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UGO MATTEI

Some Realism about Comparativism: Comparative Law Teaching in the Hegemonic Jurisdiction

I. SETTING THE SCENE: COMPARATIVE LAW, FOREIGN LAW, INTERNATIONAL LAW

For many years, I have begun my courses in comparative law by explaining to students that, because of its subject matter, comparative law is different from any other discipline taught in law schools. It does not deal with a body of law as, for example, civil procedure or labor law. Rather, it is a method, or a variety of methods, used to compare different bodies of law. In this perspective, it is not difficult to see the difference between comparative law and international law or between comparative law and foreign law. Indeed, international law itself can be studied comparatively such as in much of the work devoted to comparative private international law that has been produced in the U.S.-immigrant tradition of Comparative Law, from Ehrenzweig to Fritz Juenger. But can comparative law be studied comparatively? Is there such a thing as “comparative-comparative law”?

In drafting this U.S. National Report to the International Academy of Comparative Law, I set myself in the form of mind of being engaged in a (limited) exercise in “comparative-comparative law”. In engaging in this assessment of the state of comparative law teaching in the United States, I have been concerned about offering data that our general reporter will be using comparatively, by trying to evaluate the state of our discipline in a worldwide perspective. Of course, comparative law is not only a teaching exercise, and most of its interest resides in the enriching and fascinating scholarly perspective that, when used properly, it is able to infuse in the study of law. Because of these potentials in the domain of knowledge, some scholars have argued that comparative law, short from being merely a method or an aggregate of methods, is indeed a science.¹ I need not take a

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1. See the claim made by Sacco, “Legal Formants: A Dynamic Approach to Comparative Law,” 39 *Am. J. Comp. L.* 1 (1990).

position on this issue here: my purpose is facilitated by the subject matter that is "comparative-comparative law" teaching. Nevertheless, if from a certain perspective my task is facilitated by the subject matter, from another perspective, my task is made more complicated by the issue of disciplinary borders. Indeed there is a widespread sense that the distinction between comparative law, foreign law and international law is much more clear (though questionable) when it is approached from the scholarly perspective than when it is observed as part of the process of transmission of comparative knowledge of legal systems from one generation to another, which is the nature of law teaching. In the last few years, for example, a number of scholars have argued that comparative law should not be a discrete discipline and that the comparative perspective should be part of the everyday educational experience of lawyers within any course of law.² Some other papers have argued that, the centrality of the nation state having fallen, the distinction between comparative law and international law is also blurring since certain law-producing transnational entities simply can not be understood outside of a perception of the different legal traditions that contribute to their creation.³ In the same vein, one could say that the distinction between comparative law and foreign law is no longer useful because certain entities, such as the European Community, the NAFTA and the Mercosul, are of neither foreign law nor international law nature and themselves can and should be approached only within a comparative exercise. In other words, in the process of transmission of knowledge about the law, comparative elements can not be avoided in many areas of any national legal system in the "global world." Whether in such conditions comparative law gains or loses momentum, at least from the perspective of its academic teaching is a serious theoretical question.⁴ It is the ambition of this report to offer some data that might help in answering to it.

These scholarly acquisitions were in the back of my mind in starting to develop this Report and certainly have forced me to some choices in order to try to maintain some balances between extremes. In Italy, an old disenchanted popular belief expresses itself in the idea that if you want to change nothing, you should change everything. So, while it might be true that nowadays, comparative law is losing significance and specificity, I believe that it is simply not true

2. See Gordley, "Centennial World Congress on Comparative Law: Comparative Law and Legal Education," 75 *Tul. L. Rev.* 1003 (2001); and Reimann, "The End of Comparative Law as an Autonomous Subject," 11 *Tul. Eur. & Civ. L. F.* 49 (1996).

3. See Reimann, "Centennial World Congress on Comparative Law: A Comparative Law for an International Age," 75 *Tul. L. Rev.* 1103 (2001).

