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Teaching in a Transformative Era: Selected Essays from the Society of American Law Teachers Teaching Conference

Raquel Aldana and Hazel Weiser***

The Society of American Law Teachers (“SALT”) began planning its December 2010 teaching conference against a stark backdrop of pervasive change that would inevitably transform legal education. The economic crisis that began in the fall of 2008 had spread across the nation and into many countries of the developed and developing world. With unemployment high and then higher, all hopes of upward mobility as well as any quick national economic recovery seemed to be dashed. As the economic crisis continued to spread across the world, the fact of a global interconnected economy was illustrated as we saw country after country fall into decline. The crisis challenged law schools to focus on the role of lawyers in the financial collapse and to ask whether they were sufficiently preparing lawyers to lead on matters of corporate social responsibility and to be prepared to prevent similar financial crises in the future, and not solely to respond to their aftermath. As well, the accumulation of debt by U.S. residents in the form of underwater home mortgages, credit cards, and student loans raised significant questions about the growing cost of legal education and its effect on affordable legal services. All the while, as the real cost of legal education rose and access to quality affordable legal services fell, the ABA Council on Legal Education and Admissions to the Bar continued its three-year comprehensive review of the Standards for Approval of Law Schools, a review that could trigger a radical experiment in legal education, deregulating law schools from curricular and tenure requirements, even brick and mortar standards, all under a banner claiming that this would make law schools more affordable. And in the midst of this talk of experimentation, the only form of accountability law schools would have to the ABA Council would be a raised institutional bar pass rate, an indicator with dire consequences for the goal of the future of diversity within the legal profession.

Taken together, SALT wanted to conceive a teaching conference that would tackle these difficult and converging issues. SALT named the conference *Teaching in a Transformative Era: The Law School of the Future*, and issued a

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call for proposals and papers to the legal academy challenging an examination of what law teaching could and should look like in light of these historic events:

In the midst of the nation's worst economic crisis since the Great Depression, law schools must stay relevant and incorporate a curriculum that keeps pace with recent macroeconomic and social changes. Law professors must address a new phase of corporate and collective responsibility as well as the increasing need for social and economic justice in struggling communities nationwide and globally.

Law schools must improve the admission and graduation of lawyers from a broad range of racial and ethnic backgrounds who will be prepared to serve their communities in the wake of the current global economic crisis. They must also address rising student indebtedness without sacrificing quality.

Because the conference coincides with the American Bar Association's review of law school accreditation standards, it provides an opportunity to examine structural issues such as erosion of tenure, evolution in status relationships among law faculty, and the broader tensions between accreditation standards and economic and social trends in America.

The response to the Call for Proposals and Papers was enormous, requiring a thoughtful pairing of proposals so that the conference spanned only two days and the themes of the conference remained intact. In all, 230 scholars attended the conference, including scholars from India, Australia, Korea, and Taiwan, as well as from throughout the United States. A few of the conference papers will be published in two separate publications. The Pacific McGeorge Global Business & Development Law Journal includes those submissions raising comparative and international perspectives that touch on matters of social corporate responsibility and the preparation of lawyers as "public citizens" in a global context. The Seattle Journal for Social Justice publishes articles addressing similar themes in the domestic context.

The six articles and essays contained in this volume of the Pacific McGeorge Global Business & Development Law Journal illustrate just how global the study and practice of law has become: U.S. law schools borrowing from other countries, other countries learning from the United States. What binds these articles together is a desire among the authors to better train lawyers and judges here and abroad to act as "public citizens" dedicated as attorneys to public service and as judges to use their authority to improve access to justice.

The first two essays, "Using Comparative and Transnational Corporate Law to Teach Corporate Social Responsibility" by Franklin A. Gevurtz, and "Transforming Students, Transforming Self: The Power of Teaching Social

Justice Struggles in Context” by Raquel Aldana, explore how to enlarge the scope of teaching U.S. law by introducing legal concepts, practices, and theories from other countries. Professor Gevurtz develops a Corporate Law class, delving into the concepts of corporate social responsibility by bringing in statutes and practices from The Netherlands and Germany that require different accountability than that demanded by U.S. law. What might otherwise be a sterile exercise in corporate responsibility beyond shareholders to employees, vendors, creditors, and the community, executive compensation and income inequality, and limited liability for corporate wrongdoing, comes alive through a comparison that reflects different values and responsibilities than are currently embedded in U.S. jurisprudence.

