

THE UBIQUITY OF TRANSNATIONAL PRACTICE AND THE CORRESPONDING CRITICAL IMPORTANCE OF INTERNATIONAL EDUCATION FOR U.S. LAW STUDENTS

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I. INTRODUCTION

A warm tropical breeze pushed gently through the open windows of the hotel's ground floor lounge, as two men from Colombia softly sang and played acoustic guitars, sharing their sometimes joyful, often melancholic, and always beautiful Latin music, while steadily coaxing the guests gathered there into a pleasant and peaceful state of mind.² That evening, I was reacquainted with the soothing music of Maná and became familiar for the first time with the hypnotizing sounds of Bacilos, Ricardo Arjona, and other Latin American artists. That music has never relinquished the hold of the spell it cast on me that evening.

As four deal negotiators sat there enjoying tropical bites, caipirinhas and other cocktails befitting the climate, and a truly stunning setting, the music gingerly floating around us, we at last turned the corner on one of the most challenging business negotiations for which I have served as the lead legal negotiator—and we did so without talking about the terms of the deal. Instead, we connected on a personal level, which was critical for this Latin American deal in a way that it would not have been for a routine transaction in the Upper Midwest. The lead businessperson for the other side in the transaction³ described his time spent in the United States fondly and shared (with well-earned pride) how he had developed such remarkably impressive English language skills. The lead lawyer for the project owner in the

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² In this Introduction, as well as in other parts of this essay, I share in narrative form some of my own personal experiences. Here, I describe an experience I had as a practicing lawyer negotiating a business transaction in Latin America.

³ The other party was a corporate entity referred to as the "project owner" in this kind of project finance transaction.

transaction was a difficult negotiator all week (but is also an excellent lawyer and is now a friend). He spoke warmly and authentically of his daughter, his home, and his impressive law practice; he spoke less warmly but equally authentically about the demands of frequent and challenging international business travel. My client spoke of her considerable experience negotiating deals throughout Latin America, sub-Saharan Africa, and other parts of the world—something she was distinctively well-positioned to do with her fluency in five languages and deep familiarity with at least as many legal systems. I shared pictures of my three children, who were then very young and whom I sorely missed, and I spoke of my own deep love for and background with languages other than English. The music, drinks, and conversation lasted nearly two hours, into the night after a long day of largely futile negotiation.

In the process, we temporarily let down our guard. We began to build requisite trust. We enjoyed a beautiful evening together in a city in Central America, and we developed a deeper and more authentic relationship than would have been the case in a typical domestic negotiation. And almost immediately upon resuming formal negotiations the next morning, following a week of very little progress, a major deal point was resolved seemingly effortlessly.

There were many more days of difficult negotiation—over a period of several months, across three different Latin American cities—before the deal was closed. But the deal did in fact close, and that night was the beginning of the push to the finish line.

I know many smart, capable lawyers with more domestic deal experience than I had at the time, who would have approached that negotiation like an ordinary domestic transaction and, as a result, almost certainly would not have closed the deal. Like so many other international business transactions, that deal required a distinctive approach and a specialized set of skills reflecting an appreciation for the nuance and subtlety of a complex negotiation taking place in a polyglot setting in a foreign land. For example, at any given moment, members of the negotiation team were speaking, in turn, Spanish, Brazilian Portuguese, German, even Italian at times, and, of course, English—the formal language of most of the contract documents and of the deal negotiation. That would have been harrowing for monolingual lawyers unaccustomed to navigating foreign language settings, but I relished that aspect of the deal.

In addition, there was less clarity and more uncertainty than might be typical in a simple domestic transaction connected to one jurisdiction when only one jurisdiction's domestic law is relevant. By contrast, this transaction touched at least six different jurisdictions due to the nationality and headquarters of the project owner, the site of the project itself, the various sources of finance, the home jurisdiction of the primary supplier, and the

home jurisdiction of the engineering, procurement, and construction contractor. Laws of each of those jurisdictions, as well as bodies of international law, were potentially relevant for various aspects of the deal—regardless of choice-of-law clauses in the contract documents—further complicating a deal that would have been complex, due to its technical aspects and the scope of the underlying project, even if it had been limited to one jurisdiction. It was incredibly challenging, difficult, and, at times, utterly exhausting. I loved it, and we closed the deal.

What, then, made the difference in getting the deal closed? What preparation did I have that contributed to that difference? Naturally, as with any deal, domestic or international, it was essential as a starting point to have familiarity with relevant corporate and commercial law, the applicable industry, fundamental negotiation strategy, and the like. However, a successful outcome also required a combination of cultural competence, language skills, meaningful prior interaction with non-U.S. lawyers and businesspersons, and familiarity with different legal systems and business cultures.

I had spent years learning and using foreign languages. During the negotiation, I switched back and forth among German, Italian, and English, while also struggling to use some Spanish, which, given the parties and the setting, was naturally permeating the negotiation. It was clear that my non-American client appreciated that multilingualism—and was not accustomed to it in previous work with American lawyers. Similarly, I did not attempt to insist that the deal negotiation must proceed in precisely the same way that it would in Chicago, New York, or Minneapolis, as some of my colleagues at the time might have. I was patient with the delays caused by a deal involving businesspersons negotiating in a language that was not their first language. I paid attention to body language and nonverbal cues, as I had learned to do. I consciously showed respect for local cultural differences.

Together, my skills and experience enabled me to suspend the ordinary assumptions and expectations of a U.S. commercial lawyer and to approach that deal in a manner that respectfully recognized that we were not in Kansas anymore.

Some of the relevant skills and experience I used during the negotiations reflected a long history of studying language, celebrating diversity, and being eager to understand and embrace cultural differences. Some of the relevant skills and experience were gained while in law school. In many respects, for that international deal and others, taking a distinctive approach that reflected those intercultural skills and that experience made all the difference.

In this essay, I make the case that international education and international experience are critically important for U.S. law students today. This essay offers evidence that transnational law, including traditional

sources of public international law, is more widespread and relevant than many lawyers might realize;⁴ it describes my own experience with international legal education, which made possible my journey with transnational law practice; and it describes the commitment of resources to international education at Saint Louis University School of Law (“SLU Law”) during the COVID-19 pandemic of 2020, when international travel became virtually impossible, to provide one example of what is possible. This essay also acknowledges inequity that disproportionately and adversely affects some law students and identifies some of the innovation and knowledge that came from the pandemic experience.

II. INTERNATIONAL LAW AND INTERNATIONAL LAW PRACTICE ARE UBIQUITOUS

I have overheard lawyers and law professors sometimes question whether international law is even real.⁵ The Constitution of the United States and jurisprudence of the Supreme Court of the United States alike should make short work of such a spurious notion.⁶

Only slightly more challenging are assertions by lawyers claiming that international law and international practice are only relevant for lawyers in places like New York City, Washington, D.C., London, and Tokyo. I have heard versions of that sort of claim in different forms too many times to count. I doubt that the claim was ever really true, but if it ever was, it is not

⁴ I use the term “transnational law” in this essay to include traditional public international law (meaning primarily treaties and customary international law), as well as domestic law, whether federal or state, such as export controls or anti-boycott legislation, that is relevant for transnational activities, events, or relationships. “Transnational law” is a term proposed by Philip Jessup in the mid-twentieth century and adopted by other scholars as a more comprehensive term that includes bodies of law that are not public international law strictly speaking but are nevertheless highly relevant for international matters. *See, e.g.*, DETLEV F. VAGTS ET AL., *TRANSNATIONAL BUSINESS PROBLEMS* 63-68 (6th ed. 2019).

⁵ Admittedly, enforcement of international law vis-à-vis sovereign nation states can be a real challenge. However, difficulty of enforcement of international law is not equivalent to nonexistence. Moreover, the same enforcement difficulties do not exist vis-à-vis non-state actors, as non-state actors do not benefit in the same way from state sovereignty and sovereign immunity.

⁶ Article six of the U.S. Constitution provides in relevant part: “[t]his Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and *all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land*; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” U.S. CONST. art. VI, cl. 2 (emphasis added); *see also* *Skiriotes v. Florida*, 313 U.S. 69, 72-73 (1941) (holding that “[i]nternational law is a part of our law and as such is the law of all States of the Union, but it is a part of our law for the application of its own principles, and these are concerned with international rights and duties and not with domestic rights and duties” (citing *The Paquete Habana*, 175 U.S. 677, 700 (1900))), *reh’g denied* 313 U.S. 599 (1941); *Hartford Fire Ins. Co. v. California*, 509 U.S. 764, 815 (1993) (Scalia, J. dissenting) (reasoning that, in this case, the U.S. Sherman Antitrust Act should not be applied to conduct outside the United States because customary international law places limits on jurisdiction to prescribe).

today. This is certainly the case for the practice of business law, as “[t]he village market of old has become a global market today.”⁷ Global trade in goods and services is booming and is not likely to slow down.⁸

Business law firms in Missouri have recognized for years that the business interests of their clients are international.⁹ They have responded to this reality by integrating an international focus into some of their practice groups and in the ways that they have engaged internationally with other law firms.¹⁰ Some business law firms have expanded internationally, to respond to the international needs of business clients and to pursue new opportunities.¹¹ One St. Louis-based business law firm recently decided that it was advantageous to expand an already significant global network of offices.¹² In my view, to be a business lawyer in our globalized world today, including when the business lawyer never leaves the United States, means fundamentally one of two things: either to be a lawyer who recognizes transnational aspects of law practice, or to run the risk of not seeing transnational issues affecting the client’s business, which can lead to having a limited practice or missing out on opportunities.

The claim that international law practice occurs only in places like New York City is also no longer true for any other law practice area, including those areas of law that might seem inherently local, such as family law, criminal law, and state and local government service. The following sections offer non-intuitive examples of seemingly local law that can have distinctive international dimensions.

