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## Internationalizing the U.S. Law School Classroom: Lessons Learned from Teaching Transnationally

CHRISTOPHER R. KELLEY\* AND NATALIYA BOROZDINA\*\*

The classroom continues to be the dominant teaching environment despite the growth of “classroomless” distance education.<sup>1</sup> A classroom lets those in it interact in real time, thus allowing all to gain the benefits of face-to-face interactions.<sup>2</sup> The classroom, however, is a problematic place to “internationalize,” particularly when the students and the professor in it are mostly or all domestic.<sup>3</sup> When lacking international students and professors, an alternative is to bring either or both into the classroom virtually using digital audiovisual technology.<sup>4</sup> This technology lets teachers teach transnationally; that is, to teach students in different countries simultaneously or to teach students in one country from another country.<sup>5</sup>

This article focuses on two University of Arkansas School of Law transnational courses. In the first, a Rule of Law Colloquium course, the students are in Arkansas and Ukraine. In the second, an International Commercial Arbitration course, the students and one professor are in

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1. See Martin Pritikin, *ABA Online Credit Increase a Step in the Right Direction*, LAW 360 (Sept. 4, 2018, 3:12 PM), <https://www.law360.com/articles/1076685/aba-online-credit-increase-a-step-in-the-right-direction>.

2. See Gerald F. Hess, *Blended Courses in Law School: The Best of Online and Face-to-Face Learning?*, 45 MCGEORGE L. REV. 51, 59 (2013).

3. See Carole Silver, *Internationalizing U.S. Legal Education: A Report on the Education of Transnational Lawyers*, 14 CARDOZO J. INT'L & COMP. L. 143, 154 (2006) (noting the presence of foreign law students internationalizes a law school's student body); Carole Silver, *Getting Real About Globalization and Legal Education: Potential and Perspectives for the U.S.*, 24 STAN. L. & POL'Y REV. 457, 469 (2013).

4. Andrew Moore et al., *The Globalization of Legal Education*, 92 MICH. B.J. 40, 42 (2013).

5. Digital technology has these and many other uses in legal education. For two annotated bibliographies of publications about legal education and technology, see Pearl Goldman, *Legal Education and Technology: An Annotated Bibliography*, 93 L. LIBR. J. 423 (2001), and Pearl Goldman, *Legal Education and Technology II: An Annotated Bibliography*, 100 L. LIBR. J. 415 (2008).

**THE INTERNATIONAL LAWYER**  
**A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW**

Arkansas; two other professors are in Germany and Switzerland, respectively, and occasionally elsewhere, usually Russia.<sup>6</sup>

Both courses have been taught as transnational courses for at least four consecutive years.<sup>7</sup> Though transnational courses are an uncommon way to internationalize the classroom, they can be effective international learning experiences. Therefore, the first of this article's two purposes is to encourage others, lawyers and law professors, to try transnational teaching.

Teaching transnationally well, however, is challenging.<sup>8</sup> And how-to manuals are scant. Nevertheless, lessons learned from others' experiences can help. This article's second purpose, therefore, is to offer lessons learned about how to create and manage a transnational course. These lessons were mostly learned from four years of transnationally teaching the two types of transnational courses on which this article focuses.<sup>9</sup>

This article's Part I briefly discusses reasons for internationalizing the classroom. There and elsewhere, this article focuses on two gains: enriching classroom discussions and enhancing the students' overall learning experience. It then turns, in Part II, to the history and attributes of the two courses from which this article mostly draws its lessons learned. The courses' history and attributes thus provide an essential context for this article's core—these lessons. In its Part III, this article discusses these lessons, most of which are practical. They are practical because teaching transitionally is different from teaching domestically, and these differences are potential tripping hazards that are better avoided than not. The article concludes with thoughts about the overall potential for and experience of teaching transnationally.

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6. As discussed in this article's Part II.C, these international professors are experienced practitioners. For a discussion of the advantages of teaching courses by teams of professors and practitioners, see R. Michael Cassidy, *Reforming the Law School Curriculum from the Top Down*, 64 J. LEGAL EDUC. 428, 432-39 (2015).

7. See Christopher R. Kelley, LAWW 5252, International Commercial Arbitration (course syllabus) (on file with author) [hereinafter International Commercial Arbitration]; Christopher R. Kelley, LAWW 5692, Rule of Law Colloquium (2018) (course syllabus) (on file with author) [hereinafter Rule of Law Colloquium].

8. In addition to the challenges associated with creating and maintaining the transnational relationships needed for a transnational course, adapting to digital technology also can be challenging. For a discussion of these challenges and the potential gains from overcoming them, see W. Warren Binford, *Envisioning a Twenty-First Century Legal Education*, 43 WASH. U. J.L. & POL'Y 157 (2013).

9. Professor Kelley has taught a Legal Writing in English course almost every semester for six years to law students at the Kyiv Taras Shevchenko National University Law Faculty in Kyiv, Ukraine, using Skype. Some of the lessons learned doing this were learned again teaching the Rule of Law Colloquium and International Commercial Arbitration courses transnationally.

### **I. Reasons to Teach Transnationally**

Much has been written about internationalizing the law school classroom.<sup>10</sup> Nearly all this literature raises and answers the question of why internationalizing the law school classroom a worthy goal. Relative to U.S. law students, perhaps the most fundamental of these answers is “that Americans lack basic knowledge, awareness, or interest concerning the world beyond their borders, whether in terms of history, public affairs, culture, language, or even basic geography.”<sup>11</sup> And these gaps mean that American lawyers, like other Americans living in an increasingly interdependent world, “cannot meaningfully function as responsible democratic citizens without both greater global knowledge and the capacities and sensibilities necessary to engage that knowledge critically and with sophistication.”<sup>12</sup>

Other answers are offered in writings that explore different ways to internationalize the classroom. For example, the benefits of “learning by doing cross-culturally” have been touted for an international trade simulation course involving U.S. and Chinese students.<sup>13</sup> Likewise, “video-real-time negotiations involving students and/or professors and practitioners around the world [can] expose[] students to other legal cultures.”<sup>14</sup> And arguments offered for globalizing the classroom by introducing international, transnational, and comparative law into core courses like Civil Procedure, Constitutional Law, Contracts, Property, and Torts include improving students’ understanding and application of domestic law,

