

CROSSING BORDERS TO CREATE VALUE:  
INTEGRATING INTERNATIONAL LL.M.'S INTO A  
TRANSACTIONAL CLINIC

by  
*Deborah Burand\**

INTRODUCTION .....	442
I. ITC'S FOCUS: CLIENT AND TRANSACTIONAL .....	443
II. THE UNIVERSITY OF MICHIGAN LAW SCHOOL: INTEGRATING FOREIGN LAW STUDENTS FROM THE VERY START .....	446
III. CHALLENGES TO INTEGRATING LL.M.'S INTO A TRANSACTIONAL CLINIC .....	448
A. <i>Student Practice Rules</i> .....	448
B. <i>Bar Admission Rules and Their Impact on LL.M.'s</i> .....	449
C. <i>Lessons Learned from Teaching LL.M. Students in a Clinic</i> .....	455
1. <i>Challenges of English as a Second Language: Writing Is Not           the Same as Talking, and Talking Is Not the Same as           Listening</i> .....	456
2. <i>Learning Styles Are Both Personal and Cultural: Establish           Clear and Explicit Expectations for Behavior and           Conventions in the Classroom and Clinic</i> .....	456
3. <i>Embrace the "Expertise" of LL.M. Students: But Don't Let           Them Practice the Law of Their Home Country in the Clinic</i> ..	457
IV. NOT JUST A CLINIC: BUILDING A COMMUNITY THAT CROSSES BORDERS.....	458
A. <i>Case Study</i> .....	459
B. <i>Next Steps</i> .....	460
CONCLUSION .....	460

*"American legal education cannot afford to waste the incredible resource of the international LL.M. students in its midst . . . ."*—Former Indiana Supreme Court Justice Frank Sullivan, Jr.<sup>1</sup>

---

\* Deborah Burand is a Clinical Assistant Professor at the University of Michigan Law School where she is the founding director of the International Transactions Clinic ("ITC") that was launched in 2008. The author would like to thank colleagues at the University of Michigan Law School—in particular, Assistant Dean for International Affairs Roopal Shah and Clinical Professor of Law Suellen Scarnecchia—for their helpful comments on an earlier draft of this Article. All errors, of course, remain the author's own.

“. . . [I]f law schools want students to learn in a more internationally diverse environment, they must affirmatively structure the law school experience to encourage that interaction.”—2011 Law School Survey of Student Engagement<sup>2</sup>

## INTRODUCTION

As the above quotes suggest, there is a growing awareness that American legal education is enhanced by the inclusion and integration of international LL.M. students into the student body of U.S.-based law schools; however, more thought needs to be given as to how law schools might foster interaction between J.D. students and LL.M. students so as to reap the value of this international diversity. As a clinical professor, it saddens me to admit that one of the places where J.D. and LL.M. interaction currently appears most unlikely to occur in the U.S. law school experience is in a clinical setting.<sup>3</sup> This missed learning opportunity does not have to continue. Clinical programs can be structured to create value for both law students and clients through the integration of foreign-trained lawyers into clinical work.

This Article reviews the experience of the International Transactions Clinic (the ITC) at the University of Michigan Law School (the Law School) in involving both international LL.M. students and LL.M. graduates in its clinic-supported transactions.

It explains how international LL.M. students have advanced the learning taking place within the ITC and improved the ITC's ability to provide world-class legal service to its clients. It also identifies some of the challenges of integrating LL.M. students into an experiential learning opportunity like the ITC. In doing so, it examines how student practice rules and bar admission rules for foreign-trained students are likely to impact other U.S.-based transactional clinics that consider reaching out to enroll international LL.M. students. Finally, it describes how the ITC also has enlisted LL.M. graduates to act as local counsel on some of the clinic's deal work, and provides a brief case study to illustrate the benefits of integrating LL.M. graduates into a U.S.-based transactional clinic that works globally.

---

<sup>1</sup> Frank Sullivan, Jr., *International LL.M. Students: A Great Resource for U.S. Law Schools*, 22 *IND. INT'L & COMP. L. REV.* 219, 236 (2012) (reviewing GEORGE E. EDWARDS, LL.M. ROADMAP: AN INTERNATIONAL STUDENT'S GUIDE TO U.S. LAW SCHOOL PROGRAMS (2011)).

<sup>2</sup> LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, 2011 ANNUAL SURVEY RESULTS: NAVIGATING LAW SCHOOL: PATHS IN LEGAL EDUCATION 14 (2011).

<sup>3</sup> *Id.* As part of the 2011 Law School Survey of Student Engagement, 7,501 J.D. students at 22 law schools were asked about their awareness and interaction with international graduate law students enrolled in their law schools. This survey found that J.D. students and international graduate law students have very limited interaction even though enrolled in the same law school, and that this lack of interaction is “particularly pronounced in clinical courses.”

## I. ITC'S FOCUS: CLIENT AND TRANSACTIONAL

When the ITC was launched in September 2008, it was the first law clinic of its kind.<sup>4</sup> Today, the ITC, with its exclusive focus on cross-border transactions, is still relatively unique among law clinic offerings<sup>5</sup> as it pursues a mission of crossing borders to create unique value for its students, its clients, the University of Michigan, and the legal profession at large.<sup>6</sup> In short, the ITC aims to do good by doing deals—globally.<sup>7</sup>

---

<sup>4</sup> *International Transactions Clinic: About the ITC: Doing Good by Doing Deals—Globally*, MICH. L. (2015) [hereinafter *About the ITC*], <http://www.law.umich.edu/clinical/internationaltransactionclinic/Pages/default.aspx>.

<sup>5</sup> Since the launch of the ITC, other U.S. law schools have considered establishing international business and transactions clinics that, like the ITC, focus exclusively on cross-border business dealings. In the fall of 2015, New York University Law School will be the second law school in the United States to launch an international transactions clinic. See CLINICS, NYU LAW SCHOOL, <http://www.law.nyu.edu/academics/clinics/year>.

See generally Susan R. Jones & Jacqueline Lainez, *Enriching the Law School Curriculum: The Rise of Transactional Legal Clinics in U.S. Law Schools*, 43 WASH. U. J.L. & POL'Y 85, 93, 100 (2013) (there are now more than 140 transactional clinics at over 200 ABA-approved law schools in the United States; however, these clinics focus on small business/entrepreneurship (62) and community economic development (39)). At least two other of these clinics, at Georgetown and George Washington, are supporting transactions or clients that are international, but this is not the clinics' exclusive focus. See Deborah Burand et al., *Clinical Collaborations: Going Global to Advance Social Entrepreneurship*, 20 INT'L J. CLINICAL LEGAL EDUC. 499, 503 (2014) (describing a tripartite collaboration of transactional law clinics at Michigan, Georgetown, and George Washington to serve a common client and its global fellows).