4. See Mattei, "An Opportunity Not to Be Missed: the Future of Comparative Law in the United States," 46 *Am. J. Comp. L.* 709 (1998).

that everybody is a comparativist in the global world.⁵ Thus, it is extremely rare (with the possible exception of some mixed jurisdictions) that comparative law is able to penetrate significantly the general legal education. On the other hand, it is also true that comparative law (at least from the perspective of its teaching) can not be reduced to what a small community of professional comparative lawyers would regard as such, particularly given the fact that critical approaches to the creeds of such community not only should be welcome but, like it or not, are already a reality.⁶

I decided, therefore, to take somewhat of a midway in between the "European style" scientific purism and the "we are all comparativists" approaches such as those sometimes diffused between U.S. colleagues, that consider comparative any course taught in the U.S. just because there are 50 jurisdictions. In other words, I proceeded from a sense that there is something specific about comparative law teaching out there that survives the recent scholarly criticisms. I also feel that courses on international law, conflicts, international business transactions, international human rights, etc., unless specifically taught and approached in a comparative framework, are not the same thing as comparative law as far as the skills that they offer to students. They are still approached within a strongly U.S.-centric style. Nevertheless, it is true that a school strongly emphasizing international law is likely to have some comparative spillovers for its students so there is a need to give due account also of this fact.

II. THE IS AND THE OUGHT IN THINKING ABOUT COMPARATIVE LAW: GATHERING DATA

Some years ago, two meetings about the future of comparative law in the U.S. offered the occasion to engage in the favorite activity of a U.S. law professor: discussing how things should be.⁷ Naturally, this made perfect sense. A discussion on the future is not concerned about how things are. It relates to how they will be, and because legal scholars do not have a crystal ball, I ended up discussing how they should be.

At the meeting, anthropologist Laura Nader⁸ challenged comparative lawyers asking about the data upon which we were basing our predictions. Of course, we had no or very little data, of which she was

5. See Demleitner, "Response to Mathias Reimann: More, More, More, But Real Comparative Law," 11 *Tul. Eur. & Civ. L. F.* 73 (1996).

6. See Kennedy, "Symposium: New Approaches to Comparative Law: Comparativism and International Governance," 1997 *Utah L. Rev.* 545 (1997).

7. See Reimann & Mattei, "Symposium: New Directions in Comparative Law, Introduction," 46 *Am. J. Comp. L.* 597 (1998).

8. See Nader, "Symposium: New Directions in Comparative Law, IV. A View From the Outside: Lessons from Comparative Political Science and Anthropology," 46 *Am. J. Comp. L.* 751 (1998).

already perfectly aware, and we experienced a hard time trying to explain to her that the absence of empirical data never disturbs the lawyer, after all. It actually might be part of the deeper nature of legal discourse, what makes it different from other social sciences.

Nevertheless, in producing this report, I figured that I could seize the opportunity to begin to fill up the gap of data, discussing *how things are in the United States now*, and neither how they will be nor how they should be. Of course, the distinction between the world of the is and that of the ought, between facts and interpretations, between descriptive or normative discourses (whatever opposition you wish to utilize) is not at all clear, nor it is as ontological as the difference between a horse and a laser printer. Nobody believes anymore in facts without interpretations. Nonetheless, I tried to do as much field work as possible, by asking questions to the native population of the comparative law community: comparative law professors. Of course, this exercise in anthropological data collection was bound to face the usual difficulties: selecting the respondents to the questionnaire; deciding how to phrase the questions in order to limit biases in favor of certain answers; assessing the reliability of the information they will provide; discounting the gap between their efforts to describe and their interpretations; making the data comparable and homogeneous.

As to the selection of participants, I faced the alternative between considering only the hundred sponsor members of the American Society for Comparative Law, or making use of the AALS directory of law schools. I figured that the first sample would be biased and incomplete because there might be some interesting comparative law teaching in institutions that are not members of ASCL (the University of Utah, where the important conference on new approaches to comparative law took place in 1998, being a notable example). Consequently, I decided to make use of the AALS listing of scholars *who perceive themselves as comparativist* by sending out the questionnaire to everybody that has taught in the area of comparative law according to the 2000-2001 edition of the directory. Roughly five hundred letters were sent out to gather information on the 160 AALS law schools in the country. I presumed that schools with some sort of comparative law tradition would have more than one faculty member listed, enhancing the chances to get information about leading institutions in my field.

