A GLOBAL LABYRINTH OF AMELIORATING INITIATIVES (PART-I): PEDAGOGIC THREADS FROM CLINICAL LEGAL EDUCATION TO LAW SCHOOL ACADEMIC SUPPORT PROGRAMS

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ABSTRACT

This paper is the first of two integrative reviews on the ameliorating initiatives for legal education. Part I departs from the general motivation for the study rooted in the globalization of higher education that has led to the transformation of legal education across international borders. Universities in Asia have been reforming their legal education by drawing on foreign inspiration, in particular on American-based legal pedagogy. However, American legal education has endured an unabated onslaught of criticism that accentuates the pedagogic challenges of law schools and their instructional methods. While the transpositioning of American-based legal pedagogy to Asian universities advances the internationalization agenda, it also initiates the associated challenges but in different sociocultural contexts. Therefore, the purpose of the study emanates from the lack of a comprehensive diachronic review of the ameliorating initiatives for legal education. The study makes two primary contributions: firstly, it identifies which challenges of legal education the ameliorating initiatives address and neglect, and secondly, it integrates clinical legal education, pedagogic principles, and law school academic support programs into a holistic pedagogic framework for informed curriculum development. An integrative literature review provided the holistic methodological underpinnings for the method to analyze and synthesize the relevant scholarship. The review indicates that four phases of ameliorating initiatives emerged relatively diachronically. Part I focuses on the period between the 1960s through 1990s during which clinical legal education, pedagogic principles, and law school academic support programs proliferated. Part II is dedicated to the period beginning in the 1990s and the burgeoning of thinking like a lawyer rooted in skills-based pedagogy.

Keywords: globalization of higher education, clinical legal education, pedagogic principles, law school academic support programs, skills-based pedagogy

INTRODUCTION

The currents of globalization undulate over economic, sociocultural, political, and educational domains as the traditional limitations of physical distance and communication fade into the memory of the 20th century. The globalization of higher education has "cross-national implications" for the enculturation of international perspectives on education and on legal education in particular (Altbach 2015: 6; Chesterman 2009: 879; Ginsburg 2003: 433; Grossman 2008: 29; Jeong 2010: 177).

Over the past decade, globalization accelerated the internationalization of legal education, particularly in emerging economies and countries in Asia.[i] Australia, Cambodia, China, Hong

[i] Although the motivation for this study emanates from observations of the effects of globalization on Asian universities, the phenomenon is truly global in scale. Altbach and Knight (2007) provide a sober, global

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Kong, Indonesia, Japan, the Philippines, Singapore, South Korea, Vietnam, and Taiwan have all globalized and internationalized their legal education while incorporating selected elements of American legal education (Altbach 2015; Cunningham et al. 2013; Chakraborty & Ghosh 2015; Chesterman 2009; Kim 2015; Marsh & Ramsden 2016; Oh 2005; Silver, Steele, & Taylor 2010). Such globalization and internationalization are accompanied and proliferated by inherent inequalities that determine the relationship among countries and institutions; for example, the governing universal scientific system, the English language, and new technologies used and directed by Western economies present distinct challenges to emerging nations (Altbach 2015; Spring 2008). Similarly, the transpositioning of legal pedagogic models from Western to Asian universities present significant economic, cultural, and educational challenges (Kim 2012). In pursuit of the internationalization of Asian legal education, scholars argue that the "great challenge for many Asian law schools is to foster […] a dynamic learning environment" (Tan, Bell, Dang, Kim, Teo, Thiruvengadam, Vijayakumar, & Wang 2006: 21). In pursuit of this dynamic environment, Asian law schools turn to international (American) scholarship and models for inspiration.

However, American legal education has endured an unabated onslaught of criticism that emphasizes the pedagogic challenges of law school pedagogy (Carasik 2011; Newton 2012; Sonsteng 2007). In response to the vigorous critique, a profusion of ameliorating initiatives emerged as scholars across disciplines provide different perspectives on and solutions to improve legal education. However, in the sprawling labyrinth of ameliorating initiatives, the profusion of proposed pedagogic possibilities defies the navigation it intends. Scholarship explicitly calls for holistic legal education reform (Carasik 2011: 738), holistic research perspectives to maintain the profession (Merritt, 2016, forthcoming), and an integrated curriculum to ensure pluralism in and the innovation of legal education (Tokarz, Lopez, Maisel, & Seibel 2013: 53).

This two-part diachronic, integrative review responds to the appeals by scholarship by integrating the ameliorating initiatives of legal education with the globalization narrative and a holistic research design. In doing so, it fills an important scholarly void. While the "curriculum content for global lawyers" is well documented, scholarship does not provide a holistic, diachronic, integrative review of the phases of ameliorating initiatives with the globalization narrative as impetus (Faulconbridge & Muzio 2009: 1336). Therefore, the primary objective of this study is to provide a curricular thread through the literature about the ameliorating initiatives for legal education. Part I makes two valuable contributions: firstly, it identifies which challenges of legal education the ameliorating initiatives neglect, and secondly, it integrates clinical legal education, pedagogic principles, and law school academic support programs into a holistic pedagogic framework for informed curriculum development.

To achieve this purpose, Part I assumes a particular logic. Following the introduction, Section 2 summarizes the effects of globalization on international legal education. Section 3 provides a brief contextualizing summary of the major pedagogic challenges of legal education. Against this background, Section 4 disentangles and unpacks diachronically the first three responding phases of ameliorating initiatives, *viz*. clinical legal education (CLE), pedagogic principles, and law school academic support programs (LSASP). Section 5 serves as a discussion section that ties together the three threats of ameliorating initiatives as one

perspective in *The internationalization of higher education: Motivations and realities*. Fuentes-Hernández (2002) describes the effects of globalization on legal education in Latin America, and consider Clark (1998) and Cunningham et al. (2013) for perspectives on the globalization *of* and *in* American law schools.

curricular guideline. Part I concludes in Section 6 with summative notes. Part II continues with the fourth phase of ameliorating initiatives, *viz*. skills-based pedagogy and thinking like a lawyer and returns to the globalization narrative.

Because the objectives and research outcome focus on legal education at the curricular level (what could be considered the macropedagogic domain), the research design responds in kind by maintaining a macro or holistic methodological perspective. Drawing on political science literature, a holistic methodology entails a non-reductionist approach, which does not mean that it is antireductionist or rebukes integrationism. A holistic methodology acknowledges the complexity of the whole as a result of the sum of the individual constituting parts. As such, holism supports a complex, social-systemic ontology. Although individual properties may affect the social, "multiple realizability" proposes that "the same social property can be instantiated by many different constellations of individual properties" (List & Spiekermann 2013: 631). Therefore, the transpositioning of the American-based law school curriculum ("the same social property") can assume different arrangements and pose different challenges at individual (Asian) universities. The holistic methodology that underpins this study does not support anti-American or parochial sentiments. Rather, it seeks to understand the proverbial "big picture" that assists institutions and teachers to make informed curricular decisions. Therefore, the ameliorating initiatives are the consequences of different configurations of challenges in different educational contexts across the globe, and the integrative review responds holistically to these challenges of legal education.