<sup>6</sup> As part of a five-year strategic planning exercise conducted in the summer of 2013, the ITC adopted the following vision and mission statements: "Vision[:] In keeping with the University of Michigan Law School's long-standing tradition of serving as a global leader in law, the ITC leads the way in teaching a new generation of talented, international lawyers how to apply their transactional legal knowledge and skills to change the world for the better. . . . Mission[:] The ITC is an interdisciplinary, educational experience focusing on live, international transactions where law students provide world-class, pro bono, legal services to clients that are intent on making the world a better place through innovative business models, products and services. The ITC is more than a clinic; it also is a community. The ITC crosses borders to create unique value for its students, clients, the University of Michigan, and the legal profession at large." DEBORAH BURAND & SUELLYN SCARNECCHIA, *DRAWING ON THE WISDOM OF ALICE IN WONDERLAND: CREATING A STRATEGIC PLAN FOR YOUR CLINIC 11–12* (Nov. 2013), available at <http://www.sthomas.edu/media/interprofessionalcenter/DrawingontheWisdomofAliceinWonderland-BurandScarnecchia.pdf>. In pursuit of this vision and mission, the ITC has framed its primary learning goals as follows: "The ITC concentrates on teaching students skills that are critically important to their professional development as they enter into practice areas that involve international transactions. . . . [S]tudents learn drafting and negotiation skills as applied to cross-border transactions, analyze ethical issues that can arise in international business, build skills at structuring and documenting investments in enterprises that primarily work in emerging markets, and deepen their understanding of international economic and financial policy.

By design, the ITC has a diverse clientele. Some ITC clients are organized as for-profit organizations; some are organized as not-for-profit organizations; and still others are organized as hybrids.<sup>8</sup> Some clients are start-ups; others are well-established enterprises. Some are part of the private sector; others are part of the public sector.<sup>9</sup> Some identify themselves as impact investors; others call themselves social enterprises.<sup>10</sup> Some clients are incorporated in the United States; others are based outside the United States. What the ITC's clients all hold in common, however, is a passion for making the world a better place through innovative business models, products, and services.

This client passion mirrors that of many of the students enrolled in the ITC, too. In large part, this is due to a changing demographic, namely a growing number of the Law School's student enrollment includes "millennials"—that is, people born in 1983 or later. A recent global study of 7,800 millennials found that those who fall within this generation want to "leave their mark on the world by working for organizations that benefit society, encourage innovation, and provide them the opportunity to expand their skills."<sup>11</sup> According to this survey, many millennials believe that "the success of a business should be measured in terms of more than just its financial performance, with a focus on improving society among the most important things it should seek to achieve."<sup>12</sup> As a transactional clinic that specializes in representing clients that are intent on bringing

---

They also learn how to give legal advice and support to clients that work in challenging business and legal environments." *About the ITC*, *supra* note 4.

<sup>7</sup> This is the ITC's tag line—"Doing Good by Doing Deals—Globally." *About the ITC*, *supra* note 4.

<sup>8</sup> By hybrids, I am referring to organizational and legal structures that include closely affiliated for-profit and not-for-profit entities acting together in furtherance of mutual goals.

<sup>9</sup> The International Finance Corporation, part of the World Bank Group, is a founding client of the clinic, as it started with the ITC in 2008. In 2014, the Inter-American Development Bank, a regional development bank, became a client of the clinic too. See MICH. LAW, INTERNATIONAL TRANSACTIONS CLINIC: FIVE YEARS OF DOING GOOD BY DOING DEALS—GLOBALLY: 2008–2013, available at [https://www.law.umich.edu/clinical/internationaltransactionclinic/celebration/Documents/REPORT%20\(2\).pdf](https://www.law.umich.edu/clinical/internationaltransactionclinic/celebration/Documents/REPORT%20(2).pdf) (providing illustrative client lists for each of the ITC's first five years of operation).

<sup>10</sup> Investments made in social enterprises that intentionally seek to generate both financial and social returns and that are measuring their progress toward those multiple bottomline returns often are called "impact investments." More than two-thirds of current impact investments are taking place outside of the United States, most of which are in emerging markets. See generally YASEMIN SALTUK, GLOBAL IMPACT INVESTING NETWORK & J.P. MORGAN, SPOTLIGHT ON THE MARKET: THE IMPACT INVESTOR SURVEY 6, 12–13 (May 2, 2014), available at <http://www.thegiin.org/binary-data/2014MarketSpotlight.PDF>.

<sup>11</sup> DELOITTE, BIG DEMANDS AND HIGH EXPECTATIONS: THE DELOITTE MILLENNIAL SURVEY 9 (Jan. 2014), available at [http://www2.deloitte.com/content/dam/Deloitte/global/Documents/About-Deloitte/2014\\_MillennialSurvey\\_ExecutiveSummary\\_FINAL.pdf](http://www2.deloitte.com/content/dam/Deloitte/global/Documents/About-Deloitte/2014_MillennialSurvey_ExecutiveSummary_FINAL.pdf).

<sup>12</sup> *Id.* at 3.

business solutions to world problems, the ITC offers law students an opportunity to hone their transactional legal skills on cross-border deals while representing clients that are seeking social as well as financial returns.

Most of the cross-border transactions supported by the ITC take place in emerging markets, often in countries with uncertain business, legal, and regulatory regimes. While this can add a layer of additional complexity to the ITC's work, this emerging-market focus also allows students to explore how to navigate legal uncertainty on behalf of their clients. For example, as often happens in the ITC, when the deal documentation of a transaction is governed in all or in part by the law of the foreign jurisdiction where the investment is taking place, students in the ITC are pushed to learn what it means to work as "international counsel" on a transaction and how to engage effectively with local counsel. As a result, faculty of the ITC spends a good deal of time coaching students on how to communicate not only with clients whose nationalities and cultures may differ from their own, but also with local-counsel counterparts to a deal.

Learning how to work effectively alongside local counsel is an important skill for any deal lawyer who works on transactions that cross jurisdictional boundaries. And when these jurisdictional boundaries are international in nature, this skill only grows in importance and value. On the other hand, helping law students to develop an understanding of how lawyers from different cultures and different legal systems approach deal making can present a challenge, particularly for students who themselves are still growing their own transactional-lawyering skills.

One way that the ITC has determined to respond to this challenge is to seek national and cultural diversity among the students enrolled in the ITC. By building student teams that include students from diverse national, ethnic, and cultural backgrounds, the ITC attempts to stimulate frank conversations among students about how to work effectively with people that have backgrounds different from their own.

The ITC then determined to go one step further and to embed foreign-trained lawyers into the very work of the clinic. The ITC did not have to look far to find an interested and interesting cohort of foreign-trained lawyers eager to participate in an experiential learning opportunity. The Law School's LL.M. program was a natural starting point for finding foreign-trained lawyers to enroll in the ITC. Accordingly, the ITC enrolled its first LL.M. student during its inaugural year, 2008–2009. This academic year, 2014–2015, the ITC is enrolling its eighth LL.M. student.<sup>13</sup>

---

<sup>13</sup> To put these numbers in context, the ITC has enrolled approximately 100 students during its first seven years of operation, in addition to advanced students who return to work in the ITC for a third semester. So, the LL.M. student enrollment in the ITC is proportionately a small fraction (around 8%) of the total number of students that have enrolled in the ITC to date. The ITC is a two-semester clinic that offers its enrolled students four credits each semester for a total of eight credits for

## II. THE UNIVERSITY OF MICHIGAN LAW SCHOOL: INTEGRATING FOREIGN LAW STUDENTS FROM THE VERY START

The decision to permit LL.M. candidates to participate in the ITC is very much in keeping with a long and rich tradition of involving foreign-trained law students into the life of the Law School. Foreign students have been attracted to the Law School throughout its history, starting with the very first class of law students that enrolled in 1859 to 1860.<sup>14</sup>

Today at Michigan, there are slightly more than 40 students, coming from 19 countries, enrolled in the Law School's LL.M. degree program.<sup>15</sup> Drawing on the country diversity that marks the Law School's LL.M. degree program, the ITC has enrolled LL.M. students from Brazil, China, France, Ghana, India, and Kazakhstan.

