand the range of aspirations that a law program's students may have.

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*Evaluation Process: Crossing Borders*, 28 WASH. U. J. L. & POL'Y 195 (2008); GLOBAL LEGAL EDUCATION APPROACHES: SPECIAL REFERENCE TO THE MIDDLE EAST (Mutaz M. Qafisheh & Stephen A. Rosenbaum, eds. 2015); Lisa Radtke Bliss, *Lessons Learned Teaching Clinical Legal Education in Thailand*, 63 J. LEGAL EDUC. 524 (2014); Stephen A. Rosenbaum, *The Legal Clinic is More Than a Sign on the Door: Transforming Law School Education in Revolutionary Egypt*, 5 BERKELEY J. MIDDLE E. & ISLAMIC L. 39 (2012).

<sup>41</sup> See, *e.g.*, Global Alliance for Justice Education (GAJE) Worldwide Conferences, <http://www.gaje.org/conferences/past-conferences/>, archived at <http://perma.cc/3WDC-35SZ>; International Association of Legal Ethics (IAOLE), <http://www.stanford.edu/group/lawlibrary/cgi-bin/iaole/wordpress/>, archived at <http://perma.cc/VUX8-LBUN>; IAOLE grew from the six International Legal Ethics Conferences (ILEC) with the most recent being in London in 2014, <http://www.city.ac.uk/international-legal-ethics-conference>, archived at <http://perma.cc/QD2X-9QX5>; annual International Journal of Clinical Legal Education Conferences, [http://www.numyspace.co.uk/~unn\\_mlif1/school\\_of\\_law/IJCLE](http://www.numyspace.co.uk/~unn_mlif1/school_of_law/IJCLE), archived at <http://perma.cc/9249-PZCH>.

<sup>42</sup> For an historical and organizational background on one of the foremost international organizations devoted to international legal educational innovation and reform, see Edward Santow & George Mukundi Wachira, *The Global Alliance for Justice Education*, in *THE GLOBAL CLINICAL MOVEMENT*, at 371. For a description of other international legal education reform activities and resources, see, *e.g.*, American Bar Association (ABA) Rule of Law Initiative (<http://www.americanbar.org>); Open Society Justice Initiative, Clinical Legal Education Training Materials ([http://www.soros.org/initiatives/justice/articles\\_publications/publications/clinic\\_20070206](http://www.soros.org/initiatives/justice/articles_publications/publications/clinic_20070206), archived at <http://perma.cc/D9JG-UB5Z>); and Bridges Across Borders Southeast Asia (<http://www.babsea.org>, archived at <http://perma.cc/WD9U-JDD8>). The ABA Central and Eurasian Law Initiative (CEELI) and Columbia University's Public Interest Law Initiative (PILI) were among the first promoters of clinical legal education in the Global South, followed by the World Bank, Inter-American Development Bank, and other international financial institutions. Wortham, *Aiding*, at 618-19. The Ford Foundation supported a premier Central European clinical collaboration between a U.S. and Polish university, and — in partnership with CEELI, PILI, and the Soros organizations — aided the development of clinical programs and materials in Russia. *Id.* at 619-23 & 631-32.

<sup>43</sup> See *e.g.*, Philip G. Schrag, *Constructing a Clinic*, 3 CLINICAL L. REV. 175, 245 (1996); Leah Wortham, *Teaching Professional Responsibility in Legal Clinics Around the World*, *KLINIK*, Fall 1999, at 195, available at <http://www.fupp.org.pl/down/Klinika-2-2000.pdf>, archived at <http://perma.cc/4FQC-HH83>; *THE NEW LAW SCHOOL: REEXAMINING GOALS, ORGANIZATION & METHODS FOR A CHANGING WORLD* (Daniela Ikawa & Leah Wortham, eds. 2010), available at <http://www.pilnet.org/public-interest-law-resources/34-the-new-law-school-reexamining-goals-organization-and.html>, archived at <http://perma.cc/9C5M-KKGL>.

One may find that students, practitioners, and law teachers are thinking not only of educating students for things as they are in the home country's legal system, but also have aspirations for ways they think that system should change. The conscientious consultant who travels abroad should read as much as possible about the country being visited, and be ready to ask questions about such things as the licensing of lawyers, role of the judiciary, informal systems of justice, legal literacy, and venues for community legal education.

Often, ideas about legal education are best illustrated by working on a joint project with law faculty abroad. A visiting teacher may collaborate with international colleagues to adapt a teaching method to a local context by co-creating a class simulation, problem set, or new syllabus.<sup>44</sup> Moreover, aiding time-starved academics abroad with something concrete they can use to enrich their teaching is more useful than simply sharing ideas that may be misunderstood and are not easily adapted or implemented if offered only in a general discussion.

Effective cross-border collaboration requires assessing one's comparative advantage. While a teacher from the United States may be able to easily and quickly construct a simulation or class problem, she will need a local teacher's knowledge of a realistic scenario, applicable law, and assessment of what is most important for students to learn. Materials developed in this way also can provide materials for teacher trainings. A role play, problem set, or other exercise based on an example from a country with similar laws and conditions is likely to be more effective in illustrating a teaching technique than one taken directly from U.S. course materials.

Trust, respect, and mutual understanding take time to develop. Thus, one-shot visits or short-term relationships are rarely of lasting value.<sup>45</sup> Likewise, experience teaches that once a relationship is established, much work can be done efficiently using email and Skype, but these communication modes also can generate considerable inefficiency and misunderstanding when the parties have not had previous face-to-face contact.

