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# Educating to Meet the Demands of Florida Business and Law Schools - A. Introduction

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## VI. EDUCATING TO MEET THE DEMANDS OF FLORIDA BUSINESS AND LAW SCHOOLS

### *A. Introduction*

*Jon Mills*

We need to be educated in business and law to meet the demands of the new world and the new global economy which we are facing. We, in the last couple of years, through implementing this particular program have recognized the importance of establishing a permanent and continuing relationship with educational institutions in the Americas. We have embarked on a program to solidify those relationships and carry them on in the future, and I would just like to mention a couple of those before I introduce our panelists for this presentation.

I think it is noteworthy that many American law schools have looked to Europe to develop their international programs. We are no different in the sense that we have had historic relationships in Europe, one with Cambridge and one with Warsaw in the '70s. But we have come to realize that one of our geographic strengths is that Florida is not only proximate to Latin America, but according to many, part of Latin America. And, we are proud of the opportunity that offers us. So we have implemented over the years a number of programs based on the initiatives of our faculty and some of the strengths in our university, not only including our law school, but beyond our law school. And, I would add that at this point we believe that international programs have become one of the major strengths of our college of law, which we intend to emphasize. This accumulation of wonderful programs is now being organized by Professor Stuart Cohn, who happens to be here today, and has the difficult job of organizing our many talented professors and describing our program in a way that is intelligible to both the country and others who deal with us.

Among our curriculum is our program with the Escuela Libre de Derecho, a cooperative program that includes student summer study programs, faculty exchanges, short-term courses at each institution, and joint symposia on matters of mutual interest between the United States and Mexico. Many of you involved in that would recognize Professor Mike Gordon, who has been involved in that for many, many years. In San Jose, Costa Rica we have a summer program in cooperation with the University of Costa Rica with a focus on environmental law. We, of course, appreciate Dean Saenz's support in accomplishing and facilitating that particular program.

We have law school enrichment courses that benefit our students by offering visits from scholars in leading academic institutions in South America. In recent years, scholars from Brazil, Mexico, Guatemala, and Puerto Rico have taught here. We have engaged in research and public service, one example is our involvement in the U.S. Inter-American Conflict Resolution Grant in Haiti. Over seven hundred Haitian officials have been trained in mediation through this ongoing program, which continues today.

We have a conservation law initiative, which involves our students and faculty in conservation efforts across national borders in Central and South America. Issues relating to shared populations of sea turtles among Costa Rica, Nicaragua, and Panama, and the development of a regional policy for shared forests among Belize, Mexico, and Guatemala. This summer we will have a Brazilian Prosecutors Training Program here in Gainesville that will involve judges and prosecutors, both from Brazil and from the United States.

We, of course, have our ongoing LL.M. course in International Comparative Law, which trains individuals who have already completed courses in their own country. Students in recent years have come from Latin American countries including Brazil, Venezuela, Costa Rica, Ecuador, and we hope many more.

The value in number of having our students involved cannot be exaggerated. I was extremely gratified today to see the large number of our students, both undergraduate and LL.M. students who attended today. And, this will have a permanent impact on both their commitment and capacity to work in international law.

We are hosting the Sixth Annual LatCrit Conference at the end of this week, which will host many law professors from the United States and Latin America. We will focus on North-South relations, comparative legal issues, and the role and influence of Latin American scholars in the United States. Our future possibilities are endless. It is quite clear that this hemisphere is essential to the future of globalization and the world. And, the success of the relationships that we develop here are elemental to the success of that entire enterprise.

So with that I would like to introduce my colleagues on the stage. Jose Raul Gaviao de Almeida is a District Judge in conjunction with the State of São Paulo Court of Justices Public Law Assembly and a Professor of Penal and Trial Law at the University of São Paulo School of Law and Paulista University School of Law. He did his graduate studies at the Catholic Pontifical University of Campinas School of Law; post-graduate studies in penal trial law at the University of Degli Studi in Milan, Italy, and Pavia University in Italy; and doctoral and military leader studies at the University of São Paulo School of Law. And on a personal note, Judge

Raul is a special friend and mentor to one of our LL.M. graduates, Enyo Silva, who finished last year and is now working in São Paulo.

Loretta Ortiz Ahlf is the Director of the Law Department of the Universidad Iberoamericana in Mexico, a position she has held since 1998. She previously served as Legal Director of the National Council for Culture and Arts; Advisor for the General Management of the Bank of Mexico; Coordinator of the Subsystem of International Public Law in the Universidad Iberoamericana; and researcher in the judicial offices of foreign relations. She is licensed in law by the Escuela Libre de Derecho, and holds a masters in law from the Universidad Iberoamericana.

Carol Taylor West is a Professor and Chair of the Department of Economics at the Warrington College of Business at the University of Florida. She is also the Forecasting Program Director of the Bureau of Economic and Business Research and the Director for the Center of International Business Education and Research. She has a B.A. from Harvard University and a Ph.D. in Economics from the University of Michigan.

Maria Antonieta Saenz is Dean of the College of Law at the University of Costa Rica. She has also been a Full Professor of Civil Trial Law and General Theory of Trial for twenty-three years. She is also a Professor of General Theory of Trial in Penal Sciences and Voluntary Jurisdiction of a Notary in Notary Law. She has a J.D. in Civil Trial Law and a J.D. in Penal Trial Law, both from the University of Pisa, Italy. She has conducted post-graduate studies in Civil Trial Law and Penal Trial Law.

We will begin with a presentation from Dean Saenz, who we welcome back from last year and again thank her for her cooperation with our Costa Rican program.

Thank you very much for being here.

## B. Human Rights

*Maria Antonieta Saenz\**

Again, I am very honored to be invited to this conference. I participated in this last year, and I am very happy to be here with you again. Our panel had a very original subject, which referred to the importance of studies in business in a law school, which I think is very important. I requested that they should change the subject, because this has to do with Florida. Therefore, they were kind enough to change the subject for another subject that I consider quite interesting, which is the importance of the study of human rights. Thus, I am going to begin to develop this subject in the fastest way possible, because I know at the end everybody wants to go rest.