An integrative review method was employed to achieve the desired holistic perspective and can be described as a "review method that summarizes past empirical or theoretical literature to provide a more comprehensive understanding of a particular phenomenon […]" (Whittemore & Knafl 2005: 546). Drawing on Whittemore and Knafl (2005), the integrative review method consisted of the following five stages: (1) problem identification, (2) literature search, (3) evaluation of literature, (4) data analysis, and (5) discussion. The lack of a considered curricular thread through the abundant scholarship constituted the problem. The literature search for ameliorating initiatives was limited to scholarship that responded to the challenges of legal education and empirical studies that verified these challenges. Sources were evaluated based on their direct response to the problems in legal education and analyzed based on their contributions to ameliorating initiatives. The ameliorating initiatives (solutions) emerged a posteriori, that is, after the challenges were identified. The discussion followed naturally to tie the curricular threads together.

EFFECTS OF GLOBALIZATION ON INTERNATIONAL LEGAL EDUCATION

The effects of globalization on international legal education manifest in at least five interconnected areas that include the following: demographic diversity; curricular and pedagogic homogeneity; the power of (American) substantive law; joint degree programs; and legal English.

- Through large-scale migration, law schools become demographically more heterogeneous. To put this in perspective, the International College of Economics and Finance (ICEF) estimated that five million international students traveled abroad for education in 2014 (ICEF 2015). As a result, legal education becomes more challenging as an intercultural and interdisciplinary endeavor (Bok 2006: 18-19; Edley 2012: 327; Jakab 2007: 257; Jeong 2010: 177-178). Foreign students and faculty introduce particular sociocultural and linguistic needs to universities that require intercultural communication and understanding (Oh 2005: 527; Silver 2013: 492-493).

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- As law school populations become more diverse, curricular content and legal pedagogy are becoming more homogeneous at different academic institutions and in different jurisdictions because teaching methods and legal practices are disseminated through migration (Chesterman 2009: 879; Moliterno 2008: 274; Read 2008: 180). The law school curriculum and teaching methods could be affected either directly or indirectly. Educational reform occurs through the implementation of educational polices directly drawn from foreign universities, such as the reform of the South Korean law school curriculum that was directly inspired by the American-style law school (Kim 2012: 49; Oh 2005: 526; Tan et al. 2996: 4). Teaching methods are indirectly transplanted through visiting foreign faculty or through domestic faculty who studied overseas. Tan et al. (2006: 17) report that a large percentage of Asian law school faculty obtain degrees from American and British law schools and subsequently transplant the teaching methods from the West to Asia (see Miyazawa, Chan, & Lee 2008: 354).
- The globalization of legal education is partially driven by the "power of [substantive] American law" (Oh 2005: 527). "The American influence on corporation law, insurance law, intellectual property law, securities regulation, and antitrust and competition laws has been profound all over Asia" (Song 2001: 401).
- Both as a consequence of and response to the influence of American law and large-scale migration, universities around the world engage in reciprocal exchange programs (associated with transnationalization) and double-degree or partnership programs (associated with globalization) that are recognized across national jurisdictions (Chesterman 2008: 63; Cunningham, Moore, & Costello 2013: 41; Tan et al. 2006: 6). Closely related to such programs and emblematic of globalization is the proliferation of English. English-speaking and non-English speaking countries most often conduct their joint academic programs in English (Oh 2005: 527; Silver 2013: 492-493).
- English is often also the official language of intergovernmental trade organizations (e.g. World Trade Organization), institutions (e.g. International Criminal Court), and frameworks of international law require universities to respond with courses on foreign law and comparative law courses (Faulconbridge & Muzio 2009: 1343-1344; Tan et al. 2006: 14-15). Globalization initiates an intellectual shift in the field of comparative law that is responsible for the transcendence of traditional jurisdictional analysis that focused on mere comparison (Chesterman 2009: 879). Instead, contemporary comparative law endorses legal globalization that elicits the successful transplantation of law (Mattei 1997: 6). Such transplantation of law, however, provokes stern critique from critical legal pedagogy that globalization advances American legal imperialism (Moliterno 2010: 769; Whitman 2009: 306). However, Wilson (2004: 429) argues that funding programs for clinical legal education (CLE) are not uniquely American and that foreign institutions seek the benefits of American legal education. Chakraborty and Ghosh (2015: 36) provide evidence to the contrary by attesting that a "large number of US-based organizations are devoted towards imparting CLE trainings" in Singapore.

"On a conceptual level globalization does not signify Americanization, but on a practical level it does not deviate much from Americanization […]" (Oh 2005: 527). In this study, globalization is considered as an etic (external) application of universal influence while internationalization signifies an emic (internal) consideration of the extent of such influence.

The internationalization of law school curricula entails the integration of an "international, intercultural, [and] or global dimension into the purpose, functions [and] or delivery" of legal education (Knight 2015: 2).[ii]

PEDAGOGIC CHALLENGES OF LEGAL EDUCATION

The pedagogic challenges and deficiencies of legal education can be contextualized as a diachronic continuum with traditional and contemporary legal education at both ends. These challenges emerged in response to the application of the four main legal pedagogic approaches that are all, at varying degrees, still practiced today. Abridged to the extreme, these approaches include the following:

- the lecture method with its roots in Homer's *Iliad* (*ca*. 800) that supports vicarious learning and a vertical, authoritarian relationship between students and teacher (Enos, James, Barrett, Agnew, & Corbett 1997; Fedler 1993);
- the Socratic method, characterized by its cross-examination between a teacher and a student (Davis & Steinglass 1997);
- the Langdellian or case method that facilitates multidirectional questioning and answering among a large group (Rakoff & Minow 2007); and
- CLE that is primarily based on the principles of experiential and heuristic learning (Davis & Steinglass 1997; Milstein 2001; Spiegel 1987; Tarr 1993).

In response to the application of traditional and contemporary legal pedagogies, scholarship identified various challenges. While some challenges may be associated more with traditional or contemporary legal education, it is difficult to isolate their origin because pedagogic approaches function within multidimensional contexts. The challenges that emerged are summarized in Table 1 and anticipate their brief discussion in this section.

