

CHANGE AND YET CONTINUITY—WHAT NEXT AFTER 50 YEARS OF LEGAL EDUCATION IN SINGAPORE?

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As the NUS Faculty of Law celebrates 50 years of legal education in Singapore, this article explores some of the likely developments in Singapore legal education in the next few years. The paper suggests that globalisation will mean a greater emphasis on comparative law and more international collaboration amongst law schools. It also suggests that inter-disciplinary perspectives in the study of law will become more important, as will skills programmes designed to serve as vehicles to develop both practical and higher order thinking skills. A student-centric teaching pedagogy will remain important although resource constraints may lead to changes in the teaching methods used. The paper also opines that with globalisation, there is a growing awareness of what teaching best practices in legal education are and this will lead to calls for reform in the many parts of the world where law teaching is of poor quality.

I. INTRODUCTION¹

Although the Department of Law at the then University of Malaya² was established in 1956, legal education in Singapore began in September 1957 when the first intake of students was admitted to the Department of Law. This was a distinguished group counting within its ranks the present Chief Justice Chan Sek Keong, Ambassador-at-large Professor Tommy Koh, Singapore's first Solicitor-General Koh Eng Tian, Singapore's first local and female law Dean Dr Thio Su Mien, Emeritus Professor Koh Kheng Lian, and other distinguished individuals. Fifty years and intakes later in September 2007, the NUS Faculty of Law celebrated 50 years of legal education in Singapore with a year long series of seminars, conferences, and other celebratory events.

Indeed there was much to celebrate. The establishment of a law school within Singapore was an event of personal significance to many members of the legal profession in Singapore and Malaysia because the local law school became the principal means for many young people from both countries to obtain a law degree. Prior to this, a person wishing to read law had to do so in England and this was not something

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¹ This is a revised version of a Professorial Lecture given on 21 March 2007. The title of this article is adapted from Kevin Y.L. Tan ed., *Change and Continuity—40 Years of the Law Faculty* (Singapore: NUS, 1999) [Tan, *Change & Continuity*], which commemorated the 40th anniversary of the attainment of Faculty status by the National University of Singapore's law school in 1959.

² One of the predecessor institutions to the National University of Singapore [NUS].

that many could afford at the time. In Malaysia, the first law school was established in 1972 when the University of Malaya established its Faculty of Law.³ Going beyond individuals, the establishment of the NUS law school facilitated the further development of Singapore (and Malaysian) law as well as Singapore's legal institutions as the law school over the years has provided a sophisticated legal education to thousands of legal professionals.

Because of the success of the law school, it is sometimes difficult to recall the many difficult challenges that she faced in her earlier years. There was initially opposition to the idea of a local law school from the local bar.⁴ Without any existing local legal education, prospects for faculty recruitment were also undoubtedly a challenge as there did not exist a large pool of legal professionals that might constitute the core of the law school. It was also difficult to recruit foreign permanent or visiting faculty given Singapore's state of economic development at the time and the more challenging nature of long distance travel. In addition when the first batch of brave souls entered the law school, the degree to be awarded had not been accorded recognition for practice in Singapore or Malaysia.⁵

Notwithstanding these difficulties, the law school nevertheless did very well and was praised in 1962 by a foreign visitor as being the "most progressive in the region".⁶ In large part this was due to the leadership of the founding Dean, Professor Lee Sheridan, who played a pivotal role in establishing a firm foundation for the school.⁷ Thus the law school decided from the outset that her classes should be interactive and participative, different modes of assessment should be used, and teaching and learning should have comparative and inter-disciplinary elements.⁸ That foundation, and the traditions that it engendered, has endured and served the Faculty well over the last 50 years. It has been opined that as the Faculty of Law celebrates the 50th anniversary of the admission of her first students, "the future looks bright... By any account, the Faculty has done well. Every member of Singapore's highest court, the Court of Appeal, is an alumnus of the Faculty, as are most of the leading Senior Counsel in town. Its graduates now occupy leading positions not only within the legal profession, but also in other fields they have ventured into".⁹

While the NUS law school does have much to be proud of and can justly celebrate the past 50 years, it is also useful when such a milestone is reached to think about the future. Past achievements are no guarantee of future success and all great institutions must continue to build on what has been achieved while at the same time be sensitive to changing circumstances and thus the need for adaptability. In this article, I shall attempt to share some reflections on what I consider to be the trends and issues that will arise in legal education in Singapore (and quite possibly elsewhere as well) over

³ When Singapore became an independent republic in 1965 after separation from the Federation of Malaysia, it renamed the University of Malaya Singapore campus the University of Singapore. There was also a University of Malaya Kuala Lumpur campus and that remained the University of Malaya.

⁴ Kevin Y.L. Tan, "Prologue" in Tan, *Change and Continuity*, *supra* note 1 at 9.

⁵ Kevin Y.L. Tan, "Laying the Foundations," *ibid.* at 18.

⁶ Kevin Y.L. Tan, "Years of Turbulence and Consolidation," *ibid.* at 25.

⁷ See Andrew Phang, "Founding Father and Legal Scholar—The Life and Work of Professor L.A. Sheridan" [1999] *Sing. J.L.S.* 335.