In reality, the subject of human rights — it seems like a very intangible subject because it does not seem to be part of the daily life of people. However, the truth is that within all the concepts that we are living in now — I was listening to the previous presentation concerning economic subjects — everything that has to do with money laundering, everything that has to do with a free trade agreement, it is very difficult to collect all this information when focusing on human rights. But, within these same subjects, within these same problems we have everything that has to do with human rights.

Perhaps it is important to point out that the subject of human rights has been handled, and I will try to be very specific concerning this subject, because I think there are very, very specific points that should be pointed out when we talk about this subject. In reality, human rights at this moment is interested in the international level. We know that evolution has been very slow on this subject because human rights have always been handled at the local level. Basically the development of human rights in the international forum has been done through humanitarian rights, which is the right to avoid war situations in order to keep countries in a state of peace.

Therefore, the struggle to obtain progress in human rights has been great.

I think that there has been a very local development presently. Humanity has been developing a lot through this human rights, all of the possibilities concerning the rights of the people. Let us remember that in Versailles what was taken into account was the nation states. The battle

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\* Dean of the College of Law at the University of Costa Rica, a position she has held since 1993. She also has been a Full Professor of Civil Trial Law and General Theory of Trial for twenty-three years. She is also Professor of General Theory of Trial in Penal Sciences and Voluntary Jurisdiction of a Notary in Notary Law.

was to preserve peace between states. At this moment we think the people, as citizens, are subject to the international law. Therefore, up until this moment, what we have seen are interventions of the state based on humanitarian aid. For example, we have organizations like the United Nations that are ordered to apply violations of human rights on a great scale. That is the case of the Kurds in Iran, the situation in Haiti, and the order issued by the international tribunal for what used to be Yugoslavia. Now, we are punishing the crimes that were committed against humanity, such as genocide, war crimes, and armed conflict. We know that humanitarian legislation is highly developed because even before the international legislation for human rights, legislation existed as a component of human rights so far as the right of war is concerned. Presently, in peace time, we begin to try to perfect these rights.

It is interesting that in this period of globalization, even though we can talk about great development of human rights in the world, there is a contradiction of terms. It is as if we were accelerating and at the same time slowing down, because what refers to protection of individuals is not being expressed in the terms that are required. In reality, I think that the battle at this time is that human rights should stop being considered at a very high level and they should be more positive. At this moment in history, human rights have to do with the economic development of countries. To offer a scientific analysis about human rights, it is basic to identify the real context that all of its faces have within the social scenario. It also implies a commitment with justice, with peace, and survival, not only of human beings, but also of nature in its totality. That is why in reality there is a very close link between development and human rights. The social practice and political practice are intimately connected.

Political rights and civil rights — and here we have to say because human rights have gone around political rights and civil rights. At this moment, we have to integrate other categories, and those are the economic rights, the social rights, and the cultural rights, because all of them are part of the same area. We cannot, in reality, do any artificial separation because a fight for human rights has to be a struggle that is integrated. When we talk about the subject, we have to be very clear that enjoying all the rights, access to basic education, health education, housing, employment, is vital for human freedom. In the same way, civil rights and the political rights that people may have are also important. In other words, human development and human rights go hand in hand. One of the reasons that we fail to protect human rights is the existence of economic structures that produce and maintain economic inequality between men and women on this planet. The phenomenon of globalization connecting human economic rights of the different countries crosses a very sensible line that has to do with the development of the people. In reality, we believe that has been overcome and that for development you need the participation of men and

women in complete political freedom and in a condition of equality. Economic freedom of the countries can only be explained with political and civil rights, which reflect that human beings are better as economic actors because they feel that they participate in making decisions. Also, we must take into consideration that at this point in human history, the development and the integration of the whole world is creating the phenomenon of self-exclusion.

The processes in these cases that I have mentioned do not reach all of the sectors of our society in the world. In reality, we have opened the doors that allow us to reach these possibilities for all of the citizens of humanity. At this moment, we cannot talk about human rights for each country. We have to talk about human rights as a patrimony that all of humanity should have. Therefore, we have to look within this context, so that we can protect human rights. We have to create new world institutions. We have to create groups that will strengthen these sectors. For example, educational institutions in economically weak sectors can carry out this important task where they can be instruments to help increase the number of social groups in the struggle to safeguard our human rights. We feel that we have to learn new, novel ways to carry out human rights universally, so that it could be adapted to all of the needs of this century.

The Universal Declaration of Human Rights that was written more than fifty years ago proposed that there should be human rights for all. It seems that at this moment we have the will and the capability and also the necessary resources to reap that. All the sectors of the world society should be committed to this task. We have to work together to acquire or to strengthen attitudes and values concerning human rights. This is equal to recognizing that human rights, such as I said before, are part of our rights of humanity, and therefore, we have to do the necessary things to be the empowerment of the people amongst all the inhabitants of the society. The process that can be completed is a fundamental education in human rights that formalizes with the essential elements in the international element. Values such as peace, democracy, freedom, and tolerance, in such a way to form a legal platform in a world community is nothing else but a recognition towards the person as the center of history. Perhaps, in order to pinpoint more on the subject that was discussed, it is important to see what is within the legal discipline and what would be the task of the attorney in human rights.

I begin from the situation that human rights should not be studied only by professionals in law. Those who defend the rights of people can be people who are involved in different activities. What happens is that the lawyers, as a natural task, have to defend human rights. And within these priorities, we have the option that an attorney has within society. He should be looking to develop all of the effective ways to make these values stand out. And the vision of the attorney should come from an essential

point. It is not enough that we have laws that guarantee these rights. Many times we can say that you can live and you have freedom and justice, but the rule of law is impartial, the law related to human rights is left just on paper. As we said before, you need to have institutions that support a legal process as well as a culture of rules in order to reinforce the legal institutions. Sometimes it is indispensable to have a proper economic field analysis. That the task of jurists, as we pointed out, is very vital, but that task should be limited in a careful preparation so that they know what is the number of conditions so that the action can be effective.

