As Fire Burns Both Here and in Persia: The Internationalisation of Legal Education as a Cosmopolitan Educational Paradigm

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Abstract

The discipline of law has to rediscover its original universal educational configuration. The subject of law with its roots lost in the passage of time, from the study of justice, fairness and equity in Greek philosophy to Gaius's Institutes in the second Century AD and the Institutes of the Justinian codification in the sixth Century AD, is one that was once deemed rather universal in its educational configuration and philosophical outlook. The revival of the study of law otherwise occurred in Bologna in the eleventh Century AD and the subject grew significantly post the 1648 Westphalian paradigm, which marked a new era for the discipline of law altogether: the rise of the modern nation state and, by extension, the legal codifications movement. The paper, taking into account all these developments, posits that the subject of law was once international in and of itself; so were many of its educational aspects. It further posits that law as a discipline has to rediscover its traditional spirit of universality in furtherance of a more cosmopolitan educational paradigm. The paper concludes with an overview of its main findings.

Keywords: internationalisation, legal education, cosmopolitanism, education, law, 1648, Treaties of Westphalia, Peace of Westphalia, comparative law, international law

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Introduction

The paper explores the connection between the concept of internationalisation of legal education and the creation of a cosmopolitan paradigm in the area. In furtherance of its analytical goals, the paper draws a parallel with the universal character of Aristotelian justice, as prescribed in *Nicomachean Ethics*. The contribution concedes that law as an academic subject presents us with a highly divided discipline but it is also posited that law ought to rediscover what the author would call its original educational configuration which perceived the study of law as rather universal matter. The sophistication of modern societies and the departure of the world's modern legal systems from natural law understandings continues to make law a highly fragmented discipline at the world level, as law still comes with a strong national flavour; so do the world's legal educational systems. One would, therefore, be plausibly reminded that law is to this day the toy of the nation state. Nonetheless, law's almost natural adherence to the nation state due to the 1648 Westphalian paradigm has had considerable implications for legal education. The 1648 paradigm (see the two Treaties of Westphalia and the effective rise of the modern nation state) has defined the modern discipline of law but it would be key to rediscover law's universal spirit in legal educational terms for the benefit of the societies of the future.

Methodological Considerations and Hypothesis

When it comes to the paper's methodology, this contribution uses legal historical and legal theoretical matter to promote its key tenets and findings. The paper practically falls in the wider field of legal theory and comparative law vis-à-vis legal education. The working hypothesis of the paper is that a more internationalised type of legal education would effectively result in a more cosmopolitan educational paradigm benefiting both the discipline itself and students of law. It is taken that internationalised legal education would stand for a more open-ended type of legal education which would not concentrate on domestic legal matter to a very significant extent, as seems to currently be the case, but would be one that would balance between such matter, i.e. domestic matter, and forms of law that would create global jurists and so on.

Aristotelian Justice and Cosmopolitan Legal Education

> Some people think that all rules of justice are merely conventional, because whereas a law of nature is immutable and has the same validity everywhere, as fire burns both here and in Persia, rules of justice are seen to vary. (Aristot. Nic. Eth. 5.7.2)

A parallel as to the possibility of a more cosmopolitan type of legal education for our future graduates could be drawn with Aristotle's classic position on the perception of justice around the world. This is not a paper about Aristotle's perception of ethics and justice but, for the benefit of the reader, Aristotle's quote (Aristot. Nic. Eth. 5.7.2) tell us this at the very least: natural justice is universal, while justice based on domestic positive instruments of law would be conventional and, potentially, particular and specific. There are lessons to be learnt for legal educationists in this respect. If Aristotle was right, i.e. if justice could have both a universal and a more particular character to it, legal education too could be perceived as one that has a specific domestic essence e.g. emanating from specific positive instruments from the domestic sphere and a more international essence e.g. one pointing to a more universal type of essence for the international sphere and/or from natural law. As expected, most jurists would not object to such a distinction but would beg to differ when it comes to the semantics

behind such distinction; also, jurists (international lawyers included) would readily remind us that even international law is not as universal as one would normally expect. For instance, an American lawyer, whilst respectful of the essence and the value of international law, could speak of American exceptionalism in the sphere of international law by justifying their view through the supremacy of the American constitution in the US legal order. A Chinese law professor's view of international law would not always be agreeable to the views of an international law professor from France or the United Kingdom and so on. Yet the point remains: there is a more specific domestic essence to law and a more universal one to it. Drawing on this distinction, a legal educator should consider law's tendency (as in the academic subject's tendency) to currently emphasise and focus on domestic law considerably more than a type of study of law that would move beyond the domestic. The same educator would ideally have to move beyond the domestic, after a certain point, and they would do so not just for the benefit of the discipline of law but also for the benefit of the student body. Of course, the pragmatic argument here would suggest that there are utilitarian reasons behind law's current domestic-oriented tendencies but the counter-argument would be that the emphasis on a domestic perception of law would actually seem to favour the production of future practitioners (or students who would have future legal practice in mind) rather than the production of future jurists.