⁷ William P. Johnson, *Understanding Exclusion of the CISG: A New Paradigm of Determining Party Intent*, 59 BUFF. L. REV. 213, 213 (2011).

⁸ *Id.* at 213-14. By way of example, in 2018, exporters in the state of Missouri sold USD \$14.5 billion in goods outside the United States, placing Missouri in the middle of U.S. states with respect to the volume of goods exported. See *Trade Stats Expresssm Home*, INT’L. TRADE ADMIN., <https://tse.export.gov/tse/MapDisplay.aspx> (last visited Sept. 27, 2021). Even in the midst of a pandemic, Missouri exporters sold nearly USD \$13 billion in goods outside the United States in 2020. *Id.* Exporters in the state of Illinois, on the other hand, sold a staggering USD \$65.47 billion in goods in 2018, and more than USD \$53 billion in goods in 2020 outside the United States. *Id.*

⁹ See generally Catherine Martin, *Taking a Global View: Beyond Brick-and-Mortar, Law Firms Look for Alternate Ways to Establish International Business*, MO. LAWS. WKLY., Aug. 11, 2014.

¹⁰ *Id.*

¹¹ See, e.g., Greg Edwards, *What Leadership Changes Mean for Armstrong Teasdale and Future Growth*, *St. Louis Professional Service News*, ST. LOUIS BUS. J. (June 8, 2021, 8:51 AM CDT), <https://www.bizjournals.com/stlouis/news/2021/06/07/meaning-of-leadership-changes-armstrong-teasdale.html>.

¹² Catherine Martin, *Bryan Cave in Talks for Merger*, MO. LAWS. WKLY., Oct. 16, 2017; Brian Feldt, *Bryan Cave Merging with London Firm, Changing Name to Bryan Cave Leighton Paisner*, ST. LOUIS POST-DISPATCH (Feb. 26, 2018), https://www.stltoday.com/business/local/bryan-cave-merging-with-london-firm-changing-name-to-bryan-cave-leighton-paisner/article_7c4796d9-89cc-5910-acca-bff4cc8326cc.html.

A. Family Law: An Illustration

Family law seems, at first blush, like a body of law that is quintessentially focused on things that are local. Society's conception of the family unit is local; the marital property one might instinctively imagine—a family home, a family car, land, a beloved pet—is local; the family lawyers involved in most family matters are very likely going to be local lawyers. Yet, upon more careful consideration, it can be easy to imagine how the family unit and relevant local family law can rather quickly become multi-jurisdictional, in terms of property, activities, and status alike. For instance, what if a U.S.-based couple acquires a vacation home in Nicaragua? What if that couple opens a deposit account in Switzerland? What if that couple gets married in Jamaica? What if that couple adopts a child from Ukraine? How, if at all, do any of the answers change if one member of the happy couple is a citizen of the United States and the other is a citizen of Japan?¹³

Based on the foregoing examples, it should be easy to see that local law and the laws of a foreign jurisdiction can both be relevant for a family law matter. In addition, perhaps less obvious, but just as important, international treaties and other sources of international law, binding on sovereign states, can also be relevant for family law matters.¹⁴

One manifestation of potential application of international law occurs when a child is wrongfully removed to or retained in a country that is different from the child's country of habitual residence.¹⁵ International child abduction by a child's parent is a more common problem than one might imagine. For example, between 2009 and 2013, there were more than one thousand children each year who were reported to the U.S. State Department as having been abducted outside the United States.¹⁶ The number of reported international child abductions has dropped in recent years, but it continues to be a problem.¹⁷ When international child abduction happens, the custody battle that could follow involves at least two countries. The respective laws of each country could easily lead to different outcomes with respect to custody and visitation rights, if one body of law were to favor one custodial

¹³ In the foregoing examples, banking regulations in Switzerland, real estate law in Nicaragua, the law of adoption in Ukraine, and family law in each of the jurisdictions would likely be relevant.

¹⁴ As evidence of the growing relevance of transnational law for family law practice, a new family law casebook was recently published that focuses on the international and foreign aspects of family law. See MELISSA A. KUCINSKI ET AL., *FAMILY LAW ACROSS BORDERS: CASES AND COMMENTS* (2021).

¹⁵ The relevant international law is the Hague Convention on Civil Aspects of International Child Abduction. Hague Convention on Civil Aspects of International Child Abduction, Oct. 25, 1980, 19 I.L.M. 273 [hereinafter Hague Convention].

¹⁶ *Reported Abductions and Returns 2009-2019*, TRAVEL.STATE.GOV., [https://travel.state.gov/content/dam/NEWIPCAAssets/pdfs/AnnualReports/TSG%20Reported%20Abductions%20and%20Returns%202009-2019%20\(002\).pdf](https://travel.state.gov/content/dam/NEWIPCAAssets/pdfs/AnnualReports/TSG%20Reported%20Abductions%20and%20Returns%202009-2019%20(002).pdf) (last visited July 14, 2021).

¹⁷ *Id.*

parent and the other body of law were to favor the other. Where should the child reside? Who gets custodial rights or visitation rights? Which court gets to decide? The Hague Convention on Civil Aspects of International Child Abduction provides the answer to whether the child should be returned to the country from which the child was abducted and, therefore, which country's courts have the jurisdiction to resolve the matter of custody.¹⁸

A well-known example of an international child abduction case involved Sean Goldman, the son of David Goldman and Bruna Bianchi.¹⁹ David Goldman is a citizen of the United States.²⁰ In 1990, David was pursuing a modeling career in Italy, where he met Brazilian citizen Bruna Bianchi, who was in Italy studying fashion design.²¹ In 1999, the two married, and they settled in New Jersey, where they had Sean.

When Sean was four years old, Bruna took Sean to Brazil on what was supposed to be a two-week vacation.²² Sean's maternal grandparents were there after all, as were other family members and friends of Bruna.²³ David had planned to join them a week later; that did not happen.²⁴ Instead, Bruna called David soon after she arrived in Brazil and informed him that she wanted a divorce and was planning to take sole legal custody of Sean.²⁵ David did not simply surrender to Bruna's demands, and the couple found themselves wrapped up in an intercontinental legal battle that continued for five years, with Sean in Brazil the entire time.²⁶

Considering this primarily from the perspective of the U.S.-based parent, David initially worked with a U.S. lawyer who specialized in cross-border family law matters for assistance in gaining legal custody of Sean.²⁷ David filed suit in a New Jersey court.²⁸ The judge ruled that Bruna had

¹⁸ See generally Hague Convention, *supra* note 15.

¹⁹ Kirk Semple, *Court Battle over a Child Strains Ties in 2 Nations*, N.Y. TIMES: AMERICAS (Dec. 5, 2009), <https://www.nytimes.com/2009/02/25/world/americas/25iht-25custody.20419538.html>; see also Karen DeMasters, *Back from Brazil, Seeking an Ordinary Life for a Son*, N.Y. TIMES (Dec. 29, 2009), <https://www.nytimes.com/2009/12/30/nyregion/30kidnap.html>.

²⁰ Jeanne M. Hannah, *David Goldman: Back to Square One?*, JMH: UPDATES IN FAM. L., https://jeannehannah.typepad.com/blog_jeanne_hannah_traver/2009/06/david-goldman-back-to-square-one.html (last visited Sept. 22, 2021).

²¹ Meredith Vieira, *Bring Sean Home: The Untold Story*, NBC NEWS: WORLD (Jan. 8, 2010, 7:04 PM CST), <https://www.nbcnews.com/id/wbna34773680https://www.nbcnews.com/id/wbna34773680>.

²² The Test Blog, *Read an Excerpt from Sean Goldman's 'A Father's Love,'*, NBC NEWS: WORLD (Apr. 27, 2012, 1:15 PM CDT), <https://www.nbcnews.com/news/world/read-excerpt-sean-goldmans-fathers-love-flna739363>.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ Statement by David Goldman to the Tom Lantos Hum. Rts. Comm'n (Dec. 2, 2009) (on file at <https://www.americanrhetoric.com/speeches/PDFFiles/David%20Goldman%20-%20Lantos%20Commission%20Statement.pdf>).

²⁸ *E.g.*, *Goldman v. Goldman*, No. FD-13-0395-05, 2011 N.J. Super. Unpub. LEXIS 393, at *2 (N.J. Super. Ct. Ch. Div. Feb. 17, 2011).

illegally taken the child from the United States and ordered her to return to New Jersey with Sean immediately.²⁹

Bruna ignored the New Jersey court order and filed her own claim in Brazil, by which she received an order from a Brazilian court awarding her sole custody of Sean.³⁰ David continued his custody battle with Bruna but faced defeat after defeat in the Brazilian court system.³¹

Bruna remarried a prominent Brazilian lawyer, João Paulo Lins e Silva, and in 2008, with Sean still in Brazil, they were expecting a child.³² However, Bruna died during childbirth.³³ In what many might view as a shocking twist, following Bruna's death, her widower continued to resist Sean's return to his actual father.³⁴ Lins e Silva sought guardianship of Sean, and he applied to have David's name removed from Sean's birth certificate and replaced with his own name.³⁵

The highest levels of the U.S. government became involved and petitioned the Brazilian government on David's behalf.³⁶ At one point, the Supreme Court in Brazil ruled that Sean should be immediately released to David.³⁷ David traveled to Brazil to be reunited with his son, only to learn upon arrival that a higher court had reversed the ruling.³⁸

Eventually the highest court in Brazil ordered Sean returned to his country of habitual residence prior to his abduction—and therefore, effectively, to his biological father—the result contemplated by the Hague Convention, a treaty that has been joined by the United States and Brazil and is binding on both sovereign states as a matter of international law.³⁹ David was reunited with his son on Christmas Eve 2009, well over a year after Bruna had died.⁴⁰

²⁹ *Success in Goldman Case Unique in International Child Abduction Cases*, HG.ORG. LEGAL RES., <https://www.hg.org/legal-articles/success-in-goldman-case-unique-in-international-child-abduction-cases-18829> (last visited Sept. 24, 2021).