By sending out approximately five hundred questionnaires, I gathered information about 50 schools out of the 160 listed in the 2001-2002 edition of the directory.⁹ Of the major schools, I received

9. Boston University, Catholic University of America, Columbia University, Cornell University, Duke University, Duquesne University, George Washington University, Georgetown University, Golden Gate University, Hamline University, Harvard

no information about the law schools at University of Chicago Law School, Harvard University and Stanford University, but I supplemented my data collection with web searches in order to assess these leading institutions. I ended up with a good sample of schools (53), ranging from the top ranked to second and third tiers, from urban as well as from suburban environments, from those with ambitions of national and international leadership to those with more of a mission to educate local attorneys.

I organized the content of the letter that was sent out around 13 questions, mostly based on factual inquiries but leaving some leeway to personal interpretations, such as when I asked "do you feel that the attitude of your colleagues to comparative law has changed in the last few years," or when I asked "give us any other information or comments that you feel relevant." In order to reflect what discussed above concerning the futility of purist approaches, some of the questions are not directly relevant to the study of comparative law, but rather, are aimed at indicating a more or less open international environment where "comparative spillovers" are more likely to happen. For example, while there is no connection in principle between offering an LL.M. degree and comparative law, it is nevertheless true that LL.M. programs attract foreign students and that this is a source of comparative spillovers. Janet Murphy, the director of International Studies at University of Illinois at Urbana-Champaign, for example, expressly mentioned how important are the series of comparative law seminars organized by the foreign LL.M. students to expose local J.D. students to first hand information on foreign legal systems.

The first question that I asked was whether a general course of comparative law was taught and what other courses in comparative law were offered. The second question was whether the school offered foreign law courses. Most respondents have been able to grapple with the distinction between foreign law and comparative law. Some scholars mentioned European Law, WTO, Introduction to Islamic Law and similar courses as foreign, while others listed such classes as comparative, but I have been able to grasp the information required. Many

University, University of Hawaii, Hofstra Law School, Indiana University at Indianapolis, Iowa University, Louisiana State University, Loyola University at New Orleans, New York University, Northwestern University, Oklahoma State University, Roger William University School of Law in Rhode Island, South Texas College of Law, Stanford University, Suffolk Law School, Syracuse University, Texas Tech, Tulane University, University of Kansas, University of Illinois at Urbana-Champaign, University of Kentucky, University of California at Berkeley-Boalt Hall School of Law, University of California-Hastings College of the Law, University of Chicago, University of Colorado, University of Florida, University of Houston, University of Idaho, University of Maine, University of Maryland, University of Miami, University of Michigan at Ann Arbor, University of Missouri at Kansas City, University of Pennsylvania, University of Puerto Rico, University of Texas at Austin, University of Ohio at Toledo, Valparaiso University, Vanderbilt University, Virginia School of Law, Washington University at St. Louis, and Yale.

people mentioned courses such as International Business Transactions, International Human Rights as comparative courses. Nevertheless, only University of Michigan and Harvard offer a course specifically devoted to *Comparative Human Rights*. I counted those two as comparative law offerings while, in general, I discarded the information about international law as a less than adequate proxy of the comparative factor of each school. Concerning the reaction to the first two questions, one commentator, Professor Stephens from University of Virginia, sarcastically commented, "we are all comparativists now!" and challenged the very idea that the label comparative law still makes sense in our global world. Comparativists Frances Foster, John Haley and Lelia Sadat at Washington University in St. Louis complained about the distinction, mentioning it fit neither their school nor their scholarly personality. Interestingly, two of these colleagues are leading experts in "non-western legal systems," and their critique confirms the unease of area studies to live within the mainstream comparative gist. In a way, these critical observations reflect the scholarly critique that U.S. comparative law has faced in recent years. On the one hand, there is the already mentioned problematic relationship of comparative law with international law: the bigger brother. As already mentioned, courses as such as WTO, the GATT, European Union Law, and Human Rights can be offered within a comparative perspective, but there is a need of conscious comparative sensitivity in order to do so. On the other hand, courses such as Chinese Law, Japanese Law, Law and Transition in Central and Eastern Europe, African Law, and Islamic Law are evidence of a quite extensive and welcome "de-westernization" of the comparative legal discourse. These courses, however, still witness a degree of specialization in their experts and a less theoretical attention to the methodological act of comparison.¹⁰ The third question, whether there is a faculty member who teaches only in the area of comparative law, was also challenged. Basel Markesinis, an example of multiple-chaired global professor, observed from the University of Texas at Austin that no faculty can afford to pay someone to teach only in that area, while in fact, there are a number of scholars who, when teaching in the United States, teach only in the comparative law area. Presumably when such people are in the faculty, a general course of introduction to comparative law is likely to be offered regularly, hence exposing the students to the kind of introductory knowledge of comparative law that I were trying to assess. Anyway, such full-time or almost full-time comparativists do exist at such schools as University of Iowa, UC Hastings, Yale and UC Berkeley, University of Illinois and perhaps also at University of Texas. It is, however,

