
Cracking the “Red, White, and Blue” Ceiling: Toward a New International Role for the Law and Society Association

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The idea that the study of law in society is a universal phenomenon and the dream that the Law and Society Association (LSA) could become a cosmopolitan institution embracing scholars from all over the world are hardly new. From the earliest days when we could all meet in Red Schwartz’s living room, to the Budapest and Vancouver meetings when we met in another country and attendance went well over 1,000, many in the field and in the Association have accepted this idea and followed this dream.

For those of this persuasion, Lynn Mather’s presidential address was welcome evidence that the dream is still alive. Yet at the same time it is a chilling reminder of the limited degree of internationalization that has occurred since some of us crowded into that living room in Buffalo. While she points proudly to several indicators of increased engagement of scholars from outside the United States in LSA activities, she also notes counter-trends and worries that some seemingly positive developments may contain ambivalent messages. For example, the creation of a special international award seems, at first blush, to be a positive move toward internationalization. But, as Mather points out, it could also be seen as acceptance of the idea that all other awards just naturally go to citizens of the United States of America, so that a special award has to be set aside for all the scholars from the rest of the world.

Is There a “Red, White, and Blue” Ceiling?

Although Mather does not come out and say it, one can read her address as recognizing that there is a “red, white, and blue” ceiling that limits the role of people from outside the United States in LSA, much as the famous “glass ceiling” limits the career

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Law & Society Review, Volume 37, Number 2 (2003)

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progress of women and minorities in many spheres. Thus, just as the Association’s major awards seem always to go to people from the United States, so do all the positions of leadership. How many presidents or other officers can you name who do not have a U.S. passport? How many annual program chairs or *Law & Society Review* editors can you think of who did not teach at institutions in the United States?

Surely, the increase of non-U.S. members between 1980 and today, from 15 to 26%, and the increasing number of meetings held outside the United States, shows real progress. Yet we should not take this as proof that we are becoming truly global or that there is a positive trend line we can project into the future. Given the rapid growth of sociolegal studies outside the United States in recent years, an 11% increase in non-U.S. membership in more than two decades is not that remarkable. And one would hardly say that LSA is truly international when three-quarters of the members still come from one country. This is especially true since absolute membership figures do not measure intensity of participation. If we had an index that measured service on the Board, membership on committees, participation in graduate student workshops, and attendance and teaching in summer institutes, as well as receipt of awards and appointment to leadership roles, we would find that the effective international presence falls far below the 25% level. Similarly, the decision to hold meetings outside the United States, in conjunction with institutions based in other countries, is a welcome trend. But when the Association meets outside the United States, does it develop real partnerships or are these meetings really American shows with limited foreign participation? From the first joint meeting with the Research Committee on the Sociology of Law in Amsterdam to the present, our foreign counterparts have worried about American domination at these events.

If, as Mather counsels, we need to take internationalization seriously, then we need better indicators of participation and a more nuanced understanding of the pressures and forces that may be creating the invisible “red, white, and blue” ceiling. But we do not need to wait for such work to know that if we want our field to be more universal and our association more cosmopolitan, then more needs to be done. So the first question is: Is this goal one we should all aspire to?

Is Internationalization of LSA Really Necessary or Desirable?

One could be a true “internationalist” and still not choose to follow the path Mather has laid out for us. Not everyone who

believes that law and society (or “sociolegal studies”) can and should be a universal field thinks that the internationalization of LSA is the best way to pursue that goal. There are, after all, alternative routes to build an international network of scholars who ask questions about law in society that are relevant throughout the world, who explore legal phenomena in comparative focus, and who deal with transnational as well as national arenas. Some who accept that vision might argue that the world would be better off if other countries (or regions) developed their own associations that might, someday, come together in a kind of sociolegal United Nations in which universal themes could be explored while national uniqueness is fully recognized. Some could fear that a robust effort to internationalize LSA will turn out to be just one more instance of U.S. hegemony, something like the dominance of Hollywood in the world cinema market.

