# Don’t Let International Law Become an Exotic Field Irrelevant for Lawyers…Seven Demands

**By:**

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**Introduction**

Globalization and the current state of society demand a better understanding of the international aspects of problems and legal solutions available. Climate change, migration, poverty, terrorism, pandemics (like COVID-19) etc. require international cooperation, or at least a good understanding to what extent domestic solutions are affected by those taken in other countries. The recent mess created by nationalistic and protectionist measures showed too often the lack of knowledge regarding available mechanisms and coordination. This has weakened the relevance of the already challenged treaties and institutions (as core elements of international law) even more. This is not only true during the current crisis of multilateralism.

In view of the long tradition of European integration and close cooperation

between European States, one might think that in Europe international law plays a more important role in the education of lawyers. This is astonishingly not entirely true. Many of these States have long traditions of nation-building that also influence the legal culture. The idea that the typically German or English system in training lawyers should be preserved and that the domestic legal systems needs to be protected often leads to a focus on outdated syllabi and a reluctance to integrate international law into the teaching. In this respect, even the importance of European Union law has little changed in the teaching and makes the problems described in this contribution as relevant to Europe as to most legal systems around the world. A recent study (Scoville and Berlin, 2019) holds that legal tradition and regional geography predict variation undermine accounts that attribute all differences to national needs or socio-political conditions, suggest a variety of new research questions and indicate that, in at least one area, inter-traditional and inter-regional socialization might be the most effective mechanism for harmonizing national practices and perspectives.

This is not a new finding, but it is surprising that we have never taught so much international law (and published in this field) and at the same time, we still do not ensure that every graduate in law has a sound understanding of international law (see e.g. 'Teaching and Researching International Law in Asia '). The following recommendations have been tested also for Switzerland in a more extensive analysis.

A proper understanding of the complexities we face today relies—especially for lawyers –also on an understanding (concepts, language) of international and foreign law. In addition, universities must teach the skills to (quickly) find the information and assess it. This is best done through a good introduction to the foundations of international, European and comparative law and the respective skills (languages, research tools etc.) and the integration into all other courses in order to apply these skills and understand the specific international aspects of the various areas of law (private law, public law, criminal law etc.). This seems particularly important in the often less developed teaching of public law, most importantly when it comes to administrative law (in the large sense) such as taxation, health law, environmental law, migration law, economic law, financial law etc.

National Societies for International Law or regional law as well as all branches of the International Law Association (ILA) should urgently address the minimum requirements in this area and make appropriate recommendations to the relevant institutions. This is probably true for many university systems at this stage. The German Society for International Law and its resolutions (e.g. 2016) could serve as examples. It calls upon all those responsible in the German-speaking world to work towards ensuring that the basic elements of international law, private international law and comparative law become an integral part of basic legal training. At the regional level, the respective organizations like AAIL, ASIL, ESIL etc. could envisage a common initiative. The ILAs had undertaken such efforts in the past. Nowadays, the Global Network for International Law, a relatively recent informal body, could be also be a good forum. For Europe, the European Law Faculties Association has called upon members to improve standards (e.g. Resolution adopted at the Annual General Meeting in Turin 2019). Here are my suggestions for making international law reach a larger number of students:

1. **Every law student needs a sound introduction to international law**

There are considerable differences in the compulsory training in international aspects between law graduates around the world.  There is certainly no need for a total harmonization, but certain institutions should urgently reconsider their minimum requirements. I would strongly recommend introducing adequate compulsory teachings of international law (public and private), as well as European law during the early years of legal education (Bachelor where applicable). This is the only way to make sure that students understand the challenges and connections in all areas of law while studying them in a more detailed way. In addition, it is the only way to guarantee student mobility (between institutions, programs, and even university systems) without risking that some students never acquire the necessary skills and tools (as it can even be the case within a system, as shown for Switzerland). It becomes even more problematic if students move globally and lack sufficient foundations to understand the legal problems and challenges when studying the specialized field of international or foreign law.

2. **Public international and regional integration law must always be a compulsory subjects, and students must acquire this expertise in**

**order to graduate**

While most universities offer courses in international law, these are too often only electives. At these institutions, this can very easily lead to students not acquiring any knowledge at all during their education in this field (because, as has been shown, there is no guarantee at Master's level either or they may change institutions before they get to the respective compulsory training). University systems that provide a full-length education leading to a final professional degree may have more flexibility in this respect. University systems that have introduced the option of easily switching institutions after obtaining a first degree (e.g. Bachelor) before obtaining a second compulsory degree (e.g. Master's), as is the case under the so-called Bologna system for many European States, must make sure there is guaranteed teaching in international law at some point (ideally at the beginner's level). It should be recalled however, that this mobility has many advantages, in particular, to allow students to spend more time in another legal system. Therefore, the general introduction of compulsory international law courses at Bachelor level certainly ensures a better compatibility and allows students to take advanced courses at Master level.

3. **Private international law and comparative law should also be a compulsory subject at an early stage (at least as an overview in general introductions to private law)**

It would be desirable for international aspects to be built into the bachelor's degree in private law. This should take into account aspects of private international law and possibly also comparative law. Where this does not take place in a separate course, it should be ensured that compliance with these aspects is reported transparently and verifiably in the existing units. It seems that failure to do so is rather common in most university systems, and therefore this recommendation could be taken up again by the respective associations at national or international level. Comparative Law helps to improve analytical skills and can thus be integrated into introduction to legal sciences.