Table 1. Major challenges of legal pedagogic approaches

	Traditional legal education	*Contemporary legal education*
Pedagogic approaches	Lecture method → Socratic method → Langdellian method → Clinical legal education	
Pedagogic challenges	→ • Student anxiety • Legal language as second/foreign language • Emphasis on abstract theory • Conformist legal epistemology • Disputed assessment methods • Deterrents of pedagogic progress	
	Responding ameliorating initiatives	

[ii] Altbach (2015: 6) describes internationalization as the institutional policies that manage global trends. In contrast, Chesterman (2009: 880-883) considers internationalization, transnationalization, and globalization as conceptual points on a continuum of legal education. While internationalization and transnationalization signify a gradual increase in interactions across borders, globalization is the current world of inevitable interconnectivity.

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Student Anxiety

Law students are under immense socio-psychological pressure to reproduce the legal system (Davis & Steinglass 1997: 263; Kennedy 2004: 1). Dammeyer and Nunez (1999: 55) describe law school as a demanding time that intensifies the psychological distress of law students to such an extreme that Austin (2014: 819) diagnosis it clinically as "chronic stress." The stressors that exemplify the law school experience include the following:

- high student-teacher ratios;
- lack of feedback;
- the use of intimidating traditional teaching techniques;
- over-emphasis on linear, logical, doctrinal analysis or to think like a lawyer;
- astronomical debt;
- idealistic self-expectations and misconstrued views of the world;
- unmanageable workloads and extreme competition;
- personal isolation; and
- eventual learned-helplessness

(Dammeyer & Nunez 1999; Dolin 2007; Douglas 2015; Field & Duffy 2012; Hess 2002; Joy 2014; Newton 2012; Rapoport 2002; Stone 1972).

Law school stress has been proven clinically in the Australian context. Based on a Depression, Anxiety, and Stress Scales-21 (DASS-21) survey conducted at Melbourne Law School with a cohort of 327, Larcombe, Tumbaga, Malkin, Nicholson, and Tokatlidis (2013: 416) found that 24.8% of the participants experienced moderate to extremely severe stress. "The impact of stress on law student cognition includes deterioration in memory, concentration, problem-solving, math performance, and language processing" (Austin 2014: 825). With language processing compromised, the acquisition of legal language becomes even more problematic.

Legal language as second/foreign language

As early as 1972, Lewis argued: "[…] much of a law student's confusion, bewilderment and frustration arises because he [she] is not being taught law only – he [she] is being taught a foreign language as well" (in Bhatia 1989: 233; also see Danet 1980: 470). If the study of law in English and legal English are considered the acquisition of a foreign language, then traditional legal education that supports process-based pedagogy is not suitable for law school.[iii] Because process-based pedagogy is a discovery-based approach, it associates strongly with the Langdellian method that requires students to discover legal principles and doctrine and thus renders learning objectives relatively opaque. Students are expected to discover appropriate text forms or legal principles by analyzing expert writing and to form their own growing experiences. Although process-based pedagogy can be appropriated for L1 learners who are relatively familiar with key genres and the values of the cultural mainstream, it disadvantages L2 and EFL learners who typically do not have access to specific cultural resources and lack knowledge about the possibility of text variation (Hyland

[iii] Process-based pedagogy in applied linguistics, as referred to here, should not be confused with the process approach in international education. Part II considers the process approach in the context of international legal education.

2003: 19). Johns (1995) identifies the process movement as the greatest culprit disempowering L2 and EFL.

> *This movement's emphasis on developing students as authors when they are not yet ready to be second language writers, in developing student voice while ignoring issues of register and careful argumentation, and in promoting the author's purposes while minimizing understanding of role, audience, and community have put our diverse students at a distinct disadvantage as they face academic literacy tasks in college classrooms where reader and writer roles, context, topic, and task must be carefully considered and balanced (original emphasis)* (Johns 1995: 181).

Therefore, scholarship continues to argue for an emphasis on language skills in the law curriculum because legal language proficiency is analogue to *thinking like a lawyer* discussed in Part II (Bhatia 1989; Prinsloo 2015; Sullivan et al. 2007).

Emphasis on abstract theory

In contrast with traditional legal education that foregrounds abstract theory, legal practice relies on theoretical knowledge (substantive law) and technical skills (Joy 2014: 193-194; Sheldon & Krieger 2007: 883). The law school curriculum accentuates adjudication and omits many of the significant "global, transactional, and facilitative dimensions of legal practice" (Sturm & Guinier 2007: 516; also see Joy 2014: 193-194). While lawyering requires "institutional, interpersonal, and investigative capacities" (Sturm & Guinier 2007: 516). Law schools focus on the reading of cases, legislation, and scholarly articles that undermine the participatory role of the teacher (Rapoport 2002; Schuwerk 2004; Sheldon & Krieger 2007). Reliance on vicarious learning explains the failure of law schools to impart skills for legal practice (Caron & Gely 2004). Through the unidirectional lecture and isolated dialogues of the Socratic and Langdellian methods, the entire class is assumed to acquire a first-hand learning experience. Consequently, law schools flood the market with lawyers, but they fail to teach them how to practice law (Dolin 2007). In short, "[l]aw school has too little to do with what lawyers actually do […]" (Sturm & Guinier 2007: 516).[iv]

Conformity as legal epistemology

Because traditional methods are based on dialectical procedures, students learn to read, write, and listen through legal filters in which only selected details are relevant. In turn, these selected details feed the legal epistemology of conformity. Conformity is endorsed by a law school pedagogy that seeks to teach students to *think like lawyers* (see Part II for a detailed analysis on this topic). The conformist agenda is advanced through the teaching of law in a vacuum and formula-like analytic techniques, for example.

The application of the Socratic and Langdellian methods instill a reductionist, argumentative pedagogy because only the relevant facts are pertinent (King 2012: n.p.; Sturm & Guinier 2007: 516). This could lead to substantive legal study as "doctrine in a vacuum" and a parochial legal epistemology (White 2003: 35). Mertz (2007a: 95) contends that emotion, morality, and social contexts are "semiotically peripheralized" through such teaching methods. The parochial application of the traditional methods fails to instruct students to think like lawyers because "lawyers increasingly need to think in and across more settings [across disciplines], with more degrees of freedom, than appear in the universe established by

[iv] Johnson (1978: xvii) points out that the Socratic method is responsible for a shift from moral decision-making in law to law as a technical field of proficiency. This point of criticism cautions against an over-emphasis on skills and highlights the importance of balancing technical and theoretical knowledge with a moral legal epistemology (Mertz 2007b: 505).

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appellate decisions and the traditional questions arising from them" (Rakoff & Minow 2007: 600). Such parochialism negates the interdisciplinary nature of law, thus denying the diverse skills needed to practice as a lawyer.