⁸ *Ibid.*

⁹ Kevin Y.L. Tan, *Scales of Gold—50 Years of Legal Education at the NUS Faculty of Law* (Singapore: NUS, 2007) at 87. It may be added that her graduates have done well in Malaysia as well with many of the senior members of the Malaysian legal profession being alumni including the present Chief Justice of Malaysia.

the next 5 to 10 years. In doing so, I recognise fully that my perceptions may be flawed and should not be taken by anyone (including myself) as providing a sure compass on which to structure legal education.¹⁰

II. GLOBALISATION AND COMPARATIVE LAW

Legal education in Singapore and elsewhere for at least the last 100 years has been very jurisdiction-specific. Essentially, law schools teach the law of the jurisdiction that they belong to. Comparative law may have a role in law schools but the role of comparative law is often peripheral, consisting of the odd course that looks at a particular aspect of the law of another jurisdiction, or providing a broad overview of another legal system. The approach to comparative law has largely been treated as an academic exercise or as a means of better illuminating one's own legal system by comparison to that of another. My view is that this will change and comparative law will grow in importance. It will increasingly be seen as highly important in its own right and as an essential aspect of the education of future lawyers.¹¹ This is not to cast any doubt on the importance that comparative law will have in continuing to provide us with lessons and insights into our own legal systems. Indeed if comparative law is given more weight its role in this regard will be enhanced.

In this context, I am reminded of two other waves of globalisation which had a major impact on the development of law. The first was the expansion of the Roman empire which, amongst other things, led to the reception of Roman law in large parts of what is now Europe and which played an important role in the development of both the civil law and the common law. The second wave took place when various European powers engaged in colonisation and this led to the civil law and the common law being imposed on their colonies and becoming the basic law of these colonies even upon independence. For this reason, much of the world today comprises countries that have adopted civil law (e.g. Indonesia and Vietnam) or the common law (e.g. Singapore and Malaysia).

It will be seen that both these waves of globalisation had a significant impact on the development of law globally including a greater uniformity of the resultant legal systems of different countries. For this reason, much of the world can broadly be divided into civil law or common law countries. It is therefore intriguing to think of how this present wave of globalisation will impact on the legal systems of today. Unlike the two earlier waves of globalisation mentioned, today's globalisation is largely driven by greater human interaction due to developments in communication and travel, international business and finance, and the pervasiveness of the internet. Globalisation is being driven at social, business and cultural levels and the law has an important role to play in facilitating such interactions as well as managing the tensions that arise from them.

¹⁰ In one sense, the next 50 years will already be different as the Singapore Management University [SMU] admitted its first intake of law students in August 2007. Thus while the first 50 years of legal education in Singapore was the province of a single law school, the next 50 years will be characterized by the efforts of at least two law schools. Thus this article will make reference to the SMU School of Law where appropriate.

¹¹ For the observations of a law librarian, see Claire M. Germain, "Legal Information Management in a Global and Digital Age: Revolution and Tradition" (2007) 35 *Int'l. J. Legal Info.* 134 at 137–140.

Law is part of the glue that keeps a society together and a global society requires the law to move beyond its traditional jurisdictional confines. While it is true that law has always had an international dimension, the increasing interactions between people across different jurisdictions will make it more important for the law to provide solutions that cut across borders, something that the law traditionally does not do well as the writ of each national court and law making body is generally limited to its own jurisdiction. As cross-border legal issues become more intractable and complex, we are likely to see more multi-lateral initiatives to impose common rules and standards across jurisdictions. In certain areas, particularly the commercial sphere, it is also likely that global standards of good practice will emerge and that countries will conform broadly to such global standards or risk not being competitive in attracting investment and transactions.¹² In some areas there may even be a *de facto* 'general' law because that law is widely accepted as the primary means by which transactions are effected and so is voluntarily adopted by the relevant parties (witness the wide use of English and New York law in commercial transactions and the beginnings of the use of Singapore law in regional commercial transactions).¹³

If this analysis is correct, it suggests strongly that while law schools do need to ensure that their students have a good foundation in national law, this should not be the only basis of legal education. Law schools should increasingly provide their students with a broader legal education that will give them the flexibility to engage in cross-border issues.¹⁴ We are after all a long way from a world where common rules and standards predominate, and even in a world like this, common rules and standards will have a point of origination and we will better understand them if we understand their background, which may be from a different legal system. However, the question of how we can provide a broader legal education (from a comparative law standpoint) is not a question to which there is a simple solution. At NUS, a course on Comparative Legal Traditions is made compulsory¹⁵ so that students are aware of the basic features of different legal approaches including the civil law tradition.¹⁶ At the

¹² See also Pierrick Le Goff, "Global Law: A Legal Phenomenon Emerging From the Process of Globalization" (2007) 14 *Indiana Journal of Global Legal Studies* 119, who argues that while the notion of 'global law' is in its infancy, it is very much a fact and not a theory. Global law is in motion due to the efforts deployed by international organisations, international practitioners, universities and other academic institutions such as international and comparative law institutes.

¹³ See also, in the context of Labour Law, B. Caruso, "Changes in the Workplace and the Dialogue of Labor Scholars in the 'Global Village'" (2007) 28 *Comp. Lab. L. & Pol'y. J.* 501.

¹⁴ See also Alberto Bernabe-Riefkohl, "Tomorrow's Law Schools: Globalization and Legal Education" (1995) 32 *San Diego Law Review* 137.

¹⁵ The SMU School of Law will also be offering a similar course titled 'Comparative Legal Systems', online: SMU School of Law <http://www.smu.edu.sg/news_room/press_releases/2007/20070105.asp>. Harvard Law School recently changed its curriculum to require all first year students to take a course in Comparative Law, Public International Law or International Economic Law, online: Harvard Law School <<https://www.law.harvard.edu/admissions/jd/about/curriculum/intlaw.php>>.

