

INTERNATIONAL LEGAL CAREERS: PATHS AND DIRECTIONS

James R. Maxeiner*

In his service at Syracuse Professor Herzog has not been just a scholar and teacher of international and comparative law, he has also been a guide to students as they launch out on their legal careers. He has been the source of important information for selection of courses, programs and jobs. It is not unusual for students to seek such help and most teachers gladly give it, despite difficulties sometimes occasioned by lack of current information.¹ In the international field, however, it is particularly important that teachers provide such information, since students are less likely to have personal sources of information than for domestic practice.

One might think that in this day of globalization, advising students on international career opportunities would be easy. After all, almost everyday one seems to read in the press exhortations to globalize one's career. The international law business is said to be "booming."² Headlines beckon: "Foreign language opens potential; Students hear how to beat competitors in the job market."³ There is a wide-spread perception, fanned by the popular press, "that employers favor students who have experience abroad."⁴ "For a Competitive Edge, Study in Europe."⁵ The legal press likewise trumpets the value of globalization: "A New Escalator—Global Law;"⁶ "Think Global and React Local; Globalization The

* J.D., LL.M., Dr. jur. (Munich). Adjunct Associate Professor of Law, Brooklyn Law School. The author is Vice President & Associate General Counsel of a U.S. multinational. He previously spent ten years in international private practice in New York City. He is a Director of the American Foreign Law Association.

1. See Arthur F. Greenbaum, *Putting Your J.D. to Work: Advice for Students Seeking Law Firm Employment*, 47 OHIO ST. L.J. 697 (1986).

2. John A. Barrett, Jr., *Recent Development: International Legal Education in the United States: Being Educated for Domestic Practice While Living in a Global Society*, 12 AM. U.J. INT'L L. & POL'Y 975 (1997).

3. Lorene Yue, *Foreign Language Opens Potential; Students Hear how to Beat Competitors in the Job Market*, KAN. CITY STAR, Jan. 31, 1996, at B3.

4. Karen W. Arenson, *At N.Y.U., a Global Strategy to Encourage Foreign Study and Travel*, N.Y. TIMES, Mar. 27, 1997, at B11.

5. Melissa Mathews, *Letter to the Editor*, N.Y. TIMES, Nov. 14, 1994.

6. *A New Escalator—Global Law*, METROPOLITAN CORP. COUNS., Oct. 1994, at 3.

Theme Of Conference;"⁷ that's "where the job opportunities are going to be".⁸

Contrary, however, to what one might expect, giving counsel to students who wish to pursue careers in international legal practice is not easy. As a teacher of international law, one wants to encourage one's students to follow their international interests. At the same time, however, one does not want to mislead students into pursuing illusory goals.⁹ Thus while giving information about international programs and opportunities is relatively easy, giving meaningful career advice is difficult and potentially frustrating.

It is common career advice to follow one's interests.¹⁰ The point of this brief contribution, however, is that one should distinguish one's commercial from one's intellectual interests. An intellectual interest in foreign and international law can be immensely rewarding. One should not, however, count on being able to combine that intellectual interest with one's commercial legal career. To be sure, one should try as hard as one can to combine the two, but one should be prepared to continue to develop one even as development of the other stalls. This contribution first advances the hypothesis that there is no acknowledged path to a career in international legal practice. It then considers the value of international credentials in general in the light of that hypothesis. Finally, it discusses certain education and employment decisions one must make early in one's career.

I. LACK OF ACKNOWLEDGED PATHS TO INTERNATIONAL LEGAL CAREERS

The hypothesis of this contribution is that there are few or no career paths for an international legal career in the United States. A career path is an acknowledged route for one to take to reach a particular career. While making one's career in the world is rarely easy, a career path

7. Lynn E. Pollan, *Think Global and React Local; Globalization The Theme Of Conference*, N.Y.L.J., May 12, 1997, at S1.

8. According to Dean Nicholas Cafardi of Duquesne University School of Law, *quoted in Hank Grezlak, Law Schools Diversify in Both Students and Curriculum; Applications Decline, Quality Improves*, PA. L. WKLY., Oct. 31, 1994, at 54 ("the profession will try to find opportunities in international law. Students today would be wise to think about those fields of law. More and more that's where the job opportunities are going to be.").

9. A recent report relates that "employment opportunities in international law haven't quite kept up with students' and law schools' heightened interest." Nathan Koppel, *Demand Expands International Curricula*, TEX. LAW., Nov. 24, 1997, at 18.

10. See, e.g., Dale Dauten, *What to do: pursue your interests*, ARIZ. BUS. GAZETTE, June 19, 1997, at 9 (Corporate Curmudgeon column of United Features Syndicate which appeared in a number of newspapers under different titles).

simplifies decisions along the way. One chooses the path required and then tries to do the best one can at what is required. For example, if one wishes to be a surgeon, one knows that one must go to medical school. To be accepted into medical school, one must have taken certain relevant courses and one must have done reasonably well in them. Once one is through medical school, one seeks the internship and residency required for practice as a surgeon. If there is no acknowledged career path, career decisions are more difficult. One can not be sure beforehand whether a particular activity or a particular subject of study will prove later to be a good investment. A teacher can scarcely give good career advice under such circumstances without having the soothsaying powers of the oracle at Delphi.

The hypothesis that there are few or no career paths to international legal careers may be novel, but it should not be surprising.¹¹ It is a consequence of developments observed years ago. Already in 1981 Detlev Vagts asked: "Are There No International Lawyers Anymore?"¹² Vagts asked whether domestic legal specialties such as tax, antitrust, litigation, have so divided up the realm of international practice as to have blurred the international law side of them so that there is no longer an intellectual common denominator.¹³ He queried, is "international law practice really is no different from any other . . . except that it has a foreign rather than a domestic focus"?¹⁴ He concluded "not that fractionation is desirable, but that it is happening."¹⁵

Existence of an intellectual common denominator would suggest that some experiences or knowledge are shared among lawyers in international practice. This common denominator might be developed through study of foreign languages and cultures, through participation in courses in international and comparative law, through interning with particular types of law firms and institutions, etc. If there is no intellectual common denominator, if international lawyers do not share a common understanding, then that implies that there is no acknowledged common career path.

There are a number of career guides for international legal careers that can help test the hypothesis. The American Bar Association, the

11. It may not even be entirely novel. Koppel, *supra* note 9, at 9, notes that "[n]ot only are international law jobs scarce, the roadmaps to these jobs are fuzzy."

12. Detlev F. Vagts, *Editorial Comment. Are There No International Lawyers Anymore?*, 75 AM. J. INT'L L. 134 (1981). Examination of the Vagts' thesis is a worthy subject for a subsequent contribution.

13. *Id.*

14. Pryor & Cvouric, *International Law Practice Thrives in Washington*, LEG. TIMES (Wash.), Aug. 11, 1980, at 32, cited after Vagts, *supra* note 12.

15. Vagts, *supra* note 12, at 136 n.5.

International Law Students Association and the American Society of International Law have all published such guides. That of the ABA has appeared in three editions, the first already in 1977.¹⁶ The *ASIL Guide* is the most recent.¹⁷

All five guides are similar in the audience they target. Each is principally concerned with Americans in law school or just out of law school who are aiming for international legal careers centered in the United States. Except for the *ILSA Guide*, all have little to say about international legal careers outside the U.S. That is a reasonable limitation which this contribution adopts as well. Conditions for international legal careers outside the United States are markedly different from those within. Indeed, it is important *not* to look at the career paths foreign colleagues take, since those paths may *not* be valid here. For example, most international lawyers in Germany have foreign law degrees;¹⁸ here hardly any do.