A second possible factor that maintains conformity is the written form of the first, the IRAC-framework of representing legal analysis (Miller & Charles 2009: 192-193; Rapoport 2002: 99; Rappaport 2008: 272). The IRAC-framework teaches students that the best grades depend on an accurate application of the formula. Although useful as an analytical tool, IRAC also persuades students that good legal writing is as easy as painting-by-numbers.[v]

Disputed Assessment Methods

In general, traditional and contemporary legal education use questionable assessment methods (Sheldon & Krieger 2007: 883; Grossman 2008: 23; Rapoport 2002: 97; Sturm & Guinier 2007: 516). Often assessment is limited to two or three cross-sectional evaluation opportunities with no continuous evaluation or feedback. "The model of law teaching that bases a course's grade on a single law exam is one of the single worst pedagogic mistakes that legal education has made" (Rapoport 2002: 101). Moreover, evaluations are based on the recitation of facts without testing actual research and writing abilities (Han 2012: 4). Test scores, therefore, are not necessarily indicative of students' abilities as legal practitioners (Rapoport 2002: 97).

The memorization of facts is integral to the Langdellian method and *stare decisis* (legal precedent). However, Rakoff and Minow (2007: 600) argue that a retrospective view of legal precedent "does little to orient students to the reality of unfolding problems" because the unlawful act has not yet been enacted and the procedural setting not yet chosen. Nevertheless, legal precedent implies contextualization within the chain of legal decision-making and provides constancy to predict probable legal consequences of current and future conduct. While it is practical to commit such knowledge to memory, it happens within the ambiguous and mutating context of law (Preston, Steward, & Moulding 2014: 1074).

Deterrents of Pedagogic Progress

Why has legal education remained relatively static in contrast to the dynamic evolution of the legal profession? (Spiegel 1987: 606; Rhee 2011: 317). At least four reasons explain the reluctance of law schools to embrace pedagogic change: law school prestige, laborious teaching, profitability, and publish or perish.

Firstly, the prestige and rankings of American law schools may decline when curricula embrace more practice-based learning similar to trade schools (Rhee 2011: 310; Rapoport 2002: 105-107).[vi] Spiegel (1987: 606) argues that clinical training is by definition marginalized because it is labor-intensive and associated with vocational training.[vii] In contrast, law schools in Asia are transposing American-based curricular facets to achieve

[v] To expand students' thinking beyond the application of the IRAC-approach, Rappaport proposes the use of storytelling to initiate a more encompassing thought-process and persuasive writing style. "An IRAC-only approach ignores the power of the narrative" (Rappaport 2008: 302). Grose (2010: 37), for example, proposes storytelling across the law school curriculum, "from clinic to classroom."

[vi] Newton (2012: 77) argues that the ranking system of American law schools "is fundamentally flawed, and its influence on legal education has been malignant." Hence, it would be prudent to assume a critical stance toward university rankings.

[vii] Clinical or practical experience prior to licensure is not endemic to law as other professions, such as medicine and engineering also require practice-based learning (Dolin 2007: 8; Rhee 2011: 310).

more prestige but these efforts often amount to mere academic "window-dressing" (Jeong 2010: 161).

Secondly, curriculum (re)development is arduous and time-consuming (Cassidy 2012: 1531; Dolin 2007: 10). Clinical and skills-based courses are more labor-intensive than courses based on traditional pedagogies (Maisel 2007: 40). Because current methods produce lawyers, law schools may be reluctant to change curricula. Schuwerk (2004: 761) argues more assertively: "Law schools are run primarily for the benefit of law professors - not for the benefit of law students, not for the benefit of the legal community, and most certainly not for the benefit for the public at large." Including more practical courses may also expose how little law schools actually know about legal practice (Dolin 2007: 11; Maisel 2007: 387; Rapoport 2002: 105-107; Wilson 2004: 430).

Thirdly, universities place excessive emphasis on scholarship (the "publish or perish" phenomenon), resulting in a general neglect of the teaching functions of faculty (Sheldon & Krieger 2007: 883). Klare (1982: 337) issues stern critique against contemporary law school education when he reprimands academia by affirming that the "curriculum is designed to serve the needs, cater to the interests and abilities, and legitimate the power of law teachers, *not* to train law students."

Finally, while curricular redevelopment may require "major resource reallocations" (Cassidy 2012: 1531), law school is also highly profitable or exorbitantly expensive (Newton 2012: 79; Harper 2015: 347). "Thus, while law schools charge high tuitions and spin off excess profits to their universities, law students sink further into debt, and the poorest segments of society suffer the lack of attorneys to address a range of social ills" (Dolin 2007: 6; also see Rhee 2011: 310). Therefore, the reluctance to embrace the positive changes that CLE could bring to society, disadvantages already underprivileged students and communities. For this reason one could argue that traditional legal pedagogies are unsuccessful in conveying moral values, or they are conveying values that are not synchronized with the contemporary socio-political and economic climate (Joy 2014: 194).

THE LABYRINTH OF AMELIORATING INITIATIVES

As globalization proliferates the internationalization of legal education, law schools around the world identify similar pedagogic challenges but in different contexts. It would therefore behoove scholarship to take stock of the ameliorating initiatives in order to overcome the pedagogic challenges of legal education. Section 3 provides a diachronic review of CLE, pedagogic principles for legal education, and LSASP.

Clinical Legal Education

As the legal profession and law schools increased their public standing in post-Civil War America (1861-1865), discontent grew increasingly over the disparity between what Klare (1982: 336) calls the "curriculum-in-action" and the "curriculum-in-the-books." The formal curriculum as formulated in law school catalogs or curriculum committee minutes became detached from what actually happened in law school classrooms and legal practice (Stuckey et al. 2007: 11. In an attempt to bridge the divide between law school and legal practice, CLE developed during the 1960s through 1970s as a response to "students' desire to learn how to use law as an instrument of social change and to be involved in the legal representation of poor people" (Milstein 2001: 375; also see Zhang 2015: 119).

Stuckey et al. (2007: 139) define CLE as "courses in which a significant part of the learning relies on students representing clients or performing other professional roles under the supervision of members of the faculty." This definition is directed, but insufficient to capture

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the rich dimensions of CLE. Instead, general characteristics or goals can be deduced from various sources. Additionally, different scholars emphasize different aspects of clinical programs, such as Spiegel's (1987) emphasis on methodology and Wilson's (2004) general focus on social justice. Their descriptions are apt but not sufficiently encompassing; therefore, this section synthesizes and elaborates on the characteristics of CLE, which displays a collection of 10 features:

i. Clinical legal education refers to complex models of legal pedagogy (Milstein 2001: 375), a recognition and merger of viable elements from traditional and contemporary pedagogic and different ontologies. Therefore, clinical education is a "philosophy about the role of lawyers in our society" (Tarr 1993: 33).

