Index

A-Khavari, A. 71, 79, 87  
Abe, H. 107  
absence of domestic rules of evidence 282  
avoid academic and professional components 185  
avoid academic boycotts, South Africa 54, 58  
avoid academic pursuit or legal qualification 7, 130  
avoid accessibility of legal sources from other jurisdictions 148–9  
avoid access to information about Asian law 119, 121, 175–76  
avoid access to justice 55, 81, 85, 127, 136–37, 191  
avoid accreditation requirements and ranking pressures 184  
avoid adaptability, need for 132, 139–42, 215, 283, 292  
avoid advocacy before an international arbitral tribunal 278–86, 289  
avoid appeals and nullification 279  
avoid civil and common law practices, dealing with mix of 280  
avoid judges and arbitrators, coinciding responsibilities 279–80  
avoid party-appointed arbitrators, perception of 280  
see also international commercial arbitrations and usefulness of cross-examination  
avoid advocacy before an international arbitral tribunal, arbitrator’s treatment of evidence and facts or law 282–6  
avoid arbitration language 285  
avoid decision-making procedure 285–6  
avoid expert conferencing (hot-tubbing) 284–5  
foreign law evidence 284  
vexed from domestic rules of evidence 282  
International Commercial Arbitrations (IBA Rules) 282  
written statements and oral evidence 282–4  
avoid advocacy before an international arbitral tribunal, tribunal expectations of counsel 280–82  
avoid counsel following tribunal lead 281–2  
avoid domestic court practices, refraining from citing 282  
avoid firm but not aggressive advocacy 281  
full and frank disclosure 280–81  
Aizawa, H. 96  
Alegre, M. 40  
Aleinikoff, A. 185  
Amlrthalingam, K. 46  
Anand, A. 39  
Anderson, K. 22, 106, 107, 109, 111, 119  
avoid appeals and nullification, advocacy before an international arbitral tribunal 279  
APRU (Association of Pacific Rim Universities) 40–41, 42, 45  
avoid arbitration  
avoid advocacy before an international tribunal see advocacy before an international arbitral tribunal  
avoid bilateral investment treaties (BITs) 5, 64, 195, 212–13  
and cross-examination see international commercial arbitrations and usefulness of cross-examination
The internationalisation of legal education

Argentina, University of Buenos Aires
Law School 38–9, 46–7
Arthurs, H. 123–4, 131, 134
Asian Century, comparative law
teaching see comparative law
teaching in ‘Asian Century’
Association of Pacific Rim Universities
(APRU) 40–41, 42, 45
asylum seekers and refugee status,
Australia 218, 219–20
see also human rights
Atienza, S. 41
autonomy of arbitrators 282
autonomy of law teachers 33, 287
autonomy and mental health 131, 178
Auer, M. 3
Australia
affiliated foreign universities,
studying with 63, 240–41
Al-Kateb v Godwin 218
Asian interdependence and
regionalisation 126
Australia-US Free Trade Agreement
(AUSFTA) 212
Australian Law Reform Commission
(ALRC), professional ‘lifelong
learning’78
Australian National University
(ANU), Higher Education
Contribution Scheme (HECS)
27–8
Australian Security Intelligence
Organisation (ASIO) v
Director-General of Security
217, 219, 220
Bond Law School integrated skills
unit 214
Chow Hung Ching v The King 209,
210
codification of contract law,
consideration of 164–5
cross-examination procedures 271–2
curriculum design choices and
balance 74, 78–9, 187, 189
double degree structure 187, 189
government regulation 108
human rights opportunities see
human rights opportunities,
Australia
integration challenges 83–4
International Legal Education and
Training Committee (ILETC)
78–9
internationalisation limitations 66,
116–17
JT International v Commonwealth of
Australia 212
Legal Australia Wide-Survey (LAW
survey) 136
legal philosophies of education 111,
113
Libke v The Queen 271–2
LLB and Priestley 11 subject areas
72, 74, 85, 87, 90, 211
Mabo v Queensland (No2) 209–10,
219
Malaysia Third Country Processing
219–20
Melbourne Law School curriculum
22, 113, 226–7
modern legal practice requirements
see modern legal practice
requirements, Australia
Monash University, legal courses in
foreign countries 63, 240–41
Monash University, legal philosophy
226–7
national philosophies of legal
education see national
philosophies of legal education,
Australia
postgraduate legal education 16
skills, ethics and values, teaching
78–9, 83–4, 85–6
Sydney Law School Social Justice
and Clinical Legal Education
Program 214
unfair competition concept, lack of
165
Wellness Network for Law 105
West Committee and graduate
attributes 76
Ax, J. 101–2
Ayela, C. 274–5
Index