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10. This literature can be traced to the globalization of law, the recognition of which seeped more than burst into U.S. law schools’ consciousness. In 1993, for example, the Indiana Journal of Global Legal Studies launched with an article on the globalization of law. See Martin Shapiro, *The Globalization of Law*, 1 IND. J. GLOBAL LEGAL STUD. 37, 37 (1993). Only later, however, did articles announcing the internationalization of legal education and proposing ways to do it become more numerous. See, e.g., Farida Ali, *Globalizing the U.S. Law School Curriculum: How Should Legal Educators Respond?*, 41 INT’L J. LEGAL INFO. 249, 265–70, 275–81 (2013); Simon Chesterman, *The Evolution of Legal Education: Internationalization, Transnationalization, Globalization*, 10 GERMAN L.J. 877, 884–885 (2009); Louis F. Del Duca, *Symposium on Emerging Worldwide Strategies in Internationalizing Legal Education*, 18 DICK. J. INT’L L. 411, 413–16 (2000); Elizabeth Rindskopf Parker, *Globalizing the Law School Curriculum: Affirming the Ends and Recognizing the Need for Divergent Means*, 23 PENN. ST. INT’L L. REV. 753, 756 (2005); Carole Silver, *Getting Real About Globalization and Legal Education: Potential and Perspectives for the U.S.*, 24 STAN. L. & POL’Y REV. 457, 469 (2013); David Tobenkin, *Legal Minds: Internationalization Is Expanding Rapidly at Law School*, INT’L EDUCATOR, Jan.–Feb. 2009, at 28, [https://www.nafsa.org/\\_/File/\\_/janfeb09\\_feature\\_legalminds.pdf](https://www.nafsa.org/_/File/_/janfeb09_feature_legalminds.pdf).

11. Anil Kalhan, *Thinking Critically about International and Transnational Legal Education*, 5 DREXEL L. REV. 285, 285 (2013).

12. *Id.* at 286.

13. Tahirih Lee, *Technology-Based Experiential Learning: A Transnational Experiment*, 64 J. LEGAL EDUC. 455, 471–78 (2015).

14. Robert E. Lutz, *Reforming Approaches to Educating Transnational Lawyers: Observations from America*, 61 J. LEGAL EDUC. 449, 454 (2012). For an extended discussion of developing intercultural competency in U.S. law school classrooms, see Rachel Moran, *When Intercultural Competency Comes to Class: Navigating Difference in the Modern American Law School*, 26 PAC MCGEORGE GLOBAL BUS. & DEV. L.J. 109 (2013).

**THE INTERNATIONAL LAWYER**  
**A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW**

134 THE INTERNATIONAL LAWYER

[VOL. 52, NO. 1

preparing students for an increasingly global legal market, and developing students' capacities to offer "leadership in the global community" after they graduate from law school.<sup>15</sup>

This article does not attempt to catalog all the benefits of transnational teaching. Instead, it focuses primarily on the potential for student gains in two ways. The first gain comes from introducing transnational perspectives into a course, particularly one that has transnational dimensions and its class sessions are centered on professor-guided student discussions. Teaching a course like this transnationally can enrich its U.S. and international students by giving them the opportunity to compare their perspectives and the bases for them cross-culturally and otherwise. For example, the Rule of Law Colloquium, which is built around the almost universal claim that the rule of law is good, introduced different perspectives that took into account how many parts of the world largely disregard the rule of law.<sup>16</sup> Many U.S. law students poorly understand what the rule of law means, much less the patchwork of its global reach.<sup>17</sup> A transnational perspective, particularly one offered by Ukraine where the rule of law has been and is lacking,<sup>18</sup> has the potential to deepen both U.S. and Ukrainian law students' understanding of what the rule of law means in theory, and as practiced in different parts of the world.<sup>19</sup>

Second, buttressing the teaching of international law courses through the contributions of an attorney or a professor from another country underscores the course's international dimension.<sup>20</sup> An international attorney's virtual classroom presence also models the relationships among attorneys in international law firms and in alliances between and among domestic and foreign law firms.<sup>21</sup> And, for some students, it introduces them

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15. Franklin A. Gevurtz, et al., *Report Regarding the Pacific McGeorge Workshop on Globalizing the Law School Curriculum*, 19 PAC. MC GEORGE GLOBAL BUS. & DEV. L.J. 267, 273-77 (2006).

16. Lord Tom Bingham characterizes the rule of law as "the nearest we are likely to approach to a universal secular religion." TOM BINGHAM, *THE RULE OF LAW* 174 (2010).

17. See, e.g., Shunmugam Jayakumar, *Applying the Rule of Law*, 43 INT'L LAW. 83, 84 (2009) (discussing the global reach of the rule of law).

18. Ander Åslund in 2009, for example, observed that "[c]orruption in Ukrainian courts is pervasive. . . . Bribes are paid at every step from entry into law school to the appointment of judges." ANDER ÅSLUND, *HOW UKRAINE BECAME A MARKET ECONOMY AND DEMOCRACY* 245 (2009).

19. In discussing the Northwestern University School of Law's strategic planning report, Plan 2008: Preparing Great Leaders for the Changing World, its now former dean, David E. Van Zandt, observed that "the key competency that enables a lawyer to be successful in the emerging global environment is neither the substantive knowledge of specific legal systems nor the ability to speak a non-English language, although these can certainly help. . . . Rather, the key is having experience working with people from other nations and with other legal systems." David E. Van Zandt, *Foundational Competencies: Innovation in Legal Education*, 61 RUTGERS L. REV. 1127, 1140-41 (2009).

20. See Robert E. Lutz, *Reforming Approaches to Educating Transnational Lawyers: Observations from America*, 61 J. LEGAL EDUC. 449, 454 (2012).

21. For a discussion of the globalization of law firms, including through alliances, see D. Daniel Sokol, *Globalization of Law Firms: A Survey of the Literature and a Research Agenda for*

for the first time to an attorney or a professor practicing or teaching abroad. Moreover, from each class session's start to its end, the students have an international experience virtually.<sup>22</sup> This, in turn, contributes to their overall appreciation for the course's subject by aligning their learning environment with the course's international law content.