ii. A clinical program focuses on the learning of skills through performance. Hence, CLE can be described as a methodology, and its method focuses on students' performance in the legal system (Milstein 2001: 375; Spiegel 1987: 591, 603; Tarr 1993: 35). The recognition of methodology balances learning issues with the notion that CLE is inherently practical. Although practical, clinical education also relies on a well thought-through pedagogy that is based on theory and practice that can be achieved through what Stuckey et al. (2007: 145) refer to as a "classroom component." It would be imprudent to view clinical education as completely separated from substantive legal theory or doctrine (Spiegel 1987: 603).

iii. Emblematic of a clinical program is the incorporation of collaborative and experiential learning models as opposed to the reliance on vicarious learning by traditional legal education (Davis & Steinglass 1997: 250; Stuckey et al. 2007: 88).[viii] Depending on the type of legal clinic, such experiential learning is accompanied by degrees of risk-taking. A live client clinic would involve more risk than a policy project, for example (Dunn 2016: 175).

iv. A clinical program is created through the law school and integrated with the academic curriculum. The practice of the clinical program is accompanied by instruction on the theory of legal practice (Wilson 2004: 423).

v. Clinical education emphasizes collaboration among legal practitioners and between practitioners and society (Spiegel 1987: 592). In their final years of law school, students provide legal services or advice to real clients. The clinical program brings the realities of the citizens of the country to law school (Chemerinsky 2008: 596; Maisel 2007: 375; Wilson 2004: 423).

vi. In general, clients who receive counsel through the clinical program cannot afford the costs of private counsel (Wilson 2004: 423). Nevertheless, law school clinics should caution against antagonizing the underprivileged as "guinea pigs" (Tarr 1993: 35). This attribute of legal clinics imparts legal literacy, such as knowledge of social justice (Maisel 2007: 378). Where the Socratic method appears sterile and unable to impart moral instruction, CLE is credited for inculcating a moral compass among students because they provide services to the poor and disenfranchised. "Their involvement in such representation is often their first exposure to persons from a different social and economic class than their own" (Wilson 2004: 423; also see Maisel 2007: 376). Therefore, CLE needs a legal epistemology that embraces, supports, and explains the realities of prospective clients.

[viii] *Infra* footnote 10 for a distinction between collaborative and cooperative learning.

vii. A lawyer admitted to practice in a specific jurisdiction provides supervision to the students of that legal clinic. Therefore, the clinical program depends on experiential learning through which students acquire important values and lawyering skills from the supervisor (Chemerinsky 2008: 596; Maisel 2007: 375). Wilson (2004: 423) calls this the instruction on the "theories of the practice of law."

viii. Students receive academic credit for participating in the clinical program (Wilson 2004: 423). This credit serves as incentive to register for clinical courses and recognizes the academic value of CLE. Clinical legal education is also associated with internships and externships in which students work for academic credit in (un)paid governmental or non-governmental agencies or corporations (Heller 2009: n.p.; Maisel 2007: 378).

ix. Clinical legal education is also multifaceted to the degree that clinical courses become interdisciplinary. However, interdisciplinarity is not a new concept to law because "[…] legal realism opened up the possibility of combining the study of law with other disciplines by arguing that law is not self-contained" (Spiegel 1987: 586). Legal realism initiated the transfer of social science theory to law schools, thus the emergence of subject fields, such as law and literature and law and psychology.

Although CLE is closely tied to legal doctrine (substantive and procedural law), it incorporates into a single course issues beyond doctrinal courses. Such issues include legal ethics, legal sociology, operations of government, political science, and the treatment of disenfranchised communities (Aaronson 2002: 13; Wilson 2004: 431). While the pedagogic characteristics of CLE reap educational benefits, the uncritical internationalization of clinical programs may spur notions of educational imperialism (Chakraborty & Ghosh 2015: 36). Therefore, CLE should also be principled (Stuckey et al. 2007: 139-145).

Pedagogic principles for legal education

Between 1987 and 1999, interdisciplinary scholarship in America produced five pivotal sources that address principles for (legal) education.

i. The renowned *Seven Principles Report* (formally known as the *Seven Principles of Good Practice in Undergraduate Education*) to as was first published in 1987 in which Chickering and Gamson, identified seven significant principles that guide quality undergraduate education.

ii. A decade later, Palmer (1998) formulated six paradoxes that affect teaching and learning spaces.

iii. In 1999, Bransford, Brown, and Cocking proposed four strategies to improve learning environments through learner-, knowledge-, assessment-, and community-centeredness.

iv. The Institute for Law School Teaching sponsored research on the relevance and applicability of the original *Seven Principles Report* on legal education. In 1999, the *Journal of Legal Education* published a series of articles based on this research.

v. The exception to this diachronic development is the *Best Practices Report* by Stuckey et al. (2007), which provides a reprisal of a principled approach to legal education at a time of the blossoming of skills-based pedagogy.[ix]

[ix] The *Best Practices Report* is formally known as *Best Practices for Legal Education: A Vision and a Road Map*. See Part II for a contextualization of skills-based pedagogy.

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These four pivotal studies are integrated here to provide a review of the seven principles for legal education that emerged during this timeframe.

Student-faculty contact

Increased student-faculty contact is credited for improving students' educational aspirations, attitudes toward the educational experience, intellectual and personal development, academic achievement, and persistence (Anaya & Cole 2001: 11; Apel 1999: 373-374; Chickering & Gamson 1987: 3; Stuckey et al. 2007: 90). Anaya and Cole (2001: 3) found that informal socialization between teachers and students did not yield support for increased academic performance; however, socialization that included academic discussions on career plans, feedback on projects, and research were likely to improve academic performance. Umbach and Wawrzynski (2005: 163) found that on campuses with "frequent course-related interactions, both first-year and senior students were more challenged and engaged in active and collaborative learning experiences." Apel (1999: 384) provides a useful platform from which to depart: "[…] faculty need to start with behavior inside the classroom. Learning and using the student's names, engaging students in active learning, and using a few personal anecdotes can signal accessibility."

Cooperation among students

Today, more lawyers are working in large firms, litigate in teams, and plan together in meetings than in the past. However, law school education does not prepare students to work in these "bureaucratized and hierarchically organized law firms" (Bryant 1993: 64; also see Dilloff 2011: 342; Douglas 2015: 59). Cooperative learning is credited for inspiring academic excellence because the learning community requires and supports enhanced performance (Cavanagh 2011: 23; McGroarty 1989: 127). Instead of competition, cooperation among students is emphasized (Chickering & Gamson 1987: 3). According to Arendale, cooperative learning is structured and consists of

- "positive interdependence among […] participants;
- individual accountability […];
- appropriate rationale and task purpose […];
- structured student interactions with designated activities rather than free-form discussions;
- instructor or expert peer facilitation; and
- attention to development of social skills, such as interpersonal communications and leadership development" (Arendale 2007: 16).[x]

Cooperative learning can be described as shared decision-making (Bryant 1993: 462) that allows individual differences in a community-centered (Bransford et al. 1999: 144) environment of multiple voices (Palmer 1998: 77-78). Cooperative learning requires law students to reflect on individual and collective contributions, such as during the clinical learning techniques of case rounds and seminars (Milstein 2001: 377). Practical skills are useful to the successful attorney who can listen, plan, and collaborate with a diverse group of people. In the age of globalization, negotiation and collaboration skills have become

[x] In contrast to cooperative learning, collaborative learning is less structured, so that students participate with their own experiences in mind (Arendale 2007: 16). Collaboration emphasizes the "discrepancy between the reality of the legal system and the dream of social justice" because different members bring different realities to the group (Dominguez 1999: 387). Consult Dominguez (1999: 398-400) for examples of how these strategies can be applied in the community lawyering seminar. Collaborative learning is endemic to CLE, see Section 3.1.

indispensable communicative tools to navigate cross-cultural settings (Bryant 1993: 464; Oh 2005: 527; Silver 2013: 492-493).