Study tours that bring academic partners to the country with the established educational model — *e.g.*, to the country with the existing clinical or interactive teaching program — often are more valuable than a lecture or brief training-of-trainers on best practices. In an on-site visit, the foreign teacher can attend class, observe students in court or interacting with their clients, speak with administrative staff, or talk with students about their perceptions. As adult learners, visitors can focus on what they most want to learn. Seeing it “for oneself” reduces distortions of miscommunication and assumptions. As time and resources permit, a guest can visit multiple schools or even participate in short-term co-teaching in a classroom, workshop or clinical setting. Visitors need sufficient time to reflect upon what they are

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<sup>44</sup> Interactive teaching is often alluded to by teachers in the Global South as a huge challenge they face in large-sized classes. For a border-crossing collaborative experiment, see Lisa Radtke Bliss & Supamas Chinvinijkul, *Preparing Law Students for Global Practice: An Innovative Model for Teaching Lawyering Skills and Social Justice in a Large Enrolment Class*, 1 *ASIAN J. LEGAL EDUC.* 1 (2014).

<sup>45</sup> On the limitations and possibilities inherent in a short-term visit, see Stephen A. Rosenbaum, *Clinique ToGo: Changing Legal Practice in One African Nation in Six Days*, 17 *INT'L J. CLINICAL LEGAL EDUC.* 59 (2012).

seeing. Hosts should build in time to answer questions and exchange observations if the visitor wants to do so. It can be useful for visitors to come in pairs or small groups so they can discuss home country application with someone who also knows that context well.

Prior to a visit, it is useful to ask the visitors their goals for the visit and to offer them a range of options and a tentative schedule, but not one so full that it fails to allow for additional possibilities that may develop. Schedulers should be mindful of the system overload and exhaustion that comes from absorbing a lot of new information or communicating in a second language.

Whereas teachers are busy in the United States, those abroad may have even more responsibilities, including additional employment. (This is especially the case where the professoriate is poorly compensated or where only a few faculty members undertake innovative activities). A visit away from the home country can allow teachers the “gift of time,” with fewer demands and distractions. Overseas law schools may lack the library resources and helpful librarians taken for granted in the United States.<sup>46</sup> One useful aspect of the visit can be access to materials the teacher needs for course development, or for research for academic advancement in her country.

The goal is not to replicate U.S. legal educational practices — such as interactive teaching, service learning or law school clinics — in another country, or assume that “the American way” is the *only* way.<sup>47</sup> For example, clinics in countries that lack a student practice rule or opportunities for court appearances, or confront local bar opposition, have developed alternative learning and client service models. Similarly, expanded moot competitions, Street Law<sup>48</sup> or awareness-raising, shadowing lawyers, and off-site externships also come under the rubric of “clinical” reforms.<sup>49</sup> The essence of the second principle noted above is recognizing and challenging one’s assumptions. Teachers collaborating in the development of new legal educational ventures should learn as much as possible about the local context, perhaps visiting classes, courts, communities and other venues to enhance contextual understanding.

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<sup>46</sup> *Id.* at 63, n. 17, nn. 104-06 and accompanying text; Hikmahanto Juwana, *Legal Education Reform in Indonesia*, 1 *ASIAN J. COMP. L.* 1, 7-8 (2006).

<sup>47</sup> Wortham, *Aiding*, at 674-75.

<sup>48</sup> See generally, Richard Grimes et al., *Street Law and Social Justice Education*, in *THE GLOBAL CLINICAL MOVEMENT*, at 225; LEE P. ARBETMAN & EDWARD L. O’BRIEN, *STREET LAW: A COURSE IN PRACTICAL LAW* (8th ed. 2010). “Street Law” is a registered trademark. The terms “community legal education” or “public legal education” are often used to describe the same instructional model designed for lay and activist audiences. *Id.* at ii.

<sup>49</sup> For broad definitions of applied or clinical education, see, e.g., DAVID A. SANTACROCE & ROBERT R. KUEHN CTR. FOR THE STUDY OF APPLIED LEGAL EDUC., *THE 2010-11 SURVEY OF APPLIED LEGAL EDUCATION* (2012), available at <http://www.csale.org/files/CSALE.Report.on.2010-11.Survey.5.16.12.Revised.pdf>, archived at <http://perma.cc/UC6G-NHZF>, (stating that “applied legal education” includes live-client clinics under supervision of faculty member who is also a licensed attorney as well as “off-site” field placement programs in which students are simultaneously taught and supervised by law school faculty and practicing lawyers); Cynthia F. Adcock, et al., Working Grp. on Vocabulary, Alliance for Experiential Learning in Law, *A Glossary for Experiential Education in Law Schools*, in *Experience the Future: Papers from the Second National Symposium on Experiential Education in Law*, 7 *ELON L. REV.* \_\_\_, PART II \_\_\_, (forthcoming 2015); JEFF GIDDINGS, *PROMOTING JUSTICE THROUGH CLINICAL LEGAL EDUCATION* 3-114 (2013). For examples of clinical models developed in countries without student practice rules, see Wortham, *Aiding*, at 674-75.

As embodied in the cross-cutting principles, one must remember all the small things that help someone to be comfortable and enjoy the visit, *e.g.*, locating housing that is safe, affordable, and convenient, explaining how to use public transportation and make a phone call and providing opportunities for professional and social interaction. Whether teaching international students at U.S.-based institutions or collaborating with colleagues abroad, border-crossing activities will add to one's professional (and personal) development and enrich the educational process for all participants.

## 6. Conclusion

Cross-border teaching and collaboration have become increasingly important contexts in which law teachers must seek to implement effective education. The suggestions in this section draw on fundamental principles of teaching and learning theory, while recognizing the importance of attending to cultural differences.