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *See Success in Goldman Case Unique in International Child Abduction Cases*, *supra* note 29.

³⁶ *Id.*

³⁷ Scott Stump & Ree Hines, *David and Sean Goldman Look Back on Infamous Abduction Ordeal 10 Years Later*, TODAY (Aug. 8, 2019, 8:42 AM CDT), <https://www.today.com/news/david-sean-goldman-look-back-infamous-abduction-ordeal-10-years-t160316>.

³⁸ Lee Ferran et al., *Brazilian Custody Battle: N.J. Congressman Bargains for Boy's Release*, ABC NEWS (June 4, 2009, 8:22 PM), <https://abcnews.go.com/GMA/story?id=7790766&page=>.

³⁹ *See Goldman v. Goldman*, No. FD-13-0395-05, 2011 N.J. Super. Unpub. LEXIS 393, at *8 (N.J. Super. Ct. Ch. Div. Feb. 17, 2011); *see also* Vienna Convention on the Law of Treaties art. 26, May 23, 1969, 1155 U.N.T.S. 331 [hereinafter Vienna Convention] (“Every treaty in force is binding upon the parties to it and must be performed by them in good faith.”).

⁴⁰ *See* Jerry Carino, *Sean Goldman, 10 years after reunion with dad, fights for other abducted kids*, ASBURY PARK PRESS (Aug. 8, 2019, 8:12 PM), <https://www.app.com/story/news/local/values/2019/08/08/david-goldman-sean-goldman-international-child-abduction/1941551001/>.

Prior to the wrongful removal and subsequent wrongful retention, the Goldman family lived in New Jersey.⁴¹ To be effective, a lawyer would have to know applicable New Jersey law governing custody disputes and family relationships, and she would have to know how to navigate the courts in New Jersey to seek relief. But because the child was taken to Brazil and wrongfully retained there, familiarity with family law in New Jersey was not enough in this case. The lawyer must also be familiar with the Hague Convention.⁴² When a child is taken from one country to another and a custody battle follows, the Hague Convention, rather than local law, creates the applicable procedure to determine whether the child should be returned to the child's country of habitual residence and, therefore, which country effectively has jurisdiction to determine custody.⁴³ Ordinarily, unless one of the limited exceptions applies, the child is to be returned promptly to the child's country of habitual residence.⁴⁴ Local law cannot change that, as a country may not use its domestic law to avoid its obligations under the Hague Convention or any other treaty to which it is a party.⁴⁵

To be clear, that does not mean the left-behind parent wins the custody battle. It means the court system in the country of habitual residence is the proper venue for adjudicating that custody battle.⁴⁶

For this kind of matter, the U.S. family law lawyer must be familiar with the applicable body of international law to provide competent and effective legal representation. However, in my experience, many law professors and practicing lawyers are not familiar with it.

Notably, David's lawyer also had to navigate the Brazilian legal system by working with local counsel in Brazil. Lawyers must be able to navigate foreign legal systems and work effectively with local counsel in non-U.S.

⁴¹ Vieira, *supra* note 21.

⁴² Vienna Convention, *supra* note 39 and accompanying text. Although the United States is not a party to the Vienna Convention, the Vienna Convention is widely recognized as a codification of the customary international law governing treaties. *Vienna Convention on the Law of Treaties, Status of Treaties*, UNITED NATIONS TREATY COLLECTION (Sept. 27, 2021, 9:15:36 EDT), https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXIII-1&chapter=23&Temp=mtdsg3&clang=_en. To the extent that the Vienna Convention is a codification of customary international law, it is generally binding as a matter of international law, even on those states that are not parties to the Vienna Convention. *See, e.g.*, Statute of the International Court of Justice art. 38(1)(b), June 26, 1945, 59 Stat. 1055, 33 U.N.T.S. 993 ("The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply . . . international custom, as evidence of a general practice accepted as law."); *The Paquete Habana*, 175 U.S. 677, 686 (1900) (ruling on a maritime dispute based on an extensive discussion of applicable historical international norms in the absence of an explicit statute or law governing both parties).

⁴³ Hague Convention, *supra* note 15, at arts. 7, 10-12.

⁴⁴ *Id.*

⁴⁵ *See* Vienna Convention, *supra* note 39, at art. 27 ("A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.").

⁴⁶ Hague Convention, *supra* note 15, at art. 7, 10-12.

jurisdictions. This will often require, at a minimum, overcoming language barriers, being aware of cultural differences, and being familiar enough with the local law to know what questions to ask. The multijurisdictional representation will therefore benefit greatly from sensitivity to additional layers of issues—legal and non-legal—that the cross-border nature of this type of work presents.

In short, the family law lawyer is not confined to navigating only local law of her jurisdiction when international elements appear. Instead, she navigates a combination of U.S. state law (and sometimes U.S. federal law), international law, and foreign law, in ways that can be challenging, unpredictable, and frustrating. It is true that the facts of the Goldman case are unusual; that case led to enactment of federal legislation bearing their names, after all.⁴⁷ The presence of international aspects in family law matters is not unusual, however; virtually any U.S. lawyer could encounter similar international issues in their clients' matters in everyday law practice.

B. Criminal Law

Like the practice of family law, the criminal justice system might seem at first glance to be fundamentally local. The criminal code in any given jurisdiction is an expression of the norms and prevailing standards of the community where the code applies, and its application and enforcement reflect the values, including the biases and prejudices, of local legislators and decision-makers.⁴⁸ Each code is typically focused on conduct that has some nexus with the jurisdiction where the code is in effect.⁴⁹ Yet, criminal law and the criminal justice system in the United States can quickly become transnational in nature, bringing international law into an otherwise local analysis. Specifically, when any person is arrested, committed to prison or to custody pending trial, or detained under the laws of any jurisdiction in the United States, that person has rights under the Vienna Convention on Consular Relations whenever that person is a national of a sovereign state that is a party to that treaty.⁵⁰ The sending state, which is the foreign country where such person has nationality, also has rights under the treaty.⁵¹

When a national of the sending state is arrested, taken into custody, or detained, the relevant authorities are obligated under the treaty to inform that foreign national that he has rights under the treaty.⁵² Those rights include the

⁴⁷ Sean and David Goldman International Child Abduction Prevention and Return Act of 2014, 6 U.S.C. §241.

⁴⁸ See generally Brendan Roediger, *Abolish Municipal Courts: A Response to Professor Natapoff*, 134 HARV. L. REV. F. 213 (2021).

⁴⁹ See, e.g., MODEL PENAL CODE § 1.03.

⁵⁰ Vienna Convention on Consular Relations art. 36, Apr. 24, 1963, 596 U.N.T.S. 261, 23 U.S.T. 3227.

⁵¹ *Id.*

⁵² *Id.* at art. 36(b).

right to communicate with the consular officers of the sending state.⁵³ The consular officers, in turn, have the right (i) to arrange for the foreign national's legal representation and (ii) to visit the foreign national, among other things.⁵⁴ When a foreign national is navigating an unfamiliar and potentially frightening foreign criminal justice system, the involvement of a friendly face who speaks the same language and shares the same culture is likely to make a difference. Having consular officers involved could facilitate better communication between a defense attorney and the defense attorney's client. Access to materials and records in the home jurisdiction could make a serious difference in any sentencing outcome as well. A full and fair defense depends on understanding and being able to communicate with the accused.⁵⁵

Unfortunately, those rights have routinely been undermined or ignored in the United States, sometimes even when a person's life is on the line.⁵⁶ In my experience, too many lawyers are simply not familiar with the Vienna Convention on Consular Relations or choose to ignore it. This has led to censure of the United States by the International Court of Justice.⁵⁷ It has also led to carrying out of death sentences, even when the prosecutor's office and the court knew that the rights of the accused under the treaty had been soundly denied.⁵⁸ That amounts to an unconscionable failure to recognize the relevance of transnational elements in criminal law practice, in my view.

C. State and Local Government Service

What could be more local than state and local government service? Still, transnational law can quickly become relevant in state and local government service as well. An example of this is seen whenever a U.S. state takes a trade mission to promote trade between the state and a foreign country. For example, the Illinois Office of Trade & Investment organizes trade missions as opportunities for "Illinois businesses interested in developing and growing their international sales."⁵⁹ Even during the COVID-19 pandemic, Illinois has undertaken virtual trade missions in 2021 to China, Egypt, Israel, Jordan, Morocco, and more.⁶⁰ As the COVID-19 vaccine rollout continues and travel restrictions ease, in-person trade missions are planned by Illinois in the later

⁵³ *Id.*

⁵⁴ *Id.* at art. 36(c).

⁵⁵ U.S. CONST. amend. VI.

⁵⁶ *Breard v. Greene*, 523 U.S. 371, 373-74 (1998); *Medellín v. Texas*, 552 U.S. 491, 502 (2008).

⁵⁷ See Vienna Convention on Consular Relations (Para. v. U.S.), Order, 1998 I.C.J. 248 (Apr. 9).

⁵⁸ *Id.* at ¶ 2; William J. Aceves, *International Decision: Case Concerning the Vienna Convention on Consular Relations (Federal Republic of Germany v. United States)*, 93 AM. J. INT'L L. 924, 924 (1999).