Active learning

Hess describes active learning as activities that include "more than just listening" (Hess 1999: 401). Arendale (2007: 13) elaborates on the idea by adding that active learning encourages reflection on ideas and their uses. The most complete description is provided by Bonwell and Eison (in Hess 1999: 401), who accentuate five principles of active learning: (1) activities that include more than just listening; (2) the acquisition of skills is more important than content knowledge; (3) learning that encourages higher-order thinking; (4) activities that actually engage students; and (5) learning that encourages an exploration of students' attitudes and values.

Active learning displays several advantages. "Active learning is important for one fundamental reason: active involvement enhances learning" (Hess 1999: 402; also see Chickering & Gamson 1987: 7; Hatamyar & Sullivan 2010: 2). Freshmen and senior students express improvement in their "personal social development, general educational knowledge, and practical competencies" when teachers engage with students through active and collaborative exercises (Umbach & Wawrzynski 2005: 165). Another advantage of active learning is its long-term effects. In a longitudinal statistical analysis of the grades of law students who attended academic support classes conducted by means of active learning strategies, Hatamyar and Sullivan (2010: 31) found that active learning sessions "[…] positively and significantly relate to first-year grades. Moreover, it appears that this positive relationship continues through the third year of law school."

Contrary to the critique against legal education in general, individual law schools and teachers employ active learning strategies. In theory, Socratic dialogue elicits discussion that requires higher-order thinking and could be effective in large classes. Active techniques such as simulations, moot court, and client-attorney consultations impart valuable thinking, performative, and emotive skills (Aaronson 2002: 7; Milstein 2001: 377). Law school clinics, intern- and externships, and field trips introduce students to actual experiences through experiential learning (Hess 1999b: 402-410). Law schools also turn to technology to promote active involvement that could enhance learning (Caron & Gely 2004: 556; Stuckey et al. 2007: 117). However, Bransford et al. (1999) caution that the use of technology does not imply improved teaching; success depends on how technology is utilized.

Prompt Feedback

It is generally accepted that feedback is essential to learning (Chickering & Gamson, 1987: 4; Hattie & Timperley 2007: 81; Paulus 1999: 283; Stuckey et al. 2007: 92; Taras 2003: 550). Feedback is understood as a procedural consequence that reflects on the strengths and weaknesses of an assignment and provides advice or suggestions on how to improve the performance (Hattie & Timperley 2007: 81; Sadler 2010: 538; Zhang 1995: 323). Feedback reflects directly on the transparency of a teachers teaching philosophy (Corrada 2013: 319). Peer and self-feedback are criticized as intended to eliminate teacher feedback; however, they can be "judiciously combined" with other forms of feedback (Jacobs, Curtin, Braine, & Huang 1998: 314). Peer feedback is a potentially useful instructional tool because of its social, cognitive, affective, and methodological benefits (Rollinson 2005: 23).

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In contrast to its advantages, the value of feedback may be questioned. Teachers may be concerned about the time dedicated to it and the accuracy and suitability of peer feedback.[xi] Students, on the other hand, may question the purposes and advantages of having their work evaluated by non-experts (Jacobs et al. 1998: 312). Students from different cultures may consider peer feedback as a threat to group harmony because of the negative social interaction that it can elicit (Rollinson 2005: 26). Therefore, feedback without contextualization, subsequent action, and internalization does not necessarily lead to improvement (Hattie & Timperley 2007: 82; Sadler 2010: 536). LeClercq motivates law professors to consider what tools assisted their own learning and how they learned what their teachers wanted them to learn (LeClercq 1999: 428).

Time on Task

Time on task is the skill to manage time productively as a law student and legal practitioner. Chickering and Gamson (1987: 4) formulate it as "[t]ime plus energy equals learning." Time on task functions in three interconnected domains: student, teacher, and institutional time on task (Dessem 1999: 430).

Student time on task could be facilitated trough assessment and feedback. Frequent evaluation opportunities help students to recognize their weaknesses prior to final examinations. Prompt feedback on such evaluations can indicate to students whether they manage their preparation time effectively. Teacher time on task varies from minor behavioral patterns, such as arriving at class on time to curricular planning in accordance with the academic calendar and maximizing student time on task (Dessem 1999: 433).

Institutional time on task refers to the temporal environment created by law schools in which students and teachers function. Law school curricula are often composed without consideration of the relations among different courses or the pedagogic mission of the school. To overcome this problem courses can by synchronized to cover similar topics at the same time, bridge courses can discuss cross-curricular topics, and courses could be team-taught (Dessem 1999: 437).

High Expectations

The sixth principle, high expectations, motivates higher performance (Chickering & Gamson 1987: 4-5; Stuckey et al. 2007: 85). High expectations should be articulated explicitly to all students and throughout law school (Dark 1999: 441). High expectations function reciprocally. The original principle focused mainly on students; however, high expectations should also be communicated to law schools and teachers because "faculty attitudes and beliefs and behaviors can play a role in creating a culture that fosters student learning (Umbach & Wawrzynski 2005: 174). Expectations should also be reasonable, as comprehension and quality are more important that confusion and the quantity of the amount of material covered during teaching (Stuckey et al. 2007: 174).

Diverse Talents and Ways of Learning

With the globalization of law school curricula, the law school demographics representing the global community, and law firms practicing globally, it has become increasingly important for law schools to embrace the diversity of the proverbial global village (Attanasio 1996: 311;

[xi] The consumption of time is one of the major points of critique against teacher and peer feedback (LeClercq 1999: 418). LeClercq (1999) provides an extensive list and explanations of less cumbersome feedback methods.

Blackett 1998: 57; Chickering & Gamson 1987: 5; Clark 1998: 261-268; Lustbader 1996: 842; Silver, Phelan, & Rabinowitz 2009: 1446-1455).