All five guides follow a common format for their basic texts: brief essays by international lawyers giving the authors' views on international legal practice.¹⁹ In the typical essay, the author describes how he or she became interested in international legal practice and how fulfilling he or she finds his or her present practice.

The very existence of international legal career guides suggests that there *is* a common denominator of international lawyerhood and that there is an international legal career path, or at least there are different international legal career paths. The editors of the *ASIL Guide* evidently did believe that there are international legal career paths, for they asked contributors "to sketch their own career paths in the thought that this might provide guidance to readers considering careers in international law."²⁰

16. In chronological order: AMERICAN BAR ASS'N, *Career Opportunities in International Law*, in A.B.A. GUIDE (Richard L. Abbott ed. 1977) [hereinafter ABA 1977 GUIDE]; AMERICAN BAR ASS'N, *Career Opportunities in International Law*, in A.B.A. GUIDE (John W. Williams ed. 1984) [hereinafter ABA 1984 GUIDE]; AMERICAN BAR ASS'N, *Career Opportunities in International Law*, in A.B.A. GUIDE (Mark W. Janis ed. 1993) [hereinafter ABA 1993 GUIDE].

17. Respectively, Jonathan C. Green et al., *Guide To Education and Career Development in International Law* (1991) [hereinafter ILSA GUIDE] and *The 1997 International Law Career Guide. A Guide to Career Paths and Internships in International Law* (1997) [hereinafter ASIL GUIDE].

18. See Wolfgang Wiegand, *The Reception of American Law in Europe*, 39 AM. J. COMP. L. 229 (1991) and Rolf Stürmer, *Die Rezeption U.S.-amerikanischen Rechts in der Bundesrepublik Deutschland*, in Festschrift für Kurt Rebmann 839 (1989).

19. They differ principally in the amount of additional directory-type information they provide.

20. Peter D. Ehrenhaft, *So You Want to be a Transnational Transactions Lawyer?*, in ASIL GUIDE, *supra* note 17, at 45.

If the format of the guides suggests a common career path, the information they report at best suggests not a single career path, but a multitude of paths. The guides are in agreement on the important point that there is no single career that constitutes an international legal career. The international legal careers that they describe are of many varied types: as a lawyer for the Department of State, as an academic teaching in the field, as a lawyer in transnational private practice, as a lawyer in practice inside a company, or as a lawyer for a public interest group, etc. Use of the anecdotal format of individual lawyers' telling their personal success stories encourages readers to read each individual contribution as a suitable model for a career path to a particular area of international legal practice.

Time seems to have confirmed that there is no common denominator for international legal careers. In the years since Vagts acknowledged a general trend towards "dispersion and functional specialization" in practice,²¹ that trend has only increased. Dissatisfaction with the profession is endemic and pervasive.²² Today Vagts wonders whether "the dynamics of internationalization, economies of scale and specialization [are] out of control" and have led to the "present competitive rat-race."²³

Ironically, globalization of U.S. legal practice is contributing to the passing away of a common denominator. Everyone today, it seems, is going global. A recent Chair of the ABA's International Law and Practice Section, observed the change:

There was a time when international law and practice was an esoteric area of the profession. It was said that international practitioners were erstwhile stamp collectors or frustrated diplomats.²⁴

To whatever extent this was true, it is no longer. . . . In the 21st century, the average U.S. lawyer will be called upon to navigate interna-

21. Vagts, *supra* note 12, at 134.

22. See, e.g., SOL M. LINOWITZ, *THE BETRAYED PROFESSION: LAWYERING AT THE END OF THE TWENTIETH CENTURY* (1994); MARY ANN GLENDON, *A NATION UNDER LAWYERS: HOW THE CRISIS IN THE LEGAL PROFESSION IS TRANSFORMING AMERICAN SOCIETY* (1994).

23. *Bär and Karrer: Connecting Two Legal Systems*, *THE INTERNATIONAL PRACTICE OF LAW* 247, 248 (Nedim Vogt et al. eds. 1997). Vagts notes this may only be nostalgia.

24. Lucinda A. Low, *Virtually All Areas of Law Profession Face Globalization*, *NAT'L L.J.*, Aug. 5, 1996, at C9. In the interest of complete disclosure, the author confesses that his first contact with international law was in the 1960s in high school in connection with his collection of stamps of the former Free City of Danzig. Danzig's problems of international law, including in matters postal, accounted for a substantial portion of the docket of the Permanent Court of International Justice! See *Publications de la cour permanente des justice internationale, Series C: Acts and Documents Relating to Judgments and Advisory Opinions Given by the Court. No. 8: Polish Postal Service in Danzig* (1925). See also, *INTERNATIONAL LAW: CASES AND MATERIALS*, (LOUIS Henkin et al. eds., 3d ed 1993).

tional legal terrain. Every lawyer will be, to some extent, an international lawyer.²⁵

But if every lawyer is to some extent an international lawyer, does that mean that no one is?²⁶ Can there then still be an intellectual common denominator that includes being international as well as merely being a lawyer? Perhaps it is no coincidence that today legal education seems to be drawing that lesson. There are proposals to radically restructure the old academic common denominator of international practice, namely course offerings in public international law and comparative law.²⁷ Teachers of the subjects have called for "incorporation of international legal problems into domestic law courses,"²⁸ and for making comparative law into "part and parcel of other courses."²⁹ At least one of the proponents realizes that the result would be that "comparative law as an autonomous subject would cease to exist."³⁰

Had the guides taken a less anecdotal and more systematic approach, they might have concluded what many contributors actually imply: that there are few or no recognizable career paths for international legal careers. They might have stated explicitly that the important issues of hiring and career advancement are likely to be determined by institutional factors, such as clients, sponsors and expertises, that only incidentally, if at all, have an international component. They could have informed readers that in the United States, domestic needs often drive all other considerations and that international components, if considered at all, are usually secondary or even tertiary. Indeed, a number of contributors recognize that serendipity is often the most important factor in an international legal career.³¹

25. *Id.* See David G. Gill, *Corporate Counsel*, ASIL GUIDE, *supra* note 17, at 36 ("more and more of the work of corporate counsel is international in scope;" emphasis in original); Frederick M. Abbott, *International Economic Law as a Practice Field*, ASIL GUIDE, *supra* at 52 ("almost every lawyer who represents corporate clients of any size finds himself or herself practicing in the field of international law.").

26. See John P. Cogen, *The International Lawyer as Conductor of the Global Symphony*, ABA 1993 GUIDE, *supra* note 16, at 37, 38 ("We are all international lawyers; none of us is an international lawyer.").

27. These were the two courses specifically required for my J.D. with specialization in International Legal Affairs at Cornell Law School in 1977.

28. John A. Barrett, Jr., *International Legal Education in U.S. Law Schools: Plenty of Offerings, But Too Few Students*, 31 INT'L LAW. 845, 858 (1997).