Backer, L. 11
bankruptcy and employment law, increased demand for, Japan 114
Bard, J. 189
Barendrecht, M. 136
Bar examinations 37, 108, 110, 205
Barry, M. 190
Basedow, Jürgen 1–17
Basel Committee 64, 127
Baxter, L. 54
Baylis, J. 1
Beck, U. 1
Bell, J. 80
Bentley, D. 83, 287
Bernabe-Riefkohl, A. 183
Bernard, P. 77
Biddulph, S. 41
bilateral investment treaties (BITs) 5, 64, 195, 212–13
Bingham, Lord 217
Blay, S. 240
blended learning 178
blurring of boundaries in law 287
Bogdan, M. 79
Böhmer, M. 39–40
Bologna process 8–9, 41
Boo, Lawrence 278–86
Boon, A. 79
Bornkamm, J. 166
Boulle, Laurence 48–69, 158
boycotts, international academic, South Africa 54, 58
Breaden, J. 113, 114, 116
Brennan, Justice 209–10
Brittan, G. 28
Bronstein, V. 54
business skills 228, 243
Canada
core curriculum decisions 187
graduate-entry Juris Doctor (JD) 23–4
Carasik, L. 183
Carpenter, L. 192
Carrese, J. 190
Castan, M. 129–30
Cavers, D. 128
Chambliss, E. 121
Chang, W.-C. 196
Chapman, B. 27–8
Chapman, J. 81
Chen, T. 93, 106, 110
Chesterman, Simon 63, 183–92, 241
Chile, law curriculum internationalisation 40–41
China 41–43, 62, 126, 211, 235, 237, 242, 288–89
civil law
civil law and common law practices, dealing with mix of, international arbitral tribunal 280
civil law/common law divide see integrated legal world, ignoring civil law/common law divide international commercial arbitrations and cross-examination 273–6 uncodified Roman-Dutch, South Africa 51, 52, 65
see also common law
Clark, E. 240
client alignment issues 229, 232
see also modern legal practice requirements, Australia
clinical programs
global practice, doctrine, perspectives and skills 190
glocalisation and market failure 131
hands-on experience through 31
South Africa 54
Sydney Law School Social Justice and Clinical Legal Education Program 214
codification, comprehensive codes, use of 154, 162, 163–7, 168
cognitive learning of legal principles 75, 227
cognitive skills 240
Colbert, D. 192
Comité Maritime International (CMI) 3, 269–70
commercial arbitration see arbitration
common law
civil and common law practices, dealing with mix of, advocacy
before an international arbitral tribunal 280
and civil law, hybrid procedural rules, international commercial arbitrations 272–3, 275
English common law, South Africa 51, 52, 65
and homogeneity between countries 157
see also civil law
comparative analysis versus substantive knowledge 240–43
comparative law knowledge, importance of, developing countries 201–2
assigned research topic requirement 177–8
comparative law as academic discipline 174–5
course content suggestions 173–6
course outcomes 179–80
interactive exercise in transnational setting 178
interdisciplinary approach, need for 175–6, 179–80
learning activities 176–8
legal ethnocentrism concept 175
library/online exercises for research 177
practice-oriented content 176, 177–8
student assessment and examination 178–9
Western liberal democracies, impression of dominance of 175
see also tutorials as preparation for international legal practice
complexity of law 40, 122, 135, 138, 171
compulsory courses 13, 25, 73–74, 79, 85, 87, 89, 107, 186–87, 214, 227
compulsory programs, 12, 83–84
conference calls 230–31
see also modern legal practice requirements, Australia; technology
confidence and confrontational skills 248–9, 256
see also tutorials as preparation for international legal practice
conservatism of regulators 288
cost of legal education 102, 116, 137
170, 184, 190
tuition 184
counsel
arbitral tribunal expectations see
advocacy before an international arbitral tribunal, tribunal expectations of counsel
in-house counsel, rise of 133, 135
cost of legal services 133
billable hour expectations 229–30
billing by reference 232
cross-border commercial compliance 210–11, 213–14, 289
in-house counsel, rise of 133, 135
courts procedures, slow reform, South Africa 58
see also judiciary
Cownie, F. 72, 80, 82, 85
criminal law studies 188, 215, 275
cross-cultural negotiation 178, 186, 189
Index