Palmer (1998: 77) suggests diversity in the educational space (the curriculum) by proposing a teaching environment that is simultaneously bound and open. With this paradox, Palmer invokes a classroom in which teaching is focused by subject content but open to alternative paths of discovery. These alternative paths of discovery should "honor the little stories [local narratives] of the individual and the big stories [metanarratives] of the discipline" (Palmer 1998: 79). The current model of teaching and assessment prioritizes linguistic and logical intelligence (Newton 2012: 64). However, alternative paths of discovery acknowledge intellectual diversity and a "comprehensive range of skills and abilities" (Lustbader 1999: 449). Domination by a particular group is not conducive to respect for "voices, values and experiences of a diverse society, because it promotes exclusivity over inclusivity, individuality over community, economic efficiency over moral or humanistic efficiency, and rights over care-orientation" (Lustbader 1996: 840). Such domination undermines the objective of legal education to create legal practitioners who value equality and fairness.

While CLE attempts to inculcate heuristic and experiential learning and prefigures skills-based pedagogy, pedagogic principles assume a larger curricular perspective that includes the characteristics of CLE. Law school academic support programs continue the principled perspective and finds motivation for pedagogic change in the diversity of law schools.

Law School Academic Support Programs

Law school academic support programs (or learning centers) aim to provide diverse persons with access to legal education by preparing students for the American law school admission test (Lustbader 1996: 842).

As law school student populations become more diverse because of the effects of globalization, LSASP become more sought after because of their apparent successes (Bok 2006: 18-19; Larcombe & Malkin 2008: 321; MacKinnon & Manathunga 2003: 133; Read 2008: 180). As Lustbader (1996: 847) phrases it: "Many faculty think [LSASP] work 'magic,' and they want to learn the 'tricks'." These programs do not have tricks up their sleeves, as they set out only to assist students to adjust to law school culture, standards, and education. Academic support programs developed a pedagogy that "addresses both the academic and non-academic factors that impact student performance by teaching processes for learning and methods for coping with feelings of alienation and disenfranchisement" (Lustbader 1996: 847).

The pedagogy of LSASP depends on ten principles. It shares the following three principles with the *Seven Principles Report*: promoting active learning, setting high expectations, and recognizing diverse talents. It is beneficial to explore each additional principle briefly as a set of ameliorating principles.

i. Teachers should begin instruction and assistance at the student's level of comprehension. Ideally, the exploration of legal concepts should begin with students' existing knowledge and experiences (Lustbader 1996: 847). This principle illustrates that LSASP is a student-oriented pedagogic approach and is intricately connected to the facilitation of the zone of proximal development (Vygotsky 1978: 86), which is "an area of learning potential lying between the learner's ability to operate independently and the leaner's ability to operate with the help of a teacher or more competent peer" (Larsen-Freeman & Anderson 2011: 243).

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ii. Teachers act as facilitators to help students develop substantive and syntactic schemata (Lustbader 1996: 850). Students need substantive schemata or content knowledge to understand the subject matter of doctrinal courses. "Additionally, students need assistance in identifying and internalizing syntactical schemata [legal language] for the structure of legal discourse and the conventions contained in the legal system" (Lustbader 1996: 850).

iii. Learning is viewed as a developmental progression. Therefore, it is important that learning incorporates both the student's experiences and domain-specific understandings. Consequently, teaching serves as the bridge between the substantive and syntactic schemata of the student and that of the legal discourse community (Lustbader 1996: 851).

iv. As teachers focus on the process of learning, they assist students to cultivate and improve their metacognitive processes (Lustbader 1996: 852). Metacognition improves communicative and thinking skills, which in turn reduces law school anxiety (Preston et al. 2014: 1055). Students can develop their metacognitive processes more effectively with proper feedback (Hyland 1998: 255; Wigglesworth & Storch 2012: 364).

v. Generally, skills should be taught in the context of a specific subject. The application of these skills is contextualized as teachers indicate the relationship between what students learn and how their knowledge and skills can be applied in tests and in practice (Lustbader 1996: 854).

vi. Support programs extend beyond academic assistance; they also tend to the psychological barriers that students experience (Lustbader 1996: 857). Students who participate in LSASP receive support by recognizing group homogeneity that can lead to group cohesion and the alleviation of psychological barriers.

vii. Students are encouraged to pursue their personal and professional goals that can be facilitated through student-teacher discourse socialization, and it is recognized through extracurricular time on task because LSASP participation can be non-evaluative (Lustbader 1996: 859; Stuckey et al. 2007: 120).

While an LSASP provides educational and advising services to students, it could also be used for general curriculum improvement and "faculty professional development workshops" (Stuckey et al., 2007: 119-120). An LSASP assumes a comprehensive pedagogic function that extends beyond the acquisition of knowledge as it nurtures the "mastering [of] fundamental 'thinking' skills" (Stuckey et al. 2007: 120). Because of this focus on thinking skills and its position in the diachronic development of ameliorating initiatives, LSASP signals the advent of skills-based pedagogy addressed in Part II.

DISCUSSION

The three ameliorating initiatives that developed between the 1960s through 1990s have one common goal – to improve legal education. Their pedagogic emphasis, however, is slightly different. Figure 1 illustrates which ameliorating initiatives respond to particular pedagogic challenges and which challenges remain relatively neglected. The arrows point toward the challenges that are being addressed qualitatively.

Clinical legal education moves out of the classroom and into a law school clinic to foster heuristic learning in real life client consultations. In doing so, CLE addresses all the identified

pedagogic challenges with the exception of an explicit focus on legal language or linguistic skills (see Figure 1). However, this does not mean that an individual law school does not integrate its curriculum with legal language instruction. For example, Hoffman (2011) uses discourse analysis to teach legal English whilst simultaneously acculturating foreign students into the American legal discourse community. Nevertheless, the absence of a direct focus by CLE and pedagogic principles on legal language is a major concern, considering that legal language is a second language even to L1 users (Bhatia 1989: 233; Danet 1980: 470), and law school and legal practice are linguistically demanding (Larcombe & Malkin 2008: 319). Issues related to student anxiety are addressed by the pedagogic pluralism and interdisciplinary nature of legal clinics. Pedagogic pluralism and the connection with "real world" issues also curb the traditional emphasis on abstract theory. Conformity as legal epistemology is curtailed by the philosophy about the roles of lawyers in society, knowledge of social justice, and interdisciplinary relations that connect legal education with diverse sociocultural influences (see Edley 2012). Legal clinics are integrated into the curriculum as credit-bearing courses of academic value. This notion challenges traditional assessment methods that struggle to measure the outcomes of heuristic learning.