¹⁶ Harold Koh, "Why Transnational Law Matters" (2006) 24 *Penn State International Law Review* 745 at 751, suggests that to address global trends, American law schools will need to reform their traditional legal curriculum, their faculties and their scholarship, their students, and other aspects of legal education. Some schools have addressed curricular change by requiring international or transnational law courses, but at Yale Law School, the approach has been to mainstream a focus on globalization into the traditional First Term Curriculum, adding international modules in the basic courses of Procedure, Torts, Constitutional Law and Contracts.

same time, NUS offers a number of courses on specific aspects of the law of a foreign jurisdiction, for e.g. Indian Business Law and Chinese Intellectual Property Law, as well as more thematic courses taught in a comparative manner, for e.g. Comparative Corporate Governance and International and Comparative Law of Sales.¹⁷

While these are good approaches, it is suggested that the NUS law school should go further and try to better integrate comparative perspectives into many of the substantive law courses that we offer.¹⁸ While this is already being done with cases and materials from other common law jurisdictions, it is hardly ever done with materials from civil law jurisdictions. Part of the reason for this is familiarity as almost all faculty at the NUS law school have been educated exclusively in the common law tradition. The other reason bespeaks of the main purpose for the comparative material that is found in courses; it is to better illuminate the common law of Singapore. Being a relatively small jurisdiction, Singapore does not generate as many cases as many other common law jurisdictions and reference to case law from such jurisdictions is undoubtedly useful.

I suggest that in future, the NUS law school should give more attention to teaching comparatively as a goal in itself. By this I mean that a major goal of comparative law teaching should be to develop each student as a comparatist or as having a comparatist mindset.¹⁹ There is a case for comparative perspectives to be taught more pervasively within existing courses.²⁰ While this has to be done in a manner that does not detract from the need to give our students a good grounding in Singapore law and the common law more generally,²¹ the aim of comparative law teaching should not simply be to provide a better understanding of Singapore law.²² One possible method which I have tried is to focus the comparative perspectives on one or two key issues within an area. Thus in the case of Corporate Law, it is interesting to note that while many jurisdictions recognise the corporate vehicle as a legal person independent of its shareholders, the circumstances under which this general rule is ignored can provide insights into the different approaches and philosophies of the representative jurisdictions and the legal traditions from which they spring from. Similarly the different approaches in civil law and common law to the issue of when Offer and Acceptance in the formation of a contract takes place reveals a great deal about the way both traditions view the nature and purpose of a

¹⁷ Judith W. Wegner, "The Curriculum: Patterns and Possibilities" (2001) 51 *Journal of Legal Education* 431 at 433, finds that there is a growing number of comparative, international and foreign law courses offered by American law schools.

¹⁸ See also Franklin A. Gevurtz, "Incorporating Transnational Materials into Traditional Courses" (2006) 24 *Penn State International Law Review* 813.

¹⁹ See B.S. Markesinis, "The Comparatist (or a plea for a broader legal education)" in P. Birks ed., *What Are Law Schools For?* (Oxford: Oxford University Press, 1996) at 112.

²⁰ See Harold Koh, "The Globalization of Freedom" (2001) 26 *Yale Journal of International Law* 305 at 307–308.

²¹ A point made somewhat stridently by Erik M. Jensen, "The Case for a Flat-Earth Law School" (2007) 15 *Cardozo Journal of International and Comparative Law* 119. I am in full agreement with W. Twining, "General Jurisprudence" (2007) 15 *U. Miami Int'l. & Comp. L. Rev.* 1 at 42, who states in the context of legal education that "concern that our discipline should not lose touch with the local and the particular is well founded". Like him, nothing here is meant to suggest otherwise. What is being suggested is the need for a broader conception than is presently practised.

²² See also C. Valcke, "Global Law Teaching" (2004) 54 *Journal of Legal Education* 160.

contract.²³ Such insights into the two great legal traditions in the world today²⁴ will help mould the global lawyer of the future²⁵ who is better able to operate across different jurisdictions.²⁶

One implication of this is that the NUS law school will have to re-think how some of its young faculty members are developed. The traditional path has been for young faculty (who tend to have degrees from common law jurisdictions only) to pursue a Masters in Law, and many will go on to pursue a doctorate. These advanced degrees will be pursued in other law schools in common law jurisdictions. In the future, should we not instead send young faculty to pursue a second law degree from a civil law jurisdiction such as France or Germany? A doctorate can eventually follow in either a civil law or common law school. This could be more expensive and time consuming but may be necessary.