⁵⁹ *Trade Missions Schedule*, ILL. DEP'T OF COM. & ECON. OPPORTUNITY, <https://www2.illinois.gov/dceo/SmallBizAssistance/Export/Pages/TradeMissionsPrograms.aspx> (last visited Sept. 24, 2021).

⁶⁰ *Id.*

months of 2021 for Ivory Coast, Senegal, and India.⁶¹ The business relationships that result from such trade missions can be affected by international law in the form of treaties that can have direct relevance for the relationship. For example, the existence of a free trade agreement, a bilateral tax treaty, or a bilateral investment treaty between the United States and the country that is the target of the trade mission is likely to be highly relevant for selecting the business model that will be used for investment and determining the cost of doing business in the new foreign jurisdiction, as well as for the relative risk of doing business there. Government lawyers and officials should be familiar with these relevant sources of international law.

Additionally, lawyers at the state and local level sometimes engage with foreign nation states in other ways. Doing so without understanding applicable transnational law can undermine the outcomes of the engagement. By way of example, in April 2020 the state of Missouri filed a claim against the People's Republic of China and other defendants in connection with the COVID-19 pandemic.⁶² At a superficial level, filing such a complaint and serving process for this type of transnational situation would require rudimentary familiarity with the treaty known as the Hague Service Convention.⁶³ On a deeper level, an effective complaint—one that actually achieves a remedy, and does not interfere with national diplomatic efforts—would also require strong familiarity with U.S.-recognized international law principle of nation-state sovereignty, as well as a U.S. federal law known as the Foreign Sovereign Immunities Act.⁶⁴ Because this complaint, as well as the underlying decision to bring a lawsuit by a U.S. state against a sovereign nation, is on shaky ground as a legal matter, it has been the subject of some criticism by commentators with relevant expertise.⁶⁵ Indeed, initial efforts to serve the defendants were futile, and the state of Missouri subsequently requested permission to serve the defendants through diplomatic channels.⁶⁶ A federal court granted permission a little more than one year after the

⁶¹ *Id.*

⁶² *Missouri ex rel. Schmitt v. People's Republic of China*, No. 1:20-cv-00099-SNLJ, 2021 WL 1889857 (E.D. Mo. May 11, 2021).

⁶³ Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, Nov. 15, 1965, 20 Stat. 1361, T.I.A.S. No. 6638.

⁶⁴ Foreign Sovereign Immunities Act of 1976, 28 U.S.C. §§ 1330, 1391(f), 1441(d), 1602-011.

⁶⁵ See, e.g., Ana Santos Rutschman & Robert Gatter, *Smoke Screens: An Initial Analysis of the Coronavirus Lawsuits in the United States Against China and the World Health Organization*, PROTEGO PRESS, <https://protego.press.com/smoke-screens-an-initial-analysis-of-the-coronavirus-lawsuits-in-the-united-states-against-china-and-the-world-health-organization/> (last visited Sept. 28, 2021); see also Meagan Flynn, *Missouri is Suing China over the Coronavirus Pandemic. It's the Latest Conservative Gambit.*, WASH. POST (Apr. 22, 2020), <https://www.washingtonpost.com/nation/2020/04/22/missouri-lawsuit-china/> (“Chimène Keitner, an international law professor at the University of California at Hastings College of Law, said she did not ‘see any portion of this lawsuit succeeding under the law as it currently stands.’”).

⁶⁶ *Missouri ex rel. Schmitt v. People's Republic of China*, 2021 WL 1889857, at *2.

complaint was initially filed.⁶⁷ Subsequently, on May 18, 2021, some defendants—the nongovernmental entities—were finally served.⁶⁸ To date, the Chinese government has not been served.⁶⁹

Successfully serving the defendants has proven to be challenging. Winning on the merits of the claim is likely to be even more challenging, given the shaky ground on which the claim rests. And collecting on any eventual judgment is likely to be even more difficult, given the likelihood that China will continue to assert immunity under international law as a sovereign state and will certainly be unwilling to cooperate, as suggested both by the Chinese government in this case and by past conduct.⁷⁰ This is exacerbated by the inherent challenges with collection under the Foreign Sovereign Immunities Act,⁷¹ as well as the practical challenges that navigating domestic law, international law, international relations, and diplomacy at the same time presents in this case. Deeper familiarity with transnational law and international relations might have aided the state of Missouri's decision-making in this case.

D. Other Mundane Examples

There are numerous other ways that international law is relevant in everyday law practice, in ways with which lawyers should be familiar, as well as in everyday life for lawyers and nonlawyers alike.⁷² For example, making an international phone call is facilitated by an international organization and international treaties.⁷³ Numerous multilateral air law treaties facilitate boarding an aircraft in one country that is destined for another, as well as other aspects of international air travel.⁷⁴ A variety of

⁶⁷ *Id.* at *3.

⁶⁸ Eric Schmitt, *Missouri Attorney General Serves Chinese Communist Party, Wuhan Institute of Virology in COVID-19 Lawsuit*, News, ERIC SCHMITT MO. ATT'Y GEN. (May 18, 2021, 13:26 PM), <https://ago.mo.gov/home/news/2021/05/18/missouri-attorney-general-serves-chinese-communist-party-wuhan-institute-of-virology-in-covid-19-lawsuit>.

⁶⁹ Kaitlyn Schallhorn, *Missouri Spends \$11K on Translation, Processing Fees to Sue China*, MO. TIMES (May 20, 2021), <https://themissouritimes.com/missouri-spends-11k-on-translation-processing-fees-to-sue-china/>; see also Schmitt, *supra* note 68.

⁷⁰ See, e.g., *Jackson v. The People's Republic of China*, 794 F.2d 1490 (11th Cir. 1986).

⁷¹ See 28 U.S.C. § 1609.

⁷² The rule of competence in the ABA model rules of professional conduct requires lawyers to provide “competent” representation to their clients and further provides that “[c]ompetent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.” ABA MODEL RULES OF PROFESSIONAL CONDUCT RULE 1.1. Lacking familiarity with applicable transnational law arguably creates the risk of a violation of the rule of competence. It could even create potential liability for legal malpractice.

⁷³ See generally Constitution and Convention of the International Telecommunication Union, Dec. 22, 1992, 1825 U.N.T.S. 331.

⁷⁴ See, e.g., Convention for the Unification of Certain Rules Relating to International Carriage by Air, Oct. 12, 1929, 49 Stat. 3000, 137 L.N.T.S. 11.

international treaties can be relevant for the supply chain that made it possible to enjoy a glass of Argentine Malbec wine with dinner this evening.⁷⁵

E. Personal Enrichment; Deeper Understanding

One of the best aspects of international engagement for me personally, whether as a law student, practicing lawyer, law professor, or dean, has been getting to know wonderful people from all around the world. This personal enrichment is, frankly, reason enough to engage internationally, in my view. However, in addition, as we enact and implement U.S. policies and laws that target or affect other parts of the world, we will do so more thoughtfully and equitably if we know something about those places and the people who live there. For practicing lawyers, it will make them more effective as they represent their clients when their clients' matters touch other parts of the world, as this essay suggests.

I have had the privilege to get to know terrific legal professionals from Bogotá, Buenos Aires, Lima, and Santo Domingo; Barcelona, Dublin, Hamburg, and Paris; Beijing, Seoul, and Shanghai; Cairo and Dakar; and many other places. Getting to know lawyers from all over the world and listening to their stories has shattered my own preconceived notions and disrupted assumptions and characterizations that proved to be unfair or incomplete. This, in turn, has led me to a more open mind and better ability to understand where individuals are coming from and how we might view the world in different ways. That has made me a better negotiator; it has also made me a better human being. It has led to a deep appreciation for different legal, cultural, spiritual, and social traditions. I have long loved and appreciated culture and diversity; having the benefit of so many meaningful personal relationships all around the world has deepened my understanding of different cultures, traditions, and norms, which has only increased my

⁷⁵ See, e.g., United Nations Convention on Contracts for the International Sale of Goods, *adopted* Apr. 11, 1980, 1489 U.N.T.S. 3 [hereinafter CISG]. Subject to certain exclusions, the CISG governs contracts for the sale of goods between parties whose places of business are in different countries when the countries are "Contracting States" (that is, parties to the CISG). *Id.* at art. 1(1)(a). In the typical cross-border sale of goods transaction, when the parties are in different jurisdictions, the CISG will usually govern the transaction if the parties' respective places of business that are most directly involved with the transaction are in countries that have ratified the CISG. *Id.* at art. 1(2), 10(a). There are currently ninety-four parties to the CISG, including most of the major trading partners of the United States. Public Notice, 52 Fed. Reg. 6262 (Mar. 2, 1987). The CISG is potentially relevant for a very large volume of international trade. See *id.* (noting those countries whose trade relations with the United States would be governed by the CISG as of its entry into force on January 1, 1988); see also *United Nations Convention on Contracts for the International Sale of Goods, Status of Treaties*, UNITED NATIONS TREATY COLLECTION (Sept. 28, 2021, 9:15:40 EDT), https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=X-10&chapter=10&clang=_; Treaty Between the United States of America and the Argentine Republic Concerning the Reciprocal Encouragement and Protection of Investment, Arg.-U.S., Nov. 14, 1991, 31 I.L.M. 124.

appreciation for people of different backgrounds. Reflecting on the tremendous joy of engaging with a wide range of folks from all around the world reminds me of the spoken words of a character in Toni Morrison's *Song of Solomon*: "I wish I'd a knowed more people. I would of loved 'em all. If I'd a knowed more, I would a loved more."⁷⁶

III. WHAT THAT MEANS FOR THE STUDY OF LAW IN THE UNITED STATES

Though not the primary focus of this essay, when one considers the value of international education, there are many things that might come to mind: better understanding the world; making meaningful connections; becoming better prepared to navigate intercultural settings; and more. From the perspective of competence to practice law, the preceding section offers evidence that transnational law is relevant, no matter the practice area. That alone makes familiarity with international law valuable for any U.S. law student today and creates a responsibility for U.S. law schools to prepare their students for transnational law practice, in a manner that enables the students to do so competently.⁷⁷ In any given case, the lack of familiarity with transnational law that is applicable could be the basis for a claim of malpractice.⁷⁸ This potential liability makes international education and experience not only valuable, but arguably also essential, no matter the career trajectory or eventual practice location of the individual law student. As demonstrated by the preceding section, a legal education is arguably incomplete without meaningful inclusion of transnational law due to its ubiquity.