The contributions that these international LL.M. students have made to the ITC reflects the experience of the Law School more generally. As former Dean Stason observed more than sixty years ago:

These [foreign] students make a unique and interesting contribution to the life of the School. By intermingling with American stu-

---

the full academic year. In its first year of operations, the ITC allowed an LL.M. student to enroll for both terms, just as the J.D. students were required to do. Now, the ITC opens enrollment to LL.M. students only in the second semester (the winter term) of each academic year, thereby allowing the LL.M.'s to enroll for just for four credits. See *infra* notes 38–39 and accompanying text discussing New York bar admission rules as they pertain to foreign-trained lawyers and the four-credit limit on clinical learning experiences in qualifying LL.M. programs.

<sup>14</sup> See ELIZABETH GASPARD BROWN WITH WILLIAM WIRT BLUME, LEGAL EDUCATION AT MICHIGAN: 1859–1959, at 250 (1959) (one Canadian was included in the first class of 90 students that enrolled in 1859). The Law School's first LL.M.'s graduated in 1890. In total, during the nearly 125 years of its LL.M. program, over 1,600 students have graduated from the Law School with LL.M. degrees. E-mail from Dora-Maria Sonderhoff, Assistant Director, Advanced Legal Studies Degree Programs (MCL, LL.M., and SJD), to Deborah Burand (Oct. 8, 2014) (on file with author). It should be noted, however, that this number of LL.M. graduates does not represent the actual number of foreign-educated students that have attended the Law School since its inception. First, some of the Law School's LL.M. graduates are not from foreign countries. Second, some foreign students that attended the Law School opted to pursue a J.D. degree, not a LL.M. And third, some foreign students that attended the Law School neither sought nor received any degree at all. BROWN WITH BLUME, *supra*, at 255–60.

<sup>15</sup> Of the 43 students that enrolled in the Law School's LL.M. program in the fall of 2014, 36 are participating in the general LL.M. program, and seven are participating in an international tax LL.M. program. Additionally, two students are pursuing LL.M.–S.J.D. (Doctor of the Science of Law) degrees, four are pursuing S.J.D. degrees, and two are studying in a non-degree program. (E-mail from Roopal Shah, Assistant Dean for International Affairs, to Deborah Burand (Aug. 27, 2014) (on file with author). Students participating in the Law School's LL.M. degree program are expected to complete 24 credits with at least a 2.7 ("B-") average in two terms (eight months of study). See *The Master of Laws (LL.M.)*, MICH. L. (2015), <http://www.law.umich.edu/prospectivestudents/graduate/degreeprograms/Pages/masterlaws.aspx>.

dents, they broaden the horizons of those who are being trained primarily for the practice law in this country. In consultation with members of the faculty, they teach us much concerning legal institutions in various other parts of the civilized world. Returning to their own countries, they carry with them a knowledge of the institutions of this country and of the laws under which we live, thus promoting international understanding and good will . . . .<sup>16</sup>

What former Dean Stason observed in the Law School's classrooms more than six decades ago holds just as true today, albeit in a transactional clinic setting. Namely, the international LL.M. students that have enrolled in the ITC have made (and continue to make) an important and valuable contribution to the life of the ITC—to the learning that takes inside of the ITC, to the services the ITC provides to its clients, and, hopefully, to the LL.M.'s countries of origin when they return home.<sup>17</sup>

The rewards generated by these J.D.–LL.M. student collaborations have not been lost on the students themselves—neither J.D. candidates nor LL.M. candidates.<sup>18</sup> As one J.D.–M.B.A. candidate (degrees expected 2015) noted last spring:

It is great to work with [LL.M.'s in the clinic] and learn from them and see how they approach legal issues, sometimes from a different reference point or in a different way. . . . Bringing those two aspects together, the LL.M.'s and the clients, is a really good way to teach cross-cultural understanding and brings a lot of value to the Law School and to the clinic.<sup>19</sup>

And, as a recent LL.M. graduate (Class of 2014) also observed, the J.D.–LL.M. relationships that start in the ITC may last long beyond this clinical experience:

---

<sup>16</sup> BROWN WITH BLUME, *supra* note 14, at 256.

<sup>17</sup> Many LL.M. students, as a general matter, end up leaving the United States, even if they had different expectations when they first enrolled in LL.M. programs in the United States. See Carole Silver, "States Side Story: Career Paths of International LL.M. Students, or 'I Like to be in America,'" 80 *FORDHAM L. REV.* 2383, 2391–96, and 2403 (2012) (Silver analyzes the growing number of foreign law students enrolling in U.S. law schools and charts the career paths of those foreign law students pursuing LL.M. degrees in the United States. She found, after surveying LL.M. students who graduated in 1996, 1998, and 2000 from eleven U.S. law schools, that just over 18 percent of the 360 LL.M. graduates responding to her survey were living in the United States in late 2003/early 2004. Of those staying in the United States, substantially more were native English-speaking students whose countries of origin had common law legal systems.).

<sup>18</sup> This is in stark contrast to the isolation and marginalization that can sometimes occur in internationally focused LL.M. programs. See *infra* note 21 (discussing the limited engagement that J.D. students may have with international graduate law students). See also Sullivan, *supra* note 1, at 230 (observing that LL.M. students may find themselves "isolated" from and even, at times, "marginalized" by their J.D. peers).

<sup>19</sup> Interview with Perry Teicher, 2013–2014 ITC, J.D. student (Spring 2014).

The advantage of having LL.M.'s in an experiential course like the ITC clinic is that it is increasingly a global world and almost every transaction [has] a cross-border angle to it. For the J.D.'s, it is an important opportunity to learn alongside and develop a sensitivity to the cross-border aspects of the transaction and to develop an awareness and also a network . . . so when you reach out to do a transaction you are not starting from scratch. You have a point of contact [in that foreign jurisdiction] . . . and that is an invaluable resource.<sup>20</sup>

### III. CHALLENGES TO INTEGRATING LL.M.'S INTO A TRANSACTIONAL CLINIC

So, if engaging LL.M.'s in the work of a transactional clinic can bring so much value to the clinical educational experience for students as well as to the clients being served by the clinic, why don't more clinics do it?<sup>21</sup> There are multiple barriers (some real and others merely perceived) that may be holding clinics back. I will address two here: 1) the state rules that regulate the practice of law by students; and 2) the new bar admission rules of New York, which require applicants to satisfy a 50-hour pro bono commitment before sitting for the New York bar, yet limit the number of "clinical" credits that a foreign-trained lawyer can take when enrolled in an ABA-approved law school's LL.M. degree program. Then I will discuss three key lessons learned by the ITC as it has integrated LL.M. students into its work.