The present wave of globalisation is also likely to see the emergence of 'global law schools'. This is an insight into legal education that the NUS law school has had for a number of years and has formed the bedrock of many of the initiatives instituted in the last few years, including the many partnerships and alliances the school has entered into. When I was appointed Dean in May 2001, very few of my foreign visitors or those I visited had the issue of globalisation and legal education in view. Thus when I visited a leading US law school in the summer of 2002, the then Dean said that the school had no interest in their students having a significant overseas experience and there was not much interest in international collaboration generally. Today the position is different. How law schools should respond to globalisation has become a leading issue for many Deans. For example, an external review committee

²³ A similar approach is advocated in the context of civil procedure by Helen Hershkoff, "Integrating Transnational Legal Perspectives Into the First Year Civil Procedure Curriculum" (2006) 56 *Journal of Legal Education* 479, who states that even lawyers who work in exclusively domestic firms are likely to work on commercial deals that span national borders, implicate multiple regulatory regimes, and generate litigation prospects in different and competing court systems. As such, integrating transnational themes into the first year civil procedure curriculum supports the students' professional development by better preparing them for the legal careers they will enter after graduation from law school. Integration does not require a full study of the procedural systems of foreign countries as this would be an impossible and undesirable approach to take in the first year of law school. But it does call for teaching students to be alert beyond the borders of national parochialism and to appreciate the values that inform different procedural systems outside the United States. In the context of Family Law, it has been stated that because children are increasingly likely to live in transnational families and may have family members with different national citizenships, who live in other countries, and who speak different languages, children's attorneys should have knowledge of international law, comparative law practices, and the impact of clients being part of transnational families: see "Recommendations of the UNLV Conference on Representing Children in Families: Child Advocacy and Justice Ten Years After Fordham" (2006) 6 *Nevada Law Journal* 592 at 600.

²⁴ I appreciate of course that there are significant differences within the common law and civil law traditions broadly defined.

²⁵ Anne Marie Slaughter, "The International Dimension of Law School Curriculum" (2004) 22 *Penn State International Law Review* 417 at 418 writes that law schools must train students to be "boundary-crossers", literally and figuratively. Law schools should also be hiring boundary-crossers as faculty.

²⁶ The concerns that an enthusiastic response to globalization may dilute the fundamentals of legal education are well summarized in Twining, *supra* note 21 at 40–41. The issue is one of balance. I am skeptical for example with the view that comparisons beyond the common law in core doctrinal subjects will overly confuse law students and detract from their understanding of domestic law. While it may be too ambitious to provide a fully global or transnational legal education, this does not mean that the law curriculum should not have a significant pervasive international, foreign or perhaps 'transnational' component that aims to cultivate a global mindset and outlook.

for a leading Canadian law school has even expressed the view that within a few decades, there will be perhaps “twenty or twenty-five universally recognised ‘global law schools’”. The committee also opined that it is likely many of these special institutions will be American but it is also virtually certain that some will be found in Europe, Asia and South America. Such global law schools will see themselves and generally be seen as special resources for their nations. At the same time, they will see themselves and generally be seen as “having duties that transcend national borders—duties that require collective transnational investments that are calculated to advance the interests of people everywhere”.²⁷ I agree entirely with this assessment except that I believe the timeframe to be within ten to fifteen years (conservatively) rather than within a few decades. I also think that the number of such schools will be higher. I am confident that the steps that the NUS law school has taken will put her in a position to be one of these ‘universally recognised global law schools’.

III. INTERNATIONAL COLLABORATION

If law schools are to adopt a more outward looking perspective, international collaborations are likely to be an important component. By tradition, law schools have tended to be inward looking because of the focus on national law. Most academic faculty are hired principally to teach subjects related to national law and many will be graduates of a law school from the country in question. In a world that focuses on the domestic, this is the optimal arrangement. However, it becomes less satisfactory in the context of globalization and its impact on legal education. In such a context, law schools will find it difficult to continue to remain substantially as ‘one-stop shops’.

Even though it has been suggested that law schools should begin to hire ‘boundary-crossers’ as faculty,²⁸ this is a process that will take time and even then it is probably the schools that attract larger numbers of good foreign students into their Master of Laws or doctoral programmes that will find this easier to do. It is also not clear, and will differ from school to school, what will be the optimal mix of faculty to have bearing in mind the need still to focus on domestic law while providing students with sufficient comparative and transnational perspectives for a more globalized world of legal services. One pragmatic approach is to rely on visiting faculty to provide broader perspectives within the law to students. This is an approach that the NUS law school has adopted and which sees in a typical academic year anything between eighteen and twenty-four visiting faculty.

Increasingly, I think we are likely to see more formal collaboration between law schools that seek to leverage off the strengths of their partners. As things stand, and this will be no surprise, law schools have strengths in certain areas but offer less ‘coverage’ in others. Often this lack of coverage does not matter much as the area in question may be an optional extra that may be good to have but is not regarded as crucial to the school’s perceived mission which has been shaped by historical, social, economic and other factors. However, in a more inter-connected world that is dominated by law schools with a predominantly national focus, this is one shortcoming that many schools will be seeking to address in the years ahead.

²⁷ See Harold Koh & Jeffrey Lehman, “External Review of the University of Toronto Faculty of Law” (28 January 2006), online: <<http://www.law.utoronto.ca/documents/general/ExternalReview2006.pdf>>.

²⁸ *Supra* note 25.