29. Mathias Reimann, *The End of Comparative Law as an Autonomous Subject*, 11 TUL. EUR. & CIV. L.F. 49, 50 (1996).

30. *Id.* Others, including the author, do not agree. See, e.g., Nora V. Demleitner, *A Response to Mathias Reimann: More, More, More But Real Comparative Law*, 11 TUL. EUR. & CIV. L.F. 73 (1996).

31. See, e.g., Nancy D. Israel, *Corporate Practice for an International Professional Services Organization*. ABA 1993 GUIDE, *supra* note 16, at 85, 91 (noting "serendipitous way" author

II. MARKET VALUE OF INTERNATIONAL LEGAL CREDENTIALS

1. *Uncertain Market Value*

a. *Not a Prerequisite.*

To say that there is no acknowledged career path to international lawyerhood is to say that there are no prerequisite credentials that are peculiarly international and that are not related simply to being a good lawyer. According to a survey of former chairmen of the ABA Section of International Law and Practice, "advanced degrees in international law, study abroad programs, prior international experience and command of a second language are not essential prerequisites for international legal practice."³² One *ASIL Guide* contributor notes that law firms hire "lawyers with first rate legal skills, not lawyers who happen to have taken courses in international law. Most hiring partners will take a straight A student who never heard of APEC over a B student whose thesis paper was on the investment law of Thailand."³³

Similarly, a contributor to an ABA guide observes of corporate in house departments that

[m]ost . . . consider specialization in international or comparative law to be secondary in hiring lawyers, even for positions which deal exclusively with the legal problems resulting from the corporation's international operations. Primary consideration is given to the lawyer's experience or qualification in areas such as corporate law, securities regulation and antitrust. . . . [There is] a general feeling that a competent attorney trained in the basic legal subjects can acquire the requisite legal training on the job to cope with the complexities of international business transactions.³⁴

One guide contributor draws the conclusion:

International law employers are not particularly looking for the potential employee who has the "perfect" international law education . . . [T]he good news [is] that you do not have to be an expert or even excel in international law to land the international law job. Unfortunately, the bad news in that the old cliché that it helps to be number one in the class

entered field in response to "an opportunity [that] came out of the blue"); Ehrenhaft, *supra* note 20, at 45 (described as "fortuitous"); Seymour J. Rubin, *Introduction*, ABA 1977 GUIDE, *supra* note 16, at ix (noting "unplanned" entry to field despite not having taken "a single course in any subject even vaguely related to international law", not knowing even a single foreign language, and not having made even a single trip outside the U.S. and Canada).

32. John W. Williams, *To Be An International Lawyer: An Essay*, ILSA GUIDE, *supra* note 17, at 27, 31.

33. Abbott, *supra* note 25, at 53.

34. Randle B. Carpenter, *The Work of Corporate Counsel in International Law*, ABA 1984 GUIDE, *supra* note 16, at 89, 92.

at Harvard Law School and editor of the Harvard Law Review remains the employer's rule of thumb.³⁵

b. *Demonetization.*

The conclusion that international credentials are not essential tends toward their demonetization. The point is generally recognized, albeit, most frequently in code language, such as "credentials in the international area are secondary to being a solid, talented practitioner."³⁶ One reads over this statement so easily—one immediately thinks, of course, one must be a talented practitioner—that one does not pick up what it really means. The point is not that being a talented practitioner is a necessary condition, nor that international credentials are not, by themselves, sufficient conditions.³⁷ It is that international credentials are of little importance. Given a choice, an employer is perfectly willing to hire a person without international credentials for an international position over someone who has such credentials but in some other respect is less competitive than the person without such credentials.

Is international knowledge really of such little value to international legal practice? Or is it really so easily acquired by on the job training? To return to the surgeon analogy used earlier: would a prospective patient be comfortable with the knowledge that the hospital hired a competent physician trained in basic medical subjects who had no training in surgery but was expected to acquire the necessary surgical training on the job to cope with the complexities of surgery? Would the patient really prefer the straight A student who had never had a course of instruction in surgery over the student who completed the course in surgery with an A+ but whose overall average was a B+?

35. John W. Williams, *Preparation for a Career in International Law*, in ABA 1984 GUIDE, *supra* note 16 at 17. For a contrary view—the only that I recall having seen—see Gabe Shawn Vargas, *Staying the International Course: Tips From a Practitioner*, ASIL GUIDE, *supra* note 17, at 56, 57 ("Be wary of those who claim you can get by internationally only with American legal skills." Emphasis in original.).

36. *Focus On Law Department Managers: Walter G. Gans*, [Interview with General Counsel of U.S. subsidiary of Siemens AG], METROPOLITAN CORP. COUNS., Dec. 1994, 18. See, e.g., Jonathan Clark Green, *Introduction*, ILSA GUIDE, *supra* note 17, at 5, 15 ("Many experienced international attorneys have said, 'being a good international attorney begins with being a good domestic attorney.'"); Judith H. Bello, *International Trade Regulatory Practice*, ASIL GUIDE, *supra* note 17, at 47, 49. According to Jim Maloney, hiring partner at a leading Texas law firm, "Young attorneys who express an interest in international law first need a grounding in domestic transactions." *Quoted in Koppel, supra* note 9.

37. See John W. Williams, *To Be An International Lawyer: An Essay*, ILSA GUIDE, *supra* note 17, at 27, 28 ("Noting that the study of international law is not viewed as a necessary criterion.").

c. Possible Reasons why Little Credit is Given.

A discussion of the uncertain market value for international credentials could easily range well beyond the modest contours of this contribution. Without any claim to exhausting the subject or to exploring fully what is discussed, here are a few possible explanations:

i. International Dominance of English.

International legal practice essentially consists of three types of work: domestic legal work on behalf of foreign clients ("inbound"), foreign legal work on behalf of domestic clients ("outbound"), and work involving international law or the law of multiple jurisdictions.³⁸ Domestic practice on behalf of foreign clients requires no apparent knowledge of foreign languages when foreign clients can be presumed to know English. Because of the dominance of English, outbound and truly international work also requires no knowledge of foreign languages. "There are," as Vagts acidly notes, "enough English-speaking lawyers, clients, and retainers in the world to protect the American attorney from discovering the extent of his ignorance of foreign languages."³⁹ The same could hardly be said of any lawyer who aspired to an international practice whose mother tongue was a language other than English. There are probably no international lawyers who speak only Hungarian.

ii. International Dominance of U.S. Law.

The international dominance of U.S. law obscures the value of knowledge of foreign and international law. First, inbound practice is essentially domestic and does not obviously implicate foreign law. Where foreign law is obviously implicated, such as in outbound practice abroad or in truly international situations, insofar as a choice of law is possible, more often than not, American participants, either because of economic dominance or because of the dominance of English or for some other reason, sometimes even ignorance, are able to insist upon U.S. law. Even where foreign law applies, arguably there is no need for the American lawyers to know it, since typically foreign counsel will be involved.

iii. Non-obviousness of Contribution.