The first issue to address is whether an international approach is important for the work that the largely U.S.-based people now in the Association are doing and plan to do. I believe it is, and the need is driven by strong intellectual forces. These include the value of comparative research, the expansion of transnational arenas, and the growing impact of international norms. Our field explores the history, meaning, and impact of legal norms and processes. Even if our work focuses on one country, it can always benefit from an understanding of similar norms and processes in others.

This has always been true. Take, for example, studies of legal pluralism in the United States. Law and society scholars have shown us how various forms of informal and alternative formal legal fields exist in this country alongside formal state law and have promoted alternative approaches to dispute processing; our experiences studying disputing and legal pluralism around the world have aided that work immensely. But the benefits of comparative knowledge grow as the ever more rapid spread of legal norms and ideas around the world leads to an increasing number of parallel experiences. Whose study of antidiscrimination law in the United States would not be enriched by some understanding of similar work being done today in the European Union (EU)? What investigation of the forces transforming family law in the United States would not benefit from comparative study? And with immigration on the increase in the United States, many of the issues and problems within our own national legal system can involve people from other cultures, requiring an understanding of the norms and practices from whence they came.

Further, today, more than ever, no nation is an island entirely unto itself. In addition to noting the utility of comparative knowledge for the study of domestic issues, we must recognize that the legal fields of all nations are increasingly affected by

international forces as the impact of ideas, actors, and norms from extranational sources on domestic law and processes grows every day. This is, of course, most dramatically seen in the 15 Member States of the EU, where national law is being transformed by regulations, directives, and decisions emanating from Brussels and the European Court of Justice. But it is also true in the United States and elsewhere, where environmentalists and consumer advocates fear that World Trade Organization rulings may be curtailing our ability to regulate products and protect the environment. And it is apparent in the increasing interchange of concepts and citations among constitutional courts from around the world.

Finally, today we witness a dramatic increase in the number and importance of transnational legal arenas and actors. The growing importance of international regimes to protect the environment, enforce human rights, impose rules on trade relations, and promote regional development, as well as the spread of transnational advocacy networks designed to influence these regimes, is creating a vital field of study we ignore at our peril but whose investigation requires collaboration with scholars in many parts of the world.

These developments, immanent to the work of many scholars in the United States, must willy-nilly force us to open our eyes to developments outside our borders and recognize the urgent need to work collaboratively with scholars based in other countries. In today's world, where issues are increasingly complex while possibilities for transnational collaboration grow by the day, a “go-it-alone,” nationally based approach makes no sense. Put bluntly, we can no longer do *our* jobs without close collaboration with scholars from all over the world.

What Role Should LSA Play Globally?

If scholars in the United States can no longer work effectively in splendid isolation, then that is also true for people everywhere. So there is a clear and urgent need for more venues and more effective methods for international exchange, dialogue, and collaboration. But the demonstration of such a need does not answer the questions Mather has raised: Given the need, is it the job of LSA to fill the gap? And if so, does that mean that LSA should become a truly international organization in which people from all over the world are represented and play roles of equal importance? What about all the other nationally based associations? What about the globally linked Research Committee on the Sociology of Law (RCSL) of the International Sociological Association and RCSL's

very successful offshoot, the International Institute for the Sociology of Law (IISL) in Onati, Spain? How do they fit into the architecture of sociolegal globalization?

Some could fear that vigorous efforts by LSA to fill the gap and increase its role as an international venue, clearinghouse, and support group could simply lead to a new form of U.S. academic hegemony. For them, Mather's clarion call should be resisted, not heeded. While I do not think such fears are groundless, in the end I agree with Mather's proposals for greater internationalization. They must, however, be developed in tandem with a major effort to work more closely and more effectively with other national groups and the RCSL.

While I do not think LSA should try to dominate the international world of sociolegal studies, I think it can and should play a leading role in the expansion of the field and the creation of more and better venues for communication and vehicles for collaboration. Such a task should be based on the construction of a network that ties together many institutions and associations, taking advantage of the relative strengths and capacities of each of them. LSA can make a substantial contribution to such a network. It is, after all, the largest, arguably the oldest, and unquestionably the best staffed and funded of the world's sociolegal studies associations. And whatever the limits of the international turn in LSA to date, we do have substantial participation from other countries and a tradition of working with other associations. If LSA cannot play some role in creating a truly universal approach to the subject and forming a global network to support sociolegal scholarship, who can?