There is also an important practical benefit of making international opportunities available to U.S. law students; that benefit is the professional opportunities to which international experience can lead. Some U.S. law students have particular interest in focusing on international law or pursuing international practice. For such students, meaningful international education

⁷⁶ TONI MORRISON, *SONG OF SOLOMON* 336 (Pamela Loos ed., Vintage Int'l 2004).

⁷⁷ Accredited U.S. law schools are regulated by the Council of the Section of Legal Education and Admissions to the Bar (the "Section Council") of the American Bar Association ("ABA"). The Section Council promulgates and enforces the ABA Standards and Rules of Procedure for Approval of Law Schools. *Standards and Rules of Procedure for Approval of Law Schools 2020-2021* AM. BAR ASS'N SECTION OF LEGAL ED. & ADMISSIONS TO BAR, https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2020-2021/2020-21-aba-standards-and-rules-for-approval-of-law-schools.pdf (last visited Oct. 19, 2021) [hereinafter ABA Standards]. The ABA Standards provide the following: "A law school shall maintain a rigorous program of legal education that prepares its students, upon graduation, for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession." ABA Standard 301(a).

⁷⁸ See generally Vincent R. Johnson, *Legal Malpractice in International Business Transactions*, 44 HOFSTRA L. REV. 325 (2015).

and experience in law school can be extremely valuable for their respective journeys with transnational law and practice.

This is deeply personal for me because of my own unlikely journey with the law and international practice. In the next section, I share some of my journey and explain how my experience in law school led to terrific international opportunities.

A. My Personal Journey with International Law and Practice

As a new associate at Foley & Lardner, the large business law firm where I practiced for six years, I was intensely eager to do international work—an instinctive desire I felt from the very beginning of my experience as a law student. But to be clear, all of that was an unlikely proposition, because my being in law school at all was an unlikely story. I grew up on a sheep and cattle farm in a poor, rural part of northern Minnesota. I had never met a lawyer or a judge of any kind, much less an international business lawyer, prior to my enrollment in law school. Most young people in the rural community where I was raised did not attend a four-year college; virtually none went on to law school or pursued other professional education. It took years of prompting from college professors and good friends before I had the imagination necessary to consider applying for law school. Even after I applied for and enrolled in law school, I continued to lack understanding of what was possible or familiarity with what it meant to be an international business lawyer. Instinctively, however, I was sure an international business lawyer was what I wanted to be.

I made my interest clear at each of the three business law firms where I spent a summer during and immediately following law school.⁷⁹ I heard consistently in response that many new lawyers wanted to do international work, but not many received the chance to do this type of work, especially not right away. Still, upon arrival as a new associate at the law firm where I practiced, I knocked on the doors of the business law department partners doing significant international work and reiterated my interest.

The very first week I was at the firm as a new associate, I was given an international project. It was a research project examining some aspect of doing business in Germany. It was not a significant project, but it was something, and it was international. Soon after, I received another international project, and then another. Within a few months after my arrival at the firm, I was placed on a very large international mergers and acquisitions deal, which involved the acquisition by our client of a group of

⁷⁹ Those three business law firms were Oppenheimer Wolff & Donnelly (now Fox Rothschild) in Minneapolis in 1999; Foley & Lardner in Milwaukee in 2000; and Faegre & Benson (now Faegre Drinker) in Minneapolis in 2001.

affiliated companies located in at least seven different countries. The transaction required actions to be taken in Brazil, Canada, Chile, France, Japan, Mexico, Norway, South Africa, and the United States. It was an incredible opportunity for any new associate.

There were associates senior to me who wanted this type of work but were unable to obtain it until later in their careers, if at all. I have wondered to what extent my own privilege as a white male contributed to the benefit of the doubt I might have received or to the opportunities that came my way. I am certain that it did. Yet, I also received international work earlier than white male associates who were quite senior to me and, in some instances, had stronger credentials. What was different? How was I so fortunate to get the work that I wanted and to get it right away?

It was clear that my foreign language skills were part of the explanation.⁸⁰ Most of my fellow associates were not multilingual. As an undergraduate student, I majored in German and minored in Russian and studied Italian and Spanish along the way, and my language skills were known to the partners in the business law department.

Language skills, while helpful, were not enough. I was given many opportunities to obtain meaningful international experience and to deepen my understanding of international law and practice while still a law student. That experience and education in law school were certainly part of the explanation as well, and I describe it in the sections that follow.

B. International Curricular, Co-Curricular, and Extra-Curricular Activities in Law School

As a student at the University of Michigan Law School, part of the international education I received was curricular. I completed the foundational course in International Law as my one elective course in my first year of law school. I took several other transnational law courses over the next two years, including traditional public international law courses, as well as courses that are better characterized as focused on transnational law. In my third year, there was a major colloquium on international refugee law at my law school, and I was one of the student participants.⁸¹ The two-day colloquium brought world-class refugee law scholars together from around the world to wrestle with a difficult question of international refugee law.⁸² Participating in the colloquium was educational, of course, but it was also

⁸⁰ Theresa Kaiser-Jarvis, *Preparing Students for Global Practice: Developing Competencies and Providing Guidance*, 67 J. LEGAL ED. 949, 957 (2018).

⁸¹ James C. Hathaway, *The Causal Nexus in International Refugee Law*, 23 MICH. J. INT'L L. 207, 207-208 (2002).

⁸² *Id.*

incredibly inspiring and motivating, and it led to my first scholarly publication, focused on a topic of international law.⁸³

Part of the international education and experience I had in law school was co-curricular. The University of Michigan Law School regularly offered a variety of speaker events and symposia focused on foreign law, international law, or U.S. law relevant for international practice, and I made a point to take advantage of that. In my three years of law school, I attended nearly every talk that was focused on international matters. Those talks were a valuable source of new information. Even more important, they were a source of inspiration, especially important for students who lack prior exposure to the exotic world of transnational law and practice. It was an important part of my education outside the formal classroom.

Part of my experience involved extra-curricular activities. I was active in the international law student organization all three years of law school and served as an officer one year. I organized foreign language “tables,” usually at a coffee shop or a tavern, where law students could practice their language skills while enjoying a cappuccino or a pint. I organized a foreign film series as well. I got to know a new group of LL.M. students each year.⁸⁴ This experience was both enriching and rewarding, while also being educational. I have kept in touch with some of those former classmates to this day.

Taken together, these opportunities were an important part of my learning and my preparation for transnational law practice. By learning about transnational law, I was able to spot international legal issues others might have missed.⁸⁵ By having such education reflected on my law school transcript and resume, I had credibility when I asserted my interest in international practice.

C. The Importance of Mentors—Education, Inspiration, Imagination

As a second-year law student, I had the opportunity to be a research assistant for Professor James C. Hathaway, an international law scholar on the faculty. I collected course materials for his refugee law courses,

⁸³ See Michael Kagan & William P. Johnson, *Persecution in the Fog of War: The House of Lords' Decision in Adan*, 23 MICH. J. INT'L L. 247 (2002).

⁸⁴ LLM students are lawyers from outside the United States who were there to complete a one-year LLM degree at the University of Michigan Law School. See *LLM Program*, UNIV. OF MICH., <https://michigan.law.umich.edu/academics/programs-study/llm-program> (last visited Oct. 17, 2021).

⁸⁵ In one instance, a partner at the law firm where I practiced was conducting a battle-of-the-forms analysis under Article 2 of the Uniform Commercial Code (“UCC”) to determine whether our client was bound by contract, and he asked my opinion of his analysis. When I noticed that the counterparty had its place of business in Germany, I reminded the partner that the analysis was not a UCC Article 2 analysis and was, instead, a CISG analysis. See CISG art. 1(1)(a). That sort of encounter happened with relative frequency with respect to the CISG, as well as other bodies of transnational law that some of my colleagues simply were not familiar with.

conducted research on discrete questions of law, and proofread his work. In the process, I learned about his brilliant career, including how he balanced private law practice with his resolute commitment to representation of refugees, before he eventually became a full-time academic and continued to be a fierce advocate for refugees.⁸⁶ That experience was educational and was valuable for that reason. Perhaps even more important, the experience expanded my imagination regarding what was possible. It gave me new lexicon and a greater sense of what it meant to be an international lawyer, as well as to use the law as a tool for tremendous good.

There were other experiences in law school that contributed to the expansion of my imagination and increased the likelihood of success in my dream of pursuing international law practice. One such experience was a chance encounter with a member of the faculty with emeritus status, Professor Whitmore Gray, in the outdoor quad one day, where I was reading and eating lunch. He approached me and asked if he could join me, and we struck up a conversation. He learned of my personal background and that I had a deep interest in and love for foreign language. I learned that he had spent a considerable amount of time in East Asia and other parts of the world, that he had some facility for numerous languages of Europe and more than one language of East Asia, and that he taught a course from time to time on Chinese law. He was modest and approachable, yet he had pursued this fabulous international career that I had only imagined. Over the next three years, he and I would often attend the same internationally focused speaker events and other activities. I would frequently see him practicing his Mandarin Chinese character writing skills. He would frequently check to make sure I was doing OK. His impact was greater than he could have known.