## **II. Two Examples of Transnational Courses: A Rule of Law Colloquium and an International Commercial Arbitration Course**

This article uses two courses as examples and reference points: a Rule of Law Colloquium course and an International Commercial Arbitration course. They represent two types of transnational courses. In the former, students in another country—Ukraine, in this instance—are brought into the classroom virtually; that is, through digital audiovisual technology.<sup>23</sup> In the latter, two adjunct professors, both experienced international arbitration attorneys, are brought into the classroom virtually.<sup>24</sup>

These courses and their respective histories and attributes illustrate how transnational courses might be created and their potential strengths and weaknesses. As to the former, both courses have a common history: they emerged from one of this article's author's teaching and related activities in Eastern Europe, Russia, and Kazakhstan.<sup>25</sup> This professor's teaching and related activities abroad, coupled with his thinking that both courses would be better if they consistently had either international students in them or international professors teaching them, led him to convert both courses from traditional courses to transnational courses. This, in turn, taught lessons about transnational courses' strengths and weaknesses.

### **A. THE COURSES' COMMON HISTORY**

The courses' common history has three foundations: the Fulbright Program,<sup>26</sup> the American Bar Association's Section of International Law, and multiple law schools' openness to different ways of teaching. Without

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*Further Study*, 14 *IND. J. GLOBAL LEGAL STUD.* 5, 15–16 (2007). For a discussion of how the globalization of law has affected lawyers practicing outside of international law firms and alliances, see Laurel S. Terry, *The Legal World Is Flat: Globalization and Its Effect on Lawyers Practicing in Non-Global Law Firms*, 28 *NW. J. INT'L L. & BUS.* 527 (2008).

22. International Commercial Arbitration, *supra* note 7.

23. *See id.*

24. *See id.*

25. *See generally* Christopher R. Kelley, *Teaching Abroad: A Freelancer's Perspective Written on Returning from the Belarusian State University Law Faculty, Minsk, Belarus*, *INT'L LEGAL EDUC. & SPECIALIST CERTIFICATION COMMITTEE NEWSL.* (ABA Sec. of Int'l Law, D.C.), Jan. 2017 at 3–11, [http://apps.americanbar.org/webupload/commupload/IC962500/relatedresources/ILESC\\_Newsletter\\_Jan\\_2017\\_Final.pdf](http://apps.americanbar.org/webupload/commupload/IC962500/relatedresources/ILESC_Newsletter_Jan_2017_Final.pdf).

26. *See generally* Dena S. Davis, *How to Use the Fulbright Program to Internationalize Your Law School*, 61 *J. LEGAL EDUC.* 104 (2011) (providing an overview of the Fulbright Program).

**THE INTERNATIONAL LAWYER**  
**A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW**

any one of these and the relationships they engendered, neither course would have been a transnational course.

Though both courses were not transnational courses until 2014, their genesis can be traced to 2005. In 2005, their professor was a U.S. Fulbright Scholar in Kharkiv, Ukraine, where he taught abroad for the first time.<sup>27</sup> The following year, he began teaching in Ukraine as a freelancer and later began teaching as a freelancer in Moldova,<sup>28</sup> Lithuania, Belarus, Kazakhstan, and Russia. Here, “freelancer” means he taught independently of any third-party sponsor. He continues to teach this way, except he receives an honorarium as a nonresident professor at the Kyiv Taras Shevchenko National University Law Faculty in Kyiv, Ukraine (Shevchenko).<sup>29</sup>

In 2006, moved by his Fulbright experiences in Kharkiv, he became active in the American Bar Association’s Section of International Law and assumed leadership positions at the committee and division levels.<sup>30</sup> As relevant here, these positions led him to participate in planning for several annual Section conferences in Moscow. At the first of these conferences, he met Dr. Anna Kozmenko, a Russian attorney educated in Russia and Switzerland.<sup>31</sup> Dr. Kozmenko is one of the adjunct professors who teaches the transnational International Commercial Arbitration course.<sup>32</sup>

Though the professor first met Dr. Kozmenko in Moscow, he was introduced to her by a Ukrainian student he had recruited to his law school’s LL.M. program. In turn, through email exchanges, he introduced Dr. Kozmenko to the Section of International Law and its Moscow conference where they met.

Summarized and described generically, the course’s common history illustrates three ways to form the ties necessary to create a transnational course. The first is to teach or lecture abroad. The second is to participate in conferences abroad. The third is to develop relationships abroad through international students and visiting scholars on campus or otherwise nearby. Of course, some U.S. law schools can combine their international connections, wealth, and prestige to create transnational courses more expeditiously than this.

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27. See Kelley, *supra* note 25, at 2.

28. In 2011, Professor Kelley was a U.S. Fulbright Scholar in Chisinau, Republic of Moldova, after having taught in Chisinau as a freelancer.

29. See Kelley, *supra* note 25, at 2.

30. See *Faculty Directory for Christopher R. Kelley*, UNIV. OF ARK. SCHL. OF LAW, <https://law.uark.edu/directory/directory-faculty/uid/ckelley/name/Christopher-Kelley/> (last visited Oct. 22, 2018).

31. *Curriculum Vitae of Dr. Anna Kozmenko*, SCHELLENBERG WITTMER, <https://www.swlegal.ch/en/lawyers/lawyer-detail/anna-kozmenko/> (last visited Oct. 22, 2018).