That an international practice can exist in the united States without knowledge of foreign languages, legal systems or culture says only that

38. See text accompanying note 83 *infra*.

39. Vagts, *supra* note 12. at 135.

it is possible to carry on the attendant legal work at a minimal level without those skills. In those cases, however, the lawyer who knows the law, language and culture of all sides of the matter is able to represent clients better and to do better work than one who does not. An example drawn from an area where foreign knowledge would seem least required—inbound litigation—makes the point. Parties approach litigation abroad from the perspective of their own legal systems; their expectations are set by their domestic systems.⁴⁰ The international litigation lawyer will not only know applicable international treaties, but will also know enough of the foreign client's own system to warn the client of differences between the foreign and the U.S. system. Thus, for example, the lawyer will warn the foreign client that in the U.S. system, unlike that which prevails in many civil law countries, the determination of the facts in the first instance is essentially final; there is no opportunity to find anew the facts on appeal. The role of the international lawyer in such cases is not merely to appear in the United States on behalf of foreign clients; it is to act as intermediary in explaining to the foreign client in terms that the foreign client understands what is happening here.⁴¹

iv. Absence of Qualified People.

For a long time there were so few candidates with international credentials that many employers had no choice but to accept people with necessary domestic skills who had no international knowledge or experience. There were *no* people available who had both sets of skills.⁴² That employers in the past became accustomed to accepting candidates without international skills is no reason to continue that practice today when such people are available. Professional self-interest may explain why the practice continues.

v. Professional Self-interest.

The established interest of those already working may suggest not acknowledging the value of such credentials. A contributor to the *ASIL*

40. See generally, James R. Maxeiner, *Book Review*, 23 INT'L LAW. 321 (1989).

41. The author has made a number of efforts to explain in general terms U.S. litigation practices to foreigners. See, e.g., "U.S. 'methods awareness' (*Methodenbewußtsein*) for German Jurists," forthcoming in Festschrift für Wolfgang Fikentscher (1998); *The Expert In U.S. and German Patent Litigation*, 1991 IIC INT'L. REV. INDUST. PROP. & COPYRIGHT L. 595; *Die Gefahr der Übertragung deutschen Rechtsdenkens auf den U.S.-amerikanischen Zivilprozeß*, RECHT DER INTERNATIONALEN WIRTSCHAFT (RIW) 440, (1990).

42. The author has elsewhere discussed the shortage of internationally-qualified lawyers. See Ernst C. Stiefel & James R. Maxeiner, *Why Are U.S. Lawyers not Learning from Comparative Law?*, in Vogt, *supra* note 23, at 213.

Guide notes that increased international business will “not necessarily result in a boom for graduating law students who have studied international law. . . . As lawyers already in practice find their clients doing business abroad, they will try to catch up with the trend.”⁴³ In the law school community, professors with domestic expertises are said to be cultivating international fields.⁴⁴ The author has been told of faculty members who, having “virtually no foreign law, language, or cultural background” undertake short trips abroad and become “instant experts.”⁴⁵

In such circumstances, international credentials can sometimes be a hindrance rather than a help. An associate lawyer’s knowledge of the language, legal system and culture of a client, when the partner-in-charge does not know that language, may lead a partner who is less than fully self-confident to block contact between the internationally-skilled lawyer and the client. A law department head who has little prior foreign experience and no foreign language ability may prefer to hire a more junior lawyer monolingual like himself rather than use a more senior lawyer with substantial international experience.

vi. Attraction of International Travel.

International legal practice is often viewed as glamorous and as desirable because of the overseas travel it can require.⁴⁶ That travel may well be the object of desire of those who do not share an intellectual interest in international legal practice. Even those who are uninterested in travel may nevertheless regard those with an interest in practice that leads to such travel with suspicion. All the world over, it seems, foreign trips are frequently described as “junkets” or “boondoggles.”

vii. Provincialism.

In the American legal world, there is a certain provincialism, that is, a certain unwillingness to approach others on their terms and not on ours.⁴⁷ At an operational level, since few American lawyers have histori-

43. Abbott, *supra* note 25, at 53.

44. According to Professor Zamora of the University of Houston, “it is difficult to get faculty members who teach more traditional subjects to agree to hire international law professors. As a result, UH professors with domestic law expertise have become more conversant in international issues.” *Quoted in Koppel, supra* note 9.

45. *Cited after Stiefel & Maxeiner, supra* note 42, at 225.

46. *See, e.g., Marvin E. Milbauer, International Legal Practice in New York, ABA 1984 GUIDE, supra* note 16, at 71, 75-76.

47. For example, just after German unification a number of large American law firms established offices in Germany. One American lawyer who had been a Humboldt Fellow a Max Planck Institute and had achieved a doctorate in German law interviewed with one of them for its new

cally had international credentials, most individuals doing the hiring often themselves do not have international credentials. They may not see the value of such credentials or may even deprecate them. Alan Watson has noted this phenomenon with respect to foreign law and languages in law schools: "the scholars do not have the tools for the job; hence the job can't be worth doing."⁴⁸ Such provincialism approaching xenophobia is not new. A century and a half ago, Hugh Swinton Legaré, Attorney General and later Acting Secretary of State, observed:

I have found my [legal] studies in Europe impede me at every step of my progress. They have hung round my neck like a dead weight Our people have a fixed aversion to everything that looks like foreign education. They never give credit to any one for being *one of them*, who does not take his post in life early, and do and live as they do.⁴⁹

This provincialism is furthered by typical hiring practices. Since people often hire in their own image, and since international credentials have until now been rare, hiring often fails to value those credentials.

2. Indisputable Intellectual Value of International Credentials

The uncertain market value of international credentials does not mean that they are without value. What it does mean is that their market value is difficult to predict and that one should be clear why one is seeking them before investing the time and other resources necessary to achieve them. They may not ever produce any commercial pay-off.⁵⁰ Whether a particular decision is a good one will depend upon one's criteria for evaluating the wisdom of a decision. If one's only measure of a good decision is commercial pay-back, then that is the pay-back that one

Frankfurt office. After several favorable interviews with other members of the firm, he spoke briefly with the hiring partner. She asked, quite seriously and not facetiously, "whether this German experience you have—knowledge of the German language and the German law degree—is it strictly cultural, or does it have some practical value?" And this was for an office in Germany! See generally, Stiefel & Maxeiner, *supra* note 42, at 232-35; Patrick M. McFadden, *Provincialism in United States Courts*, 81 CORNELL L. REV. 4 (1995).

48. JOSEPH STORY AND THE COMITY OF ERRORS, A CASE STUDY IN CONFLICT OF LAWS 96 (1992). "It is not that scholars in legal history are lazy: it is only that foreign languages and foreign law are not part of their basic training and seem peripheral." *Id.* at 97. Gerhard Casper, now president of Stanford University and a lawyer who trained in his native Germany, recently wrote: "When I arrived in Chicago, primarily to teach comparative law, [Philip Kurland] said to me: Gerhard, do not just do comparative law. You have to be engaged in a major field of American law because otherwise your colleagues will find it difficult to take you seriously as they will lack the expertise to evaluate your work.'" *In Memoriam Philip B. Kurland*, 64 U. CHI. L. REV. 9, 10 (1997).

49. 1 HUGH SWINTON LEGARÉ, WRITINGS 236 (1846).

50. The same kind of situation could, of course, present itself even where there is a clear career path. For example, one might discover that a particular foreign language skill is essential, study the language, yet never get far enough down the path to be able to use it.

had better get. If, on the other hand, other criteria are used, absence of commercial pay-back might be irrelevant. For example, the ideal international lawyer should know many languages. Learning one that he or she is never able to use in practice might be a complete waste of time, if the lawyer has no other use for it. On the other hand, it might be a terrific boon if it permits establishment of a friendship not otherwise possible.