Historical Origins of the Modern Discipline of Law

It would otherwise be close-to-impossible to precisely identify the roots of law as an educational reality under current sources. The names of Code of Ur-Nammu from the 21st Century BC; the Code of Lipit-Ishtar and the Code of Eshnunna both from the 20th Century BC and the Code of Hammurabi from the 18th Century BC would ring bells to legal scholars and would be revealing of the value of law in ancient Mesopotamia. Archaeologists, jurists and historians would, of course, argue as to whether these "codes" were legislative instruments *per se*, compilations of past cases in abstract form or jurisprudential works. Kraus (1960, p. 283ff), for instance, argued that the Code of Hammurabi was a jurisprudential work. If so, it could be taught, taken into account in judgments and, generally, act as something that could be transmitted through instruction. As such, Mesopotamia could be taken to be a serious candidate as to where law was first "taught" and transmitted. Moreover, law seems to have started educationally as a rhetorical and philosophical exercise in Greece. Much of modern law's philosophical outlook and educational configuration, especially when it comes to questions of morality and a virtuous type of living, seems to be traceable in ancient Greece. Candidates in this respect, when it comes to the roots of the modern subject of law as an educational artefact would historically range from the sophists and Socrates in the 5th Century BC to Plato and Aristotle's teachings and writings in the 4th of Century BC. Sophists, for instance, would be intellectuals that would teach rhetoric, amongst other subjects, for a living. Rhetoric at the time would be what we could call nowadays advocacy skills and the related. Of course, the two terms "advocacy" and "rhetoric" are not identical, yet they are synonyms. In China, from the 5th Century BC onwards, one observes the rise of what has been anachronistically and conventionally known as the School of Legalism (*fa*), but it would seem that the particular school would include elements both from the school of law and administrative science, so to speak. Cicero in the 1st Century BC with his famous *ius gentium* theory spoke of the universality of law through the law of nations, the particular law being applicable to all humanity, thereby at least implying that the subject of law is international in and of itself in the central area of law defining moral obligations for diverse peoples and nations. Later at Rome, once again, in 2nd Century AD, one observes with Gaius' Institutes, the first systematic and elementary study of Roman law in a single treatise

when it comes to a particularly extensive area of law, that of Roman private law. In the Eastern Roman Empire, in the 5th Century AD, one notes the Justinian Codification (*Corpus Iuris Civilis*), which for legal educators and students of law contained the Institutions (*Institutiones*), a student law textbook *mutatis mutandis*, based to a significant degree on Gaius' Institutes. In 11th Century AD, we observe the revival of the systematic study of the subject of law at the University of Bologna, which was established in AD 1088 and which to most scholars would be taken to be the first modern university. Others argue, however, that it was Al-Qarawiyyin in what is modern Morocco that acted as the world's first modern university, it having been established as a mosque in AD 857. It acted as a leading centre of the Islamic Golden age and it was down to Islamic scholars that Aristotle's works were salvaged for the West. In any case, moving on, one reaches 1648, which stands for the Treaties of Westphalia, the conventional point of time signifying the rise of the modern nation State. The Peace of Westphalia has had major implications for the rise of nations in Europe and around the world. Finally, the national codifications movement took nations, the legal and the political world and legal educators around the world by storm, especially in the 18th and the 19th centuries AD, the first modern codified texts being the Statutes of Lithuania from the 16th Century AD, the Constitution of Corsica of 1755 and the Constitution of the United States of 1789. However, the most well-known examples of modern codifications are -by far- those of the Code Napoleon of 1804 and the German Civil Code of 1900. These were and are codes which did not only affect whole nations and legal systems but legal education too.