32. See *id.*

**THE INTERNATIONAL LAWYER**  
**A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW**

2019]

INTERNATIONALIZING U.S. LAW CLASSROOM 137

**B. THE RULE OF LAW COLLOQUIUM**

Created in 2009, the two-credit Rule of Law Colloquium course was inspired by the World Justice Project<sup>33</sup> (WJP) and William H. Neukom,<sup>34</sup> the WJP's founder. The WJP strives to broaden understanding of and appreciation for the rule of law worldwide.<sup>35</sup> Its focus is on contemporary rule of law issues and the effects of the rule of law's presence or absence on daily life throughout the world.<sup>36</sup>

With the WJP as its inspiration, the Rule of Law Colloquium historically has covered what the rule of law is and why it matters; the rule of law's role in economic development and post-conflict and other transitional societies; and corruption: its causes, consequences, and cures.<sup>37</sup> These broad themes invite a contemporary and international perspective, which the course has had since its inception.<sup>38</sup> The inaugural course offering, for instance, was substantially devoted to presentations from attorneys and others who joined the class by Skype from Dushanbe, Tajikistan; Kyiv, Ukraine; Moscow, Russia; Lagos, Nigeria; Beijing, China; and Washington, D.C.<sup>39</sup>

The course's content has changed each year, partially in response to student interest and partially to remain contemporary. Yet, it has had two constants across all its offerings. The first has been introductory readings and discussions about the rule of law's contested meanings, which have famously branched into "thin" and "thick" definitions.<sup>40</sup> The second constant has been that the course does not teach any doctrine. Instead, the course's theme and ultimate inquiry has been a question posed to its students: "What does the rule of law mean to you?" This also always has been the course's single exam question, though the students have the option to write about anything else related to the rule of law. Even with this option, the course's content has always been designed to stimulate each student's answer to the question of what the rule of law means to him or her.<sup>41</sup>

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33. WORLD JUSTICE PROJECT, <https://worldjusticeproject.org/> (last visited Oct. 22, 2018).

34. William (Bill) Neukom's illustrious career is summarized on the World Justice Program's website. *William H. Neukom*, WORLD JUSTICE PROJECT, [https://worldjusticeproject.org/about-us/who-we-are/officers/william-h\\_neukom](https://worldjusticeproject.org/about-us/who-we-are/officers/william-h_neukom) (last visited Oct. 22, 2018).

35. *About Us*, THE WORLD JUSTICE PROJECT, <https://worldjusticeproject.org/about-us> (last visited Oct. 22, 2018).

36. As the World Justice Project notes, "Traditionally, the rule of law has been viewed as the domain of lawyers and judges. But everyday issues of safety, rights, justice, and governance affect us all; everyone is a stakeholder in the rule of law." *Id.*

37. See Rule of Law Colloquium, *supra* note 7.

38. See *id.*

39. See *id.*

40. See Brian Tamanaha, *The History and Elements of the Rule of Law*, 2012 SING. J. LEGAL STUD. 232, 233 (2012); Brian Tamanaha, *A Concise Guide to the Rule of Law* 3 (St. John's Univ. School of Law, Legal Studies Research Paper Series, Paper #07-0082, 2007), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1012051](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1012051).

41. See Rule of Law Colloquium, *supra* note 7.



**THE INTERNATIONAL LAWYER**  
**A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW**

Over time, the course increasingly has focused on one of the rule of law's opposites: corruption.<sup>42</sup> This part of the course is directed at exploring why individuals and societies become corrupted, the effects of corruption, and ways to ameliorate corruption, including through laws like the U.S. Foreign Corrupt Practices Act<sup>43</sup> and the U.K. Bribery Act.<sup>44</sup>

Yet even here—in a study of corruption—the focus is on the students. The course's underlying premise has always been that every student in the course will encounter corrupt behavior and might even be tempted to act corruptly themselves, even if only by overbilling clients just a little. And the question posed to them, to be answered only by them and not their professor, is what they will do when they encounter corrupt behavior or are tempted to act corruptly.<sup>45</sup>

As the course's coverage of corruption expanded, its professor realized that he had access to a previously untapped resource—Ukrainian law students. Ukraine has had a long history of corruption.<sup>46</sup> Some of this history predated Ukraine's independence in 1991 after the Soviet Union disbanded.<sup>47</sup> But much of it, and certainly the history current Ukrainian law students have lived through, is contemporary.<sup>48</sup> From the Orange Revolution in 2004<sup>49</sup> to the Revolution of Dignity in 2013 and 2014,<sup>50</sup> corruption has loomed large as the scourge it is in today's Ukraine. And every Ukrainian law student knows what it is like to live in a society permeated by corruption, including the corruption in Ukraine's judicial system.<sup>51</sup>

Mindful of this, the professor approached the Shevchenko faculty in 2014 and asked if it would help him recruit students to participate in his Rule of Law Colloquium course by distance beginning in the 2015 Spring semester. The Shevchenko's faculty agreed, and students at Shevchenko and other

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42. See, e.g., A.B.A., *ABA Programs Have Global Impact*, 41 ARK. LAW. 14, 14 (2006) (“Corruption undermines the rule of law . . .”).

43. See generally Foreign Corrupt Practices Act, 15 U.S.C. §§ 78dd–1, et seq.

44. See generally Bribery Act, 2010, c. 23 (U.K.), [http://www.legislation.gov.uk/ukpga/2010/23/pdfs/ukpga\\_20100023\\_en.pdf](http://www.legislation.gov.uk/ukpga/2010/23/pdfs/ukpga_20100023_en.pdf); see Rule of Law Colloquium, *supra* note 7.

45. See Rule of Law Colloquium, *supra* note 7.

46. See Louise I. Shelley, *Organized Crime and Corruption in Ukraine: Impediments to the Development of a Free Market Economy*, 6 DEMOKRATIZATSIYA: J. POST-SOVIET DEMOCRATIZATION 648, 648 (1998).

47. See *id.* at 651–52.

48. See generally Serhii Ploky, THE GATES OF EUROPE: A HISTORY OF UKRAINE 330–36 (2015) (describing Ukraine's contemporary experiences with corruption).

49. See generally ANDREW WILSON, UKRAINE'S ORANGE REVOLUTION (2005) (describing and analyzing Ukraine's Orange Revolution).

50. See generally ANDREW WILSON, UKRAINE CRISIS: WHAT IT MEANS FOR THE WEST (2014) (describing and analyzing Ukraine's Revolution of Dignity, also known by the location where much of it took place, Kyiv's Maidan).

51. For a discussion of corruption in Ukraine's judicial system, see Alexei Trochev, *Meddling with Justice: Competitive Politics, Impunity, and Distrusted Courts in Post-Orange Ukraine*, 18 DEMOKRATIZATSIYA: J. POST-SOVIET DEMOCRATIZATION 122 (2010).

**THE INTERNATIONAL LAWYER**  
**A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW**

2019]

INTERNATIONALIZING U.S. LAW CLASSROOM 139

Kyiv law schools volunteered. Shevchenko was the course's Ukrainian home for two years.