#### A. *Student Practice Rules*

A threshold question for any clinic—transactional or otherwise—that is considering expanding its enrollment to international LL.M. students is whether the state where this clinic is located permits such students to practice law in that jurisdiction. While that may seem like an easy question to answer, in reality the student practice rules adopted by states are rarely so clear, particularly if the law clinic is engaged in a transactional practice. In Michigan, the ITC faces a situation not uncommon to other jurisdictions.<sup>22</sup> Namely, as Professor Paul Tremblay has noted:

---

<sup>20</sup> Interview with Poonam Khaira Sidhu, 2013–2014 ITC, LL.M. student (Spring 2014).

<sup>21</sup> Of J.D. students that reported being enrolled in at least one class that also was attended by international graduate law students, only 3% identified clinics as the place of that classroom engagement. LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, 2011 ANNUAL SURVEY RESULTS: NAVIGATING LAW SCHOOL: PATHS IN LEGAL EDUCATION 14 (2011).

<sup>22</sup> Many of the current student practice rules are aimed at a litigation-oriented student practice. And those rules, which often require some amount of prior legal education at an ABA-approved law school prior to permitting a student to represent a client before a state court or administrative body, may make it difficult, if not impossible, for LL.M. students in one year programs to qualify under the student practice rule. On the other hand, some law schools offer a wide range of clinical



[T]he student-practice rules of nearly all states are silent about students' practice in transactional settings. Without a student-practice rule in place, students who wish to represent clients in a transactional clinic are effectively nonlawyers, practicing, in effect, under the law license of the supervising attorney.<sup>23</sup>

Accordingly, students working in the ITC, be they J.D. candidates or LL.M. candidates, are working under the same constraints that apply to non-lawyers working in a law firm, perhaps as a summer associate or prior to sitting for the bar, for example. Consequently, LL.M. students enrolled in a transactional clinic in Michigan face the same constraints, but also the same opportunities, as their J.D. counterparts do.<sup>24</sup>

### B. Bar Admission Rules and Their Impact on LL.M.'s

In 2013, nearly 6,000 people educated at law schools outside of the United States sat for a bar examination in the United States.<sup>25</sup> Or to put it

courses to their foreign LL.M. students either because the student practice rules are less restrictive in their particular jurisdictions or their range of clinic offerings extend far beyond a litigation-oriented practices.

<sup>23</sup> Jones & Lainez, *supra* note 5, at 116 (quoting Paul R. Tremblay, *Shadow Lawyering: Nonlawyer Practice Within Law Firms*, 85 IND. L.J. 653, 658 (2010)) (emphasis added).

<sup>24</sup> MICH. CT. R. 8.120(A) ("Law students and recent law graduates, under supervision by a member of the state bar, may staff public and nonprofit defender offices, and legal aid clinics that are organized under a city or county bar association or an accredited law school or for the primary purpose of providing free legal services to indigent persons.") The rules then describe eligibility requirements for students engaged in providing this representation. MICH. CT. R. 8.120(C) ("[A] student in a law school approved by the American Bar Association who has received a passing grade in law school courses and has completed the first year is eligible to participate [in a legal-aid clinic, defender office, or certain legal training programs] if the student meets the academic and moral standards established by the dean of that school.") While the Michigan Court Rules do not define what constitutes completion of the "first year," this requirement effectively prevents foreign-trained students enrolled in one-year LL.M. programs from participating, at least on the same basis as their J.D. counterparts, in any litigation-oriented law clinics that represent indigent clients before Michigan courts or administrative bodies. Contrast the California "Student Practice Rule." Only "certified law students" are permitted, among other things, to "[n]egotiate for and on behalf of the client subject to final approval thereof by the supervising attorney or give legal advice to the client." CAL. CT. R. 9.42. To be eligible to receive an effective certification of registration from the California State Bar, the student must meet all three of the following requirements: "(1) Have successfully completed *one full year of studies (minimum of 270 hours)* at a law school accredited by the American Bar Association or the State Bar of California, or both, or have passed the first year law students' examination; (2) Have been accepted into, and *be enrolled in, the second, third, or fourth year of law school* in good academic standing or have graduated from law school, subject to the time period limitations specified in the rules adopted by the Board of Governors of the State Bar; and (3) Have either successfully completed or be currently enrolled in and attending academic courses in evidence and civil procedure." *Id.* at 9.42(C) (emphasis added).

<sup>25</sup> 2013 Statistics, B. EXAMINER, Mar. 2014, at 6, 11 (of those 5,928 foreign-trained students who sat for a bar examination in 2013, 1,866 passed (31%)).

differently, people with a foreign legal education accounted for approximately 7% of all those who sat for a bar examination in the United States in 2013.<sup>26</sup> Accordingly, another set of rules, namely, the state bar admission rules, also are likely to impact the number of international LL.M.'s seeking a clinical experience during their LL.M. programs.<sup>27</sup>

State bar admission rules are promulgated by each state's highest court.<sup>28</sup> In recent years, some state courts have begun flexing this rule-making authority—most notably in New York, which has made several changes in recent years to its bar admission requirements.

New York tests approximately 20% of all candidates taking a bar examination in the United States each year;<sup>29</sup> and New York tests more foreign-educated candidates than any other state in the country.<sup>30</sup> New York dominates the foreign-educated candidate pool for bar admission because of its “prominence in international finance and trade and, as a result, admission to the New York bar is a highly sought credential in international legal circles.”<sup>31</sup> This means that recent changes to New York's

---

<sup>26</sup> *Id.* at 9, 11 (approximately 84,000 people sat for a bar examination in 2013, of which nearly 6,000 were educated at a law school located outside of the United States).

<sup>27</sup> Currently, just over thirty U.S. jurisdictions permit people educated in law schools outside of the United States to become members of the bar. *See* NAT'L CONFERENCE OF BAR EXAMINERS & ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, *COMPREHENSIVE GUIDE TO BAR ADMISSION REQUIREMENTS 2015*, at 12–13 (2015), *available at* [http://www.ncbex.org/assets/media\\_files/Comp-Guide/CompGuide.pdf](http://www.ncbex.org/assets/media_files/Comp-Guide/CompGuide.pdf) (U.S. jurisdictions include 29 states; Washington, DC; Palau; and the Virgin Islands). California, Georgia, New York, Virginia, and Wisconsin allow LL.M. graduates from qualifying LL.M. programs to sit for their bar examinations. *Id.* at 12–13. And other states allow foreign-trained lawyers to sit for the bar if these lawyers can demonstrate experience in legal practice in their country of origin and have completed a specified amount of classes at an ABA-accredited law school. *See*, for example, bar admission rules of Alabama, Massachusetts, Missouri, Pennsylvania, Utah and West Virginia. *Id.* at 13–15.