Recognition that an international career path is illusory should lead one to ask oneself, why am I interested in a career in international legal practice? Is the answer limited to commercial interest—this as good a career as any? Is the answer a desire for foreign travel and frequent flyer miles? Then, faced with the uncertain commercial return of developing international skills, one might do better to choose another career. If, on the other hand, the answer is a desire to serve as a “bridge” between cultures, as Vagts describes,⁵¹ then commercial utility may be secondary. If one is intellectually curious about how nations and their citizens order their affairs in this world, about foreign countries, people and their legal systems, or in alternative solutions abroad to problems we encounter here, then one way or another, one can seek to find personal fulfillment without regard to whether one attains a career in international legal practice. The perspective of foreign and international law can inform purely domestic practice.⁵² In other words, one will seek a legal career—to provide the living that we all need—and then seek to incorporate into that career an international component rather than seek to make an international career the focus of one’s efforts. Then, no matter how one’s career develops, one’s international interests will prove personally valuable.⁵³

51. Or as a “culture broker” described by Ehrenhaft, *supra* note 20, at 45, or more poetically still, “as planetary citizens” described by BURNS WESTON, RICHARD A. FALK & ANTHONY D’AMATO, *INTERNATIONAL LAW AND WORLD ORDER: A PROBLEM-ORIENTED COURSEBOOK*, 1216 (2d ed. 1990).

52. The nineteenth century’s most important American jurists—Story, Kent and Field—were intimately familiar with the Civil Law and advocated its study without regard to practicing it. See, e.g., Joseph Story: Progress of Jurisprudence, Address Delivered Before the Suffolk (MA) Bar at their Anniversary (September 4, 1821), in *THE MISCELLANEOUS WRITINGS OF JOSEPH STORY* 198, 235 (1852) (“There is no country on earth which has more to gain than ours by the thorough study of foreign jurisprudence.”).

53. Ann Van Wynan Thomas, *Book Review*, 22 *INT’L LAW* 875 (1988) (reviewing ANTHONY D’AMATO, *INTERNATIONAL LAW: PROCESS AND PROSPECT* (2d ed. 1990) (“In commenting on a young lawyer’s search for a position where knowledge of public international law might be useful, Professor D’Amato admits that such positions are few and far between, and that there is a huge competition for them. If one does not find employment as a professor of international law, or with a governmental agency involved in international legal affairs, or with a transnational corporation, or with a law firm with international clientele, Professor D’Amato suggests that a young practitioner continue his or her interest in international law by writing, from time to time, articles for

III. INTERNATIONAL CHOICES IN EDUCATION

1. Foreign Language Study

Learning foreign languages is often held out as one's passport to international business. L. Jay Oliva, President of New York University, is said to have "manic enthusiasm" for the "transforming power" of such knowledge of another culture.⁵⁴ No doubt there is transforming power to such knowledge, but not necessarily in one's career.

The authors of the contributions to the guides are divided in their view of the utility of foreign languages. Some see foreign languages as essential;⁵⁵ others consider foreign language knowledge superfluous or even unattainable at a sufficiently high level of fluency.⁵⁶ Representatives of both views are often vehement in their positions. Why such sharp differences? Obviously, the contributors had very different experiences. In some cases, foreign language fluency was either essential or

legal periodicals on international law topics of current interest. A young lawyer would thus 'rise above the crowd, and perhaps . . . lay the groundwork for a later career in international law.'").

54. David Gonzalez, *About New York; At N.Y.U., Languages Si, Elitism Non*, N.Y. TIMES, Dec. 10, 1997, at B1.

55. See, e.g., Keith Highet, *Public International Law Practice*, ASIL GUIDE, *supra* note 17, at 4, 6-7 ("do not even begin to hope for a distinguished career" without learning French and Spanish); Douglas Cassel, *Practicing International Human Rights Law*, ASIL GUIDE, *supra* note 17, at 12, 13 (become "fully fluent" in a foreign language; Spanish and French are most useful, then perhaps Russian or Chinese); P. Nicholas Kourides, *Practicing Law in the Global Financial Markets*, ASIL GUIDE, *supra* note 17, at 40, 41 (foreign language knowledge is a "big advantage"); John W. Williams, *Preparation for a Career in International Law*, (survey of past chairs of ABA International Law and Practice Section recommended foreign language fluency, especially French, Spanish or Japanese).

56. See, e.g., Harry H. Almond, *Space Law*, ASIL GUIDE, *supra* note 17, at 28, 29 ("foreign language skills are not useful unless a high degree of fluency is reached"); Israel, *supra* note 31, ABA 1993 GUIDE, *supra* note 16, at 90 ("While foreign language skills would be an asset in this regard, they are not critical."); Gerold W. Libbey, *International Corporate Practice*, ABA 1993 GUIDE, *supra* note 16, at 18 ("one either speaks the local language or one doesn't, and there is probably no middle ground. Some degree of capability in Japanese, for example, can be useful in living in Tokyo, but it of very little value in functioning in a law office or business environment. English is more and more, the universal business language, and international clientele do not want to pay lawyers' hourly rates, even those of young lawyers, and suffer through fumbling efforts at a host country language."); Cogon, *supra* note 26, at 42 ("Did you ever wonder why bellhops and taxi drivers are often great linguists while presidents and corporate executives are not?"); Cynthia S. Anthony, *Opportunities in International Corporate Practice*, ABA 1993 GUIDE, *supra* note 16, at 61, 67 ("Unless a person is born into a bilingual family, however, a secondary language should never be used in actual negotiations or drafting."); Rubin, *supra* note 31, at ix-x ("Some knowledge of that foreign language is probably useful, unless it leads one into the trap of relying unduly on what may turn out to be imperfect appreciation of its subtleties."); Carpenter, *supra* note 34, at 92 ("fluency in a foreign language is rarely essential"); Kathryn J. Fritz, *Academic Careers in International Law*, ABA 1984 GUIDE, *supra* note 16, at 125, 126 ("Some experts feel that few will be able to master a language to the degree necessary to rely comfortably on their own translations.")

was believed to be so. There are some jobs where foreign language knowledge is essential and others where it is not. For example, the French government will not approve for Secretary General of the United Nations or of NATO or any other leadership role in an international organization someone who does not speak French.⁵⁷ But most international positions in the United States do not require foreign language knowledge and as a result most American international lawyers do not speak even one foreign language fluently.

Should one seek to learn a foreign language? While fluent knowledge of a foreign language is immensely valuable intellectually, a cost/benefit analysis might not place it first in one's list of things to do to get involved in international legal practice. Foreign languages, as anyone who has ever studied one seriously knows, are not easy. Contrary to what some would have one believe, twenty minutes a day of language tapes for three months is not apt to leave one in a position to negotiate a contract in the language. While Americans are certainly capable of achieving business level fluency, it is the rare person who achieves that fluency only after having commenced the study of a foreign language in law school.

As a commercial matter, in the United States, seldom (but occasionally) is one hired or one's services sought based on knowledge of a foreign language. In some countries, knowledge of a foreign language—often English—is a necessary condition to employment in the international area. Not so here. American business usually expects foreigners to speak our language and they usually do.⁵⁸ Even American subsidiaries of foreign corporations typically give it little weight. One such subsidiary's general counsel noted:

[Foreign language knowledge] is important culturally but less important legally. A talent for languages is rarer in people who make good lawyers, who have developed their rational facilities to any extreme. . . .