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For lawyers, 1648 is a landmark year for the rise of the more modern study of law. This is the year in which the Treaties of Westphalia were concluded. The treaties have been celebrated and known as the Peace of Westphalia. In any case, these two treaties have had major impact on the world of modernity, the particular treaties effectively giving effect to the modern state. As such, not only would certain new nations be formally recognised through these treaties but the principle of sovereignty would also be established. By extension, the principle of non-intervention on the internal affairs of other States was also recognised (e.g. Grote, 2006). As such, the same instruments would lay the foundations for the modern international system, even though Grotius would have laid somewhat earlier than the Peace of Westphalia certain key theoretical and jurisprudential foundations of modern international law through his work *On the Law of War and Peace*. To this day, the modern international system revolves around the Treaties of Westphalia, even though certain scholars would object in relation to the existence of the Westphalian system and its importance (e.g. Osiander, 2001). For most scholars of international law and history, however, international law still effectively revolves around the Westphalian system in one way or another (e.g. Nathan, 2002). The rise of the modern nation state did not simultaneously come about with the rise of modern nationalisms. However, the overconcentration of certain modern nation states on the idea of the nation eventually led to the rise of nationalisms in late 18th and early 19th Century (e.g. Kohn, 1939, pp. 1015-1016). Yet, it would be a mistake to blame the rise of nationalisms on the Treaties of Westphalia and the Westphalian paradigm. Nonetheless, the Treaties of Westphalia and certain of the aspects with which they came, created one of the conditions precedent (modern nation State per se in Europe and the world) for the eventual explosion of nationalisms in the 19th and 20th Century and so on.

Law as a Predominantly Domestic Subject

By all means, law around the world as a taught subject is a domestic or a predominantly domestic subject. What modern legal educationists face is effectively a situation where law is still perceived as a predominantly domestic type of study, because law is perceived as predominantly domestic matter post the 1648 paradigm. Of course, comparative lawyers would tell us that most of "national" or "domestic" laws are on many occasions not the result of domestic genius but rather the result of attentive or not so attentive comparative legislative and judicial exercises. The situation in law is so peculiar that not even the subject of international law, while universal formally (Scoville & Marcovic, 2016, p. 119), is that international, for one has it that the perceptions of international law around the world are not quite exactly the same (Roberts 2017, pp. 1-18) or cosmopolitan (Scoville & Marcovic, 2016, p. 135). Law, the toy of the nation state, has had to follow suit in legal educational terms, legal education being a by and large national exercise (*Landesjurisprudenz*). Major exceptions to the study of law as a predominantly oriented subject toward the domestic sphere, would be the study of comparative and international law subjects. The more domestic character of the subject of law as a taught subject still somewhat prevails in legal education. Nonetheless, it should be reiterated that there are positive developments in the sector, making the subject of law somewhat more open-ended, international and less parochial in its outlook. For instance, the comparative law/legal historical approach in any subject of law would make our subject more outward-looking and, by extension, more internationalised and cosmopolitan.

Three Schools of Thought in Modern Legal Education

We, in law, operate in environments of legal education that are largely designed for the national sphere. Exception to this is the delivery of more "international" subjects e.g. international and comparative law. However, even in these subjects there would be national predispositions in the way these subjects would be delivered. The classic example here would be the teaching of a legal doctrine, which could have never been identified its roots, its sources or its origins, when delivered to the law students of hypothetical legal system X. It would be simply delivered as national legal matter. Moreover, while law leads amongst the theoretical disciplines, it is deemed to be rather peculiar in epistemological terms. Here's why: "[t]here is no such thing as 'German' physics or 'British' microbiology or 'Canadian' geology" (Zweigert & Kötz, 1998, p. 75). As things stand, law is otherwise defined by three schools of thought when it comes to its theoretical orientation and, by extension, when it comes to legal education (see Figure 1 below). The author posits that the following three schools are the leading schools of law in contemporaneity:

Figure 1

The Division of Scholars in Law and Legal Education

The legal Westphalians would be nation-oriented, pro-sovereignty and, under this school of thought, there would be a clear, if not a celebrated, tendency towards the theme of law and authoritarianism. According to them, most modern law seems to be still based on the Westphalian paradigm and modern law would still be a largely authoritarian device. However, in our interconnected and globalised world, these folks are losing ground: the nation and national law are important but not as important as they once were. Also, while the scholars subscribing to this school of thought would not be legal nationalists, legal nationalists would more comfortably sit in this school and many could mistake legal Westphalians for legal nationalists. Moreover, the legal Westphalians would practically oppose liberal cosmopolitanism and liberal constitutionalism. Indicative representatives of the legal Westphalians would be Thomas Hobbes and Carl Schmitt. The legal universalists, on the other hand, would effectively stand for law's more pro-cosmopolitan and pro-internationalisation scholars. They would normally question law's "traditional" authoritarianism and inward-looking tendencies and would be sceptical of the centrality of the nation in modern law and, by extension, in modern legal education. Indicative representatives in the area would be William Twining and the late Basil Markesinis. Last but not least, one would observe the school of legal conservatives. These folks are practically the status quo in many law schools around the world. They generally do not react to external stimuli e.g. from other disciplines and most of them do not come with any special legal flavour or original ideas in their thinking, as they are generally characterised by apathetic and subject-conservative tendencies. Representing an intellectual stream of compromises at best, they do not seem to favour any significant reform in the subject of law and established forms of legal education, unless absolutely necessary. As stated, they are the status quo in many places around the world, practically making the conservative subject of law, even more conservative than already is: even the legal Westphalians might once looked like mavericks when compared to the more conservative colleagues in the discipline of law.