After two years, the Shevchenko professor most instrumental in recruiting students for the course retired, leaving Shevchenko's hosting the course in doubt. Accordingly, the course's Ukrainian home moved to the Ivan Franko National University Law Faculty in Lviv, Ukraine. There, students in the Lviv branch of the School of American Law, a cooperative endeavor with the IIT Chicago-Kent College of Law,<sup>52</sup> began participating in the course in the Spring 2017 semester. In the Spring 2018 semester, a Belarusian student and two Russian students also participated in the course.

The international students brought new perspectives and dynamics to classroom discussions. Most of the course's U.S. students were from one U.S. state and its neighboring states. Few had traveled internationally. Fewer still had traveled to a former Soviet republic, particularly one that has been featured in the news as often as Ukraine has been since its Revolution of Dignity, Russia's annexation of Crimea, and the deadly, ongoing armed conflict in eastern Ukraine's Donbas region.<sup>53</sup> In short, not only had the international students grown up half a world apart from the U.S. students, their immediate experiences were unlike those of the U.S. students.

The two groups of students' perspectives differed, too, though their law studies provided common cultural perspective. Yet even the two groups' respective law studies differed. Ukraine, for instance, follows the civil law tradition<sup>54</sup> and the U.S. (apart from Louisiana) follows the common law tradition.

The classroom dynamics varied across the four years. Sometimes the U.S. students dominated the class discussions; other times the Ukrainian students did. As often occurs in traditional classrooms, one or two students usually accounted for this dominance. In the 2017 Spring semester course, for instance, three Ukrainian students outshined all the others by reading extra materials and reporting on them.

In sum, a transnational course has a greater potential for more perspectives than a traditional course has, absent a traditional classroom in which domestic and international students are equal or almost equal in number. This and the experiences both the domestic and international students share by being in the same course in real time are reasons enough to favor a transnational course.

And there is another reason—the possibility for serendipitous opportunities. For example, in the 2016 Spring semester, the second year in which the course was hosted at Shevchenko, an Australian law professor, acting on behalf of the International Bar Association's Section of Criminal

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52. *About School of American Law (SAL)*, IIT CHICAGO-KENT COLL. OF LAW, <https://www.salchicagokent.com/index.php/about-sil> (last visited Oct. 22, 2018).

53. Andrey Kurkov, *Ukraine's Revolution: Making Sense of a Year of Chaos*, BBC NEWS: WORLD (Nov. 21, 2014), <https://www.bbc.com/news/world-europe-30131108>.

54. Alexander Biryukov & Myroslava Kryvonos, *A Research Guide to Ukraine Law*, HAUSER GLOB. LAW SCH. PROGRAM (Mar. 2006), <http://www.nyulawglobal.org/globalex/Ukraine.html>.

**THE INTERNATIONAL LAWYER**  
**A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW**

Law Anti-Corruption Subcommittee, asked the course's professor to participate in a project designed to explore various drivers of corruption and ways to counteract them. He, in turn, presented this project to the Rule of Law Colloquium students.

Three U.S. students, a Russian LL.M. student, and four Shevchenko students volunteered to undertake the project.<sup>55</sup> Before the semester ended, they had sent a thirty-nine-page report on the influence of corporate codes of conduct in preventing corruption to a group of law students in Australia who were working on the same project.<sup>56</sup> This multinational project never would have happened had the Rule of Law Colloquium not been a transnational course.

C. INTERNATIONAL COMMERCIAL ARBITRATION

The two-credit International Commercial Arbitration course began as a traditionally taught course.<sup>57</sup> It became a transnational course when Dr. Anna Kozmenko started co-teaching it from Zurich, Switzerland, where she practices international arbitration.<sup>58</sup> A year later, James Menz joined her in co-teaching the course, initially from Zurich and later from Cologne, Germany.<sup>59</sup> Since then, this course has had three instructors, only one of whom is physically in the classroom. Dr. Kozmenko and Mr. Menz participated through the same digital audiovisual technology used by the Rule of Law Colloquium course since the Spring 2017 semester.

Dr. Kozmenko is Russian; Mr. Menz is German-American.<sup>60</sup> In addition to bringing an international perspective to the course, they also bring combined experience and expertise unmatched on the U.S. law school's resident faculty.<sup>61</sup> Dr. Kozmenko, a senior associate with the Schellenberg

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55. University of Arkansas School of Law & Taras Shevchenko National University of Kyiv, Collective Research Report: Corporate Codes of Conduct (2016) (unpublished research report) (on file with author).

56. *Id.*

57. See International Commercial Arbitration, *supra* note 7.

58. *Curriculum Vitae of Dr. Anna Kozmenko*, SCHELLENBERG WITTMER, <https://www.swlegal.ch/en/lawyers/lawyer-detail/anna-kozmenko/> (last visited Oct. 22, 2018). See *id.*

59. *Curriculum Vitae of James Menz*, ASA, [https://profiles.arbitration-ch.org/profile/573-James-Menz-Counsel-civil\\_law-common\\_law-european\\_law](https://profiles.arbitration-ch.org/profile/573-James-Menz-Counsel-civil_law-common_law-european_law) (last visited Oct. 22, 2018). See International Commercial Arbitration, *supra* note 7.

60. See *Curriculum Vitae of Dr. Anna Kozmenko*, *supra* note 58; *Curriculum Vitae of James Menz*, *supra* note 59.

61. Largely because of their expertise and experience, the course text is the student version of a leading international arbitration treatise, NIGEL BLACKABY & CONSTANTINE PARTASIDES WITH ALAN REDFERN & MARTIN HUNTER, REDFERN AND HUNTER ON INTERNATIONAL ARBITRATION (6th ed. 2015). The classroom experience is devoted to amplifying the treatise's text with more in-depth, current information; examples of the application of various rules, practices, and procedures outside of the treatise; and discussions between the students and the course's three professors. For example, though the course does not cover international sports arbitration, at least two Arkansas students have had a keen interest in sports arbitration, as does Professor Kozmenko because she is experienced in representing athletes in sports arbitration.