57. See Craig R. Whitney, *The Language Wars: To the Barricades, Speaking in Tongues*, N.Y. TIMES, July 28, 1996, Section 4, at 3; Craig R. Whitney, *French Speakers Meet Where Few Will Hear*, N.Y. TIMES, Nov. 15, 1997, at A4.

58. See, e.g., Louis Emery, *Business and Commerce Law*, ASIL GUIDE, *supra* note 17, at 38, 39 ("most international business can be conducted in English"); Abbot, *supra* note 25, at 53 ("In general, American lawyers do not need to know foreign languages."); John W. Williams, *supra* note 32, at 28 (English is "the" international business language); David L. Dick, Senior Counsel and Vice President, Merrill Lynch & Co., quoted in *Overseeing Your Overseas Business Ventures* [Roundtable], CORP. LEG. TIMES, Dec. 1995 ("The ideal lawyer is a foreign lawyer who not only speaks and understands English, but has had some education in the United States or a common law country, may have worked here, and can put himself in my shoes. . . . [As American lawyers] . . . [w]e can afford to be a bit lazy. We don't have the diversity and perspective of our foreign counterparts who are forced to learn English and bridge these gaps,").

Many foreign lawyers . . . are exposed to languages early on and most speak English as a second language rather fluently.⁵⁹

Foreign language ability can hardly reasonably be considered a key to an international legal career.⁶⁰

Whether a particular foreign language will be valuable in one's career may be a hit-or-miss proposition. To choose a language on purely commercial grounds is difficult for a native English-speaker. The utility of a particular language is apt to depend upon a great number of variables. If one's career is devoted to international human rights, the "right" language might be different than if one's career is devoted to international trade. International political developments may suddenly increase or decrease demand for speakers of a particular language. The utility of a particular language may be increased the more other native-speakers rely on that language as a means of communication. Its utility may be lessened the more its native speakers are able and willing to communicate in English. For these reasons, French or Spanish is a much better commercial choice than German or Italian, but any of these four are better choices than Dutch or Danish.

While the commercial utility of learning a foreign language is uncertain, the value of such knowledge to an international lawyer is not. Anyone who really wants to be an international lawyer should know at least one foreign language. There are many benefits to such knowledge. Some of these are commercial, such as the immediate rapport it provides with business associates who speak that language. Others are cultural, such as the empathy it provides in relating to the difficulties non-English speakers face in understanding our country and its culture. Moreover, there is a specifically legal benefit to knowing a foreign language, which makes foreign language knowledge practically essential intellectually. Without knowledge of a foreign language, it is difficult if not impossible to overcome the great gulf in legal thinking between the two systems of the civil and the common law.⁶¹ The developed world outside the English-speaking part relies on civil law-based legal systems. Many knowledgeable observers believe that the civil law has marked advantages

59. Gans, *supra* note 36, at 18. In this case, the lack of enthusiasm cannot be attributed to the general counsel's lack of language knowledge, for this general counsel grew up in Europe exposed to other languages. *Id.*

60. A recent letter to the *New York Times* observed: "I see no value in burdening students with even one year of foreign language classes, let alone three years. I speak six languages, yet I see no benefit; my colleagues who speak only English are doing just as well." *N.Y. TIMES*, Nov. 23, 1997, § 4, at 14.

61. *See* Vagts, *supra* note 12, at 135 ("The low and declining status of language instruction in American schools makes that ignorance apt to be deep and even hides from view the limits to [the American attorney's] ability to penetrate foreign legal systems imposed by that ignorance.").

over the common law.⁶² If one wants to know a civil law system from the inside—to know how a civil lawyer thinks⁶³—one *must* know at least one foreign language. Which language is not enormously critical, although it may be preferable from an intellectual point of view to learn a language used in systems that strongly influence other systems, such as French or German, or possibly Italian or Spanish. Still, just about any language of a modern state will do to get a clear contrast to the English-speaking common law. So long as one remains monolingual, one's knowledge as an international lawyer will always be deficient.⁶⁴

2. *Choice of International Courses in Law School*

Providing advice about which courses to take in law school is, on the other hand, easy and little affected by whether one regards commercial or intellectual considerations paramount. Few employers for any job, domestic or international, expect their new hires to have had a long list of specific courses in law school; in most instances, even for international positions, they require nothing beyond the basics.⁶⁵ This means that in just about every student's law school program there is room for several international courses.

In choosing international courses in law school, one should choose the international basics. These are public international law, conflicts of law (known as private international law in Europe) and comparative law. If one has only enough time for three courses, one should take these three rather than more specialized courses. The rationale is the same as that of the old story of how it is better to teach someone how to fish than to give that person a fish. The course that seems highly practical now may be obsolete tomorrow. It is no coincidence that one's best law school courses often are those that prepare one to deal with the methods

62. See, e.g., GORDON TULLOCK, *THE CASE AGAINST THE COMMON LAW* 53-59 (1997) ("Why I Prefer Napoleon").

63. *Accord*, John W. Williams, ABA 1984 GUIDE, *supra* note 16, at 14. See William Ewald, *Comparative Jurisprudence (I): What Was it Like to Try a Rat?*, 143 U. PA. L. REV. 1889 (1995).

64. The possibility to study a civil law system in English is largely limited to a few so-called mixed jurisdictions such as those of Scotland and Louisiana. The next generation may be luckier and may be able to learn a major civil law system without having to learn a foreign language, depending upon how the law of the European Union develops.

65. See, e.g., K.E. Malmberg, *Public Policy Making: The State Department*, ABA 1984 GUIDE, *supra* note 16, at 35, 36 (international course are "helpful, but are not prerequisites;" "like other legal specialties, international law can be learned best by doing"); Abbie Williard Thomer, *Career Opportunities in International Law: An Overview for the Job Seeker*, ABA 1984 GUIDE, *supra* note 16, at 19, 20 ("Consistent with almost every area of law practice, the primary prerequisite to finding a job in the international field is academic excellence in legal study, rather than the student's elective course of study."); ABA 1977 GUIDE *supra* note 16, at 28 ("Like most careers in law, there is little specific scholarly preparation that is a prerequisite to practice in the field.").

and sources of the law. That is why law students typically find first year courses challenging and useful and third year courses boring and a waste of time. One learns the domestic ropes in the first year. One can learn the international ropes in one's second and third years by taking the basic international courses.⁶⁶

It is common to think that public international law has little role in developing a practice in international business.⁶⁷ This is a mistake. Many international treaties now regulate and affect private law matters to an extent that was not recognized in law school only a few decades ago. A sale of goods between parties in New York and Toronto is governed by the UN Convention on the International Sale of Goods. Other areas where international treaties may directly govern one's activities as a lawyer include intellectual property, international adoptions, international litigation, and international arbitration. Increasingly globalization is likely to increase the importance of these and similar treaties.

Conflict of law questions, once largely limited in American practice to conflicts among states, are similarly likely to multiply in the future as international contacts increase and the Internet increases possibilities for collisions.⁶⁸ They are today, according to one former Chair of the ABA International Law and Practice Section, "the daily bread of international lawyers."⁶⁹ Moreover, they continue to have important domestic importance in our federal system.