10. See, in general, Mattei, "Three Patterns of Law: Taxonomy & Change in the World's Legal Systems," 45 *Am. J. Comp. L.* 5 (1997).

true that this is very little compared, for example, with Italy where full-time comparativists teaching only introduction to comparative law are active in practically every law school.

No problematic feedback was received to my fourth question: concerning the existence of foreign exchanges of faculty and students. Question 5 was exploring the materials used in comparative law teaching as a way to gather the particular focus that is given in treating the subject and as a curiosity in order to the existence and continuous acceptance of leading books in our field. Question 6 explored the existence of specialized degrees or programs in comparative law. The following question, also aimed at exploring the institutional commitment of the various institutions to our discipline, looked at the existence of comparative law journals either student or faculty edited. In order to assess the more or less cosmopolitan environment in which American students are educated, I asked for the number of foreign students active either in the J.D. or in the LL.M. program or as visiting scholars. Question 10, whether there were regular foreign visitors to the faculty, was aimed both at establishing the institutional commitment to the area and at the assessment of the more or less cosmopolitan environment. It is my experience that inviting foreign colleagues as visiting professors is not an easy exercise in many law schools because the administration is usually worried by some other teaching need—most often covering those first years courses that most professors in the regular faculty try to avoid.

Question 11 was, on the other hand, more focused on an attempt to obtain a sociological profile of the U.S. comparative law professor by knowing whether he/she is a foreign immigrant educated abroad or is a product of the local academic world.¹¹

As to the reliability of the answers, I used a mixed method. I usually accepted those at face value, but I critically assessed them with first-hand information that I accumulated in many years in this business. So, for example, I know that websites, aimed at attracting foreign, out of state, fee-paying students, tend to be a little over-emphatic to say the least. I also know that American law professors are usually very loyal to their institution, particularly when it comes to comparing them with the rival schools.

III. GROUPING AND RANKING OF SCHOOLS

In order to group schools from a comparative perspective, I have tried to evaluate the responses to the questionnaire by assigning points to the factual based questions. Of course, the way I did it has little scientific value. Nevertheless, generally speaking, it should be

11. The interest of such sociological profiling on the comparative legal profession has been infected to us by the recent book of Annelise Riles (ed.) *Rethinking the Masters of Comparative Law* (2001).

sufficiently indicative to offer us some sort of term of comparison between the schools, and it should not be less relevant than other factors generally accepted to rank U.S. law schools, such as those used in the U.S. News and World Report each year.

I granted one point to each comparative law course regularly offered (up to a maximum of 10) and one point to each foreign law course (to a maximum of 10). A maximum of 10 points as far as the regular faculty members involved in comparative teaching and scholarship (professional comparativists). Because of the lamented ambiguous way in which the question was asked, I supplemented the responses I received with personal knowledge about the different colleagues active in our field. Thus, 10 points were granted also to those schools that have more than one comparative scholar even if he or she is also teaching in other areas. Simply stated, two comparativists teaching half of their load in comparative law make one full-time comparativist. I granted a maximum of 10 points for exchange programs of faculty and students. Because such programs are proxies of comparative commitment, I decided to give one point for one exchange, five for two exchanges and 10 for more than two. A maximum of 10 points was allocated for special degrees and programs (including programs abroad), with the same methodology used to evaluate exchanges. Ten points were given if an institution had a comparative or foreign law journal (but not for an International Law one). A maximum of 10 points was granted for the percentage of students exposed to comparative law teaching reflecting the percentage that I were able to gather (i.e., 60% makes 6 points, 25% makes 2.5 points, etc.). A maximum of ten point for foreign students attending (again, to simplify, 1, 5, or 10 according to the significance of the percentage). A maximum of 10 points was assigned for foreign professors regularly teaching at the school. Ten points was allocated to each institution employing, as a faculty member, an author of one of the teaching tools used in more than two other institutions.