While many sectors in communities should join so the legal framework will work, the rules about human rights should be divulged by different leaders, whether religious, business men, heads of family, teachers, or through all other ways of communicating this subject. There should be good training of police so far as human rights is concerned to avoid brutality. There should be institutions that guarantee, in an effective way, human rights in schools and health centers; tribunals that really function; and institutions that take care of the violations of human rights and do something about them. The civil society, through its different organizations, can make great contributions each time it addresses a more relevant task in the social dynamic of the country. The regulations give way to the more imperative of human rights and immobilizes the legal system to carry out this task. The states have the main task of participating in this process so far as human rights are concerned in order to establish a framework within the total group. It is necessary that we have an environment that is appropriate to allow access to all of these rights. We have to have human resources so we can pay decently. Teachers should be paid. Money is also needed for different health programs, the legal process, and to cover many other needs. Otherwise, we will not be able to talk about a sustainable system for human rights.

Therefore, we can say we have to have independence of the human in such a way that will guarantee a real and effective protection of injustice and abuses. This really means to talk about democracy and how to be independent.

Now there are very important challenges for the legal profession. There should be an incessant battle to have real guarantees of human rights in the different tribunals and the different political organizations. There must be good accounting in the legal procedure, freedom of information and communications, transparency in establishing economic policy, and avoidance of corruption of the political system. That is why we should try to have democracy. Human rights are carried out only when the persons are covered by them, and they have access to freedom or to the resources that the law provides. Now, what is the realization between human rights and legal rights?



After reflecting on what we have developed up until this moment, we can conclude that in the task of defense of human rights, there are many people who are called and the lawyers can help in this. That is why it is very important to have a very good knowledge of human rights and the context in which they can carry out this task in such a way that the rights of the people are covered. So far as human rights, we have to be very clear that not all human rights are legal. The connection between human rights with the rights and duties are pre-established as part of the rule of law. This contradicts the basic idea that people have certain rights concerning others and the structure of the social mechanism is independent of the law which may be applied. This is established in Article 1 of the Universal Declaration of Human Rights. We should point out that the spirit of this is a duty of abstaining from causing damages to others as well as a duty of providing help.

The Universal Declaration of Human Rights universally guaranteed the protection against laws and unjust practices. No matter what the law may be, the individuals only have the right based on the fact of being human, and not because of becoming citizens or for contingent reasons that are related to the legal reality of the country in which they live. In many countries it is possible that the best way of carrying out the recession of human rights is to establish them in a legal framework. But this should not confuse them. One must suppose that it is enough to have legal rights so that you can have human rights. The combination of both perspectives contributes more than anything that the two of them could provide separately. Within this presentation we can say that we have presented different dimensions in the philosophical level in which the ethological prevails and the ethical is based on what is specifically legal. The essential consideration is that human rights expressed in the international documents that come out of the United Nations are moral precepts and ethical precepts that are done by society in different legal regimes and cultural systems, that socially and politically are very diverse. Now, I am going to pinpoint this, because in reality it is important to point out the importance of human rights within the universal curriculum and the specific case of studying law is to introduce the subject of human rights.

In Costa Rica we have carried out a number of initiatives in the framework of regional programs to look for the different study plans within the study of law and in other careers that give courses about human rights. In our faculty, for instance, our university in Costa Rica has a complete project for the defense of human rights that is carried out or is being protected by all of the different faculty that exist within the university. In the law faculty specifically, we have a program within which we have the "open scholarship" and that is a space within this program of the university that we use to integrate the formation of optional courses for varied topics, therefore, they are very monographic courses. However, the

idea of education in human rights goes beyond the scope of what is purely cognitive because they are a substantive part of daily life of all people. Their learning should be very vital.

Human rights cannot be taught, they are learned. You can live them and incorporate them in the existential matrix of people. Institutions should recognize the right of the people to be educated, as established by the International Declaration of Human Rights of the United Nations, something that was written in all the contemporary constitutions. So far as this point of view, we pointed out that there is an area in which we connect of education and human rights, through education as content, education as methodology, and education as a means to carry out other human rights. The first classification represents something that gets us close to that phenomenon that is at the intellectual level. The other two, both methodology, as well as the means for the exercise, can be related to the project of living that characterizes the people who integrate an education community. From this we can deduce that the education alternative may go beyond the perspective and the concepts to such a way that all of the people live them through a designed methodology in order to assume a greater potentiality and to make them their own.

Concluding, I can say that we do not think that the idea of introducing the material of human rights as a formal subject is not a good idea or an inappropriate idea. What is more valid is to include a curriculum with a regular profile of a universal career. It makes it, therefore, necessary to make a distinction between a curriculum profile and the professional who in a growth way is a person who carries out an academic project that tries to guarantee a project according to the social, cultural, political, economical, and ecological dimensions. In the professional profile, we are looking for what the professional should do and what he needs to carry out his profession. The concept is really very important as part of a marker or a new technique.

Human rights, as we said, is something that concerns us all. We all own those rights. That is why education for human rights interests all of the different sectors of the international society. Therefore, we have to talk about a profile that covers all of these social dimensions, as well as political and economic, that we had mentioned before. Within the field of human rights, there has to be an important participation by lawyers who should be permanently vigilant about that protection whether they are considered within the law or not. Any proposal should be oriented within the framework of freedom and respect to cultural diversity and interpretation or explanation of the social environment, both nationally and internationally. Therefore, we cannot ignore the challenges provided by global economics, globalization, and the task that the knowledge of these subjects presents in these cases. In conclusion, we must advance toward

**a true consolidation of human rights within every level of our society as the best way to reach national well-being.**

**Thank you very much.**

### *C. Thoughts of God, Men's Good, and Hope for Humankind*

*Jose Raul Gaviao de Almeida\**

Let me begin by apologizing to you, because I am speaking in my native language, Portuguese, in your country, the United States. That is due to my limitations in the English language, which could harm the ideas that I am trying to expound. And perhaps, I hope that the interpreters can convey my words with added flair. However, I promise to practice and improve my knowledge of this language, which is so important in modern life and hope that sometime in the future this barrier will no longer exist. I would like, briefly, because I must follow the schedule, to thank you for the opportunity I was given to get to know and experience this wonderful University. I hope to maintain contacts that are stronger. Lastly, I would like to share with everybody how excited I am to be here with members of this faculty. This is why I propose to bring thoughts, not ideas, to ask you to think about things that may better bring you to God, men's good, and hope for humankind. Finally, I must talk about how welcome the visit of some members of this faculty was to São Paulo. Joann Klein's experience and the terrific speech by Timothy McLendon left our law students and judges in São Paulo looking forward to a new visit by the University of Florida to our city.