66. *Accord*, Peter D. Trooboff, *Transnational Legal Opportunities in Washington D.C.*, ABA 1984 GUIDE, *supra* note 16, at 79, 80. See Ehrenhaft, *supra* note 20, at 44 ("The course one takes at law school need not focus on 'international law;' the most critical are those that touch 'legal method'; how to think like a lawyer, find sources of 'law' other than in F.2d or the Federal Register . . .").

67. *E.g.*, a former chairman of the ABA International law and Practice Section wrote "I recommend . . . practical courses rather than the general courses on international organization and public international law which are fine but will not help . . . that much in . . . practice." *Quoted in* John W. Williams, *Planning a Career in International Law*, ABA 1984 GUIDE, *supra* note 16, at 17.

68. The possibilities the Internet raises are enormous. With respect just to the area of advertising law, see, e.g., Jost Kotthoff, *Die Anwendbarkeit des deutschen Wettbewerbsrechts auf Werbemaßnahmen im Internet*, 1997 COMPUTER UND RECHT 676, 678 ("Every advertisement on the Internet, regardless of where it enters the net, can be read in Germany and thereby leads to an effect on the other side of the market. Does this mean that everyone who has an advertisement on the Internet must comply with German law? If this were so and if all countries did the same for their own advertising laws, it would mean that every advertisement in the Internet would have to take into account the advertising law of every country on the earth." [Translation by the author.]) See generally BORDERS IN CYBERSPACE: INFORMATION POLICY AND THE GLOBAL INFORMATION INFRASTRUCTURE (Brian Kahin et al. eds., 1997).

69. Lucinda A. Low, *International Practice on and off the Coasts*, ABA 1993 GUIDE, *supra* note 16, at 3, 5.

Comparative law, although much neglected, is even more valuable.⁷⁰ Civil lawyers approach the law and legal problems differently than do common lawyers. One ought to have at least a basic understanding of that difference, whether one is acting abroad dealing with foreign lawyers or at home explaining our system to foreign clients. When one knows nothing of foreign legal systems, it is all too easy to assume that the foreign system is just like ours. Nothing could be further from the truth. Try explaining discovery, punitive damages, or worse, the O.J. Simpson trial, to a French or German lawyer!⁷¹

3. Study Abroad and Advanced U.S. Study

Another prescription frequently given in the media today for creating an international career is study abroad or additional study.⁷² The possibilities range from law school summer programs, through domestic LL.M. programs, to enrolling in a foreign university and obtaining a degree there. Foreign and additional study present much the same dichotomy as foreign language study: intellectually fulfilling but commercially questionable. Although foreign study is the norm in many foreign countries, in the United States there is little recognition of the benefits of foreign and graduate study.⁷³ As with foreign language knowledge, this may be because the person doing the hiring tends to hire in his or her own image and since few in the hiring generation have themselves engaged in such study, they are unlikely to value it highly. A typical attitude is that "credentials in the international area are secondary to being a solid, talented practitioner."⁷⁴ In law schools, additional study is as likely to be considered one means to make up for a "deficient" first legal education as it is to be thought of as indicative of intellectual interest

70. *Accord*, Cynthia S. Anthony, *Opportunities in International Corporate Practice*, ABA 1993 GUIDE, *supra* note 16, at 61, 67.

71. See the author's efforts cited above, note 16 *supra*. See also Myron Moskowitz, *The O.J. Inquisition: A United States Encounter With Continental Criminal Justice*, 28 VAND. J. TRANS-NAT'L L. 1121 (1995) (considering how that trial might have been conducted in a civil law system).

72. See, e.g., Koppel, *supra* note 9; *Education Grows With Global Village: Master of Laws Degree Prepares Lawyers for International Transactions*, PA. L. WEEKLY, Apr. 25, 1994, at S8 (quoting one participant: "Essentially the LL.M. program provided me with extra expertise and marketability in trying to find a job.") .

73. See John Engle, *Critical Attention for Study Abroad*, CHRON. OF HIGHER EDUC., Mar. 17, 1995, at A56 ("nearly everywhere but in America foreign study is considered to be a vital element of higher education worth of intelligent scrutiny and public support").

74. Gans, *supra* note 36.

and skill. For whatever reason, the aspiring academic should know that graduate law study is on the decline as a career path into the academy.⁷⁵

There is irony in the view that "like other legal specialties, international law can be learned best by doing."⁷⁶ Other legal specialties do not involve dealing with foreign legal systems. Today, and for over a century in the United States, the predominant way in which one has learned the American legal system is through study and not through doing. In the middle of the nineteenth century the United States abandoned the apprentice—learn by doing—approach to its own law.⁷⁷ That a foreign system would be no less demanding should not be surprising!⁷⁸

A cost/benefit analysis of participation in these programs is likely to lead to contradictory results depending upon whether the intellectual or the commercial interest is emphasized.⁷⁹ The foreign summer program of a U.S. law school comes at very little opportunity cost, particularly when it is in the summer after the first year or when one has no clerking opportunities in the summer after the second. Intellectually, however, the summer program is not likely to offer challenges qualitatively different from what are available on campus back home, even if the setting brings the international side alive. An LL.M. program in the U.S. should offer more challenges, but those come at considerably higher opportunity costs, especially if undertaken full time.⁸⁰ The greatest intellectual challenge—rarely undertaken by American students—is to enroll in a foreign university. In the right circumstances, the foreign enrollment might even produce a commercial payback, not because any-

75. See Robert J. Borthwick & Jordan R. Schau, *Note: Gatekeepers of the Profession: An Empirical Profile of the Nation's Law Professors*, 25 U. MICH. J. LEG. REF. 191, 212 (1991) (noting the sharp decline in the last generation of new law professors with advanced degrees in law). A must read for anyone interested in an academic career is James Gordley, *Mere Brilliance: The Recruitment of Law Professors in the United States*, 41 AM. J. COMP. L. 367 (1993). Although not written specifically for teaching in the international area, it is no coincidence that it is written by a leading comparative law scholar for a comparative journal. No where else that the author is aware of is such clarity of insight to be found in discussing the U.S. scene.

76. K.E. Malmberg, *supra* note 65, at 35, 36.

77. See generally, ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S* (1983).

78. Max Rheinstein thirty years ago observed that "[f]amiliarity with foreign law may be obtained either through trial and error, i.e., actual work in a law firm engaged in international practice. A better way is that of systematic study." *Comparative Law—its Functions, Methods and Usages*, 22 ARK. L. REV. 415-424 (1968), *reprinted in* 1 MAX RHEINSTEIN, *COLLECTED WORKS—GESAMMELTE SCHRIFTEN* 251, 259 (Hans G. Leser ed. 1979).

79. *Accord*, John W. Williams, *The Study of International Law*, ABA 1984 GUIDE, *supra* note 16, at 1, 10-11 ("primary value" is not marketability, but academic); Rafael C. Benitez, ABA 1977 GUIDE, *supra* note 16, at 3, 8.

80. An LL.M. in tax generally has commercial utility. There may be other LL.M.s that are acquiring comparable commercial utility. While a U.S. LL.M. has a great deal of commercial utility in some foreign countries, it does not seem to have the same kind of value here.

one in the United States will value the foreign study, but because of the recognition it may bring with foreign colleagues and the opportunities to develop friendships with foreign lawyers. All forms of foreign study can help set one apart from the crowd; that difference may get one hired, even for a domestic job.⁸¹

IV. INTERNATIONAL CHOICES IN INITIAL EMPLOYMENT⁸²

1. *One Has Time, But Institutional Marketability Peaks*

From both an intellectual and a commercial interest, one has some time; one's first job will probably not be one's last. One can take a position that is intellectually challenging but less than fully commercial rewarding. One should think of one's initial foray as positioning for later career development. Potential employers are not concerned that every last minute be filled with acceptable preparation. The hiring party does want some meaningful experience elsewhere, since no one much wants to pay to train any young lawyer these days.