This scheme allows for a maximum of 100 comparative law points. The distribution of points gave us a sense of the emphasis given in the different institutions and allowed us to attempt some more general grouping. Working with a research assistant, I allocated the points to each institution so that I have been able to make a full ranking of the law schools. Because I was just looking for general indications and because of the remaining possibility of mistakes or of ill-considered choices (such as: should I have granted points also for International Law Journals), I will not publish the ranking in any detail. I will only use its results to group the schools in third different groups, separated from each other by significant percentage points.

Schools are hence divided in three main groups. First, schools with strong emphasis on comparative law are the 15 schools that re-

ceived more than 50 points. Second, schools with a respectable emphasis in comparative law are the 12 schools that received points ranging from 46 to 35. Third, more domestic-oriented centers of legal education are those remaining 24 schools who received less than 28 points. This last category can be divided in two: (1) 5 more schools who were allocated 25 points with still some traces of the discipline and (2) 19 almost purely domestic schools.

IV. SOME DETAILS OVER MY DATA AND SOME DISAPPOINTING PERCENTAGES

To comment on the data and to satisfy the curiosity of the reader, I will at least disclose the podium and the percentage of the excellent centers of comparative legal education. The gold medal is given to Tulane Law School, with 89 points. There is a three-way tie for the silver medal (71 points) between Columbia Law School, the University of Texas at Austin and the University of Illinois at Urbana-Champaigne. Considering the special circumstances of Tulane as an institution of a mixed jurisdiction, (another school, Louisiana State is also in the first group of schools) these first four schools precede very tightly the other school in the top 5: Georgetown University with 68 points. In addition to the top five schools already mentioned, the first group of law schools also includes Harvard, Duke, Washington University at St. Louis, Cornell, University of Iowa, New York University, Yale, University of California at Berkeley, and Hawaii.

The second group of schools, those in which comparative law is a respectable part of the curriculum or, in other words, those schools where a student finds the possibility and the resources to engage in thorough study of comparative law, is opened by a group of four schools that received 46 points: University of Michigan, Northwestern, Syracuse and University of California, Hastings. The following schools are also in the second group: University of Pennsylvania, University of Miami, Catholic University of America, University of Florida, Boston University, George Washington University, University of Virginia and Loyola at New Orleans.

In the third group, the five schools that passed the 25-point limit are Roger Williams School of Law in Rhode Island, University of Indiana at Indianapolis, Hamline University and Golden Gate University. There are no other legal institutions in which one faculty member has found the time to answer my questionnaire where comparative law is a significant concern.

Hence if my data are, at least in part, significant I can say that in roughly 50% of the U.S. law schools, comparative law is a significant part of the education of lawyers. On average, about 23% of the lawyers produced by these schools receive exposure to comparative law, which makes a general figure of about 12% of the general U.S. law

graduates population according to my data collection. Considering that a significant percentage of the more than 100 schools that have not responded to my questionnaire would not make it into my first two classes of schools, more than 90% of the overall population of U.S. trained lawyers receives no contact with comparative law during their legal education. I believe this is an appalling show of legal parochialism but can easily be explained within the Globalization = Americanization equation.