When I found out what the topic was of this meeting today, my first reaction was surprise and concern in the face of the difficulty for a judge and professor from another country to say something that might be useful in this cultural event and meet the expectations of the participants. But as I looked closely at the panel I noticed the path that should be followed, like the wind that spreads the clouds and shows the blue sky. Mankind throughout history searched incessantly for knowledge in all its forms. Culture became fundamental as we can see from the many examples in history, such as the war between Sparta and Athens in ancient Greece where even the power of the sword over literature was a temporary one. And in the end, it was the strength of the people in their cultural heritage that prevailed. Along that path, since the dawn of time different people showed interest in learning about one another. Men braved the seas in search of new lands and new civilizations and followed their ideals and dreams in these adventures. Even today, the spirit of discovery did not disappear, it only shifted its focus from the sea to outer space. Just as before, explorations are not happening only beyond the seas, but in daily relationships, in the space where relationships are actual and real. In our

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\* District Judge, in conjunction with the State of São Paulo Court of Justice's Public Law Assembly, and Professor of Penal Trial Law at the University of São Paulo School of Law and Paulista University School of Law.

planet of technological development, while highlighting more clearly the differences between nations, their intrinsic qualities, and their needs, I will show the importance of the insemination of knowledge that affords a better quality of life to the inhabitants of this planet and allows them to avoid any conflicts that may arise from the increasing exchange that must be accompanied by the knowledge and the mutual respect for each people's customs.

Time does not stand still. Relationships between men of different regions are strengthening, including at the same time cultural shocks which further reveal all the benefits of knowledge and the expansion of knowledge about values and experiences. We do not have to remember the evolution of communications and how this has affected the values of all people. In the most affluent countries, where the use of computers is widespread, internet brought in a revolution with the possibility of getting to know in a matter of seconds, facts and values of faraway lands. In other countries this is being done by television, which is less expensive, more easily manageable, and more easily disseminated. Television has taken up the role of transmitting knowledge with a strength that is a reason for concern when it monopolizes the transmission of ideas. Therefore, there is a need for professional education; the task of those that dedicate themselves to propagate knowledge without any other secondary interests. As Alan Bloom said, the lack of culture forces students to look for information where such information is available, but they are not able to distinguish between the sublime and the commonplace, the deep knowledge and propaganda.

Within this context great emphasis should be given to the universities. Universities are centers for the dissemination of knowledge and the education of men and women, who in the future will have the fundamental role in the choice of solutions to the problems that mankind has to face. This is particularly true among the members of NAFTA, which are the United States, Mexico, and Canada. In the case of other Latin American countries, among them, Brazil, the need for cultural interchange is a pressing need since the governments established rules for FTAA, which is the example of what occurred with the European Community. This is a road of no return and it is not limited to trade issues.

In this activity, this particular university takes a role of extreme relevance. Up until the sixteenth century, Florida had a great indigenous or native population. In 1553, Ponce de Leon opened the doors for the Spanish colonists, to which we owe the oldest town in this country, St. Augustine. The French built the first fort here in 1564. The Africans left their mark in Ft. Mose, built in 1738. The British took control of Florida from 1763-1821 when this land became an American territory. The history of Florida shows therefore, an extreme preparedness to understand foreign cultures. Today, it is part of the greatest economic and military power of

the Anglo-American culture. But, it keeps proximity and similarities with the Latin American people, which is in great number part of its inhabitants. The school of law, with its students on the fundamental rights of man and the roles to solve the conflicts of interest, takes a unique role in this relationship. That role is to identify the rules that are truly based on men's ideals and principles, and which, for that reason, go beyond physical borders and accommodate diversity.

In this trend, more and more people are relating amongst themselves, and we need to emphasize the idea that human kind is only one, and lives for the time being on a single planet. Diversity must not be seen as a problem, but as quite the contrary. It allows a fertile field for growth. It is not like a musician, for a musician's hands are more useful than the feet. Therefore, he or she would rather have four hands and no feet. We are all parts of the same body. It is the differences that make us together what we are. The important part is to identify the values that are unique to humankind, the universal values from which no people can stray. Socrates, the Greek philosopher, born in Athens in 470 B.C., and considered the wisest of all men by the oracle at Delphi, based his philosophical doctrine on the expression "know thyself." But knowing mankind is not an easy matter.

The identification of universal values actually entails a paradox. At the same time that these values are common to all men, identifying them has turned out to be an arduous and polemic task, albeit one that is necessary in the world of increasing international relations. One must have the innocence and naiveté of a child and the experience of an elder. They are discussing the main questions faced by mankind, men's destiny, and the destiny of nature.

Kung Foo Say, also known as Confucius, lived from 551-478 B.C. He traveled many of the provinces of the Chinese Empire extolling the importance of moral obligations and love of justice. To this date, man is involved in perfecting these values, but there is still no consensus on what these values should be. This is because establishment of values by committees is influenced by the conditions that people live in and is not a concept that does not change. A pauper who sees his children dying of hunger, the ethnically persecuted that have to go in hiding, the woman subject to a marital system that refuses to provide her with freedom, and people who see the world with different eyes from ours — they identify other priorities for humankind.

There are, however, universal values which are sometimes forgotten due to less relevant interests. This is why studies are needed on what is most important for humankind; love or conquest. Also, whether the concentration of material goods are necessary to live with dignity or its reproduction. We cannot turn our back to the outcome of centuries of human history which have divided the planet into different countries. But

equally, we cannot close our eyes to the existence of multinational corporations, of virtual relations, of international crime organizations, and other complex issues our societies face. Academia must enable studies on barriers between borders. To what extent may strict rules bury the entrance of products in a territory? And there are even countries that stop their nationals from circulating in and out. To what extent could this impede the dissemination of knowledge or take away the hopes of a better life on the parts of those that now have only a dream?