**THE INTERNATIONAL LAWYER**  
**A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW**

2019]

INTERNATIONALIZING U.S. LAW CLASSROOM 141

Wittmer law firm in Zurich, is internationally recognized for her knowledge and skills as an arbitration attorney, an arbitrator, and a legal secretary to arbitral tribunals.<sup>62</sup> Mr. Menz also has stellar credentials. In addition to his extensive experience as an arbitration attorney, an arbitrator, and a legal secretary to arbitral tribunals, Mr. Menz is the Deputy Secretary General and Head of Case Management at the German Institution of Arbitration.<sup>63</sup>

Professors Kozmenko and Menz covered how international commercial arbitrations work beyond what any casebook, treatise, or other readings could tell the students as effectively and efficiently. As important, the students experienced the professionalism and personal enjoyment in practicing international commercial arbitration that Professors Kozmenko and Menz brought to the classroom.

### **III. Lessons Learned**

Traditionally teaching the Rule of Law Colloquium and International Commercial Arbitration courses transnationally taught lessons, most of which were learned through trial and error. Some of these trials and errors were unique or are unlikely to be commonly encountered. For example, most U.S. law school classrooms now have better digital audiovisual equipment than a webcam connected to a laptop computer.<sup>64</sup> But when the Rule of Law Colloquium course was first offered, years before it became a transnational course, international guest lecturers joined the class by Skype. The classroom's only technology was a laptop connected to a webcam with an integrated microphone that was not sensitive enough to capture the voice of anyone not sitting close to it. Therefore, the students who wanted to ask the guest lecturer a question had to come to the front of the classroom and ask the question almost directly into the webcam's microphone. This was not an ideal solution, yet it worked until better technology was available.

Some of the lessons discussed here apply equally to a course with domestic and international students in different places, like the Rule of Law Colloquium course, and to a course in which domestic students are taught by one or more professors abroad, like the International Commercial Arbitration course. Most of these lessons, however, concern transnational courses in which the domestic students and the international students are in different places. These courses are inherently more difficult to create and teach than courses in which a professor teaches students in a domestic classroom from abroad.

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*See Curriculum Vitae of Dr. Anna Kozmenko, supra* note 68. The classroom sessions are informal and time-affluent enough to allow for responding to individual student's interests outside of international commercial arbitration. Moreover, both Professors Kozmenko and Menz welcomed individual inquiries from students by email.

62. *See Curriculum Vitae of Dr. Anna Kozmenko, supra* note 58.

63. *See Curriculum Vitae of James Menz, supra* note 59.

64. *See* Michele Pistone, *Law Schools and Technology: Where We Are and Where We Are Heading*, 64 J. LEGAL EDUC. 586, 592–98 (2015).

**THE INTERNATIONAL LAWYER**  
**A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW**

The lessons are discussed in the order of their importance. Because no lesson is more important than the collaborators' relationship, it leads. Whether international collaborators are found by teaching abroad, attending international conferences, teaching or meeting international students domestically, or otherwise, a good relationship between or among the collaborators is critical to a transnational course's success.

Technology is discussed second. Technology will matter because a transnational course uses at least two sets of it—one set in the domestic classroom and the other set or sets in one or more places abroad.<sup>65</sup> Technology is only as good as its weakest link. And every pairing of technology will have a weak link. When that weak link is discovered, fixing or working around it will significantly depend on the collaborators' working relationship. Thus, that relationship and the technology are inextricably linked.

Scheduling the course comes next. Scheduling must account for the world's time zones.<sup>66</sup> The greater the time difference between two locations, the greater the difficulty of finding a mutually convenient time for a transnational course. Even when the time difference is insignificant, institutional and individual schedules can differ. Therefore, scheduling the course appropriately is an essential first step.

The remaining lessons learned assume the course is scheduled, the technology works, and the course's organizers are collaborating well. Stated broadly, these lessons relate to engaging the students, managing the course, and having fun with all the moving pieces that form the whole of a transnational course.

**A. PREPARING THE COURSE: GOOD RELATIONSHIPS**

Creating a transnational course requires good working relationships between or among its domestic and international collaborators. The parties must have compatible interests and a willingness to assume the responsibilities necessary to advance these interests. A transnational course cannot exist unless someone recruits the international students or, if the classroom is internationalized by one or more professors, the domestic professor works well with the international professor or professors.

Creating a good relationship with the requisite trust and good will requires patience, mutual gain, and transparency. Patience is important because most transnational courses are not "plug and play" endeavors. Instead, transnational courses are usually experimental because they are either uncommon or untried at most U.S. law schools.

Mutual gain is important because a transnational course will neither work well in its first offering nor endure unless the students or professors on each end gain something in return for their time, and perhaps their financial

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65. *See id.* at 593–94.

66. Currently, the world has over twenty-seven time zones. *See* TIMEANDDATE.COM, <https://www.timeanddate.com/time/current-number-time-zones.html> (last visited Oct. 22, 2018).

**THE INTERNATIONAL LAWYER**  
**A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW**

2019]

INTERNATIONALIZING U.S. LAW CLASSROOM 143

investment, such as the acquisition of the appropriate equipment if it is not already in place. Ordinarily mutual gain is presumed. Nevertheless, the needs and interests of all the participants must be served because this presumption is rebuttable.

Finally, transparency is important because all the participants, students and professors alike, need to know the course's goals and the limits of teaching transnationally, including the technology's limits. A goal of a transnational course is to connect. Yet, as anyone who has used the Internet knows, poor and interrupted connections happen. Everyone should understand and accept these and other technology-related risks. Being realistic, open, and prepared for this is important.

**B. PREPARING THE COURSE: TECHNOLOGY**

The technology will matter. Having the best available helps. Yet even with the best available technology, a good relationship between or among the collaborators will help them effectively use it and deal with its shortcomings. As to the latter, one way to prepare for the occasional yet inevitable technology problems that require immediate attention is for each collaborator to have the mobile telephone numbers of her cohorts.

The best available technology, however, is not always at hand. While Shevchenko was the Rule of Law Colloquium course's Ukrainian home, for example, the available audiovisual technology was basic. The software was Skype. Shevchenko used an older model MacBook wirelessly connected to the Internet and wired to a basic webcam mounted high on the wall at the front of the classroom. A hand-held microphone was passed from student to student. If a student forgot to turn off the microphone after speaking, feedback blasted through the speakers in the U.S. classroom. The internal microphone in the MacBook did the same until that feedback source was discovered and the internal microphone was disabled.