<sup>28</sup> *Id.* at 1 (Alaska, California, Maryland, Massachusetts, Michigan, Mississippi, Virginia, and Wyoming share bar admission rule-making authority with their state legislatures).

<sup>29</sup> ADVISORY COMM. ON N.Y. STATE PRO BONO BAR ADM. REQ., *REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK AND THE PRESIDING JUSTICES OF THE FOUR APPELLATE DIVISION DEPARTMENTS 4* (Sept. 2012) [hereinafter *PRO BONO REPORT*], *available at* <http://www.nycourts.gov/attorneys/probono/ProBonoBarAdmissionReport.pdf>.

<sup>30</sup> *2013 Statistics*, *supra* note 25, at 10–11. In 2013, New York tested approximately 78% of all foreign-educated candidates who took a bar examination in the United States. New York and California, together, accounted for 93% of the foreign-educated candidates who sat for a bar examination in the United States in 2013. 911 candidates that studied at law schools outside the United States sat for the California bar examination, and 4,602 foreign-educated candidates sat for the New York bar examination. Of these foreign-educated candidates, New York had a 35% pass rate, while California had a 17% pass rate. *Id.*

<sup>31</sup> *PRO BONO REPORT*, *supra* note 29, at 4.

bar admission rules are likely to have a significant impact on international LL.M.'s that are seeking to be admitted to a bar in the United States.

Section 520 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors-at-Law ("New York Court Rules") provides the eligibility requirements for an applicant to take the New York bar examination and apply for admission to the New York State Bar.<sup>32</sup> Section 520.6 of the New York Court Rules specifically addresses the requirements for foreign-educated applicants to take the New York State bar.<sup>33</sup> In sum, most foreign-educated applicants must meet four eligibility requirements to sit for the New York State bar examination. The applicant must hold: 1) a qualifying degree,<sup>34</sup> 2) from an accredited foreign law school or schools,<sup>35</sup> 3) that required a period of law study substantially equivalent in duration to ABA-approved law schools in the United States,<sup>36</sup> and 4) that takes place in a foreign country where jurisprudence is based upon the principles of English common law, and the foreign law study completed by the applicant must be substantially equivalent to the legal education provided by ABA-approved law schools in the United States.<sup>37</sup>

The effect of this fourth eligibility requirement is to favor applicants from common law jurisdictions over those from civil law jurisdictions. Put differently, applicants from common law jurisdictions who face either a durational or substantive deficiency (but not both) in their prior foreign legal education can cure this deficiency by engaging in additional legal studies at ABA-approved law schools in the United States. In contrast, *all* applicants from civil law jurisdictions must engage in additional legal studies at ABA-approved law schools in the United States before they can sit for the New York bar. Some will do so by pursuing J.D. degrees at law schools in the United States; others will obtain a qualifying LL.M. degree at an ABA-approved law school in the United States.<sup>38</sup>

For an LL.M. degree program to "cure" either a durational or substantive deficiency in the foreign applicant's prior legal studies outside

---

<sup>32</sup> Each eligibility requirement includes some form of classroom study. N.Y. COMP. CODES R. & REGS. tit. 22, § 520.3 (graduate from an ABA-approved law school in the United States); *id.* § 520.4 (combined study at an ABA-approved law school and law office); *id.* § 520.5 (graduation from a law school in the United States that is *not* ABA-approved but also practice in an American jurisdiction (other than New York) for at least five years); *id.* § 520.6 (completion of a law school program outside the United States that is "substantially equivalent" in duration and substance to an approved law school in the United States, or if not equivalent, successful completion of an additional law program at an approved law school in the United States).

<sup>33</sup> On April 27, 2011, the New York Court of Appeals amended § 520.6(b). *Foreign Legal Education*, N.Y. STATE BOARD OF L. EXAMINERS, <http://www.nybarexam.org/Foreign/LegalEducation.htm>.

<sup>34</sup> N.Y. COMP. CODES R. & REGS. tit. 22, § 520.6(b)(1).

<sup>35</sup> *Id.* § 520.6(b)(1).

<sup>36</sup> *Id.* § 520.6(b)(1)(i)(a).

<sup>37</sup> *Id.* § 520.6(b)(1)(i)(b).

<sup>38</sup> *Id.* § 520.6(b)(2).

the United States, the LL.M. degree program must meet certain curriculum requirements specified by New York. Among these is a limit on the number of credits that can be taken in a clinical course. More specifically, the LL.M. degree program may include up to four credits in a clinical course so long as 1) the clinical course has a classroom component, 2) clinical coursework is performed under the direct supervision of a member of the law school faculty, and 3) the educational benefit is commensurate with the credit hours awarded.<sup>39</sup> Four credits just so happens, by happy accident, to be the exact amount of credits that the ITC offers its LL.M. students, but other transactional clinics may need to make significant adjustments to allow LL.M. students to enroll for so relatively few credits.

One might assume that this New York-imposed limitation on the number of clinical credits available to LL.M. students would significantly dampen their interest in enrolling in a clinic; but another new bar admission rule in New York actually may increase the demand for clinical experiences by LL.M. students planning to sit for the New York bar. Namely, New York is the first jurisdiction in the United States to require completion of a pro bono commitment as a prerequisite for admission to the bar. This new pro bono requirement appears to be motivated by admirable concerns over the extent to which underprivileged populations have access to justice.<sup>40</sup> To that end, New York now requires all applicants desiring be admitted to the New York State bar examination after January 1, 2015, first to complete 50 hours of qualifying pro bono work.<sup>41</sup>

An Advisory Committee was appointed by Honorable Chief Judge Jonathan Lippman on May 22, 2012, to provide recommendations on the scope and nature of this pro bono initiative.<sup>42</sup> This Advisory Committee

---

<sup>39</sup> *Id.* § 520.6(b)(3)(vii).

<sup>40</sup> PRO BONO REPORT, *supra* note 29, at 1. On May 1, 2012, the Honorable Jonathan Lippman, Chief Judge of the State of New York, announced that prospective attorneys in New York soon would be required to perform 50 hours of qualifying pro bono work in order to apply for admission to the New York State bar. *Id.* According to the report, this pro bono requirement is intended to address a crisis in access to justice. “More and more people are navigating the complexities of the court system, in New York and around the country, without the assistance of an attorney. In New York State alone, millions of such litigants appear in court annually, many of them fighting for the essentials of life—housing, family matters, access to health care and education, and subsistence income. Providers of free legal services for low-income New Yorkers are turning away eligible clients because of lack of resources, having no choice but to leave them to fend for themselves.” *Id.* Another goal of this new pro bono requirement is to help “prospective attorneys build valuable skills and imbue[] in them the ideal of working toward the greater good.” *Id.* (citing Chief Judge Lippman’s observation that pro bono ideals ought to be instilled at “the start, when one first aspires to be a member of the [legal] profession.”).

<sup>41</sup> N.Y. COMP. CODES R. & REGS. tit. 22, § 520.16.