Fifty years ago it was hard to imagine that countries that were then engaged in the Second World War would one day open their borders to the free flow of people from the European Community. And how much have these countries benefited from these attitudes? Along the same lines we could say it is not fair to ignore investments made by some toward discovering health benefits for the entire mankind. However, the importance of profits from research, even though fair, is not comparable to the right to live or to the right to a healthy life. How can we compare monetary figures, no matter how relevant they may be, to a child that starts smiling again because he or she now has access to a pain medicine? How can we compare money to many years of additional life granted to an elderly person; to the miracle of having the blind see; to having the physically disabled walk again? If the discovery of a new method of treatment or a new medicine has a price, let humankind pay for it, but not at the expense and further suffering of the patients; not at the expense of a human life. The cost of a discovery is not worth one single life or one single life of suffering. This topic, in a time where the human genome studies are being intensified, shows that growing academia intensifies reflections on ethical and moral values, and on human rights.

The teaching of law, in particular, even in more specific questions, has its own challenges. An example is the reconciling of the common law system of the United States with the civil law system, which deals mostly with written norms and doctrine lessons addressing law from a more theoretical point of view. In Brazil, the 1988 Federal Constitution took a great step toward approaching the common law system from which it imported a few rules. But law schools still maintain their predominantly theoretical approach in teaching. The University of Florida, in events such as these and in others that will certainly spin off, brings to the table a difficult but a stimulating task, which is to intensify the different methods of study, the routes that universities should follow to perform their main function, which is to educate men to dare to think and avoid repeat. If James Madison, who many consider to be the intellectual author of the Virginia Constitution, did not dare, certainly we would not have now the text that influences, so much, the life of Americans. It ended up reflecting the world over. If the enlightened men of the French Revolution were based on their own interests, the French Revolution would not have had its

dissemination. It is necessary that students leave the university not only knowing the values of their respective communities, not only of these and the foreign peoples, it is necessary they find the importance of understanding such values that they reflect on them, that they question them without prejudice, and it is undoubtedly to this that this event serves with magnitude.

Thank you very much.



### D. *The Teaching of Law*

*Loretta Ortiz Ahlf\**

First I want to thank Dean Jon Mills for the invitation to participate in this seminar. For the first oration, I am going to speak in English. Please forgive me for that.

A few considerations on the teaching of law: The instruction provided by Latin American law schools used to be based on the teaching of the theory of law. There were very few instances in which methods were applied to train students in the use of legal thought processes. In contrast, Anglo-Saxon countries were pioneers in using the case study method to assist the students in learning how to argue from the legal point of view. Today it is impossible to think that anyone can understand the actual significance and scope of the law if priority is not given in curricular programs to legal or real trial practice wherein laws enforced gain concretion. That is maybe the best method to prevent lawyers from falling, or from falling so frequently, back into dogmatics or empty verbiage that only gives rise to false concepts or at most results in a series of dangerous generalizations.

That is not to say that teaching basic theory should be neglected or abandoned, because a practice that is not linked to the doctrine cannot help but be transformed into a series of practical data logging and systematization. Classes that take the form of master lectures have resulted in almost total and absolute perceptions on the part of the students. And, it is for this reason that these must be improved through teaching and learning methods that allow for real and direct participation of the law student. It is undoubtedly true that problems such as mass demand for aggregation on poor library collections are difficulties to be given consideration in implementing different teaching techniques. This does not in any way mean that, taking into account these limitations, attempts to foster increasing student participation should not be undertaken and tried out. A technique that allows greater participation by students are workshops or limited practice in law firms. This method allows the students to learn by doing and their instructors function more as tutors than professors. At first, confusion is proximate reign, gradually giving way to dialog between the student and his or her tutor with ease, as they carry out the specific task. Therefore, an allocation of goals to be attained is that of reaching the right balance between theoretical teaching and practice allowing for greater participation of the student. Although this cannot be

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considered, under any circumstances, an innovation, we still have to ask ourselves why do we still keep and apply obsolete techniques and methods in the teaching of the law? And, why do we transmit curricular content that is out of the face of the concrete historical reality we are currently experiencing?

Other questions addressed by institutions that teach law are those concerning which subjects should be taught and what should be the curricular design adopted by the law schools. In answering these questions, we need to identify which are the common elements on the basis of which we can provide a perspective of our uniform law tradition in spite of the differences among the courses of study offered by various teaching institutions. In addition, they need to keep in mind that legal systems are being influenced by ever increasing transboundary and transnational legal practice. From this perspective, the suggestion is made for maintaining the subjects of public international law, private international law, and comparative law as required subjects, while offering, in the case of Mexico, the courses of the United States and Canadian law as optional subjects. Public international law and private international law were late additions to law school curricula when compared to the different fields of the domestic law and remained for a long time as just optional subjects. Surprisingly they are even now optional subjects in countries such as the United Kingdom, Canada, India, and Japan. This state of affairs seems to have been characteristic of central European states after World War I in spite of the interest arising as a result of the creation of this society of nations. Notwithstanding the significance afforded to public international law within this agency, it was not included as a topic in the so-called state examinations. And, even in the late '30s, public international law was closely linked to the philosophy of law.

If in the past the need already existed for being knowledgeable in these fields, today it is essential within the context of international trade law to properly understand trade treaties such as the North American Free Trade Agreement.

Concerning comparative law, the initial question is why include comparative law in the law curriculum? The practical importance of what has been at least designated as mere theoretical speculation has been profusely questioned. In answer to those who still express this belief and accept the theme, one must refer to the three-fold usefulness of comparative law. It is important for the legal research; it is transcendence and understanding one's own legal system, and it is a question of the role in enticing international relations by promoting a better understanding of other nations by gaining insight into how they perceive the law. From the perspectives of legal methodology, Constantine Nisco underscores the scientific usefulness of comparative law in identifying the evolutionary trends of certain legal principles or concerns and points out its controversy

in structuring what he calls the comparative basis of the general theory of law. Indeed it is evident that by studying comparative law, the student not only goes beyond the boundaries of her own legal system, but greatly enhances her intellectual perspective by the interesting dynamics implicit in establishing legal comparisons. Solely addressing courses of studies at the undergraduate level, it would be possible to include comparative law courses in academic curricula under two methods. The first would be to include a specific subject related to comparative law, such as general theory of comparative law, comparative legal systems, development of legal systems, comparative history of law, and methods of comparative law. I should mention that these should be required courses. The second would have a more specialized focus and would be linked to practically all the courses making up the curriculum. The purpose of this approach would be to include in a specific course, such as criminal, civil or labor law, the particular comparative issues for that specific field.