Rather than making hiring decisions that lock the school into long-term commitments in a fluid environment, partnerships with other law schools is a viable alternative. The number of joint programmes between schools will therefore grow in the years ahead. This might take the form of joint Master of Laws programmes,²⁹ double degree type programmes,³⁰ or a more general educational programme that does not result in any degree being awarded.³¹

In one area there is already a great deal of collaboration. This is in the area of student exchanges. Law schools now have a great interest in giving their students an overseas study experience. Such an experience broadens the cultural mindsets of students and provides them with significant exposure to a foreign legal system. At the NUS law school, we have embraced such opportunities for our students. Between a third and forty percent of each third year class will go away on exchange, most for a year but some for a semester. Such exchange programmes also have the benefit of a large incoming group of foreign students each year from our partners that further enlivens the multicultural dimension of the law school and benefits those students who do not have an exchange experience.³²

Improvements in technology will in the future make the dream of the global classroom a reality. Video-conferencing holds great promise for breaking down

²⁹ Three examples of such programmes in Asia will be outlined here. The first is the LL.M. in Business Law established in 1997 by Chulalongkorn University, the University of Kyushu, the University of British Columbia and the University of Victoria, online: Chulalongkorn University Faculty of Law <<http://www.law.chula.ac.th/en/02/structure.html>>. This programme, the first international graduate law programme to be offered in Thailand, is taught entirely in English with the degree being conferred by Chulalongkorn University. Another joint programme is the LL.M. programme offered by Tsinghua University and Temple University, online: Temple University Beasley School of Law <http://www.law.temple.edu/servlet/RetrievePage?site=TempleLaw&page=Admissions_Masters_Law_Beijin>. This is a fifteen-month programme that is taught in English at Tsinghua University except for a two-month summer session at Temple University's campus after the first year. Graduates of the Program receive a Master of Laws degree from Temple University and also receive a Certificate of International Business Legal Study from Tsinghua University School of Law. A third example is the LL.M. programme in International Business Law offered by the East China University of Political Science and Law and NUS, online: NUS Faculty of Law <http://law.nus.edu.sg/prospective/postgrad/coursework/llm_ibl.htm>. Like the two preceding programmes, the courses offered are taught entirely in English. Aside from a period of eight to ten weeks in Singapore, the programme is taught at East China University of Political Science and Law's Shanghai campus. The degree is awarded by the NUS.

³⁰ For example, the NUS and NYU law schools have agreed that undergraduate law students from NUS may be accepted into the NYU LL.M. programme after completion of three of the four years of study that would be necessary for NUS to award its Bachelor of Laws degree (LL.B.). An NUS student who has been accepted, and who has completed the requirements of the NYU LL.M., will be entitled to transfer those credits towards his final year requirements at NUS thus completing all requirements for the LL.B.. NYU will then confer its LL.M. on the NUS student, online: National University of Singapore Faculty of Law <http://law.nus.edu.sg/current/LLB/nyunus_llblm_ddp_faq.htm>.

³¹ As an example, Georgetown University Law Center is currently leading an initiative that involves the law schools from Georgetown University, the University of Fribourg, the Hebrew University of Jerusalem, King's College London, the University of Melbourne, the National University of Singapore and the University of Toronto jointly establishing a Center for Transnational Legal Studies that will bring together faculty and students to engage in global legal education.

³² I anticipate that the percentage of NUS law students with a substantial overseas study experience of at least one semester will be around 50%. In part this is because of the great interest that students in the law school have for a study abroad experience. Additionally, the double law degree programme with NYU (and perhaps other law schools) will lead to more students spending substantial time abroad.

geographical barriers. It also potentially makes it easier for law schools to share limited teaching resources. One of my hopes is that the NUS law school can enter into a series of bilateral or multilateral agreements with other leading law schools where each will make available to the other(s) a number of courses that will be taught (and perhaps examined) by the offering law school. This would immediately expand the course offerings of each law school at a relatively low cost. Better still if courses can be co-taught to some degree at least so that comparative perspectives and different ideas can be discussed.³³

IV. THE CURRICULUM

The law curriculum within law schools generally comprises a compulsory component that focuses on 'foundational' subjects and an elective component. In the NUS four year LL.B. programme, the compulsory component comprises 55% of the entire course of study and is concentrated in the first two years of study. For the remaining 45%, law students may take non-law subjects up to a maximum of 15%. At SMU, the compulsory law component comprises around 55% of the curriculum, the compulsory non-law component comprises around 31% of the curriculum, and the law electives comprise around 14% of the curriculum.³⁴ As the compulsory component of both schools is broadly similar, the difference lies in the fact that at NUS there are no compulsory non-law subjects and students will have to take more law electives than at SMU. In this sense, the NUS curriculum is less structured and places a premium on choice while the SMU curriculum is more structured with the objective of requiring students to take non-law subjects in areas that SMU believes will be important for lawyers.³⁵

Focusing on the compulsory component of the NUS and SMU curriculum, it will be observed that both law schools specify more core subjects than virtually any other law school in England.³⁶ For NUS, the reason is because the concept of what is 'foundational' goes beyond 'substantive' law courses such as criminal law, contract law, and property law. It also embraces 'perspective' courses such as Singapore Legal System, Comparative Legal Traditions, and Introduction to Legal Theory, and 'skills' courses such as Legal Analysis, Writing and Research, Trial Advocacy, and Legal Case Studies. In one sense this broader approach to what is 'core' has been vindicated by the decision of Harvard Law School to broaden its core curriculum to embrace some of these features in the NUS core curriculum.³⁷

³³ See also Tan Cheng Han, "Challenges to Legal Education in a Changing Landscape—A Singapore Perspective" (2003) 7 Sing. J.I.C.L. 545 at 575.

³⁴ Online: SMU School of Law <<http://www.law.smu.edu.sg/blaw/curriculums.asp>>.

³⁵ In particular for business lawyers as SMU intends to focus on corporate and commercial law, online: SMU <http://www.smu.edu.sg/news_room/press_releases/2007/20070105.asp>. At NUS, the corporate and commercial cluster of subjects is the largest with over forty subjects. This is unsurprising given Singapore's position as a business and financial centre. Nevertheless, the NUS law school does not wish to focus only on corporate and commercial law.