Of course, if we decide that by virtue of the immanent needs of our discipline and our own work, as well as the responsibilities created by our history and our capacity, LSA should play a more active role in the global field of law and society, we will need to be sure that we are a more truly international institution. It would be a grave mistake to think that an unreconstructed LSA can aspire to play a role as a global leader. The Association's ability to play a leading role in the building of a global network will be hampered if there is, or is thought to be, a "red, white, and blue" ceiling. As long as that perception persists, we will neither be able to create wholly effective international venues and projects ourselves nor understand how to work with other entities in a global network.

At the same time as the Association should move down the path of deeper internationalization that Mather proposes, we need to improve our ability to work closely with other groups that play a role in the field internationally. It would be a serious error for LSA to act alone, ignoring other entities like the RCSL and the several nationally based, sociolegal associations. They are equally

important in the grand effort to create and maintain a working global network.

Therefore, if LSA is to respond to the challenge of the new world of sociolegal studies, it should pursue a two-pronged strategy in which it both deepens international participation in its own processes and strengthens its ties with other entities like the RCSL. The goal should not be to turn LSA into an all-embracing world organization but to have a more internationalized LSA that plays an important role in a global network of groups with common aims.

Are There Favorable Winds to Support Change?

The times are propitious for LSA to adopt just such a strategy. First, many trends exist in the United States and overseas that should facilitate both moves. In the United States, we have seen increased investment by U.S. universities in international studies and international exchanges. All major U.S. universities have realized the value of global contacts and are providing additional resources for exchanges, comparative study, and international programs. Law schools in the United States have recognized the importance of international and comparative legal studies and are creating new courses, special centers, and international exchanges. Elsewhere on U.S. campuses, interest in law among scholars in other fields such as area studies, global studies, and international relations has increased substantially: all scholars of European integration must understand the dramatic role played by the European Court of Justice; all students of development must grapple with the new-found importance of the “rule of law”; and all researchers in international relations must cope with the increasing “legalization” of many areas of international life. If we were to give more stress to the international and comparative aspects of our own work, we would find intellectual and material support from people in other fields on our own campuses and from their international partners.

Second, sociolegal studies are expanding rapidly in many countries. More and more courses are being offered, journals founded, faculty positions created, and research supported. Many of these developments are fragile, and we have seen some reversals, but the trend-line is clearly upward. The RCSL, although still relatively understaffed and underfunded, has made modest gains in recent years, and the IISL in Onati has become a major center for research, training, and exchange of ideas.

A third factor that should facilitate internationalization is the massive investments being made in law reform in transitional and developing countries. Development agencies from the World Bank to USAID have invested heavily in “rule of law” projects in Asia,

Africa, Latin America, and the former Soviet bloc. These investments, measured in the many billions of dollars, have drawn attention to the social, economic, and political role of legal institutions in these countries and enlisted sociolegal scholarship in assessment and program evaluation.

A fourth factor is the growing acceptance of English as the universal language of social science. As someone who has always believed that mastery of other languages is essential for good scholarship in social studies, I find this a mixed blessing. But it is an established fact, and it will make it easier to organize truly international intellectual events as more and more scholars from throughout the world learn to work in English.

Finally, institutional and technological innovations have occurred that could greatly facilitate international exchange and collaboration. We are all learning to use e-mail and the Web to overcome the barriers of space and time that have hampered transnational comparative and collaborative work in the past. These tools facilitate both scholarly interchange and organizational collaboration. Global research networks are emerging in many fields as scholars learn to use new technologies to further comparative or collaborative studies. Some funding agencies, including the European Commission, have started to channel research funding through such networks. International bodies such as the RCSL board are using e-mail to debate issues and make decisions, and some institutions have started using video conferencing to create virtual meetings and seminars.

What Is to Be Done?