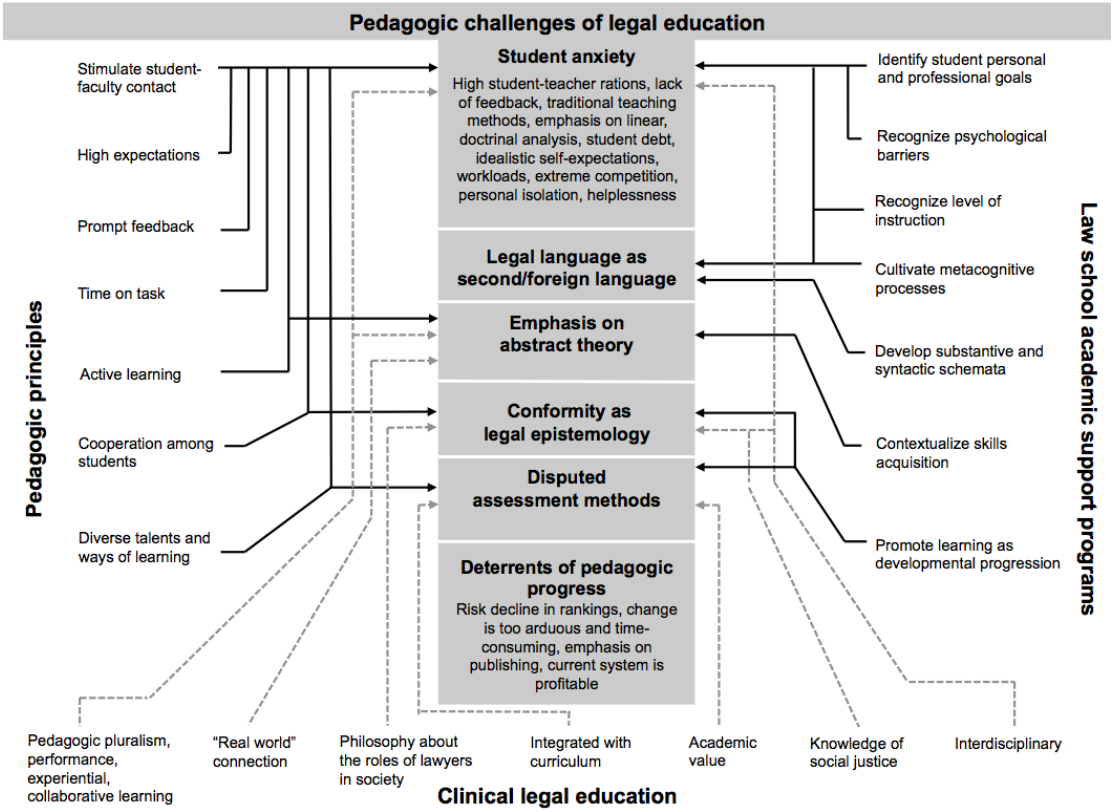

Figure 1: Responses of ameliorating initiatives to the pedagogic challenges of legal education

Pedagogic principles place particular emphasis on student anxiety as all seven principles relate to issues concerning student well-being (see Figure 1). Active learning also challenges the emphasis on abstract theory. Disputed assessment methods are contested because the recognition of diverse talents and ways of learning recognize multiple intelligences. Similarly, cooperation among students questions conformity as legal epistemology because cooperation acknowledges pluralism; different points of view enrich the learning experience. While such cooperation is essential in the age of globalization, local perspectives could spur adversarial attitudes. By mostly receiving foreign students in the ebb and flow of global migration, Silver (2013: 494) cautions that "[…] we [American law schools] risk educating a

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cadre of globally savvy competitors that domestic students cannot possibly match in terms of experience and expertise relevant to navigating the challenges of a global practice environment." Edley (2012: 328) echoes a similar concern to which I shall return in Part 2.

Law school academic support programs address all the identified pedagogic challenges including legal language as L2/EFL (see Figure 1). To cultivate metacognitive processes and syntactic schemata is to encourage rhetorical, linguistic skills. Globalization compels synergetic and symbiotic relationships among different legal systems. It is therefore imperative that the ameliorating initiatives address language and pedagogic theory that accounts for these fluid contexts.

The intentions of pedagogic principles as "good practice" are justified, yet they invoke stern critique from within legal scholarship. Fish (2002), the main pundit, criticizes "best practices" and "intervention" as terms that do not "mean anything much more than practices that had worked for some people in some context where some problem had been identified and was addressed successfully by some solution […]." Fish's critique is aimed at the frivolous application of the term *good practice* and the negligible consequences it may deliver *in* practice. Fish's critique is warranted. Despite the application of pedagogic principles, law schools still grapple with criticism from students, scholars, and practice. Therefore, "[i]f any of the seven principles are to be fully implemented, the law school as an institution must support that effort" (Dessem 1999: 436).

The lack of full support by the legal discourse community may explain why the deterrents of pedagogic progress are not confronted directly and comprehensively by the ameliorating initiatives (see Figure 1). To overcome the arduousness of curricular change, improve teaching, and combat the overemphasis on publishing, universities should commit equal priority to scholarship *and* teaching (Klare 1982: 337). Hess (1999: 404) emphasizes that "[t]eachers, like their students, cannot learn new skills without commitment and effort." Therefore, it would behoove us to reprise Klare's (1982: 343) suggestion that the "[e]ducation of the educators is […] a necessary precursor of curricular progress."

PRELIMINARY CONCLUSION

Part I proposes that if any of the ameliorating initiatives are to be implemented altogether, then a holistic pedagogic approach is vital as legal education does not function in isolation because of globalization and the internationalization or reform of law school curricula. Certain initiatives may be more successful in particular sociocultural contexts than others, as scholarship reports on the successes and failures of such mediations. For example, Carson and Nelson (1996) found that Chinese students were reluctant to give peer feedback to maintain group harmony and not to claim authority over (equal) peers. Therefore, no ameliorating initiative can be transpositioned without consideration of the fluidity of sociocultural contexts. The diachronic progression or fluidity of ameliorating initiatives supports this point. Similarly, Stuckey et al. (2007: 8) concede that "[l]aw school instruction will always be only one segment of the continuum of learning in the life of a lawyer."

The persistent appeal to diminish the gap between theory and practice in legal education is emblematic of this continuum of learning. The first three phases of ameliorating initiatives indicate an evolution from practice-directed education (CLE), to student-centered teaching (pedagogic principles), and a response to major demographic changes based on globalization (LSASP). As student and institutional needs continue to change and as the demands of legal practice and related professions evolve, legal education responds with different strategies that manifest as ameliorating initiatives. Therefore, it is imperative that empirical research must

follow this integrative review to investigate the practical application and effectiveness of the ameliorating initiatives. In pursuit of effective internationalized legal education, a movement toward skills-based pedagogy characterizes contemporary scholarship and heralds the dawn of the fundamental skill to *think like a lawyer* reviewed in Part II.

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