One ought to seek to maximize the experience that one gets at whatever first job one takes. Maximizing that experience generally means maximizing responsibility. There is no pat answer to the question where that can best be accomplished. It may depend entirely on a fortuitous circumstance wherever one goes—the partner in charge is not available or is unfortunately killed in a plane crash. One must be vigilant wherever one begin work that one takes on the responsibility and gets the experience that one needs. Unfortunately, in America today, institutions rarely are loyal. One must be alert to what tasks one is asked to do and whether they or the skills one learn doing them have salability elsewhere. Sure, someone in one's organization has to do them, and in a perfect world, the person who does them would get credit for doing them whether they further that person's skill set or not. The U.S. career world is far from perfect and one's very employer is likely to ask, why weren't you learning this other skill? The answer that one was doing what the firm wanted one to do is not likely to suffice.

As the years pass, doors begin to close. One's time of greatest mobility probably comes when one is about five years out of law school—

81. See, e.g., Ramon E. Reyer Jr., LL.M. *Can Add to a Young Lawyer's Résumé*, NAT'L L.J., Sept. 4, 1995, at A20.

82. One question not treated here that is beyond the author's knowledge and experience is whether it is a good idea to take a position abroad in order to develop a U.S.-based international legal practice. From what else is said in this article, caution would seem to be in order. The author also recognizes that these days, finding a legal job, any job, can be excruciatingly difficult. Therefore, it may seem in some respects idle to speak of making choices with respect to international law careers. One takes what one can.

when one is still cheap enough to be hired at a relatively low wage, but experienced enough to do real work. Years ago when salaries generally were lower that point probably came more years out of law school.

There is another reason to be concerned about time. Age discrimination is real, despite laws against it and claims that employers do not practice it. The reasons it does exist are not only that older employees are likely to be more expensive. In an institutional setting, new employees have to be fit in with an existing structure. Older employees are likely to have more skills and therefore are more likely to lay claim to exercise those responsibilities for which they are well-suited. That means, they may be viewed as threats to those already on the job.

2. *Inbound or Outbound?*

In directing one's career at the outset it is well to consider whether one would most like to be involved in "inbound" or "outbound" work.⁸³ When one speaks about international work, one generally speaks about transnational activities, either of a foreigner in the U.S. (inbound) or of a U.S. client, or possibly a foreign client, abroad (outbound). While ideally one would like to be involved in a mix of both types of work, the practical reality is, however, that typically the international lawyer does largely one or the other. Outbound work is almost certainly likely to provide greater intellectual stimulation, due to its likely closer connection to foreign law. On the other hand, the commercial value of that experience is likely to transfer less easily to the U.S. where one lives.

More U.S. lawyers are involved in inbound work than are involved in outbound work. This is largely because legal work is generally dependent on the country in which it has effect. There are many lawyers who do U.S. legal work for foreign clients. Having an international background is helpful, but not essential to that work. Where once that work tended to be concentrated in ports of entry, such as New York, now it is just as likely to be spread around the country. More and more foreign clients no longer see the need to stop off at the port of entry if the actual work is to be done elsewhere. Why, they ask, pay two lawyers for the case? Foreign companies operating in the U.S. do not generally seem to view their U.S. in-house counsel as international lawyers doing inbound work. In fact, many foreign companies hire as in-house lawyers, lawyers who are purely domestic counsel and have no international expertise.⁸⁴

83. See generally, Gerold W. Libby, *International Corporate Practice*, ABA 1993 GUIDE, *supra* note 16, at 13, 14-17.

84. See, e.g., Gans, *supra* note 36.

Outbound work is harder to find than inbound. Although more and more American law firms have opened foreign offices, increasingly they staff these offices either with attorneys from the local, foreign jurisdiction, or with Americans who are expected to settle there permanently. Many major American companies rarely rely on U.S. counsel for outbound work other than in exceptional circumstances, such as when the foreign jurisdiction is new, e.g., Russia, to the legal world, and there are, as yet, few counsel in that jurisdiction with which the U.S. counsel can work. To the extent that there is a vibrant outbound international practice, it is probably within the in-house departments of major American companies.

3. *Specialization.*

Although one will from time to time see announcements for "international lawyers," international practice is not a generally recognized specialty for hiring. Domestic considerations typically predominate: the party doing the hiring is looking for a litigator, a securities lawyer, an insurance lawyer, a corporate transactions lawyer, a corporate finance lawyer, an intellectual property lawyer and so on. That there is really no international specialization as such does have an advantage in a tight job market for the lawyer who aspires to an international legal career: while the entry level job may have no international component, it may nonetheless permit development of expertise that would be useful in a job where there is an international component. In any case, without regard to international legal practice, a specialty, or specialties is nearly obligatory if one is to remain marketable as one grows older.

Most potential specialties are acquired through practice experiences and there is not a great deal that one can do in law school to prepare for them.⁸⁵ In choosing a specialty, one who is interested in an international legal career should try to choose first, a specialty that will be in demand, and second, one that is likely to lead to international work. The latter without the former can lead to disappointment. For example, in the 1970s, the recommendation of the day was that for international practice, one should acquire a specialization in antitrust, securities or tax.

85. Two principal exceptions are tax and intellectual property. Tax is one area where law school specialization and even LL.M. work may be viewed as essential. In the intellectual property area, sufficient undergraduate education in science is necessary to sit for the patent bar. While it is possible to have an international intellectual property practice without being a member of the patent bar, most opportunities go to those who are patent lawyers. If one is lacking only one or two courses, one might pick those up while in law school. But even for patent lawyers, passing the patent bar is a necessary, but not a sufficient condition. Patent lawyers typically have to put in a few years doing basic patent prosecution work.

One who opted for antitrust could only be chagrined when Reagan would get elected in 1980 and largely killed antitrust practice. Caveat emptor! Thus it is unwise today to offer a list of specialties that would likely soon be obsolete. Ideally, one should choose a specialty that becomes hot just a year or two before one is up for partnership or its equivalent.

4. Networking

Networking's value to an international legal career may be different than is normally supposed: it may lie more in the intellectual rather than in the commercial interest. The careers columns are just now beginning to recognize that networking is not all that it was once held out to be. For many years, columnists cited networking as the number one way to find a new job. The columnists had not reckoned with five+ years of adverse hiring conditions. Who one knows may not matter if the employee population is being downsized. While networking may lead to a career opportunity, whether it does is largely serendipitous.

Nevertheless, networking can be very valuable to help develop one's international intellectual interest. There are many opportunities for lawyers with international interests to get together. A number of associations give one the opportunity to meet with foreign lawyers. These include such groups as the American Foreign Law Association, the German American Law Association, the International Bar Association, and so on. By meeting with foreign lawyers one will naturally ask questions about their legal systems and compare how one do things with how they do them. It is one of the best ways to call into question one's assumptions about one's legal system. And that is surely one of the greatest benefits of an international legal practice.