4. **English or specific English legal terminology should be included in compulsory training**

All institutions should consider ensuring that students have a knowledge of legal English. As for teaching the legal terminology in a second national official language, this should not be seen as an additional obstacle to studying law but as a necessary requirement to understand law (in a globalized) world as such. Of course, where possible we should teach more languages, and in legal systems where important legal documents and academic writings are only available in several national languages, this should be taken into account. At the same time, this should not be understood as refraining from publishing in languages other than English as this contributes to the lack of diversity that could endanger the system by itself (see e.g. Jacqueline Mowbray, "The future of international law: shaped by English").

5. **Don't let international law become an exotic subject only taken by those already interested**

It would be advisable to make better use of the resources tied up in optional courses by diverting them to compulsory areas, and to ensure that international aspects are guaranteed as a fundamental part of the basic training (Bachelor) of all lawyers. There is a risk that most resources available are used for a small group of interested students and do not reach most students. This is particularly true when these resources are mostly used for exchange programmes with foreign students and courses taken by students lacking a knowledge of domestic law. This is not to say that these offers are not important, but it seems wasteful not to make sure these offers are also used to assure the understanding of international aspects by those students who will be shaping the domestic legal environment, i.e., judges, prosecutors, attorneys, notaries, and civil servants in general. In too many countries (in particular big ones like the United States, France or Germany) international aspects remain somewhat exotic and irrelevant for the examinations organized by the State. While not a new trend, this problem should be addressed again with more vigour.

6. **The concretization of international aspects in relation to domestic law must be better addressed**

A particular problem is that the international aspects of the law must be specified in concrete terms with regard to their significance for domestic

politics and the administration of justice. This is not always ensured. On the one hand, this can happen if reference to the positive law of a State—and in particular the case law of the highest courts—is not made in the respective teaching. Furthermore, although the acquisition of international aspects of law abroad is, in principle, highly desirable and positive, it also does not guarantee an understanding of how the domestic legal system exactly deals (or should deal) with international law or regional integration law (hierarchy, direct applicability, consideration of the case law of the regional courts, etc.), or how the domestic private international law is presented (e.g. public order in the case law of the courts or questions of sufficient internal reference in the recognition of foreign decisions or arbitral awards).

It must be ensured that the international aspects are concretized in relation to domestic law, such as by using examples in torts, criminal or family law that involve international law questions. The TRILA Report suggests that international law is indeed compulsory in many Asian countries, but students still do not acquire the needed skills. I claim that by teaching the essentials early on in the education, one should later integrate more international aspects into all specialized areas and thereby constantly apply more theoretical concepts and train students to use them. The training institutions must also ensure that this problem is taken into account in teaching and in the recognition of legal skills acquired abroad. The example of Germany, where the international and European aspects and their interrelationship with German law are usually only taught in a compulsory course as a continuation of the teaching of domestic public law (Staatsrecht III) could be used as an inspiration (though it should not replace the more comprehensive compulsory teaching of international aspects, as is the case there).

7. **Quality and transparency with regard to international aspects, or even the existence of a conceptual approach, must be guaranteed**

Traditionally, most university systems and law schools (and rightly so) place great emphasis on academic freedom. In the case of traditional universities, the quality of teaching is normally assured by reputation and informal peer review. Normally, it is the national and international professional associations that are particularly challenged in this respect. The management of the institutions concerned should be interested in ensuring their own quality in this way. Due to

the many new actors and new forms of legal education, this is not always possible today. Academic associations would be well advised to ensure that they are interesting and relevant to all lecturers in the subjects concerned. Where in order to make access to education easier, the threshold is lowered, this should not be done at the price of eliminating international topics. All educational institutions must ensure that the subjects concerned are adequately taught, with clear responsibilities and transparency. It would be desirable for accredited institutions to develop a concept not only of their training as a whole or for individual courses, but also with regard to the appropriate consideration of international aspects. It could be worthwhile to ensure that national or international accreditation systems of law schools and programs takes this aspect into due account. Potentially, the development of a label could be such a means to increase awareness and transparency.

## Conclusion

The main finding of this contribution is that most universities offer enough courses on international aspects of law but do not ensure all their students get the minimum necessary, i.e., a sound introduction to the principles of public and private international law as well as ideally the skills to compare legal solutions in various jurisdictions (comparative law).

In addition, the language skills so necessary on the job market and to read international sources are too often left to the students and not guaranteed by the university when delivering a degree. This certainly contributes to the claim that universities do not prepare students well for the actual needs of employers and the challenges this planet faces. It is also unfair when no free language education is available at the universities (or elsewhere in the education system).

A third finding is, that it is not easy for students to find out which universities are more diligent with regard to the adequate teaching of international aspects. The need for more transparency in this respect and the setting of certain minimum standards is being reinforced by new forms of education and new institutions (distance universities, universities of applied sciences, etc.). Personally, I would advocate for an accreditation or label that improves

awareness and transparency regarding this aspect.

Ideally, the integration of foreign and international (including European) law would take place in all areas today. Such an integrated approach is, however, more difficult to achieve and it will take time before in all courses all levels of regulation can be integrated. Without a thorough introduction to the basic foundations and the skills necessary to find and apply non-domestic sources, this cannot work. This contribution therefore focuses on the existing situation where specific knowledge on the international aspects (or at least the foundations and skills/tools) are taught in separate courses.

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