Comparing my grouping of schools with the current U.S. News and World Report rankings may capture interesting observations. This comparison illustrates that an emphasis on comparative law is not reflected by the in overall rankings. Indeed, of the 15 top schools as far as comparative law emphasis, only 6 are in the top ten of U.S. News and World Report's ranking (Columbia, Harvard, Duke, Yale, Boalt-UC Berkeley and NYU). Of those schools, only Columbia has a positive comparative factor, in the sense that its comparative ranking is higher than its general ranking. All others have negative comparative factors. In the second group of schools (those maintaining a respectable record of comparative law) there are 3 schools that are in the top 10 according to the general ranking (University of Virginia, University of Michigan and University of Pennsylvania). Most other schools in this second group (with the exception of Northwestern and Boston University which seem to have an almost neutral comparative law factor) have better comparative law credentials than overall ranking (positive comparative law factor).

Again, this overall trend confirms the general sense that comparative law is recessive in hegemonic circumstances (there is no need to open up to differences and otherness when one leads anyway), while it tends to become a factor of counter-hegemony in otherwise recessive circumstances. To draw a parallel, stemming from my direct observation of the state of comparative law in Europe as reflected by my participation in the Common Core of European Private Law Project, comparative sensitivity is stronger in smaller jurisdictions than in leading hegemonic ones. Thus, in general, it is easier to find good comparativists in the general scholarly population of smaller countries than in bigger, self-perceived as self-sufficient ones.

Some of the data that I have gathered that was not used for the purposes of grouping deserve some attention nevertheless. Most of U.S. comparative law teachers use their own materials for the purposes of teaching in the comparative law area. Only four books can currently be considered standard teaching tools in our area: Schlesinger's *Comparative Law*, Merryman's *The Civil Law Tradition*, Glendon's *Comparative Legal Traditions*. The only new entry, witnessing

a certain eagerness to "step outside of the European shadow"¹² is Tushnet's and Jackson's *Comparative Constitutional Law*.

As to the background of U.S. comparativists, although the local population is by now predominant as far as tenured professors are concerned, foreign-trained professors offer a substantial amount of the actual teaching in the field, either as tenured immigrant teaching staff or as occasional visitors. It is clear from the responses I received that 35 law schools employ U.S-trained professors, while 21 law schools employ foreign-trained professors; many of the respondents employ professors in both categories.

Finally it is worth mentioning that the exchanges both in terms of teaching and of students are not limited to the traditional Euro-American channels. Nevertheless, the degree of europhilia is still pretty notable. I counted 62 exchanges with Continental Europe, 13 with Asia, 10 with England and the former Commonwealth, 8 with the former socialist block, 7 with Latin America and only 1 with Africa (Northwestern University has a Ghana exchange). The Islamic world is almost absent; the exception is two exchanges with Turkish Institutions: one of Golden Gate University and one of Kansas University. New York University did not specify the geographic location of its 9 exchanges. Exchanges tend to be geographically specific with emphasis on Latin America from the southern schools and emphasis on the Pacific Rim from west coast schools. East coast schools show a predominance of exchanges with Continental Europe.

Finally, as far as "the perception of the perception," that is how comparative law scholars perceive of being perceived by domestic colleagues, I find representations of all the three possible attitudes. While 22 of my respondents perceive a change for the better, 20 feel that nothing is changed after all, and only one respondent feels that the perception of the importance of our discipline is declining.

V. SOME COMMENTS, SOME REMARKS AND SOME POSSIBLE EXPLANATIONS

In evaluating the state of comparative legal education in the U.S., one should not be misled by the increasing rhetoric on legal globalization that can be found in the fancy websites and in colorful brochures of many institutions. Comparative legal sensitivity is plainly not an ingredient of legal globalization. Once more, I received some evidence of the fact that at least as far as the law is concerned, globalization only means Americanization and American hegemony of the world legal order.

12. See Reimann, "Symposium: Stepping Out of the European Shadow: Why Comparative Law in the U.S. Must Develop Its Own Agenda," 46 *Am. J. Comp. L.* 637 (1998).

Some legal institutions (NYU being the leading one but also Texas, Cornell, Washington University) indeed have enormously emphasized their vocation to be global and have made a massive investment in advertising comparative legal education, either by devoting tenured chairs to the subject (e.g., University of Texas at Austin, Washington University in St. Louis, Cornell) or simply by using different ways to globalize their faculties (mostly relying on short term, occasional visitors, such as at NYU). Because these schools are prestigious international law schools, it is likely that they contribute to a perception of good health of comparative law in the U.S. that, according to the data of this survey, does not correspond to the reality.