Similarly, Professor Mark D. West, the brand-new, bright professor with a dry sense of humor who taught me corporate law, had recently practiced law in Tokyo with a large business law firm.⁸⁷ He could speak, read, and write Japanese fluently. He spoke of closings, public offerings, and multi-lingual negotiations. He had a law practice experience that I did not know was possible but came to understand was like the law practice experience I was hoping to pursue. By sharing his own experience, taking time to speak with me after class, and patiently responding to email messages from a naïve but excited and earnest law student, he, too, was giving a farm kid who knew little about international business law the lexicon and the imagination necessary to pursue a fascinating international business law

⁸⁶ *Our Faculty, James C. Hathaway*, MICH. L., <https://michigan.law.umich.edu/faculty-and-scholarship/our-faculty/james-c-hathaway> (last visited Sept. 24, 2021).

⁸⁷ *Our Faculty, Mark D. West*, MICH. L., <https://michigan.law.umich.edu/faculty-and-scholarship/our-faculty/mark-d-west> (last visited Sept. 24, 2021).

practice experience. He continued to be an important mentor to me as I engaged in my own business law practice.⁸⁸

The importance of these mentors and the guidance and role modeling they provided cannot easily be overstated. Learning about the law was part of the value that I gained from each of them in one way or another. But the more important benefits these mentors provided consisted of expansion of my imagination regarding what was possible, and the inspiration and confidence necessary to pursue an international practice. Those experiences and the knowledge and imagination I gained from those experiences give me a deep sense of duty to do whatever I can to try to be similarly helpful to my own students.

I am also mindful that each of those important mentors is a white male and therefore looked like me. That made expansion of my imagination and development of my confidence more likely than it might otherwise have been, had there not been mentors and role models who looked like me. I am mindful that there continue to be far too few mentors of color available to law students today.⁸⁹ That makes my debt of obligation greater; it makes it more important to be intentional in creating opportunities for students who are members of historically and currently underrepresented groups. I take quite seriously the call to action extended by Professor Leslie Culver to white male professors “to create . . . mentorship roles with students of color, especially if the students are not reaching out to” me.⁹⁰ As dean, I know that I must play a role in consciously dismantling racist systems. That matters to me at least as much as marshalling law school resources to make international opportunities available to law students in ways that opportunities were made available to me.

D. Experience outside the United States

Finally, and importantly, I spent a semester of law school abroad, studying international air law, European legal philosophy, human rights, and more at Leiden University in the Netherlands.⁹¹ I met law students from all around the world. I practiced my language skills. I became familiar with non-U.S. approaches to law. I navigated a foreign setting for four months. Given my limited international experience at that point in my life, those four months were critical to my legal education.

⁸⁸ Mark D. West now serves as dean for the University of Michigan Law School. *Id.*

⁸⁹ Leslie P. Culver, *White Doors, Black Footsteps: Leveraging “White Privilege” to Benefit Law Students of Color*, 21 J. GENDER, RACE & JUST. 37, 43 (2017).

⁹⁰ *Id.* at 43-44.

⁹¹ Leiden Law School is one of the seven faculties that are a part of Leiden University in the Netherlands. See *Leiden Law School*, UNIVERSITEIT LEIDEN, <https://www.universiteitleiden.nl/en/law> (last visited Oct. 17, 2021). Leiden Law School has an international focus offering several areas of emphasis and summer programs. *Id.*

Those opportunities were there for me at the University of Michigan Law School, and they made such a difference in terms of my knowledge, but also my confidence and credibility. As a result of the foregoing and a bit of luck, a sheep farmer from a modest background was able to have an unlikely but wonderful career, first as an international business lawyer, and later as an international business law scholar.

While each U.S. law school will create a program of legal education that makes sense for that law school, it is important, in my view, that meaningful opportunities in international education be part of that program. The combination of the ubiquity of transnational law for law practice today and the obligation under applicable American Bar Association (“ABA”) Standards to offer a program of education that prepares students “for effective, ethical, and responsible participation as members of the legal profession” arguably demands it.⁹² Yet, this need not be a one-size-fits-all approach, as there are various ways that U.S. law schools can prepare their students for effective law practice in a transnational environment.⁹³ In my view and experience, however, an effective program should include some combination of curricular, co-curricular, and extra-curricular opportunities; meaningful mentoring; and the ability to obtain experience abroad.

IV. MEANINGFUL COMMITMENT TO INTERNATIONAL OPPORTUNITIES FOR LAW STUDENTS

I now serve as dean for SLU Law. I have observed a shift by law school deans and administrators to focus even more squarely on budget management and bar passage outcomes than might have been the case prior to the global financial crisis. I understand the importance of such matters, and in my role as dean, I certainly focus on those matters as priorities. However, it is also important to me to pay forward the numerous opportunities I received, and to do so in ways that are driven primarily by principals of equity and justice rather than budget management and bar passage outcomes, even as both remain a top priority. In that sense, it is especially important to me to be a resource to students by drawing on my own experiences, and specifically to “cultivate relationships with law students of color and then leverage [my] privilege to open doors to meaningful and merited work [and other] opportunities.”⁹⁴

Like many law schools, there are numerous ways that SLU Law offers international educational and experiential opportunities to our students. This section focuses primarily on summer opportunities.

⁹² ABA Standard 301(a). *See generally* Jarvis, *supra* note 80.

⁹³ For one excellent roadmap, see Jarvis, *supra* note 80, at 955-61.

⁹⁴ Culver, *supra* note 89, at 43.

Saint Louis University (“SLU”) has campuses in two cities: St. Louis, Missouri, and Madrid, Spain.⁹⁵ The SLU Madrid Campus was founded more than fifty years ago.⁹⁶ It is a full-fledged, accredited, degree-granting American university in Spain. It is a terrific asset of Saint Louis University. Twenty years ago, SLU Law began offering a six-week summer law program on the Madrid Campus (the “SLU LAW Summer Law Program in Madrid” or the “Madrid Program”).

Before becoming dean, it was my privilege to serve as the program director for the SLU LAW Summer Law Program in Madrid. Students who participate in the program are universally effusive in their praise of their experience.⁹⁷

Following the 2008 global financial crisis and the strain that crisis put on the legal profession and the job market for recent law school graduates, students became more focused on obtaining practical experience while in law school. This caused my colleagues and me to reexamine the Madrid Program, and we modified its focus, introducing more practical elements and professional opportunities. We added a visit to a business law firm in Madrid. We began bringing in experienced practitioners and other speakers to give talks on practical aspects of transnational practice to supplement the classroom experience. In 2014, we introduced international internships as an opportunity available to students following completion of the six-week program. That feature of the Madrid Program gained steam in 2015, with placement of students in internships in four different law firms.⁹⁸ Since then, students have interned all over Europe in business law firms, boutique law firms, and even one in-house legal department, in cities including Madrid, Barcelona, Dublin, Hamburg, London, Paris, Prague, Toulouse, and cities in Latin America as well.

A. International Education during the COVID-19 Pandemic

In February 2020, we had begun to arrange international internships for the approaching summer and had lined up some exciting opportunities for our students. Then the COVID-19 pandemic happened. The former White House administration announced on March 11, 2020, that it was restricting

⁹⁵ See *Saint Louis University Madrid*, ST. LOUIS UNIV., <https://www.slu.edu/madrid/index.php> (last visited Sept. 24, 2021).

⁹⁶ See *Our History, Saint Louis University Madrid*, ST. LOUIS UNIV., <https://www.slu.edu/madrid/about/our-history.php> (last visited Sept. 24, 2021).

⁹⁷ Annual satisfaction survey responses are on file in hard copy form with the associate director for the Center for International and Comparative Law at SLU.

⁹⁸ In 2015, SLU Law students interned with Aeroiuris Abogados in Madrid, Spain; Bernard-Hertz-Béjot in Paris, France; JAUSAS (now Fieldfisher) in Barcelona, Spain; and Mason Hayes & Curran in Dublin, Ireland.

all travel from Europe,⁹⁹ the Centers for Disease Control placed Spain on Level three alert,¹⁰⁰ the U.S. State Department issued a global health travel advisory Level three, urging U.S. citizens and residents to reconsider all international travel,¹⁰¹ and the World Health Organization declared COVID-19 a global pandemic,¹⁰² all within a matter of two days. As a result, I was forced to make the decision to cancel the 2020 SLU LAW Summer Law Program in Madrid, including the international internships. That was a painful decision for me. I worried that I acted too hastily. Students excited about transnational practice and international opportunities were directly impacted, after all.

As a school and as a university, we immediately pivoted to crisis management, like so many universities did.¹⁰³ International legal education could have been a casualty, as we focused on our day-to-day responsibilities during the pandemic. However, my colleagues and I spent the next two weeks exploring ways to give those impacted students some meaningful alternative opportunities. After conceiving a plan, some of my colleagues in the Center for International and Comparative Law and the Office of Career Services and I met with the impacted students as a group. It was important to me to hear directly from and listen to each student and to express my personal disappointment that we had to cancel the program. I also wanted to engage with the students to explore ways for the law school to create new opportunities, so the students could still obtain meaningful experience and deeper understanding of international law during the pandemic.

In preparation for that meeting, we considered and reflected on the reasons law students choose to participate in the Madrid Program and what it is that they hoped to get out of it. Among other things, four things stood out: international and comparative law curriculum and academic credit; gaining valuable experience in the summer months; professional networking opportunities; and international travel and the study abroad experience itself. We explored each of these with the students.

⁹⁹ Proclamation No. 9993, 85 Fed. Reg. 15,045 (Mar. 11, 2020).