<sup>42</sup> PRO BONO REPORT, *supra* note 29, at 2.

appears to have considered closely the impact of the new pro bono rule on LL.M. candidates and, relatedly, the pro bono rule's enforceability.<sup>43</sup>

When defining what constitutes qualifying pro bono work for purposes of the 50 hour pro bono requirement, the Advisory Committee deliberated as to whether time spent in law-school-sponsored clinical programs should count toward this pro bono requirement and concluded that:

Some of the finest programs with intense supervision that provide legal training in the public interest are the clinical programs operated by law schools. Participation in such programs should be encouraged. *Moreover, were we to disallow enrollment in qualifying clinical programs, we would be significantly reducing the supply of opportunities available to law students to satisfy this requirement.*<sup>44</sup>

This recommendation was welcome news to all qualifying clinics, and also to clinics like the ITC that have a significant number of qualifying pro bono clients. Unfortunately, however, the supply of clinical opportunities available to international LL.M. students is more limited than those available to students pursuing J.D. degrees. And the number of clinics meeting the four credit ceiling imposed by New York Court Rule 520.6 is more limited still. As a result, LL.M. students who are interested in apply-

---

<sup>43</sup> Among other things, the Advisory Committee considered whether applicants should be allowed to defer meeting this 50 hour pro bono requirement until after the first or second year of practice. Noting the number of applicants to sit for the New York Bar that are from foreign jurisdictions, the Advisory Committee concluded that a deferral option should *not* be permitted. In reaching this conclusion, it reasoned that: "A considerable number of candidates who take the New York bar examination, particularly those from foreign jurisdictions, are interested in acquiring New York admission solely as a credential—they do not intend to practice in New York. But there is no way of distinguishing between those candidates who intend to practice in New York from those who have no plans of returning to New York after securing admission. Hence, the adoption of a deferral option would result in an undetermined number of applicants for admission claiming that they will fulfill the pro bono requirements during the deferral period, but New York will not be able to enforce the rule if these individuals move to other states or return to home countries." *Id.* at 9. The Advisory Committee also considered the adverse impact on LL.M. candidates of imposing this 50-hour pro bono requirement after their LL.M. degree program had already started. The Committee observed that by the time its report was issued (September 2012), complying with the pro bono rule would be a challenge for law students entering their third year of study and for one-year LL.M. candidates that had already started their programs, and so recommended that this pro bono rule commence with the law school graduation classes of 2014. *Id.* at 7. The Advisory Committee even considered the question of whether qualifying pro bono work can be conducted outside of the United States. After concluding that "[i]t would be inequitable to impose a more lenient, or more stringent, requirement on these [foreign] candidates for admission to the bar", the Committee recommended that qualifying pro bono work may occur in other states and even in other countries (although the Affidavit of Compliance for pro bono requirement should provide more detail on circumstances where work is performed outside the United States). *Id.* at 8.

<sup>44</sup> *Id.* at 7 (emphasis added).

ing for admission to the New York State bar must satisfy the 50 hour pro bono requirement; yet, they are at risk of disqualifying their LL.M. degree program if they try to satisfy this pro bono requirement by enrolling in a U.S. law school clinical program that offers them more than four clinical credits.

So, what is at stake here? Most four-credit clinics easily can generate the requisite 50 pro bono hours for students, even with the inclusion of a classroom component.<sup>45</sup> Therefore, the real issue is whether more clinics are willing to open their enrollment to international LL.M.'s and also accommodate this four-credit limitation. If they are not, then international LL.M. graduates that plan to apply for admission to the New York State bar may find it challenging to secure the requisite amount of pro bono hours during their legal studies in the United States—unless they volunteer for a significant amount of activities organized by their law schools that qualify as “pro bono” work under the New York pro bono rule.<sup>46</sup> More likely, foreign-educated candidates that are planning to acquire an LL.M. degree from an ABA-approved law school in the United States be-

---

<sup>45</sup> In the ITC, which offers students four credits a term, it is not unusual for students to generate over 100 hours of client service in a term. On average, students spend 12 to 16 hours a week in the clinic—some of which is devoted to classroom work and the rest to client work. See *Frequently Asked Questions and Online Resources: FAQs About the ITC*, MICH. L. (2015), <http://www.law.umich.edu/clinical/internationaltransactionclinic/Pages/FAQs.aspx>.

<sup>46</sup> Many law schools encourage students now to commit to a pro bono pledge or public service commitment. At Michigan, this is a commitment to perform 50 hours or more of “qualifying” pro bono work, for example. But it should be noted that not all pro bono work that is counted by law schools with respect to students’ public service commitments also will qualify for the New York pro bono requirement. One key difference is that for purposes of qualifying for the New York pro bono rule, the pro bono work must be supervised *directly* by a lawyer admitted to practice in the jurisdiction where the work is performed. So, work that is *indirectly* supervised by an attorney (as is sometimes the case in law school pro bono projects) would not count. Similarly, New York will not count work that is provided to a client at a substantially reduced rate. See, for example, the University of Michigan Law School’s definition of qualifying pro bono work for purposes of its “pro bono pledge” (to qualify for the Michigan pro bono pledge, students’ work must be: law related; supervised or approved by an attorney; provided to the client free of charge or at a substantially reduced rate; not for credit and uncompensated; at least 10 of the 50 hours must be completed while classes are in session; and provided to underrepresented persons, interests, or communities on behalf of a nonprofit or government organization approved by the Pro Bono Program). *FAQ for Students*, MICH. L. (2015), <http://www.law.umich.edu/careers/probono/Pages/probonofaqstudents.aspx>. See also the approaches taken by Columbia Law School and Northwestern Law School where they highlight for students differences between what counts as qualifying pro bono work at their law schools for purposes of fulfilling public service commitments versus what New York counts as qualifying pro bono work to sit for the New York bar. *Social Justice Initiatives: 50 Hour Pro Bono Requirement for the New York State Bar*, COLUM. L. SCH. (2015), <http://web.law.columbia.edu/social-justice/students/pro-bono/50-hour-pro-bono-requirement-new-york-state-bar>; *Pro Bono Requirement for New York Bar*, NORTHWESTERN. L. (2015), <http://www.law.northwestern.edu/law-school-life/publicservice/bar/>.

fore applying for admission to the New York State bar will cobble together a variety of qualifying pro bono activities before, during, and after their LL.M. courses of study.<sup>47</sup>

### C. *Lessons Learned from Teaching LL.M. Students in a Clinic*

Another brake on the number of clinics that actually enroll international LL.M. students may come from clinical faculty or law school administrators. Some may believe that the challenges of integrating international LL.M. students into an experiential learning environment are likely to outweigh the benefits of these foreign students' participation in a clinic. Furthermore, others may worry that the enrollment of a significant number of LL.M. students into their clinics, particularly if there is the risk of crowding out J.D. candidates from clinical offerings, opens their school up to criticisms from the American Bar Association that could affect accreditation.<sup>48</sup>

While concerns about crowding out J.D. students can be assuaged by limiting the number of LL.M. students enrolled in a clinic in any given term, it may be harder to change perceptions about the challenges of integrating international LL.M. students into a clinic. But are LL.M. students harder to teach in an experiential learning setting than J.D. students? The ITC experience suggests that the answer to this question is mixed. Yet, the rewards that come from including LL.M. students into the student mix makes those challenges well worth it.