Cosmopolitanism

Cosmopolitanism, on the other hand, has to do with the creation of world-class citizenry (Platsas, 2015, p. 156). In pure epistemological terms, most other academic subjects tend to come with a universal essence to them, while the situation in law could be described as one that comes closer to domestic realities. However, even the subject of law, especially in the last 80 years+ seems to slowly but steadily appreciate the value of a more extrovert approach in its delivery and study. In any case, cosmopolitanism, a largely unknown idea in the modern school of law, relates to a moral commitment to the universal human community (Flood and Lederer, 2012, p. 2514). This idea has conquered the developed world, in that the most developed of legal systems and societies are and would like to perceive themselves as more cosmopolitan than not. A true cosmopolitan always appreciates the diverse but never belongs or subscribes to a given locality. Cosmopolitanism is a "personal tendency to orient oneself beyond the boundaries of the community one belongs to" (Merton, 1957, p. 387ff). It is an idea that hovers between culturalism and universalism. In law, the legal cosmopolitans would need at the very least "a language of legal theory that could transcend legal cultures" (Bradley, 2000, p. 465, on Twining). So what is the point of the cosmopolitan exercise exactly? What is the point of cosmopolitanism for lawyers? Can the idea of cosmopolitanism through the greater internationalisation of our subject result in the production of better law graduates in the future? The answer is in the affirmative. Here's why:

- **Educational benefit**: a cosmopolitan type of legal education would amount to world academic citizenry for our future law graduates (as opposed to acquiring national academic citizenry in a given domestic law).

- **Discipline benefit**: over-fragmentation in law itself as well as in the ways law is taught does not seem to have benefited the discipline, which does not come with a universal essence that one would typically observe in almost all academic disciplines. Law can, therefore, come with more cosmopolitan and internationalised educational models, which would benefit it as a universal type of study.
- **Practical utility**: in an increasingly interconnected world, the need for global lawyers becomes ever more relevant. A more internationalised type of legal education would not only prepare better law graduates but also future global lawyers and jurists.
- **Epistemological benefit**: the discipline of law will become more coherent and will come somewhat closer to the universal character of the majority of disciplines.

Cosmopolitan Legal Education Through the Internationalisation of the Subject of Law

As the world goes, the subject of law is relatively inward-looking and nation-oriented in the main. The subject of law is a by and large domestic subject. This being the case, it is posited that the subject can become more extrovert and certainly more outward-looking by moving to more internationalised forms of education. Such forms of legal education would *mutatis mutandis* amount to a more cosmopolitan type of legal education. Cosmopolitan legal education is the future in a world which is already interconnected and where international trade becomes ever more relevant. Here, in this form of legal education, the fine and attentive immersion of law students in the study of comparative law and international law studies would be a *sine qua non*. Our students tend to receive their legal education on domestic matter with only a fraction of their studies dedicated to most elegant subjects such as legal theory, legal history, international law, comparative law and legal sociology. Of course, it is not automatic that all of these subjects will be found to be appealing to most of our law students. Nonetheless, law degrees devoid of these subjects would miss out on so much; so would the law graduates that would never have had the opportunity to even elect these subjects. For many of our students, the undergraduate law degree in Europe and many parts around the world would be their first and their last chance to study the subject of law in their life. What would our response be to these students, if they never had the chance to choose any of the above? What would our responsibility be as academic scholars, if these students would have had a single chance to study the more extrovert subjects in the discipline of law and yet we would not have offered them such opportunity? One cannot expect to create cosmopolitan law graduates or jurists without minimum but sufficient exposure to the magnificent beauty of the aforementioned subjects (the list is not exhaustive). In our efforts to prepare students for domestic legal markets and the job market, we may be missing the overall picture, the overall picture spanning to many more legal subjects than domestic legal subjects. The study of domestic legal matter should not be neglected but would have to be refined. Even domestic subjects can become more “international” through the eclectic and careful incorporation of comparative legal elements in their delivery, elements which students tend to find of great interest, not least because these elements intrigue their academic curiosity. Suppose one had the choice between creating law degrees with exclusively domestic subjects and degrees with certain domestic subjects and subjects that would cultivate a more internationalised type of legal education. What would the students choose between the two? Whereas one could have highly motivated and focused students on domestic law, the chances are that most of our law students would wish to be able to elect subjects and law degrees that would trigger their legal imagination and would expand their intellectual horizons beyond the domestic sphere, in which case the choice in favour of more internationalised, more open-ended, more cosmopolitan degrees and studies would be an obvious one. The future lies in more cosmopolitan legal studies or what the world calls