cross-examination see international commercial arbitrations and usefulness of cross-examination culture ix, 52, 108 cultural factors and ‘mandarin meritocracy’, Japan 107–8 Curran, V. 180 curriculum comparative law see comparative law teaching in ‘Asian Century’ core curriculum decisions, and global practice 186–7 course content suggestions, comparative law teaching in ‘Asian Century’ 173–6 developing countries see developing countries headings human rights opportunities, Australia 214–15 interdisciplinary approach, need for 175–6, 179–80 internationalisation challenges see internationalisation and philosophies of legal education joint curriculum between French and German universities 13, 14 legal education reform, Japan see Japan, legal education reform national philosophies see national philosophies of legal education, Australia reform considerations, glocalisation and market failure 128 tutorials see tutorials as preparation for international legal practice customary law, local African customary law, absence of, South Africa 52–3

Dang Xuan Hop 246–65 Dass, D. 55 Degos, L. 274 Demleitner, N. 175 democratisation in South Africa see developing countries, South African experience of legal education, democratisation depression among lawyers 130–31, 244 detention and refugee status, Australia 218–19 without trial, South Africa 55 see also human rights opportunities, Australia developing countries, micro/macro reforms and international outsourcing 193–208 diverse legal and social problems, dealing with 196 doctrinal teaching, dominance of 197, 203 foreign and comparative law knowledge, importance of 201–2 foreign professors providing technical assistance 204 globalisation challenges 198–202 globalisation implications for legal education 194–6, 200–201 hands-on experience in legal matters 205–6 international outsourcing of legal education, importance of 204, 206–7 judicial dialogue between different jurisdictions 196 language skills, higher demand for 199–200 legal businesses, new and expanding ranges 195 legal education institutions moving to developing countries 207 legal education reform possibilities 202–6 legal skills, learning 197–8 networking opportunities 206–7 similarities in problem-solving by different law enforcement authorities 195–6, 199 small-scale postgraduate JD type law programs 205 summer internships and legal skills 197 traditional legal education issues in context of globalisation 196–8 undergraduate programs, limitations of 201
developing countries, South African experience of legal education 48–69
activist practice, cultivation of 55–6
apartheid and repressive quality of law 50
civil, political and socioeconomic rights, inclusion of 57
clinical legal education 54
Constitution, establishment of 58, 60–61, 62
court procedures, slow reform in 58
detention without trial 55
dual professionalisms of academic staff 68
English common law and uncodified Roman-Dutch civil law 51, 52, 65
future research 67–9
international academic boycotts 54, 58
international mooting programs 58
isolationism and national political philosophies 49–56, 58
judicial review of discretionary executive powers 54–5
judiciary and apex tribunal 57
law school legal aid clinics 55
law and society tradition, 1990s focus 52
local African customary law, absence of 52–3
parliamentary supremacy doctrine 51
race legislation introduction 54
racial segregation in law schools 56
restrictive laws, interpretation of 54–5
‘rule by law’ and socially progressive tendencies 51–2
second language use 53–4
Street Law programs 55–6
student wellbeing and post-graduate employment, lack of research into 68–9
teachers and practice, lack of connection between 50–51
developing countries, South African experience of legal education, democratisation 56–61
corporatisation of legal education 60–61
differentiated degrees, abolition of 59
and dualistic economic system 62, 67
human rights focus 60–61, 65–6
Latin language requirement, discontinuation 59
legal academy composition changes 60
legal education changes 58–61, 63
LLB degree as undergraduate program 59, 68–9
developing countries, South African experience of legal education, globalisation effects 61–6
globalist qualities 52–3
international legal harmonisation 64–5
internationalisation of legal curricula 65–6
and localisation promotion 66
market forces and duality in education system 63, 67
modernisation and transition 62
university rankings 63
dialectical process of law 154
Dicey, A. 51
diffusion of law 125, 142
discussion skills 249–50
see also tutorials as preparation for international legal practice
dispute resolution 5, 212–13, 276
diverse aptitudes 179, 205
Dixon, O. 209, 210
Dlamini, C. 60
doctrinal differences
civil law/common law divide 161, 163
see also civil law; common law
doctrinal teaching, dominance of, developing countries 197, 203
Index