³⁶ English law schools usually specify 7–8 compulsory law courses: see, for e.g., online: University of Nottingham School of Law <http://www.nottingham.ac.uk/law/courses/ug_courses_list.php?code=008841&page_var=c_det>. Leading law schools in the United States also require fewer compulsory courses, usually limiting such courses to the first year of study, see for e.g. online: Columbia University School of Law <http://www.law.columbia.edu/jd_applicants/curriculum/11>.

³⁷ *Supra* note 15 and *infra* note 44.

In terms of the elective component of both law schools, NUS understandably offers a wider menu of courses. The NUS law school has been around longer and has had to be a comprehensive law school since she was the only law school in Singapore until recently whose degree was recognised for practice at the local bar. Many of the courses are offered by permanent faculty, but are also supplemented by the close to two dozen visiting faculty each year and adjunct faculty from the law firms and Legal Service. This allows for new courses to be added from time to time whenever the need arises and on occasion certain courses are dropped. This is a good system and is likely to continue.

It is clear that both NUS and SMU believe in the value of a legal education that is supplemented by perspectives from other disciplines. However, both schools are approaching this slightly differently. At SMU, the focus will be on the compulsory non-law subjects that students have to take.³⁸ While double degree programmes are also possible, it appears at this point that this will be open to a relatively small group of students.³⁹ In part this is probably because of the large percentage of compulsory non-law subjects that students will already have to read.

At NUS, the approach is to give all students greater choice of how they wish to tailor the non-compulsory part of their studies. For students who wish to take non-law subjects, there are essentially three ways to do so. The first is through double degree programmes which are likely to be open to at least a third of each class. Double degree programmes will require students to spend an additional semester to an additional academic year to complete. For law students who do not wish to spend more time on two disciplines, but wish to have more than a passing knowledge of another discipline, they may choose one of the Minor programmes offered by other Faculties within NUS which will require them to spend about 15% of their curriculum time on a minimum of six modules within that other discipline. Finally, it is also open to law students to take a few non-law subjects in areas that are of interest to them and also relevant to the study of law.

While both approaches have their merits, I would express one point of caution. From experience, I am slightly sceptical of how much we can expect undergraduate students to read subjects in more than one discipline and successfully see the inter-connections between them, as well as integrate the perspectives from these different disciplines. This is not to say that it is not valuable in itself to have an understanding of a different discipline,⁴⁰ but if we expect an understanding of that discipline itself to have an impact on the development of the future lawyer, we may be a little underwhelmed by the results particularly where the 'broadening' of the law student takes place through the reading of single subjects in a range of different disciplines. The issue is likely to be less acute in double degree programmes where there will be substantial understanding of one other discipline,⁴¹ but even here, the NUS law school has tried to develop a few 'integrated modules' with her partner Faculties

³⁸ *Supra* note 34.

³⁹ Online: SMU School of Law <<http://www.law.smu.edu.sg/blaw/curriculum.asp>>, where it is stated that the double degree programmes are available "to only a small number of students on a competitive basis".

⁴⁰ Though it is possible that the exposure to one subject in an area may be *de minimis* and therefore serve little utility.

⁴¹ This is also true for Minors ('Concentrations' is the term used in some other universities) though to a lesser extent.

which bring together the perspectives from both disciplines so that students can better understand the inter-relationship between both disciplines.⁴²

This leads me to a related point. Contrary to popular belief, there is no ‘inevitability’ about the present state of any law or legal system. Legal systems and laws have evolved and developed over time in a manner that is consistent with the history, culture, politics and economic circumstances of a given society. While this points towards the need for lawyers to have a better understanding of more than law, it points at least as strongly in my view for law subjects not only to be taught from the perspective of legal doctrine, but from a contextual point of view that situates the law today firmly within the society that has shaped the development of the law in such manner. Accordingly, the teaching and learning of individual law subjects must be informed by perspectives from disciplines outside the law and I would suggest that for the majority of law students this is the most effective way to broaden their education. In this regard, the NUS law school has made great progress and many courses today are taught in an inter-disciplinary way. Three examples will suffice to illustrate the way this is done. *Law and Sociology of the Family* is taught jointly by colleagues from the law school and the department of sociology; *Regulating the Corporation* is taught by a colleague from the law school who has an interest in Economics; and *Competition Law* is taught by a colleague who has degrees in both law and economics. Ideally, the NUS law school should have at least a handful of faculty with degrees in law and another discipline and it is my hope that some of our current double degree students will distinguish themselves in both their disciplines and be attracted to an academic career.

It follows from what has been said that I see the NUS curriculum in the future becoming more comparative⁴³ and inter-disciplinary. At the same time, we must not forget that law students also need to have a good grounding in law. I do not think that these three elements are mutually exclusive; in fact if subjects are taught well in this manner students are likely to be better prepared for the rigours of practice. The practice of law is ultimately concerned with the resolution of complex problems that people encounter in life. Due to the myriad factual circumstances that lawyers encounter, an education that contextualises the legal rules and principles and yet provides a framework for approaching cross-border issues will be an education that present and future lawyers are likely to find valuable.