Other schools have maintained a tradition of comparative legal education without, however, upgrading in any significant way to respond to globalization. To the contrary, these schools have sometimes found it difficult to replace the "founding fathers" of our discipline. All of these schools show that comparative law survives where there is a tradition dating back to the pre-globalization era. Among those, one can count Harvard, Yale, University of Michigan, UC Berkeley, UC Hastings and Syracuse. Some other schools, that had a major tradition in our field and that are still leading centers for legal scholarship in the U.S., have simply allowed the tradition to disappear. Among those, one finds Stanford and University of Chicago where apparently no effort to replace such masters as Merryman, Cappelletti, Rabels, Rheinstein and Langbein has been made.

The particular prestige of these two institutions, ranked as they are in the very top positions by U.S. News and World Report, calls for some explanation. I suggest that these schools have found different disciplines to offer law students those critical insights that are absolutely necessary for the global lawyer. Indeed, the emphasis on Law and Economics and (as Stanford is concerned) on Law and Society might offer an explanation. Although for anybody concerned with the sensitivity for differences of the 21st century global jurist, this provides very little satisfaction.

Even between the first group of schools, an introductory general course to comparative law is not the rule. Thus, the small percentage of U.S. trained lawyers that I reported as being exposed to comparative law are not necessarily acquainted with the basic theoretical content of our discipline or, most importantly, to its potentials of critique.¹³

13. See, in different scholarly environments, Fletcher, "Symposium: New Directions in Comparative Law: III. New Methods and Approaches: Jurisprudence, Interdisciplinary Study and Systems Analysis," 46 *Am. J. Comp. L.* 683 (1998); Muir-Watt, "La Fonction Subversive Du Droit Compare," *Rev. Int. Droit Comp.* 503 (2000); Orucu, "Critical Comparative Law: Considering Paradoxes for Legal Systems in Transition," *Electronic Journal of Comparative Law*, Volume 4.1 (June 2000), <http://law.kub.nl/ejcl/index.html>.

Another important observation is that even many schools that lack advertisement resources have maintained a substantive record of continuity in comparative law offerings. This is usually because of the presence of one or more scholars professionally engaged in the comparative study of the law. Even in such contexts, nevertheless, American students are not so much affected or exposed to its intellectual blessing. The majority of the student population still receives a distinctively domestic legal training. In many of these leading schools, resources have been invested in more attractive (because potentially lucrative) concentrations of teaching, such as international intellectual property, law and technology or law and economics. Interestingly, when students are allowed to choose, the tradeoff between civilization and economic success appears very clearly. Comparative law is still perceived mostly as a cultural curiosity rather than as a potential asset to sell on the market, and sad as it might appear, the consumer's preferences seem to reflect the present state of corporate globalization with its less than awake interest for culture and diversity. This explains how resources are drained by a variety of law and technology programs, with technology successfully working as a substitute for culture in the global era.

What is the general lesson that can be gathered from this survey?

Exposure to some kind of comparative legal education is still an experience limited to a very small fraction of the American J.D. students. As America is a wealthy and powerful academic environment, one can report that there are nowadays some centers of excellence where, in principle, the U.S. lawyer could be properly trained in comparative law. Such centers, although starting to produce some results in terms of a new generation of U.S. trained comparativists, are still not able to persuade many students (in particular, the potential future law professors), that the massive investment necessary to learn and control a foreign legal culture (and a specific and sophisticated methodology such as that needed to become good comparativists) is a worth risking—even in the Global Era.

Comparative law teaching is facing a variety of very strong competitors in the U.S. legal educational landscape. A variety of reasons seem to conspire in favor of more technologically minded programs in the constant successful effort of U.S. law to be on the cutting edge. Perhaps comparativists in the U.S. should not so much blame new and old antagonists as much as their own difficulties in keeping at the frontiers of legal research and teaching. Only when and if it will appear true that legal globalization requires jurists thinking worldly, U.S. lawyers will begin to need truly cosmopolitan tools of work. Until that point, comparative law teaching, at its best, can introduce only some resistance.