domestic court practices, refraining from citing, international arbitral tribunal 282
domestic law, international law and Australian law, disconnect between 216–20
domestic harmonisation 147
Dominello, F. 35
double degree programs 13–16, 187, 189
Douglas, Justice James 269–77
Douglas, S. 68
Drolshammer, J. 139
Du Plessis, M. 55
dualistic economic system, South Africa 62, 63, 67, 68
Dufresne, L. 275
Dwyer, G. 244
e-mails 230–31
see also modern legal practice requirements, Australia; technology
earnings see cost of legal services
effect of changing circumstances 150, 171
EFTA court, Philip Morris v Norway 213
employment
earnings see cost of legal services
entrepreneurial skills, need for 130
judiciary careers 156–7
law practice preparation 75–6
legal practice perceptions by students, need for clear 129–31
lifelong licence expectation 288
newly-qualified practitioners, adaptability requirements 132
post-graduation employment 31–2, 68–9, 184
potential employers’ needs and views, taking account of 215–16
‘real world’ experience, need for 191, 244
skill requirements see skill requirements
stress levels among lawyers 229–32, 244
student wellbeing and post-graduate employment, lack of research into 68–9
work experience, need for 131–2
see also modern legal practice requirements, Australia; professionalism
employment law, increased demand for, Japan 114
engagement 34, 38, 41, 50, 61, 129
English language skills 15, 41, 158, 172
entrepreneurial skills, need for 130
ethics 50, 71–5, 79–81, 84–5, 87–8, 142, 189–90, 198
ethical skills
global practice 190
integration see internationalisation and philosophies of legal education, skills, ethics and values, integration
studies as add-on, Australia 227, 228
ethnocentrism concept, comparative law teaching in ‘Asian Century’ 175, 180
Europe
Bologna Declaration 8–9, 16, 41
centrality and innovation 126
EFTA court, Philip Morris v Norway 213
Erasmus program 8, 126
internationalisation of legal market 235
Kadi 126
PhD studies 16
postgraduate programmes 15
student cross-border mobility 8–9
European Convention on Human Rights (ECHR), cross-examination procedures 273–4, 275
Evans, A. 81, 82
evidence, arbitrator’s treatment of see advocacy before an international arbitral tribunal, arbitrator’s treatment of evidence and facts or law
The internationalisation of legal education

exchanges 13, 16–17, 36, 45–6, 65, 97, 185, 193, 199, 214, 242
expectation of employers 215–216, 246, 249
expert conferencing (hot-tubbing) 284–5
export of legal services, economic importance of, Australia 210–11
faculty mobility, evidence for 16–17
federal systems and civil law/common law divide 146–7, 164–5, 168–9
see also civil law; common law
Feeley, M. 108, 109
Feinman, J. 68
Feldman, M. 68
Fernandez, J. 80
financial transaction law 241
see also modern legal practice requirements, Australia; transactions
Finkenauer, T. 9
Flood, J. 135, 193
foreign and comparative law
knowledge, importance of, developing countries 201–2
foreign language see under language
foreign law evidence, international arbitral tribunal 284
foreign professors providing technical assistance, developing countries 204
foreign study, decrease in, Japan 117–18
foreign universities, studying with affiliated, Australia 63, 240–41
France
civil law system 163
cross-examination see international commercial arbitrations and usefulness of cross-examination, French system comparison
joint curriculum between universities of Cologne and Paris I (Panthéon-Sorbonne) 13, 14
law of unfair competition 163, 165–7
Francq, S. 9
French, Chief Justice R. 34, 71, 90, 148–9, 165
Friedland, S. 226, 227, 239
Fry, J. 280
Fukui, K. 97, 115, 121
Fukui, Y. 121
full and frank disclosure, international arbitral tribunal 280–81
Fuller, L. 72, 76–7
funding
public good versus private benefit, Australia 27–9, 34, 36
resource constraints 88
Garoupa, N. 151
gender mix, Japan, national bar examination 105
Germany
Anglo-German programme, King’s College London and Humboldt University, Berlin 14
Bucerius Law School 12–13
civil law system 163
Double Degree Master’s programme with Columbia Law School, New York and University of Frankfurt am Main 15–16
joint curriculum between universities of Cologne and Paris I 13, 14
law of unfair competition 163, 166
Gilmore, G. 226
Glanert, S. 161
Glasser, A. 73
Gledhill, K. 188
Global Financial Crisis (GFC), effects of 32, 64, 292
global practice, doctrine, perspectives and skills 183–92
accreditation requirements and ranking pressures 184
clinical programs 190
criminal law 188
documentary 186–8
documentary, core curriculum decisions 186–7
Index