In addition, the law school must take cognisance of the increasing reliance on regulatory instruments. Harvard Law School has in its recent review exercise stressed the need not only to have students understand case law but also statute law and regulatory instruments.⁴⁴ At NUS, we have always focussed on case and statute law

⁴² Interestingly, Stanford Law School’s recent curriculum changes mirror those at the NUS law school. Dean Larry Kramer has taken steps to enable Stanford law students to take courses outside the law school to develop subject matter expertise in another discipline. Thus more than 20 new joint degrees have been created in partnership with other schools in Stanford. Law students may also take concentrations that do not lead to another degree: Conversation with Dean Larry Kramer (27 August 2007) at NUS law school. See also “Law School Innovations Result In Broader Students, A TCL Interview: Larry Kramer” *The Complete Lawyer* 3:5 (2007), online: <http://www.thecompletelawyer.com/volume3/issue5/article.php?ppaid=4441> >.

⁴³ Perhaps in due course more ‘transnational’, though I recognize the controversy around and imprecision of this term.

⁴⁴ Online: Harvard Law School <http://www.law.harvard.edu/news/2006/10/06_curriculum.php>.

but we have not paid much attention to regulatory instruments. We should consider in the very near future how to address this possible gap and in this context it is relevant to note that SMU will be including a course on Law and Regulation in its core curriculum.⁴⁵

Another development that I think we will see in the future is the further development of the skills courses within the NUS law curriculum. Traditionally, such courses have not played a large role in the curriculum of law schools, perhaps because it was thought that it might encourage a 'trade school' mentality. However, good legal skills courses can provide effective vehicles for students to apply classroom learning to complex, multifaceted legal problems that require lateral thinking and independent research, while at the same time help in the development of other higher order skills that are important for professional success. In this vein, one specific development that may take place in the future is a clinical legal education component⁴⁶ which can also help law students to develop the right attitudes towards ethics and social responsibility that are important elements of any law school education.

V. PEDAGOGY

There is widespread consensus amongst educators that students learn best when they are active participants in the learning process. From this viewpoint, and although it may sound strange at first, legal education in many parts of the world is surprisingly poor.⁴⁷ In many law schools, the large lecture given to several hundred students at a time is virtually the only teaching method used. There are hardly any opportunities to engage in debate and discussion with academic faculty. In some other law schools, small group teaching is used but much of this teaching is conducted by teaching assistants who are graduate students and not by academic faculty. Thus students may be attracted to such law schools by the well known professoriate, but in reality not have many opportunities to be taught by them.

It is fortunate that in Singapore we have avoided this unsatisfactory state of affairs, thanks in large part to the foundation laid by Professor Lee Sheridan, the first Dean of the law school.⁴⁸ Professor Sheridan believed that the law school should provide a liberal education that stretched the mind and small group teaching was a means to achieving this. Thus in the early days of the law school, before it was conferred Faculty status, he made the following statement:⁴⁹

The first aim of the University of Malaya in introducing a Department of Law is to provide that broad liberal education through the medium of law which is the ideal

⁴⁵ Online: SMU <http://www.law.smu.edu.sg/blaw/detailed_curriculum_and_courses.asp>.

⁴⁶ To address concerns about the pedagogical benefits of clinical programmes in the context of a university education, it is necessary to design clinical programmes that have strong pedagogical outcomes. Clinical programmes should not only be about service to the community though that is an important goal. If such programmes are to be a formal part of a law school curriculum, they must also serve pedagogical goals that facilitate higher order thinking skills.

⁴⁷ For an overview of legal education in Asia, see Tan Cheng Han *et al.*, "Legal Education in Asia" (2006) Asian Journal of Comparative Law 184.

⁴⁸ See Phang, *supra* note 7.

⁴⁹ L.A. Sheridan, "Legal Education in Malaya" (1957-58) 4 Journal of the Society of Public Teachers of Law (New Series) 19 at 19.

of the British type of university law school. That is to say, the primary object of instruction placed immediately before the eyes of the undergraduates will be the law of Malaya, but this local god must be placed there in such a way that it will not obscure the vision of things beyond. A comparative study of other systems of law is recognized as importantIt has always been intended, too, that legal philosophy should be interwoven with study of positive law, and the same goes for legal sociology with an eye on law as a policy science. Nor has it ever been forgotten that there is a practical side to the law.

Interestingly, he said that the law degree may be based on modern American patterns,⁵⁰ which could provide a partial explanation for why the NUS law school today has features borrowed both from North America as well as England (or perhaps the real reason for this may be the usual Singapore pragmatism of adopting relevant best practices wherever they may be found).

Thus today, the NUS law school continues to adopt a student-centric pedagogy focussed on 'active learning'. My colleagues constantly stress to our students how they must be the authors of their learning with faculty acting as guides or facilitators. Thus the tutorial system is widely used in the first two years of study to provide the greatest possible opportunities for law students to be actively engaged in a typical class of one faculty member to thirteen students. Many lectures are also taught socratically with the lecturer posing questions and being engaged in a dialogue with the class in a manner that many who watched the television series 'Paper Chase' will be familiar with.⁵¹

Teaching methodology is one thing; assessment is another and assessment methods influence student outcomes. At the NUS law school, a wide variety of assessment methods is used ranging from the traditional final examination to class participation, presentations, group work, research papers, 'take-home' examinations, mock trials, and mooting. The advantage of a wide variety of assessment methods is that they help students to develop more holistically and in this regard the wide use of assessment methods by the SMU School of Law is also to be welcomed.