International LL.M. students come from all walks of life, with differing legal training, and with differing amounts of work and life experience. The very diversity that makes their contributions in a clinic so rich can also be a stumbling block to their full and meaningful integration into the life of a clinic. Pre-planning, however, can help ease LL.M. students into clinic work and may even head off the most challenging issues. Here are three lessons gleaned from the ITC's experience to date in enrolling international LL.M. students.

---

<sup>47</sup> See *New York State Bar Admission: Pro Bono Requirement FAQs*, NYCOURTS.GOV 7 (Sept. 17, 2014), <http://www.nycourts.gov/attorneys/probono/FAQsBarAdmission.pdf> (foreign-educated candidates can begin engaging in 50 hours of qualifying pro bono work *one year before starting their LL.M. course of study*). On the other hand, J.D. candidates at ABA-approved law schools cannot begin qualifying pro bono work until they have commenced their legal studies. *Id.* at 8.

<sup>48</sup> ABA accreditation is limited to J.D. degree programs and does not extend to LL.M. degree programs. However, the ABA reviews LL.M. degree programs (and other non-J.D. programs) to determine whether offering non-J.D. programs would have an adverse impact on the law school's ability to maintain its J.D. program accreditation. See ABA STANDARDS & RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2014–2015, at 23 (2014), *available at* [http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2014\\_2015\\_aba\\_standards\\_chapter3.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2014_2015_aba_standards_chapter3.authcheckdam.pdf).

1. *Challenges of English as a Second Language: Writing Is Not the Same as Talking, and Talking Is Not the Same as Listening.*

In the ITC, LL.M. candidates are required, like their J.D. counterparts, to draft a written expression of interest as part of their clinic application. A lesson, learned in the early years of the ITC, however, is that an international LL.M. student's written proficiency in English may mask language-comprehension challenges that only surface later in courses like clinics where students spend much of their time listening to and talking with each other, their clients, and their supervisors. And, to make matters still more challenging for some international LL.M. students, English may not be the native language of the ITC's clients. So, when the client is speaking in English, it may be heavily accented. This can make it even more difficult for an international LL.M. to understand his or her clients.<sup>49</sup> So now all LL.M. students seeking to enroll in the ITC are also personally interviewed, prior to enrollment, so that their verbal comprehension skills are considered before they gain admittance to the clinic. This interview also allows the clinic director to talk with the LL.M. students directly about this challenge, and to give LL.M. students an opportunity to determine their own personal comfort levels about engaging in an experiential learning experience that is very "talk intensive."

Furthermore, linguistic differences can shape client representation and client engagement in ways that may not be obvious. Professor Julie M. Spanbauer, in her article *Lost in Translation in the Law School Classroom: Assessing Required Coursework in LL.M. Programs for International Students*, provides a thoughtful and thought-provoking discussion of just how profoundly language differences can shape an international LL.M. student's experience of U.S. legal studies.<sup>50</sup> She describes, among other things, the link of culture to language and the ways that language can influence thought and the thought process.<sup>51</sup>

2. *Learning Styles Are Both Personal and Cultural: Establish Clear and Explicit Expectations for Behavior and Conventions in the Classroom and Clinic*

The ITC asks its students to identify their preferred learning styles early in the academic term and to convey those personal learning styles

---

<sup>49</sup> Another challenge to be on the watch for is biases of clients. While this issue is certainly not limited to international LL.M. students, faculty members of the ITC have observed several instances over the years when a student who speaks English with a strong accent, such as Chinese, has received less respect and deference from his or her client than those students speaking English with an American or British accent—even when the client also speaks English with an accent that is not American or British.

<sup>50</sup> Julie M. Spanbauer, *Lost in Translation in the Law School Classroom: Assessing Required Coursework in LL.M. Programs for International Students*, 35 INT'L J. LEGAL INFO. 396, 417–19 (2007).

<sup>51</sup> *Id.* at 414–19. For example, she points out that the structure of the English language follows an "actor-action-result" model. This causality focus is not present in some other languages, such as Japanese. *Id.* at 417–18.



to their teammates and supervisors. One reason for stimulating conversations about personal learning styles is to help students identify how they learn best so that they then can give cues to others on their teams as to what approach to learning fits them. Because the clinic experience offers students many opportunities to “learn by doing,” students also are encouraged to strategize about how to adopt a “doing” learning style as quickly as possible with respect to their transaction matters.

Learning strategies and styles are also cultural, and often reflect prior educational systems. Accordingly, it can be quite a shock for some international LL.M. students to be immersed in a clinical setting where the learning environment is quite unlike any of their prior classroom experiences. Being explicit about the clinic’s conventions and describing students’ expected behaviors early on can help to ease this transition for LL.M. students.

Professor Spanbauer again offers important insights. She notes that “[r]egardless of how knowledgeable nonnative [English] speakers may be about discipline-specific content areas, they may not be able to effectively communicate that knowledge, either in speaking or writing, because of their lack of familiarity with more general communicative patterns in U.S. academic and work environments.”<sup>52</sup> She goes on to add that many students for whom English is a second language find the American classroom to be a particularly unfamiliar environment.<sup>53</sup>

Furthermore, classroom conventions that an American might take for granted can be quite unusual for a foreign-educated student. And a law clinic setting with its focus on experiential learning can be even more unusual still. Several of the ITC’s LL.M. students have struggled with the informality and familiarity that often mark faculty-student relations in a clinical setting. Even simple matters, such as the appropriate way to address an instructor or faculty member, can be surprising and possibly disconcerting to an international LL.M. student. For example, it is not unusual in the ITC for some LL.M. students to insist on referring to a clinical professor by title, rather than on a first name basis as is the norm among J.D. students in the clinic.

### 3. *Embrace the “Expertise” of LL.M. Students: But Don’t Let Them Practice the Law of Their Home Country in the Clinic*

International LL.M. students are technically expert in the law of their home country. This expertise can be extremely useful in a clinical setting, up to a point. So, for example, the ITC has asked its international LL.M. students to display their foreign legal expertise by making formal presentations to J.D. classmates on subjects such as how lawyers trained in

---

<sup>52</sup> *Id.* at 419 (quoting Philippa J. Benson & Peggy Heidish, *The ESL Technical Expert: Writing Practices and Classroom Practices*, in *ACADEMIC WRITING IN A SECOND LANGUAGE* 313, 315 (Diane Belcher & George Braine eds., 1995)).

<sup>53</sup> *Id.* at 419–20 (citing Benson & Heidish, *supra* note 52, at 325)).

civil law jurisprudence approach legal issues differently or draft differently from their common law counterparts.

The ITC also has benefitted from having LL.M. students talk with their J.D. classmates about more nuanced cultural differences that may shape client or local counsel relations. These topics can range from a discussion of differing perspectives on work and life priorities to different understandings of what it means to be “on time.” Conversations about the varying professional rules of conduct and ethics required of attorneys in different countries are also topics that typically offer a rich vein of discussion in a clinic populated by students with legal training from other countries.