¹⁰⁰ *COVID-19 Campus Update Archive, Saint Louis University Madrid*, ST. LOUIS UNIV., <https://www.slu.edu/madrid/campus-life/safety-security/covid-updates/archive.php> (last visited Sept. 24, 2021).

¹⁰¹ See *Health Alert UPDATE: U.S. Embassy Praia, Cabo Verde (March 27, 2020)*, U.S. Embassy in Cabo Verde, U.S. DEP'T OF ST. (Mar. 27, 2020), <https://cv.usembassy.gov/health-alert-update-u-s-embassy-praia-cabo-verde-march-27-2020/> (advising citizens to reconsider international travel on a global scale).

¹⁰² See *WHO Director-General's Opening Remarks at the Media Briefing on COVID-19 – 11 March 2020*, WORLD HEALTH ORG. (Mar. 11, 2020), <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19—11-march-2020>.

¹⁰³ Lee Gardner, *COVID-19 Has Forced Higher Ed to Pivot to Online Learning. Here are 7 Takeaways so far.*, THE CHRON. OF HIGHER EDUC. (Mar. 20, 2020), <https://www.chronicle.com/article/covid-19-has-forced-higher-ed-to-pivot-to-online-learning-here-are-7-takeaways-so-far/>.

1. International and Comparative Law Curriculum and Academic Credit

One of the reasons students participate in the Madrid Program is to have access to the rich international law curriculum offered by the program and to earn academic credit toward completion of their Juris Doctor degrees. We therefore took steps and committed resources to make sure the students could do that in St. Louis, both in the summer and in the following 2020-2021 academic year. Two of the Madrid Program professors were able to teach their Madrid Program courses online as part of the 2020 summer session in St. Louis, which was open to all our students, and not just those who were registered for the Madrid Program. We also added International Law to the course schedule for the summer session.¹⁰⁴

We do not typically offer International Law and multiple international and comparative law courses during the summer session on the St. Louis campus, because we ordinarily focus on high-demand courses part-time evening students want for their degree program. Because we offered international and comparative law courses in the 2020 summer session, St. Louis-based students who never planned to participate in the Madrid Program were able to enroll in these courses, and enrollment in the courses that would have been offered in the 2020 Madrid Program was about twice the ordinary Madrid Program enrollment for similar courses. The increase in enrollment in these courses highlighted the value of making international and comparative law curriculum available not only through the Madrid Program, but also in St. Louis during the summer months or as part of the SLU Law evening program.

Beyond the summer session, we pledged that the Center for International and Comparative Law would work with the Office of the Dean to carefully review the international and comparative law curriculum in the following academic year, to ensure an especially robust and rich curriculum. Given the circumstances surrounding the pandemic, we wanted to be attentive in the year following cancelation of the Madrid Program.

To that end, we added courses that we otherwise would not have offered. For example, we have a relationship with Pázmány Péter Catholic University (“PPCU”) in Budapest, Hungary.¹⁰⁵ From time to time, we host one or two visiting professors from PPCU who will teach an international or comparative law minicourse for SLU Law students. Because we used a

¹⁰⁴ The SLU Law 2020 summer session course schedule is on file with the SLU Law registrar.

¹⁰⁵ SLU Law has hosted several PPCU faculty members as visiting professors over the past several years. I visited PPCU in May 2015. PPCU has had an agreement with SLU for advanced undergraduate students in law to spend a semester in St. Louis, and many of those students have taken courses with me at SLU Law. *Faculty of Law and Political Sciences, PÁZMÁNY PÉTER CATH. UNIV.*, <https://ppke.hu/en/studies-in-foreign-languages/faculty-of-law-and-political-sciences-1> (last visited Oct. 19, 2021).

Hybrid-Flexible teaching and learning model in the 2020-2021 academic year, we were able to host Hungarian professors via Zoom, and that allowed us to offer three online courses taught by three different Hungarian scholars during spring 2021: Criminal Law Cooperation Between the European Union and the United States; Law and Politics of International Criminal Tribunals; and International Humanitarian Law.¹⁰⁶

To be clear, the nature and value of the online experience are not equal to an in-person experience, given that the in-person experience allows an in-person coffee roundtable with a visiting professor or a wine and cheese reception or a public lecture followed by a networking event. But it did enrich the international law curriculum, and it introduced our students to three Hungarian scholars. It had the ancillary benefit of further establishing the important relationship between our two universities.

2. Gaining Valuable Experience

A second reason students participate in the Madrid Program is to gain summer experience that will make them more well-rounded, allow them to explore different areas of the law, and become more competitive in a competitive legal profession market. Summer 2020 was a difficult summer to gain experience as a law student, both in St. Louis and most everywhere around the United States, due to law firms and other employers switching to remote work models and reducing the size of their summer programs or cancelling their summer programs altogether. As for international internships, it was simply impracticable for students to have a summer opportunity that would take them physically outside the United States, due to shutdowns, travel restrictions, and other pandemic-related uncertainty.

At SLU Law, we took two steps to address gaining experience for our students interested in transnational practice during the COVID-19 pandemic.

First, we significantly enhanced our summer faculty fellow program. The faculty fellow program is the SLU Law program that connects law faculty members with law students to work as paid research assistants.

Recognizing a potential opportunity to both support students interested in international education and provide additional research support for faculty members, we began by doubling the budget for the summer faculty fellow program. In addition, the scope of the work that was eligible for a faculty member to ask a faculty fellow to undertake under the program was expanded. We encouraged all members of the faculty to retain faculty fellows for the summer under the challenging circumstances presented by COVID-19 and the disrupted legal marketplace.

¹⁰⁶ E-mail from Janel Esker to William Johnson (Mar. 16, 2021) (on file with author).

I made a particular plea to faculty members of the Center for International and Comparative Law at SLU to give opportunities to students to work on international projects, with express reference to cancellation of the Madrid Program.¹⁰⁷

There was significant student demand and a terrific faculty response. It was more successful than I had ever imagined it would be, not only for the Madrid Program students, but also for many students who lost summer opportunities and were beginning to panic. As a result, we increased the spend on the summer faculty fellow program by more than eighty-nine thousand dollars compared with the average of the preceding two summers.¹⁰⁸

The qualitative feedback from students was very positive. The expanded program created opportunity and filled a large gap for students seeking valuable transnational summer experience during the COVID-19 pandemic.

There was also an ancillary benefit: the expanded program increased scholarly productivity, despite the pandemic, which had adversely affected some faculty members, and disproportionately affected women.¹⁰⁹ In a survey conducted of faculty members in the Center for International and Comparative Law, nearly ninety percent indicated that the increased faculty fellow hours made available to them increased their productivity, and more than sixty percent indicated that it increased their productivity specifically with respect to international or comparative law research.¹¹⁰

The eighty-nine-thousand-dollar increase was not in SLU Law's ordinary budget. But we took a leap of faith, recognizing the critical importance of giving our students meaningful opportunities to learn and grow as a general matter, and for some of them, to explore international and comparative law specifically. I was hopeful that our donors would hear this story and respond, and they did.

The second thing we did was reach out to contacts at law firms outside the United States to explore virtual internships. Several law firm offices were interested, and we connected prospective students with possible virtual placements.¹¹¹ This worked for some students, and it gave us a new model. The student who worked for me as a faculty fellow also completed a virtual

¹⁰⁷ E-mail from William Johnson to the Ctr. for Int'l and Compar. L. (Apr. 7, 2020) (on file with author).

¹⁰⁸ St. Louis University School of Law, Annual Budget for Fiscal Years 2018, 2019, and 2020 (on file with author).

¹⁰⁹ See generally Meera E. Deo, *Investigating Pandemic Effects on Legal Academia*, 89 FORDHAM L. REV. 2467 (2021).

¹¹⁰ Survey results on file with the author.

¹¹¹ For example, the offices of the Latin American law firm ECIIA in the Dominican Republic, El Salvador, Mexico, and Spain all expressed interest in having a virtual intern. E-mail from Gabriel DeJarden to William Johnson (May 19, 2020) (on file with author).

internship with a Latin American law firm. He received an offer of full-time employment early in 2021 from a large business law firm in the United States that, among other things, indicated it was impressed by his experience in Latin America.¹¹²

3. Professional Networking Opportunities

Another powerful aspect of the SLU LAW Summer Law Program in Madrid in recent years has been the opportunity to network with the international bar. SLU Law has hosted Continuing Legal Education (“CLE”) Programs on the Madrid Campus to persuade dual qualified lawyers to come to campus to earn CLE credit, and this has created opportunities for interaction among students, faculty members, and practicing lawyers. Before the pandemic, we visited one of two highly regarded business law firms in Madrid each summer beginning in 2015, hearing from and interacting with the firm’s practicing lawyers. In 2017, we started serving as a Cooperating Entity for the ABA International Law Section’s Europe Forum each summer, first in Barcelona, then in Copenhagen, and most recently in Oxford in 2019. Each summer, some of our students volunteer at the forum and are able to attend the forum’s events without having to pay the registration fee. The students have universally valued and enjoyed that experience.

We were not able to network in Madrid or elsewhere in Europe in 2020. On the other hand, the ABA International Law Section switched to virtual events, creating more accessible networking opportunities. I routinely encourage students to consider joining the Section and then joining several committees of the Section. I frequently meet individually with students to give them advice on how to maximize Section membership. We also make funding available to students to help cover the costs. Participating virtually in Section webinars or committee meetings is accessible to far more students than attending a Section Forum in Barcelona.