Professor Aldana is the director of Pacific McGeorge’s Inter-American Program, a unique law program designed to graduate bilingual and inter-cultural competent lawyers to represent Latino clients in the United States or work on transnational issues in Latin America. For the last three summers she has taken students to Guatemala where they have worked with local human rights groups in their struggles for environmental justice. Last summer’s work centered around the impact of mining practices and the role played by the Guatemalan and Canadian governments in supporting mining practices despite environmental and human degradation in the local communities where these mines are located and operating. After detailing the history of the fragile and recovering Guatemalan government after years of civil war, and the way in which Canadian mining came to work in Guatemala, Professor Aldana focuses her attention on the work of four students who interned at environmental justice non-governmental organizations (“NGOs”), and their transformation into more socially aware professionals. Through their work experiences, they confronted the weaknesses of the Guatemalan legal infrastructure and conflicting laws, the inefficacy of voluntary corporate compliance and the false promise of international and transnational mechanisms for corporate accountability in the absence of political will on the part of sending nations, the danger of protest against power and authority in Guatemala, and the need for NGO knowledge networks.

The next two essays take the lessons learned from teaching in U.S. law schools and transport that substantive knowledge to other countries. The pieces are entitled, “Online, Distance Legal Education as an Agent of Social Change” by Michael L. Perlin and “Promoting Social Justice Values and Reflective Legal Practice in Chinese Law Schools” by Brian K. Landsberg. Professor Perlin has developed online, distance learning, legal education at New York Law School, offering thirteen courses, a Masters degree, and an Advanced Certificate in mental disability law studies. This use of technology is part of a greater move to reform the delivery of legal education, making it better and cheaper, as well as more portable. The disabled are particularly shunned in some cultures and through this online course delivery, Professor Perlin has been bringing U.S. developed disability jurisprudence and its corresponding values to Nicaragua, Japan, Israel, and

Finland. By making U.S. substantive and procedural rules more accessible to lawyers, judges, and social service professionals, he is changing the law and attitudes towards the disabled in Central America and Asia. Brian K. Landsberg is training Chinese law professors in experiential learning, specifically clinical legal education, through the Pacific McGeorge Rule of Law program. The program trains Chinese law professors, in China and in the United States, in teaching methods in order to strengthen the development of the rule of law and the professionalism of the Chinese bar. Chinese law faculty are introduced to learning theory; methods of teaching simulation courses such as trial and appellate advocacy, negotiation, and mediation; and methods of clinical legal education. In helping to build a legal system founded on the rule of law, Professor Landsberg is also helping to inculcate the Chinese legal profession with a professional ethic that favors representation of the disadvantaged, and to foster a new generation of lawyers who have been trained to include pro bono work within their practices.

The last two essays focus on how to train lawyers and judges. “Experiential Learning Through Community Lawyering: A Proposal for Indian Legal Education” by Supriya Routh begins with a review of the development of community lawyering in the United States and how its very notion has torn down the traditional hegemonic barriers between attorney and client and moved the focus from attorney-centered litigation to protect individual rights to community lawyers strategizing with community partners to promote a broader empowerment of the community. Professor Routh examines current Indian legal education to discern how to incorporate experiential learning, particularly community lawyering clinics, into its legal studies. Indian legal education is not uniform, and might last between three to five years. The structure of Indian society and its traditions offer rich opportunities to bring community lawyering clinics into law schools as a way of reforming the Indian legal system and reforming legal education. “The Role of Law Schools in Educating Judges to Increase Access to Justice” by Sande L. Buhai, Ved Kumari, Amari Omaka C., Stephen A. Rosenbaum, Supriya Routh, and Anne Taylor completes the SALT Teaching Conference contributions to this volume. This essay explores the role of judges as public citizens with opportunities through their official responsibilities to improve access to justice. In reviewing how law is taught in Nigeria, India, civil law European nations, and in the United States, we see that little attention is paid during law school to the education of judges. Yet the values and skills needed to be a litigator are very different from those required of a judge. The authors conclude with ways in which law schools might assist in training judges in a way that also opens their understanding to their roles as gatekeepers, allowing or refusing access to justice.

Each author is committed to improving how law is taught, how law operates, and the sensitivities one needs to bring to the practice of law in order to fulfill the idealistic role of “public citizen” anticipated by the Preamble to the Canons of Ethics. We offer you these essays so that you, too, may join in this effort.