Concerning the teaching of law in the case of Mexico, the need to include basic knowledge of American and Canadian legal systems is clear if one takes into account that in order to arrive at a solution in commercial controversies, all arbitrators, panelists, and legal counsel are required to be trained in these subjects. This being the case also for those involved in the practice of migratory, corporate, and other areas of law.

If the foregoing considerations are significant, even more so are those concerning the teaching of balance, which in the specific case of legal education leads to teaching in order to attain justice. Peter Han stated last October in Santa Clara, California that the world in all its complicity, with great global promises and countless tragic betrayals, is the world in which Jesuit institutions of higher education are called to promote justice. Jesuit education seeks to educate the whole person, which requires an educated awareness of society and culture with which to contribute generously to society in the real world. When the heart is touched by direct experience the man may be challenged to change. Personal involvement with innocent suffering, and with injustice others suffer is the catalyst for solidarity, which then gives rise to intellectual inquiry and moral reflection. Students in the course of their formation must let the greedy reality of this world into their lives so they can learn to feel it, think about it critically, respond to its suffering, and engage in it constructively. They should learn to perceive, think, judge, choose, and act for the rights of others, especially the disadvantaged and the oppressed. The charge to promote justice is particularly challenging for the law schools where professors are charged with the great responsibility of ensuring that students understand that law has the unique ability to both ensure justice and to institutionalize injustice. Guarantees of freedom in our constitutions and in the U.N. Universal Declaration of Human Rights hold out hope for the former. Indeed, the relationship, or lack of it, between law and justice situates law

schools on the front line in their efforts to bring about a more just society. As such, Jesuit legal education communities charged with promoting justice must be precise in their efforts to develop concrete strategies to achieve that goal.

There is no strategic formula law schools may use to promote justice. But several prerequisites surely exist. First, a consistent message must be sent that promoting justice is a central and valuable element of a learning community. As a corollary, an environment must exist in which efforts to promote justice can succeed. Such an environment requires that efforts to promote justice are not to be perceived as the work of a chosen few with a particular political agenda. Different members of the law school community have ideas about how to fulfill a mission of promoting justice. These different ideas and modes of action must be accommodated. Of course, the rhetoric of promoting a more just society must be supplemented by an action agenda aimed at making it a reality. Because of the obvious relationship between law and justice, virtually all law schools are involved in programming their research into their community to help those without access to basic human needs. Thus, almost all law schools have civil and criminal law clinics and some have clinics that address the rights of abused women, victimized women, and the homeless. These clinics to help the people can be one way to promote justice.

Thank you very much.

*E. The Warrington College of Business and Its Center for International Business Education and Research*

*Carol Taylor West\**

I was going to use the overhead, but I think in the interest of time here I will try to speed up my presentation. You have all been very patient for a long day, but one that has been very interesting.

I just want to take a few minutes to talk about what the Warrington College of Business and its Center for International Business Education and Research (CIBER) has been doing and is doing to try and prepare students for today's world of global business.

In the last five years, we have greatly stepped up the number of programs we have that expose our students to international business and that give them opportunities to study it. The range of programs we have reflects basically a three-fold philosophy towards international business education. First, it must be multi-disciplinary. We recognize that the global marketplace is more than just a complex dynamic of activities taught in traditional business disciplines. It also brings in a myriad of varied languages, cultures, and institutions. This observation has really two ramifications for how we conduct training in international business. First is that the College of Business is not doing its job if it focuses solely on its own students. The next great international business leader out of the University of Florida is not necessarily even enrolled in the College of Business in this day and age. He or she could be in a language program, in an area studies program, in the College of Law, in the College of Agriculture, in the College of Journalism, almost any of these places. It is important that the international business programs reach beyond the College of Business to these other areas of the University. The second aspect of the multi-disciplinary focus is that the courses within the College of Business themselves cannot continue to be restricted to the historical narrow business topics. We have to interlace them with area studies, language, legal institutions, and so forth.

The second major tenant of the philosophy is recognition that there is tremendous variation in the students who come to us: variation by the level of educational program — undergraduate, masters, and doctoral — and variation by the level of their international exposure. The programs we develop have to recognize this diversity among the students. For example, I have seen international MBA programs at other schools that have

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students studying abroad at the time their colleagues at home are interviewing on the job market. Well, that is a program destined not to work. MBAs like to be home at the time the job market is operating. The various degree programs set constraints you have to respect and operate within. In terms of international exposure, again, students are very different. We need some broad, brush-stroke introductory experiences for students who come here thinking North Carolina is a foreign country, and at the other extreme, we have some very globally savvy students who are prepared to undertake intensive experiences abroad.

The final aspect of the philosophy is the recognition that no permanent enhancement in international business training capacity is going to occur unless you train the faculty who train the students. Faculty development is an integral part of preparing the College of Business to teach students to enter the world of global business. Faculty exchanges, international study tours, and workshops that get faculty together to see the international aspects of different disciplines, are all critical and fundamental parts of the College of Business international business program.

Let me turn to some of the ways we have tried to implement this philosophy. There are a large number of these, and I don't intend to go through them in detail — just point out a few highlights. We have had, in the past four or five years, an explosion of new international courses and new international degree programs within the College of Business. Some, as I say, have been very broad, brush-strokes, and a good example of this is one of the first courses we went after, Principles of Macroeconomics. This is a course that is taken by 3500 students every year at the University of Florida. It is certainly not just for business students. Thirty-two majors on this campus from eleven different colleges and schools require or recommend that students take Principles of Economics. So adding international components to this course assures that a large number of students at the University have some exposure to international business concepts.

At the other extreme, we have very specialized degree programs. For example, we have a new Master of Science in International Finance — obviously focused on finance — and two-thirds of the study time in this program is at partner institutions abroad. In between these extremes, we have a whole range of programs that meet the needs of various target groups of students. We have added international business enhancements to courses that are outside the College of Business, particularly in political science and journalism. We have encouraged cross-college courses. A new one currently being developed is called Culture and International Business that will be team taught by a professor of finance and a professor of anthropology. And, we have a large number of programs, such as a Latin American business concentration in the MBA, that focuses on Latin America. We have undergraduate courses on Latin American economies

and specialized masters-level programs in that field. All levels of study have been addressed in the various programs that we offer and addressed in a way that fits their programmatic needs. Undergraduates take classes, so we offer classes for undergraduates. At the doctoral level on the other hand, much more time is spent at the dissertation research stage, so we try to infuse international components into that through support of research abroad, and through getting our graduate students to conferences that show them the international aspects of their disciplines.

