Some (Short) Reflections on (My) International Law Teaching Experience in Brazil

By:

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I am not alone! That was the feeling I had after finishing reading the 2020 Report on the Teaching and Researching International Law in Asia (TRILA) Project. It is remarkable how similar impressions and challenges face international law teachers in Brazil and many Asian countries. Such similarities are due not only to the fact that—no matter how open to international law a given legal culture is—the discipline attracts less attention than domestic legal subjects, such as criminal or tax law. Brazil and many Asian countries are also similar because they feel more intensely the bias and the disparities the political economy of legal knowledge—to use a term disseminated by Daniel Bonilla—often produces.

In this post, I would like to present some short reflections on my experience as a teacher of international law for almost 20 years in Brazilian Law Schools. I will

focus on my teaching experience at the University of Brasilia Law School, the institution in which I am an Associate Professor and had the privilege to be Dean for about four years. My reflections are not exactly original. I have been facing problems common to many international law teachers. Nevertheless, I hope these reflections can put additional pieces in the big jigsaw, which is the current international legal teaching situation.

My first point is that it is not easy to compete with other subjects of the law curriculum. We need to make international law attractive to students. The problem is not precisely that international law is seen as too theoretical; instead, students think our subject will not be useful in their day-to-day practice as future domestic lawyers. Even when students disregard the issue of "usefulness," they tend to think that international law is "too political" in the sense that international legal rules easily crumble in the face of social relations influenced continuously by inter-state power.

Sometimes, geography influences both challenges. In my case, I must admit that teaching international law in Brasilia has a significant advantage comparing to other cities in Brazil. Because Brasilia is the seat of the Ministry for Foreign Affairs, it usually attracts students from different parts of the country interested in becoming diplomats or, at least, public officers dealing with international legal aspects, such as foreign trade analysts. Although the number of students with such aspirations is not too large, the number of interested students has roughly stayed constant throughout the years. Such students are often fascinated by rather than critical of the "political" character of international law. Besides that, they are perfectly aware that the knowledge of basic concepts of international law will be essential in their future jobs.

Be that as it may, there is a constant need to make international law enjoyable to both groups of students that disagree about the usefulness and the political character of the subject. To do so, I try to teach with an eye fixed in the historical and current state of world affairs, highlighting the need for rules to make the world a better place for human beings. In my view, to be genuine to students, we need to connect the study of international law to essential issues in the world agenda, such as the protection of human rights and the environment, the correction of economic inequalities, world peace, the rule of

law and justice. You must be alert if your attachment to better deal with such issues seems artificial or if you are seen as a supporter of a formalistic set of rules that collapses to the crude reality of world politics. If that is the case, students will quickly realize international law can be discarded or replaced by a different language (economy, religion, or politics). International law must be a language that, although imperfect, is essential to change the world.

Second, as shown by some teachers who answered the questionnaire conducted by the TRILA Project coordinators, the fact that English is becoming a *lingua franca* poses a significant challenge to the study and research of international law in several countries, including Brazil. A survey conducted by the British Council in 2014 revealed that only 5% of Brazilians aged over 16 affirmed that they had some knowledge of the English language. Such a situation makes it difficult for an international law teacher to recur to English-written materials in his or her classes at least at the undergraduate level.

The fact that an international law teacher must almost always rely on Portuguese language materials has at least two consequences. First, students are normally deprived of the sources that most influence international legal theory and practice, such as international judicial and arbitral awards, diplomatic practice, and international legal scholarship in its different varieties. Second, the lack of knowledge of a foreign language possibly affects students' views about how to deal with the multiplicity of cultures in the world. It is clear, as stated by Crozer, Liddicoat and Lo Bianco, that "multiculturalism without multilingualism encouraged for all promotes a passive form of multiculturalism where tolerance rather than participation in 'otherness' tend to dominate."

In other words, monolingualism affects not only the technical competences that a student of international law must acquire but also, more importantly, how he or she conceives the role of international law in keeping the fundamental (and problematic) structures of international relations. The University of Brasilia Law School is a clear exception in Brazil's context since most of the students can read fluently in at least two foreign languages: English and Spanish. Some are not necessarily familiar with more technical legal terms. Despite that, I am entirely aware of how an international teacher is privileged to have students who can progress in their knowledge of international law based on the linguistic

skills they acquired before pursuing a university degree.

Third, International law teaching in Brazil, especially at the undergraduate level, is firmly based on textbooks, which are mainly written in Portuguese. From my perspective, the reason textbooks are so popular is the same for them to be avoided by an international law teacher. If a textbook gives a student a general overview of the discipline—what is suitable as a professional competence for a lawyer—it tends to reproduce the problems of it in the sense that its author, to be understood, must invariably rely on assumptions common to international lawyers. Taking into account that international law is a discipline too dominated by a Eurocentric rationale, the avoidance of a deep interrogation about how international law *could be* different is precisely the price a student has to pay to learn (through a textbook) how international legal rules work.

Nevertheless, it is difficult to abolish textbooks from law schools. In my practice as a teacher, I do not recommend any specific textbook. I prefer to assign short texts (articles and book chapters) for each of the course topics and leave students free to refer to books of their own choice. I believe teachers can avoid some of the problems raised by textbooks if they can provide students with a critical consciousness about the discipline. Such awareness is particularly necessary for countries of the Global South, such as Brazil. However, one must consider the usage of short texts with great diligence: if they reproduce the same kind of knowledge of most of the textbooks available in a country, the option of using them will be in vain and, in many senses, counterproductive.

Fourth, one of the significant accomplishments of critical international legal thinking in recent years is the emphasis on the importance of interdisciplinarity. The recourse, for example, to history, sociology, philosophy, anthropology, and psychology, has proven that the international legal argument is much more complex than a strictly legal perspective regularly assumes. Despite that, as aptly shown by Sanctis de Brito and Nasser's empirical study on international legal teaching in Brazil, although many teachers are aware of the importance of interdisciplinarity, Law Schools have not generally developed an institutional space to benefit from the exuberant richness of the interdisciplinary discourse.

Such a scenario is certainly not peculiar to Brazil. A relatively self-contained character of international legal education has strong links with some aspects discussed above. These include the pressure for giving students technical knowledge or the narrow view of many of the textbooks currently available. We, teachers of international law, must re-invent ourselves to bring permanent and stable bridges, especially with social sciences. In my own experience, a legal education exclusively based on how rules operate can only scratch the underlying social structure in which international law is inserted. I try to stress to students the great responsibility they, as future lawyers, will have in changing an insistently unequal world. The interdisciplinary lenses are essential to any effort to make the world different for the good.

These are some reflections I hope will be valuable to anyone who is committed to facing the challenge of making international legal education relevant given the significant changes we, as people concerned with issues related to global justice, are living. International legal education has undoubtedly much to say in such an “eternal” crisis, one we feel is affecting social relations at national and international levels. As Gerry Simpson stated more than twenty years ago which is still valid: “It is particularly important that we embrace an alternative politics in anticipation of periods of crisis and morbidity in the system. It is during precisely such times that the lawyer as moral agent must inform the practices of the lawyers as professional.”

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