Using Skype prevented showing videos available only in DVD format. Two videos available only in DVD format were important components of the course—*The Response*, a reenactment of a Combatant Status Review Tribunal proceeding at Guantanamo Bay produced with the cooperation the University of Maryland School of Law and the Venable L.L.P. law firm,<sup>67</sup> and *Living with Corruption*, featuring award winning African journalist Sorious Samura.<sup>68</sup> To solve this problem, the course's professor took both DVDs and others used in the course to Kyiv so they could be shown simultaneously with their showing in the U.S. For videos available online, the Skype connection was disconnected while the video was shown in both classrooms.

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<sup>67</sup>. See generally THE RESPONSE, <https://www.theresponsemovie.com/> (last visited Oct. 22, 2018).

<sup>68</sup>. See generally LIVING WITH CORRUPTION, <https://insighttwi.com/films/living-with/corruption> (last visited Oct. 22, 2018).

**THE INTERNATIONAL LAWYER**  
**A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW**

Unlike when Shevchenko hosted the Rule of Law Colloquium course and all the students were in a Shevchenko classroom, a minority of the School of American Law students were in an Ivan Franko National University Law Faculty classroom when they participated in the course. Indeed, many were not even in Lviv. Instead they were scattered across Ukraine from Kyiv in the east, to Odesa in the south, to Lviv in the west.<sup>69</sup> In the 2018 Spring semester, one student participated from Minsk, Belarus.

Even with students this widely disbursed, each could participate. The audiovisual technology the course began using in 2017, Lifesize Cloud, allowed individual students to participate from anywhere they had Internet access.<sup>70</sup> The six large monitors in the U.S. classroom displayed a video image of each student on a portion of each screen, or, if the students were in a classroom, a video image of those students as a group. The Ukrainian students and, in the 2018 Spring semester, the Belarusian student, used either their computer's or their webcam's microphone, while the U.S. students used an array of microphones suspended from their classroom's ceiling. Lifesize Cloud permitted everyone to see DVD and online videos simultaneously.<sup>71</sup> In other words, whatever was shown on the screens in the U.S. classroom could be seen by anyone participating in the course by distance.

Through Lifesize Cloud and its associated hardware in the U.S. classroom, each class session was recorded.<sup>72</sup> This gave all the students the opportunity to watch the class sessions they missed and mitigated the scheduling conflicts for some of the Ukrainian students discussed immediately below.

### C. PREPARING THE COURSE: SCHEDULING

Scheduling a transnational course requires accommodating any differences in the beginning and ending of semesters and in the time at each location. How much these differences will matter will vary.

For example, the differences in the start and ending of the Spring semester between the U.S. law school and the Ivan Franko National University Law Faculty mattered little because the Ukrainian students participated independently of the start and end of the semester there. Most

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69. In the 2017 and 2018 Spring semesters, some students were away from their homes because they had been displaced from Ukraine's far-eastern Donbass region by the violent conflict there. For a discussion of this conflict's origins, see RAJAN MENON & EUGENE RUMER, *CONFLICT IN UKRAINE: THE UNWINDING OF THE POST-COLD WAR ORDER* 53–86 (2015).

70. See generally *Video Conferencing in the Classroom*, LIFESIZE CLOUD, <https://www.lifesize.com/~media/Documents/Related%20Resources/Guides/6%20Reasons%20Why%20Video%20Conferencing%20is%20Essential%20For%20Education%20Guide.aspx> (last visited Oct. 12, 2018).

71. See *id.*

72. See *id.*

**THE INTERNATIONAL LAWYER**  
**A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW**

2019]

INTERNATIONALIZING U.S. LAW CLASSROOM 145

were not even in Lviv when the course started and ended, which was according to the U.S. law school's schedule.

The Rule of Law Colloquium course's class session times, however, were not particularly convenient for the Ukrainian students. The course began at 8:00 a.m. and ended at 9:40 a.m., U.S. Central Time.<sup>73</sup> The corresponding schedule in Ukraine was from 4:00 to 5:40 p.m. except when Ukraine went on daylight savings time a week later than the U.S.<sup>74</sup>

Because many of the Ukrainian students had jobs or other scheduling conflicts, not all who signed up for the course participated regularly. Typically, about twenty to twenty-five Ukrainian students signed up for the course in the 2017 and 2018 Spring semesters, and about half or fewer of them regularly participated. Beginning in 2018 Spring semester, the course was recorded and posted on a site hosted by the U.S. law school, thus giving the Ukrainian and U.S. students who missed a class the opportunity to view it online.

As for the International Commercial Arbitration course, adding two professors to the classroom virtually was easier than adding international students to the Rule of Law Colloquium course for obvious reasons. The International Commercial Arbitration course was scheduled to correspond with the end of the normal workday for Professors Kozmenko and Menz. If one of them could not participate in a class session, the other usually could. If neither could participate, the course's U.S. professor taught that day's class session.

#### D. MANAGING THE COURSE: GETTING STARTED

Traditional, single-classroom courses work best when their students feel connected. This is true for distance courses, too.<sup>75</sup> Yet even when they are physically present in the classroom and on campus, international students are often ignored or poorly integrated into the classroom and beyond.<sup>76</sup> International students sometimes lack confidence in their English language skills, which discourages them from participating as much as they would like to participate.<sup>77</sup> The same can happen in a transnational course. Nevertheless, these barriers to interaction can be reduced and even avoided if the students on each side of the audiovisual connection get to know each other outside the class sessions.<sup>78</sup>

Getting the students to know each other outside the class sessions can be fostered by asking or requiring them to exchange emails about themselves or

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73. See Rule of Law Colloquium, *supra* note 7.

74. See *id.*

75. See MICHELLE D. MILLER, MINDS ONLINE: TEACHING EFFECTIVELY WITH TECHNOLOGY 21 (2016).

76. Carole Silver, *Internationalizing U.S. Legal Education: A Report on the Education of Transnational Lawyers*, 14 CARDOZO J. INT'L & COMP. L. 143, 168 (2006).