Along with the new courses and degree programs, we have had an aggressive program to get students out into the world. We do not really care whether it is for a semester, for a month, or for ten days or whether it is Asia, Latin America, or Europe. Just get them out there. And this has required a large variety of programs because students are so different. The cosmopolitan student with second language proficiency can be sent alone to study abroad for a semester next to native students. On the other hand, for a student who has never been out of the United States, the traditional ten-day group tour to London, Paris, and Rome is probably the more reasonable place to start. And there has been a large amount of marketing involved in our study abroad and exchange programs. Students do not necessarily just take opportunities that are given to them. We have had to encourage them a lot through the advising offices. Study tours and exchanges are also part of our faculty development program. In addition, we have encouraged a multi-disciplinary approach to international business by organizing workshops that bring people from various disciplines together. Being a College of Business, we naturally also try to encourage faculty development in international business with money — research grants for international business research, and curriculum development grants to develop new modules, and courses on international business.

There are two programs that we are especially excited about, one of which is Study Business in Brazil. It is a collaborative effort between the University of Florida, Pontificia Universidade Católica (PUCI), and a language institute in Rio de Janeiro. It is a six week summer program in Rio in which students spend mornings studying Brazilian Portuguese, and they spend afternoons in classes learning about Brazilian business and visiting firms and projects in the areas that are pertinent to those classes. Students live with Brazilian families, so there is complete cultural and language immersion. We think it is a wonderful combination of language, culture, and business that gives students an unusually extensive and intensive study abroad experience.

A second program we are particularly excited about is IB 2000. This is a program that simultaneously gives students hands-on experience in international business and helps small and medium sized Florida firms get started in the exporting market. In this program, students start out by

taking a course that covers a broad spectrum of exporting activities using simulations, role playing, case studies, and so forth. They then look for firms in north central Florida, small and medium sized ones that might benefit from exporting, and recruit five firms into the program each year. The students and the firms work out an export strategy for the firm and then the students go abroad in pairs to actually implement that strategy — to set up contracts, find the suppliers, find how to retail something if that is what is involved, and to learn how to get around the foreign red tape, the real nuts and bolts of export market development. We think this is definitely a win/win program. It gets some Florida firms that would not make the move into the exporting market to make that move with the help of the students, and it gets the students actively involved in real export market development.

I started with the philosophy, and I have given you a few examples of the sorts of programs we have been doing. I just want to end with what I believe is the key to this process, what keeps us going. Basically, I think everyone understands you cannot conduct global business in isolation. And, the same applies to training — you cannot train students for global business in isolation. What has been critical in the development of our programs is forming partnerships, and these are partnerships with other colleges on campus, partnerships with foreign universities, partnerships with other domestic universities, with business, and with state economic development groups. And, it is through continuously working with our partners to grow programs, and to modify programs, that we hope we are continuously keeping up with the rapidly changing world of international business.

Thank you.



## F. *Questions and Answers*

MODERATOR — JON MILLS:

Well, we have a long list of questions. Perhaps we will make time for one or two, but the issues raised by this panel range from the importance of faculty development, the difficulty of teaching civil law and common law, the difficulty in energizing students, the value of interdisciplinary work, the value of language training, the value and commitment to the importance of the issues of the rule of law across international borders, to the practical impact of trying to allow our students and faculty the opportunity to learn in different places, and understanding that learning in different places may not be enough. The institutional challenge to universities and law schools, which, as we have come to learn over the years, may be more stable institutions than many other political institutions. Our relationships may last longer than other institutions and the importance of developing them may have a tremendous impact on our students. This impact may not only be on our students, but on our countries and our mutually accepted values.

Having summarized all those questions, is there anyone who would like to ask a question of this panel that can be answered in three minutes?

QUESTION:

Has anyone seen the development of a course that looks towards the future and how the law is or can relate to the very rapidly changing environment of business in the world? As an example, I am thinking in terms of the application of the old telephone laws to the internet.

MODERATOR — JON MILLS:

Well, that is a simple question.

QUESTION:

Yes, the simple part of it is whether anybody knows of anything that is being done in that area?

MODERATOR — JON MILLS:

It is incumbent upon us to figure out, I suppose, ways to teach what is international law, what is comparative law, and what are laws that are domestic that may be translatable internationally. Does anyone wish to take a shot at that?

LORETTA ORTIZ AHLF:

Well, at the Iberoamericana University we have as a required subject environmental law, and our college students have to take not one semester, but two semesters. And, I wanted to say also that human rights is another one — these are the two great goals, environmental law and human rights. And human rights is another course that is required today for our students in college. We have a masters program on human rights, and by next January we will try to have a new masters program on environmental law.

MODERATOR — JON MILLS:

Yes?

JOSE RAUL GAVIAO DE ALMEIDA:

In the University of São Paulo we also have a graduate course for a masters degree or a doctorate degree. It is only one of the subjects for six months in which you study the relationships of new contracts that may come about because of the internet, so there are relationships among countries. The types of crimes that may happen on the internet, the contracts and all these questions related to computers, we address presently in a course at the University of São Paulo. It is a relatively new course, but it is not a course only about this, it is a whole semester within the normal masters or postgraduate degree course.

MODERATOR — JON MILLS:

Another question?

QUESTION:

I have a question for any of the deans of the law schools that are present in the panel. With the new diversification of the legal system, we have environmental law that did not exist twenty years ago. We have e-commerce. We also have many other things, such as anti-trust and some others. How could you arrange your curriculum for the legal career if all the traditional programs are still in force? I mean, you cannot take off criminal law or civil law or commercial law or labor law, but you have to increase the subjects to study in the law school. What are you taking off to include the new regulations and the new fields of the legal profession or do we need to have an additional year just to have the first law degree? I mean, in Mexico we study five years and sometimes after the fifth year we say, "What do I know? How can I go to practice law if I am so ignorant about the traditional subjects and the new ones?"