While the tutorial method is the primary means of learning used in the First and Second Year, the elective courses taken in the Third and Final Years at the NUS law school largely use the seminar method, which is the principal means of learning that will be adopted by SMU. This was not always the case at NUS which used to principally use the tutorial method even in elective courses. The change began to come about in the 1990s when the greater specialisation within the practice of law led to a proliferation of elective subjects. This was a phenomenon also seen in other parts of the common law world. This proliferation meant that it was impossible to maintain the tutorial system for elective subjects as tutorials are highly labour intensive.

Speaking personally, I think that the low faculty to student ratio for tutorials is the most effective means of engaging students. However, it is also an expensive way to do so and I think the tutorial system is somewhat of an endangered species today in Singapore and elsewhere for this reason. Within the NUS law school, I am not at all certain that we can sustain it in the current manner where it is used in the majority of our compulsory subjects. Perhaps in the future we will be forced to

⁵⁰ See Kevin Y.L. Tan, "Laying the Foundations" in Tan, *Change and Continuity*, *supra* note 1 at 14.

⁵¹ The series revolved round a fictional Harvard Law School First Year class.

move substantially to the seminar style of teaching in compulsories except for one or two courses in the First Year. These one or two courses will then be the principal means by which students are engaged in intense small group discussions. Having small group teaching in the First Year rather than other years is probably optimal (where only limited small group teaching is possible) in fostering the right mindset for a rigorous university education.

VI. RESEARCH

Although this piece is intended to focus on legal education, it is appropriate to make some reference to research as it is acknowledged widely that a good educator is one who is also informed by the research that he or she pursues. One of the things I have been most pleased to see in the last few years has been the explosion of research from my colleagues at the NUS Faculty of Law. The transformation from what was produced when I was appointed to a lectureship in 1990 is nothing short of remarkable. The pieces are far more interesting, the volume is much greater, and the number of top journals that faculty are publishing in is impressive.

One concern that has been expressed to me is whether the large number of articles published in top overseas journals has come at the expense of academic development of Singapore law. It has been said that when writing articles with a view to publication in a foreign journal, there may be a tendency to focus on what a foreign audience might find interesting rather than what is of the greatest utility to the development of Singapore law.

While I recognise the validity of the argument, I must confess to being reasonably sanguine about this issue. For one, Singapore law is already well developed and is continuing to develop well because of a strong judiciary, a good bar, and a learned and growing academic community. Secondly, much writing published by Singapore academics in overseas journals is on common law topics which are equally relevant to Singapore law. Finally, the total number of articles published today is so far in excess of what was published in the past that, in absolute terms, I do not think that there are fewer articles published in the good local law journals. And it is also true that much legal writing is published in the form of books and chapters in books where the distinction between a 'foreign' and 'domestic' publication is not meaningful.

In future, I think the type of research being done in law will increasingly become more inter-disciplinary and comparative. At the same time, the connections between different areas of the law will become more important as legal problems become more complex. This implies strongly that legal research will become more collaborative in future and the single-researcher model that predominates in legal research today will be less dominant. If all this is right, it may also mean that legal research in future will require more funding and the law school will have to be more effective in competing for grant money.

VII. CONCLUSION

Legal education in Singapore, as elsewhere, will continue to evolve as society and circumstances change. The NUS law school of today is radically different from the law school she was in the 1980s. I am often struck by how often alumni of the

law school remark that they wish they were students today because of the greater programmatic opportunities that now exist. Sometimes one cannot but wonder if all the changes that have taken place were necessary. This is something that reasonable people can disagree on. I think, though, that much of our evolution has been for the better. Just as globalization has had an impact on many aspects of life, it has had an impact on higher education. Globalization will increase awareness and competition among universities and law schools are not immune to this. More than many other disciplines though, since law has not for a very long time been regarded as a 'universal' discipline (nor is it so regarded today), globalization is also forcing law schools to become less parochial. This is by no means straightforward and in many ways law schools are still feeling about trying to find the most optimal way of adapting to the effects of globalization on legal practice and education.

All this will mean that law schools will change in other ways. For example, one significant change at the NUS law school over the last several years has been the transition from a faculty-managed law school to an administrator-managed law school. While academic faculty will have to continue to take policy decisions that impact on the educational mission of the law school, much of the day-to-day management of the law school is now in the hands of professional administrators. Greater competition has meant that the NUS law school has to optimise scarce resources and it was inefficient for academic faculty to spend significant amounts of time on administrative responsibilities. Increasingly, this illustrates how the law school will have to adopt many of the best practices found in the corporate world while retaining the ethos, sensibilities, ideals and mission of an academic institution.

Finally, it should be said that one positive of the greater awareness amongst law schools of what is taking place in legal education in other parts of the world is that it will become increasingly difficult to justify and preserve poor teaching practices, particularly when many students and alumni have had the opportunity to study elsewhere either as exchange or graduate students and become exposed to more effective teaching methods. Increasingly, many faculty will themselves have studied elsewhere and encountered teaching approaches that they regard as superior; these they will attempt to introduce to their law schools. To the extent that many of the shortcomings of legal education can be traced to a structural impediment, there will be calls for appropriate reform. For example, in many parts of the world there are very few full-time law academics because academic salaries are so low that many law teachers are principally practising lawyers and part-time law teachers. It is almost inevitable in such a situation that the quality of legal education will be somewhat less than at law schools which have faculty who are dedicated to the advancement of knowledge and learning and who have the time to think about and develop their teaching methodology, courses and course materials. Calls for reform in such matters will gradually lead to improvements to, and a shared understanding of, what are global best practices in legal education.