77. See *id.*

78. See *id.* at 168–70.



**THE INTERNATIONAL LAWYER**  
**A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW**

by creating a social media presence for the course. The students also can be asked or required to submit their respective CV with an embedded photo; in turn, each student's CV would be distributed to all the students. To the same end, the students also can be required or encouraged to work collaboratively on case studies or other exercises outside of class sessions and to jointly present their work in class.

Of course, the U.S. students should be introduced to the country where the international students are. For example, Ukraine's location is a mystery to most Americans. A 2014 survey found that only one in six Americans (sixteen percent) could locate Ukraine on a high-resolution map. Some respondents even placed Ukraine in the U.S.

E. MANAGING THE COURSE: THE TWO-CLASSROOM CHALLENGE

A transnational course happens in at least two places. The professor, however, is in only one of them; the other place and those there are seen only as images on a screen or monitor and are heard only through microphones.<sup>79</sup>

This presents the professor with the challenge of resisting the natural tendency to favor the students physically in front of him or her. At times, this is warranted, particularly when the students in the professor's classroom are paying tuition for the course and earning the academic credit assigned to it, and the international students are not. But good classroom discussions depend on interaction. The more robust the interaction, the better the discussion.

Therefore, the professor should discipline himself or herself to favor equal attention to both or all the classrooms, the latter being the locations where dispersed students are. This usually takes conscious effort and practice.

Managing the classroom appropriately also requires being mindful of the differences in educational background, experience, and knowledge among the students. Some of these differences will remain in the background during most discussions. However, when discussions turn to domestic or foreign current events, the professor should not assume all the students are equally familiar with these events. Instead, she should preface the discussion or interject into it enough information to let all the students participate in the discussion or should ask a student to do so. The same applies to uncommonly used idioms, colloquialisms, and words or phrases drawn from a sport if the sport is unfamiliar to the international students.

Relying on assigned readings as the regular foundation for each class session's discussion will not always work, particularly if the readings are lengthy. Not enough students will have read them to sustain a discussion. A way to overcome this problem is to begin the class with a video related to the readings. This can create a foundation for a discussion that can be amplified by the students who have read the readings. Moreover, videos are often

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<sup>79</sup>. See Pistone, *supra* note 64, at 593–94.

**THE INTERNATIONAL LAWYER**  
**A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW**

2019]

INTERNATIONALIZING U.S. LAW CLASSROOM 147

more powerful, including emotionally, than readings. A TEDx talk, for example, can be both intellectually and emotionally stimulating, thus enhancing the students' discussions and learning.<sup>80</sup>

Irrespective of how a professor intends to structure class sessions, her telling the international students about her teaching style, teaching methods, and expectations before the course begins will help them adjust to the course and its classrooms' physical and virtual environments. For example, if the international students are accustomed through their home law school's practices to starting class sessions by responding to their professor's questions about the day's readings and this is not what the professor will be doing, she should tell them this.<sup>81</sup>

The professor should be mindful, however, that she might not be able to require the international students to do things she requires of her domestic students. If, for instance, the international students are volunteers and are not taking the course for academic credit at the professor's law school or theirs, the professor's influence might be tempered accordingly. The best she might be able to do is to tell the students why she wants them to participate as she is asking of them. If she is awarding the international students a certificate attesting to their successful completion of the course, setting clear, measurable standards as prerequisites for their receipt of their certificates also might help.

This said, the professor should consider not letting the perfect be the enemy of the good. Teaching a transnational course, particularly for the first time, is a learning experience for everyone. And an early learning experience will be meshing the cultural and experiential differences among the students in addition to their individual personalities. But courses are taught transnationally because of these differences. Letting them unfold during class sessions and addressing them as they unfold can promote the learning the professor is seeking. They are a reason why transnational teaching is fun.

F. MANAGING THE COURSE: THE FUN PART

Teaching transnationally is fun. At least it is for those willing to assume the risks that come from stepping off the most well-traveled paths on to less frequently traveled ones. The risks are not great, however, because a transnationally taught course can be converted to a traditionally taught one if the transnational element goes badly.

The fun part is stretching the boundaries that constrain traditional teaching to its two-dimensional structure—a professor and his or her students in one classroom. A transnational course will always have at least

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80. Connecting students' intellects with their emotions is likely to improve their learning. MINDS ONLINE: TEACHING EFFECTIVELY WITH TECHNOLOGY, *supra* note 75, at 110–11.

81. For insights into how Russian law students are taught, for example, see Dmitry Maleshin, *The Crisis of Russian Legal Education in Comparative Perspective*, 66 J. LEGAL EDUC. 289, 306–07 (2017).

**THE INTERNATIONAL LAWYER**  
**A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW**

148 THE INTERNATIONAL LAWYER

[VOL. 52, NO. 1

three dimensions. This creates more moving parts compared to a traditionally taught course. Coordinating those parts is where much of the fun resides.

Indeed, to the extent that teaching is about people interacting for their mutual benefit, then transnational teaching offers more cross-cultural opportunities for this interaction than teaching all or mostly domestic students does. And for professors who are seeking to expand their opportunities to make a difference in their lives and in the lives of their students, then transnational teaching offers one of these opportunities. Because transnational teaching transcends national boundaries, it not only underscores the mutual benefits of interacting, it also underscores the mutual interdependence of peoples globally. This is more than fun; it can be profoundly rewarding.

#### **IV. Conclusion**

This article seeks to encourage others, lawyers and law professors, to try teaching transnationally. And it offers lessons learned from teaching and participating in two transitional courses, the Rule of Law Colloquium and International Commercial Arbitration, each of which represents one of two different ways to teach transnationally. Both ways of teaching transnationally hold considerable promise.

This promise, at its core, lies in transnational teaching's opportunities to connect people from all parts of the globe. Connecting people from across the globe is what the Fulbright Program, the ABA Section of International Law, and most law schools strive to do. Three law schools, the Fulbright Program, and the ABA Section of International Law created the opportunities to teach the two courses described in this article. As we see it, teaching transnationally carries these goals and opportunities forward.

We, an American and a Russian, wrote this article as interconnected and interdependent academics in an increasingly globalized academic community. We had fun writing it. We hope it inspires and helps your teaching transnationally.