MODERATOR — JON MILLS:

Well, I will answer briefly. I am glad no students are left since we are talking about adding another year. Interestingly, you mentioned a lot of

subjects, whether they be contracts, criminal law, family law, all of which have a component that relates to international law. And, one of the conversations that we have now is to allow our professors that teach these traditional subjects to travel and spend time in other countries so that in fact the basic course may become a little more comparative when it becomes evident that handling a family law case in Orlando, Florida may end up a very international case in our country.

The specializations of trade and environment are a few areas that seem to be growing into truly international areas of law that cross borders, whether it is the internet, the environment, or trade. That list expands. We, ourselves, have a certificate program in international law which allows someone to specialize and stay slightly beyond the three years. We have summer programs, and we have other issues that allow areas of emphasis. So, there may be room for a slight expansion or for certificates. There is also the LL.M. issue that arises more often and is becoming more popular, the joint programs with business or with other areas that are really required if one is to engage in any international practice. So I think the answer is both incorporation in existing courses and an expansion ultimately in ours.

LORETTA ORTIZ AHLF:

I think it is one of the best questions I have heard many times before. Today we are discussing the program for the Iberoamericana. I am very concerned because my university, which is incorporated with the education ministry, has 210 professors. We discussed all these problems with all 210 professors.

We decided to have groups with a criminal professor, a civil professor, and an international professor, like college. So we decided that we have a minimum that we have to maintain, and we have to be open to new subjects like environmental law and human rights, and add more weight to constitutional law. Students can go through the college and the LL.M. to have all these in only five years. I am opposed to that because we cannot give the minimum knowledge of law in five years; both college and the LL.M. in five years. We saw that we needed the five years, or four and a half, to teach the basic knowledge of law and then maybe have two more for the LL.M. or masters degree. But it is a high and difficult discussion. What is that minimum that the lawyers need to have the degree?

MODERATOR — JON MILLS:  
Dean?

MARIA ANTONIETA SAENZ:

Thank you. The question that was asked by my Mexican colleague was a very interesting one. As a matter of fact, this is a challenge and a dilemma that we and our faculties of law are facing in this ever-changing

world where you find very complex and varied novelties coming our way. And, as the faculty of law at the University of Costa Rica, we carried out a self-assessment in order to determine what the requirements will be for our curriculum according to our time, and it was very interesting to be able to preside over meetings where we discussed the status of so many students and professors.

First of all, we concluded that the universities of Latin America, like my colleague from Mexico pointed out, try to take knowledge from the theoretical to the practical levels without any imbalances in between. So we think that there are formulas to solve this issue, and one of the formulas to resolve this issue was to try and bring students closer to reality through theory.

Maybe it is difficult for you to believe that, but we can do it. You can have practices, but the students will have to integrate the theories with practices by going to enterprises, studying international conventions and agreements, looking at the conflicts that have a greater historical validity at this point in time, and also conducting studies on virtual crime. Cybercrimes are extremely complex issues. Many times we will confuse traditional or conventional crimes with current crimes that will not fit into that pattern. Sometimes it is very difficult to determine who has been the perpetrator in fact, what has been the judicial action taken, and only by doing case studies can students become familiar with these patterns. Thus, we have created several areas of study, and there are some areas that will preserve the "traditional knowledge" or "conventional knowledge," such as public law, criminal law, and criminological science. Plus there will be areas that will round up the so-called conventional, traditional subjects with an area of integration that will be necessary for the career and will force professors to integrate all that knowledge so that you will not learn criminal law as part of a watertight department and you will not have substantive law or international law, rather you will integrate all that knowledge into one. And, at the same time, you would get professors to integrate the subjects for research that is assigned to students, because you can find case studies where labor, environmental, and criminal cases will converge.

For instance, as in the case that was raised here this morning by Mexico, when they were combining private criminal issues with public issues. And the idea is to integrate all this in a more integrated approach so that the students can have a greater and more immediate contact with today's realities in this world. And, the only way you can do it is by using this integrated approach. And to that I have to add the area of current awareness. We have that area now and we call it the "open professorship" or the "open teaching approach," which is the approach whereby we will discuss the most advanced issues, the ones that are really current, on the suggestion of other areas. For instance, the alternative conflict or dispute

resolution issues, the stock exchange issues that are not always discussed in our courses as part of the course work — not electronic law, but virtual law course work. And, we have about ten of these professorships that students can pick from at any time during their careers in order to compliment their traditional formation.

Thank you much.

MODERATOR — JON MILLS:

I see you wandering towards the microphone. Do you have some brilliant final question?

QUESTION:

I have one last question for the panel. I just wonder what the responsibility of academia is to the existing legal profession, especially in light of some of these universal values that you are talking about, and how do your various universities go about communicating, sharing, and exchanging these ideas and techniques?

LORETTA ORTIZ AHLF:

For the Jesuit University, the teaching of balance is one of the more difficult points at this moment. It is not so easy to teach in balance. The only way we conclude that we can do this is to teach through example. Now, each professor with his own example in the class can teach balance. We are trying to give classes in a strict manner. It is better to educate with examples and with more tactical education in balance than to give ten or fifteen books about these problems.

MODERATOR — JON MILLS:

Judge, would you like the final word?

JOSE RAUL GAVIAO DE ALMEIDA:

Well, with the required exchange between the law schools, at least with respect to the law schools in Brazil, there is a greater interest in maintaining exchange with universities in other countries. However, there is a barrier that is difficult to overcome, which is a political barrier. To us, although our constitution gives priority to education, that priority is not implemented in practice. And, in our public schools there is very little money which hinders its development both inside our country and in the exchange outside.

With respect to what the professors have to do to teach students outside the school in their professional activities, the important thing is that the professors are aware that they are not the teachers of techniques. The law professors are not like a mechanic that teaches his student how to use a

screw, but they teach them for life. Their behavior within the classroom is a way of teaching them how to act in their experiences with their clients.

MODERATOR — JON MILLS:

Thank you. And I thank each of you very much for your participation. I look forward to seeing all of you or many of you again in the future; and this was a very enriching panel, and I thank each of you for your participation.

Thank you again.