While the winds are favorable, there is no point in having the wind at your back unless you know into what port you want to sail. For LSA to move ahead on the twin tracks of internal internationalization and deeper collaboration with other sociolegal institutions, it needs a clear and well-defined set of objectives. Such an action plan, to be effective, would have to emerge from collective deliberation by the membership and consultation with the RCSL and other sister organizations. It is my fervent hope that the incoming leadership of LSA, inspired by Mather's address, will begin such deliberation and institute such consultation. To aid that process, let me outline some major goals and guidelines that might be considered.

Further Internationalize U.S. Sociolegal Workplaces

Internationalization should begin at home, in the U.S. departments, schools, centers, and institutes where the great bulk

of LSA members do their work. These are the real support bases from which the ideas and studies showcased each year at LSA emerge. Change, if it is to come about, must start in these settings. We should ensure that our curricula reflect the international turn and that our institutions support comparative work and study of transnational arenas. We should encourage students to develop global competence through language and area study and overseas experiences. To that end, we need to build closer links between sociolegal centers and area and international studies programs on our own campuses, and strengthen our links to sociolegal centers overseas.

Give More Stress to Comparative, Transnational, and International Topics in LSA Programming

The Association should pay increased attention to topics that benefit from collaborative study and/or require transnational collaboration. By putting such topics in the foreground for meetings, plenaries, institutes, journal special issues, and other activities, LSA would build pressure for more international contacts and bring more people from around the world into its efforts. The Graduate Student Workshop might focus on comparative studies, and the *Law & Society Review* might solicit more aggressively overseas, make a special effort to publish studies of law in other societies and transnational arenas, and review books in other languages than English. A major part of such an approach should be to strengthen those collaborative research networks (CRNs) that are still in operation by giving them the resources they need to be truly international, while starting new ones that are committed to operating globally.

Deepen International Participation in LSA Activities at All Levels

The best way to do this is, as I have suggested, by having more plenaries, panels, institutes, special issues, and workshops that focus on international topics and require international participation. But in addition to these intellectual moves, we should make an effort to increase international participation on committees, in the nomination of candidates for office, and in consideration for awards. As we identify people to nominate for positions and honors, we should widen our search, consider work in other languages, and seek advice from a global constituency.

Help Create a Real Global Network of Sociolegal Scholars and Institutions

While LSA moves ahead on the track of internationalization, it should work with RCSL and other bodies to create a truly effective

global sociolegal network. No one body can embrace the complexity of this global field, but many working together can. Thus, the goal should be to create a network that combines the resources and special capacities of many groups and uses advanced technology to increase interchange.

One way this might be done would be to create a single series of topically defined working groups or CRNs. These are two names for the same idea: groups of scholars from several countries working together on issues of common concern such as the legal profession, cause lawyering, or workers' rights and international labor standards. The RCSL has always relied heavily on its topically defined working groups, and LSA has begun to support CRNs. Modern technology makes it possible to develop and sustain such networks in ways that would have been unimaginable before the Internet. But we do not need two competing networks for major topics.

So why can't LSA and the RCSL get together and agree jointly to support a series of working groups/CRNs on defined topics that would organize "streams" of events at annual meetings, hold special sessions at Onati and other venues, create virtual libraries of important material and working papers on the Web, and exchange ideas through e-mail? If we combined the resources of LSA with its excellent staff and Web site with the strengths of many RCSL working groups and the superb sociolegal library at Onati, and made those and other library resources available electronically, then we could mount a series of well-supported global networks.

We might set this plan for a network based around topical working groups as the goal for the next joint LSA-RCSL meeting, now several years off and a joint committee on working groups could implement it. The appointment of such a standing joint committee of the two major sociolegal associations would itself be a major step forward and could not only be a way to carry out the working group/CRN plan but could also explore other ways to strengthen this incipient global sociolegal network.

Conclusion

Mather's address demonstrated the need for change. My suggestions, meant simply to provide a starting point for deliberation and consultation, show that the new directions Mather has outlined can easily be translated into concrete measures. The time for speeches and articles is over; now is the time for action.