"internationalised" law degrees. And the future is now: it is one thing to have a degree that would allow you to navigate domestic law and quite another if your degree would allow you to do so but also prepare you to become a jurist or even a global lawyer.

A More Cosmopolitan Discipline of Law

Surely, when Aristotle posited his famous universal concept of natural justice (Aristot. Nic. Eth. 5.7.2) and the fact that, while there are differences of government from country to country but only one form of government which is the "best" (Aristot. Nic. Eth. 5.7.5), his call was a universalist one. In law, due to the Westphalian paradigm, that old traditional position is not as prevalent as it once was and this should come with wide-ranging connotations for legal education in the future. The subject needs to rediscover the idea of cosmopolitanism and its universal essence, as it may eventually deteriorate to a highly provincial exercise, when law can be expansive, fascinating and outward-looking. Thus, the point to be made is that despite conventional differences from legal system to legal system, there is value in seeking the universal in educational terms, because there is a considerable element of universality in certain of the things we do in law. In this respect, Twining reminds us that "a more cosmopolitan discipline of law needs to engage with problems of constructing just and workable supra-national institutions and practices" (Twining's Oxford Law Faculty webpage – accessed July 2025). In a globalised world, local legal problems are normally dealt with by way of local legal solutions but, as the author has maintained elsewhere, international problems are axiomatically best dealt with by way of international legal solutions (Platsas, 2017, p. 14). For our future lawyers to deal with such international matters, one must start preparing them as law students from their first law degree already, and the way forward here would be to create more cosmopolitan/internationalised forms of legal education in the first place.

Conclusion & Recommendations

Ultimately, the question is not whether more internationalised forms of legal education, generating cosmopolitan law graduates in the future, should be the case. The question would be how one would achieve this. A number of recommendations would be made in this respect. First, one would need to create a common language of legal theory, one that would be intelligible to legal scholars around the world. Second, as opposed to examining the particular in law mainly, one should proceed with the examination of both the particular and the universal in law: more balanced legal education models between the domestic and the international sphere should be on offer to our future cohorts of law students. Third, as opposed to examining the domestic side predominantly, future law degrees ought to explore in greater depth the value of harmonisation of laws, something that would come in agreement with the interconnectedness of economies in our globalised world. Fourth, legal educators ought to also cultivate the study of the relationship between local and global law. Moreover, the exploration of more comparative law, international law, legal theory, legal history and socio-legal subjects in the curriculum should be the case. A need for a cosmopolitan paradigm in the modern law school becomes ever more apparent. Internationalising the subject ought to create better academic citizens and, by extension, better lawyers. A more internationalised type of legal education ought to create this cosmopolitan paradigm: it would allow our students to more thoroughly appreciate diversity but also universality. World-class law graduates would be created (as opposed to *homines speciales* that mainly specialise in the law of a given locality). The subject would come closer to international law's innate cosmopolitanism (Gordon, 2013, p. 906), while our future lawyers would be able to deal

"with people from different countries, different cultures, with different world views […]" (Martini & Susler, 2011). A more cosmopolitan agenda in the modern law school could also accommodate globalisation as a theme, in that cosmopolitanism can, in principle, make allowance not just for the cultural appreciation of legal matter but also allowance for the appreciation of legal universals which globalisation generates. To conclude, Aristotle's fire still burns all over the world, when it comes to justice and the perception thereof. One would hope that this universal fire will also be kindled in the field of legal education for the benefit of the subject, students of law and the societies of the future.

Declaration of Generative AI and AI-Assisted Technologies in the Writing Process

The author declares that no AI or AI-assisted technologies have been used to generate, refine, or correct the content in the manuscript. The ideas, design, procedures, findings, analyses, and discussion are originally written and derived from careful and systematic conduct of the research.

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