Through trial and error, the ITC has learned that extra thought also needs to be given when assigning transaction matters to its LL.M. students. Accordingly, it is now an ITC policy *not* to assign LL.M. students to transactions taking place in their countries of origin. While this policy may sound counterintuitive and even a waste of the particular insights and technical expertise offered by international LL.M. students, the ITC has found that it can be hard for a clinic client to understand the LL.M. student’s role if the LL.M. student is from the country where the client’s transaction is taking place. Some clients, in spite of numerous reminders that the clinic’s legal advice is limited to that of U.S. law, may misunderstand and assume that they are receiving local legal advice from the clinic. And, in at least one case, the ITC was in the uncomfortable position of receiving legal advice from local counsel that was at odds with the views of the LL.M. student assigned to that transaction.

In sum, the ITC is still learning how to integrate international LL.M. students fully into its work. Each year brings new issues to be considered or challenges to be overcome like the ones described above. Yet, it is these very issues and challenges that have led to some of the most significant learnings of the ITC faculty and students.

#### IV. NOT JUST A CLINIC: BUILDING A COMMUNITY THAT CROSSES BORDERS

Not every transactional clinic can or should engage international LL.M. students in its work for all of the reasons identified above. There is still another way to integrate foreign-trained lawyers into the work of a transactional clinic as the ITC learned last year. Students in the ITC often are reminded that when they enrolled in this clinical learning experience, they also joined a community. This is a community that includes the students that came before them and those that will follow. It is a community that counts among its members current and former clients as well as a cadre of dedicated and talented adjunct faculty who return to

teach in the clinic on a pro bono basis term after term.<sup>54</sup> Most recently, this ITC community took one giant step forward in crossing borders to include LL.M. graduates of the Law School in the ITC's work.

In the fall of 2013, two LL.M. graduates of the Law School, one from India and one from Mexico, approached the ITC and offered to act as pro bono local counsel on ITC transactions in their respective jurisdictions. These generous offers of time and talent allowed the ITC to provide its clients working in India and Mexico with top quality international and local legal support. Additionally, this use of LL.M. graduates helped train the ITC's students in how to work efficiently and effectively with local counsel as demonstrated in the below brief case study.

### A. Case Study

"Innovation can be anywhere," according to Ross Baird, founder and Executive Director of Village Capital, an impact-investing hybrid organization that specializes in funding seed-stage enterprises.<sup>55</sup> In this case, innovation came in the form of the legal support that was provided to Village Capital, a client of the ITC.

In the fall of 2013, Village Capital asked the ITC to help it understand better the legal landscapes of countries where Village Capital planned to invest. ITC students created a checklist of legal issues to discuss with local counsel before Village Capital enters a new market. Then the students collaborated with a Mexican graduate of the Law School's LL.M. program to give this local-counsel checklist a trial run. Using this checklist as an outline, the LL.M. graduate, together with colleagues from his law firm, advised Village Capital on how Mexican laws and regulations would likely impact Village Capital's investments in Mexican seed-stage enterprises. Working side by side with Mexican counsel provided ITC students with a chance to develop skills at engaging effectively with local counsel while, at the same time, providing valuable legal insights to Village Capital. As one J.D. student (Class of 2014) who worked on this transaction matter observed:

---

<sup>54</sup> The ITC has benefited enormously from the contributions of adjunct clinical assistant professors that are volunteering their time to supervise ITC transaction matters. Six of these adjuncts are alumni of the Law School.

<sup>55</sup> Ross Baird, Case Narrative, *Village Capital's Peer Selection Model: Empowering Entrepreneurs and Investors to Create Value Together*, INNOVATIONS: TECH., GOVERNANCE, GLOBALIZATION, no. 3/4, 2013 at 55. Village Capital is organized as a non-profit organization in the United States. In late 2013, Baird began to restructure Village Capital so as to create VilCap Global Fund, an affiliated investment vehicle that is organized as a limited partnership. *Id.* at 69. Village Capital enlists peer entrepreneurs to conduct the due diligence that underpins its investment decisions in mission-driven entrepreneurs around the world. Using this model of "peer-allocated capital," Village Capital has invested in over 45 seed-stage enterprises since its launch in 2010. *Village Capital Portfolio*, VILLAGECAPITAL (2015), <http://www.vilcap.com/portfolio>.

It was fascinating to see [the LL.M. graduate's] perspective on what issues were most important. It is one thing to . . . talk about how things are different in one country from another abstractly. It is another thing to . . . get into the nuts and bolts and really think about what specific issues would be relevant when considering a loan deal or an equity investment. . . . I will be working with local counsel in my practice after I graduate. And this experience of working with local counsel in the clinic has prepared me well I think to work with local counsel in the future.<sup>56</sup>

### B. *Next Steps*

The success of these pilot collaborations with LL.M. graduates of the Law School are just the beginning. Going forward, the ITC plans to reach out and engage a growing number of LL.M. graduates in supporting transactions being worked on by the clinic for its globe-spanning clientele. And it seems quite possible that some day in the not-distant future, LL.M. students that once participated in the clinic as students may return to act as local counsel on ITC-supported transactions.

## CONCLUSION

To return to the wisdom of former Justice Sullivan, it is time for law schools to:

recognize that their international LL.M. students are a great resource for helping prepare their J.D. students for globalization. These inspiring men and women, already well-educated in their own countries, have put their own careers on hold and traveled to the U.S. for graduate training in law. They have much to teach us—and we have much to learn from them.<sup>57</sup>

To that end, this Article attempts to make the case that U.S.-based law schools should consider encouraging interaction between international LL.M. students and J.D. students in more clinical settings, particularly transactional clinics. Integrating international LL.M. students during their course of law studies in U.S.-based law schools into a transactional clinic can enrich the experience of J.D. students as well as the participating LL.M. students, and support the delivery of better legal services to internationally-focused clients. Moreover, as international LL.M. students interested in applying for admission to the New York State bar look for opportunities to engage in qualifying pro bono service, there is likely to be growing demand for law schools to provide pro bono service opportunities during LL.M. programs. Transactional clinics may offer one possible avenue for meeting that requirement; provided, of course, that the regulatory requirements of applicable student practice rules and bar admission rules can be satisfied.

---

<sup>56</sup> Interview with Jeffrey Edwards, 2013–2014 ITC student (Spring 2014).

<sup>57</sup> Sullivan, *supra* note 1, at 220.

But integrating LL.M. students into a transactional clinic is not the only way to engage foreign-trained lawyers in a clinical setting. International LL.M. graduates from U.S.-based law schools are another untapped source of legal talent that can advance the learning objectives of a transactional clinic while also providing clinic clients with valuable legal support.

The experience of the ITC to date suggests that advancing both tracks—by involving international LL.M. students and LL.M. graduates in clinic-supported transactions—can offer great value to a transactional clinic. To paraphrase the quote by former Justice Sullivan that introduced this Article, as legal educators in an increasingly globalized economy, we cannot afford to waste this incredible resource.