In addition, when the pandemic allows, we will offer in our law school building CLE programs with an international business law focus, followed by a networking reception. That by itself is not especially noteworthy. However, in this instance when we do that, presumably in 2021-2022 (pandemic permitting), we will do targeted outreach to the international bar in St. Louis, sharing some of our students’ disappointment, resilience, and transnational experience during the pandemic and explaining the distinctive, student-centered objectives of the CLE and networking reception. The reception that follows the CLE program will be structured to enable students, as well as faculty and staff members, to interact with distinguished members

¹¹² E-mail from Aaron Reynolds to William Johnson (Feb. 28, 2021) (on file with author).

of the international bar. Assuming it goes well, that is something we will keep to facilitate future professional transnational networking opportunities.

4. International Travel and the Study Abroad Experience

Finally, for some law students, it is not so much about the curriculum or getting summer experience or the networking. Instead, it is primarily a chance to go overseas and study abroad, and there is terrific value in such experience. Understanding the world is crucial today, and there is no substitute for in-country experience. For those reasons and others, I was utterly committed to ensuring that the SLU LAW Summer Law Program in Madrid took place in 2021—and it did.

The 2021 Madrid Program was not easy to make happen.¹¹³ There was uncertainty, from the beginning of planning and continuing through the start of the program, regarding the feasibility of running the Madrid Program. There were faculty members who were willing and eager to teach in the Madrid Program and were scheduled to do so, but travel restrictions caused first one and then another to withdraw. This eventually led to the implementation of “Plan B,” which was that I volunteered to take their place and teach a two-credit course in the program, serving as the acting program director on the ground in Madrid in the process.

Of course, some students (and in some cases the students’ loved ones) were nervous about traveling during a pandemic. We shared as much information as we could, engaged with the personnel on the Madrid Campus to share with the students a first-hand account of the situation in Madrid, and kept a close eye on travel restrictions and guidance. We also gave the students agency to make the best decision for themselves, with no pressure to participate if a student was feeling apprehensive, and we lost some students along the way. Even with all these difficulties, however, we were able to offer the Madrid Program in 2021, for which the students expressed gratitude simply because they were able to travel to Spain, study international and comparative law, and obtain an introduction to transnational law practice, despite the pandemic.

¹¹³ At the time of the start of the 2021 Madrid Program, Spain was not yet open to tourists and had only a limited list of exceptions that allowed entry (one of which was to be a student enrolled in a course or program in Spain). In addition, a negative COVID-19 polymerase chain reaction (“PCR”) test within seventy-two hours of entry was required to enter Spain, irrespective of vaccination status. An online health questionnaire, with questions about travel details, COVID-19 symptoms, and the like, was also required to be completed within a window prior to entry. Once completed, the website or app, as applicable, generated a QR Code required for entry into Spain. Because flights from the United States to Europe were still quite limited at the start of the 2021 Madrid Program, many flight itineraries involved points of initial entry in cities outside Spain—in my case, Frankfurt, Germany, for example—and the entry requirements of the relevant country of original entry also needed to be satisfied.

We also organized international internships for students who wanted that experience. In the second half of the summer, students interned in business law firms in both Barcelona and Madrid in Spain, as well as Santo Domingo, Dominican Republic, and Mexico City, Mexico. That, too, was quite difficult to accomplish in a pandemic, but willing law firms made it possible.

V. CONSIDERING EQUITY IN INTERNATIONAL OPPORTUNITIES AND BEYOND

Inequity of all types, including race, gender, economic status, and digital divide, existed prior to the COVID-19 pandemic.¹¹⁴ The pandemic exacerbated those inequities; and the public health crisis of racial injustice in America added its own distinctive set of burdens and trauma for Black law students and for other law students of color.¹¹⁵ It is not reasonable to expect law students to navigate the ordinary challenges and pressures of law school, while also navigating both a pandemic that disproportionately affects Black and brown folks, and the trauma of having to relive the murder of George Floyd through the trial of Derek Chauvin, yet that is precisely what the legal education industry seemed to expect Black students to do in the spring 2021 semester.¹¹⁶

Inequity adversely affects access to international opportunities as well.¹¹⁷ It is more difficult for economically disadvantaged law students to afford the costs associated with traveling internationally.¹¹⁸ That has a disproportionate effect on students who are members of historically underrepresented groups.¹¹⁹ In my experience, students who have obligations they cannot leave—jobs, eldercare or childcare responsibilities, military service, and other hard obligations—simply cannot pursue international opportunities in the same way that students with the privilege of the absence of such obligations can. Moreover, it may be difficult for a law student to

¹¹⁴ Meera E. Deo, *Investigating Pandemic Effects on Legal Academia*, 89 *FORDHAM L. REV.* 2467 (2021); *20 Facts About U.S. Inequality that Everyone Should Know*, *STAN. CTR. ON POVERTY AND EQUAL.* (2011), <https://inequality.stanford.edu/publications/20-facts-about-us-inequality-every-one-should-know>.

¹¹⁵ Deo, *supra* note 114; Zia Qureshi, *Tackling the inequality pandemic: Is there a cure?* *BROOKINGS INST.* (Nov. 17, 2020), <https://www.brookings.edu/research/tackling-the-inequality-pandemic-is-there-a-cure/>.

¹¹⁶ Taled El-Sabawi & Madison Fields, *The Discounted Labor of BIPOC Students & Faculty*, 12 *CAL. L. REV. ONLINE* 17, 20 (2021).

¹¹⁷ Giorgio Marinoni & Hans de Wit, *Is Internationalism Creating Inequality in Higher Education?* *UNIV. WORLD NEWS* (Jan. 11, 2019), <https://www.universityworldnews.com/post.php?story=20190109100925536>.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

imagine being an international business lawyer, if the student has never seen an international lawyer who looks like the student. Representation matters.

None of this is earth-shattering. It is often overlooked, however. While I was aware of and deeply troubled by these inequities before the pandemic and was committed to doing whatever I could to address the inequities, this past year has sharpened my own focus.

So, what can we do about these inequities? Once our eyes are opened to inequity, whether with respect to access to international opportunities or otherwise, how can we ignore it or fail to work tirelessly to do something about it?

This year at SLU Law, in addition to the action items I announced by open letter on June 23, 2020,¹²⁰ we are establishing a fund to make scholarship assistance available to students who pursue unpaid or low-paid internships outside the United States, to defray the costs associated with pursuing such an opportunity, so that such opportunities are not available only to the wealthy. We are working with the local practice community to connect lawyers of color pursuing a broad range of practice areas with students of color interested in those practice areas. We have established three new scholarships to support, respectively, students who diversify the student body, students who have demonstrated need, and students who matriculate out of a pipeline program, and we are actively prioritizing those new scholarship funds in our fundraising efforts.¹²¹ Going forward, we will remain committed to offering a mix of opportunities that include actual international travel and opportunities that do not, either because they are virtual, or because they occur in the law school building. And we will continue to make financial resources available to provide students interested in transnational law and practice the opportunity to work as faculty fellows for faculty members teaching or conducting research in a related area.

VI. CONCLUSION

This has been a difficult year, and we have struggled at times. Creating opportunities for students to obtain international education and experience in the midst of a pandemic was challenging. Still, it was important to try to create meaningful opportunities. In the process, we innovated, and we learned some valuable things. A reception with the international practice bar in St. Louis is likely to be a recurring event. The expanded faculty fellow program was worth every penny of the additional funding made available to make it happen. Virtual internships with firms outside the United States,

¹²⁰ William P. Johnson, *A Message from Dean Johnson on Racial Injustice*, ST. LOUIS UNIV. SCH. OF L. (June 23, 2020), <https://www.slu.edu/law/about/dean-johnson-message-june-2020.php>.

¹²¹ *Scholarships*, ST. LOUIS UNIV. SCH. OF L., <https://www.slu.edu/law/student-services/financial/scholarships/index.php> (last visited Sept. 24, 2021).

while certainly not equivalent to an in-person experience, are nevertheless better than no experience and are also likely here to stay. Supplementing in-person visits by international scholars with supplemental online visits will expand opportunities and put less of a strain on limited financial resources.

This past year has also heightened awareness of inequity and provided an opportunity, and really a duty, to do more to proactively address inequity, both with respect to international opportunities and more broadly as well. We have seen quite starkly the inequities created by economic disadvantage as well as the technology divide, and that has led to fundraising initiatives to create funds to close that gap. We continue to see the harsh reality of racial injustice and inequity, and that has led to renewed resolve and commitment of resources.

It has been a year that has increased our awareness of the value of getting on a plane and crossing an ocean, while forcing us to find meaningful alternatives when that is simply not possible. We have also seen this year that far more students were able to take advantage of international educational opportunities at home than would ordinarily be able to travel overseas, which was an important reminder of the barriers some students face when considering international opportunities that they would desperately like to pursue but are unable to do so. Now that international travel has returned, it is critically important to remember those inequitable barriers. A commitment to equity requires that we remember.

Lawyers and law professors are often traditionalists, taking the view that we must continue to teach and operate in the same way that we have for decades. This year has exposed our collective self-deception that the law school experience must be a certain way. It turns out that we were wrong about that as an industry. This newfound knowledge is invaluable if we have the will to remember it and to use it.

Transnational law is ubiquitous. Law schools have an obligation to prepare their students for a transnational practice environment. Inequity with respect to access to international opportunities and otherwise disproportionately affects students of color and other students who are members of underrepresented groups. We therefore must seek mightily to address racial inequity and other forms of inequity highlighted by this pandemic, in the context of international education and international opportunities, and across the board. Justice demands it. And we can do it. As I look back at the difficult challenges of this past year, I am hopeful, for I have seen what is possible, and I know that meaningful and positive change can continue.

If only we're brave enough to see it, If only we're brave enough to be it.¹²²

¹²² AMANDA GORMAN, *THE HILL WE CLIMB, AN INAUGURAL POEM FOR THE COUNTRY* 29 (2021).