Ethics skills 190
Multiple jurisdictions, need for expertise in 184–5
Perspectives and context 188–9
Post-graduation employment 184
Pro bono work and ‘real world’ experience 191
Skills, teaching of 189–91
Tuition costs 184
Globalisation effects
Developing countries, implications for legal education 194–6
Developing countries and international outsourcing 194–202
International trade and integrated legal world 159
Massive Open Online Courses (MOOCs) 63, 140, 170
South Africa see developing countries, South African experience of legal education, globalisation effects
Technological developments see technology
Glocalisation and market failure 122–42
Clinical legal education 131
Cosmopolitan outlook, need for 141–2
Cost of legal services, effects of 133
Curricula reform considerations 128
Doctrinal legal reasoning, importance of 141
Entrepreneurial skills by law students, need for 130
Global capital markets and elitism 135
Glocalisation definition 124
Glocalisation of law 123–8
In-house counsel, rise of 133, 135
Information asymmetry between practitioners and academy 131–4
Information asymmetry between university and student 128–31
International migration effects 126
Internationalised legal actors 127
Language competency, need for 128–9, 142
Legal design and innovation, future requirements 137–8
Legal information movement 133–4, 135–7
Legal literacy and adaptability, encouragement of 139–42
Legal practice perceptions by students, need for clear 129–31
Legal processes, changed, and transnational networks 127
Newly-qualified practitioners, adaptability requirements 132
Political economy of law degrees 134–9
Professional business model challenges 132–3
Professional work experience, need for 131–2
Regionalism, effects of 125–6
Socialisation of law 134, 135–7
Specificity and harmonisation 124–5
Technology and Masssive Open Online Course (MOOC) 63, 140, 170
Technology and online services 133–4, 135–7, 140
Transnational law definition 125
Work experience 131
Gold, N. 77–8, 83
Goldfarb, P. 225
Goldin, I. 126
Gomez, A. 39
Gordley, J. 149, 180
Granfield, R. 191
Graziadei, M. 149
Greenbaum, L. 48, 55, 68
Grimes, R. 191–2
Grondine, R. 95
Grossman, C. 292
Group discussion advantage 250–51
See also tutorials as preparation for international legal practice
Guthrie, R. 80
Hague Conference on Private International Law 4–5
Hands-on experience 31, 176, 177–8, 205–6
harmonisation
harmonious international relations as goal 46–7
integration without harmonisation 146–8
as political project 147–8, 167
South Africa, globalisation effects 64–5
and specificity, glocalisation and market failure 124–5
Harper, S. 122
Heinz, J. 135
Henderson, B. 72–3
Hersch, J. 54
Hickman, L. 34
Hiscock, Mary 6, 65, 158, 241, 287–93
Hodgson, J. 274
Hoffman, D. 146
Hong Kong
Bilateral Investment Treaty (BIT) with Australia 212–13
graduate-entry Juris Doctor (JD) 23–4
University of Zurich, Double Degree Master’s programme with University of Hong Kong or University of California 15
hot-tubbing (expert conferencing) 284–5
Howarth, J. 39
human rights, South Africa 57, 60–61, 65–6
human rights opportunities, Australia 209–22, 290
asylum seekers and refugee status 218, 219–20
Australian Human Rights Commission (AHRC) 216, 220, 221
cross-border commercial compliance and knowledge of international legal standards 210–11, 213–14, 289
export of legal services, economic importance of 210–11
international and domestic law, relationship between 217–20
international law and Australian law, disconnect between 216–20
internationalisation and legal education 214–16
internationalisation and legal education, curriculum models 214–15
Migration Act 1958 (Cth) 218–20
multilateral treaties, effects of 210, 211, 212, 216, 217, 221
national charter of rights, lack of 217
potential employers’ needs and views, taking account of 215–16
refugee status and mandatory detention policy 218–19
refugee status and transfer to another country for processing 219–20
Tobacco Plain Packaging Act 2011 (Cth) 211–14
Tobacco Plain Packaging Act 2011 (Cth), and Bilateral Investment Treaty (BIT) with Hong Kong 212–13
Tobacco Plain Packaging Act 2011 (Cth), legal problems with investment and compensation 212–13
in-house counsel, rise of 133, 135
see also counsel
India
Bar Council of India regulatory control 26
core curriculum decisions 187, 188
legal education 39
privatisation of legal education 63
Indonesia, Family Smoking Prevention and Tobacco Control Act 213
information
asymmetry between practitioners and academy 131–4
asymmetry between university and student 128–31
legal information movement 133–4, 135–7
innovation, legal design and innovation, future requirements 137–8
Index

institutional constraints and the NIMBY Syndrome 88–9
institutional moves to developing countries and opening up of service markets 207
institutionalisation of unification laws 4–6
integrated legal world, ignoring civil law/common law divide 145–72
accessibility of legal sources from other jurisdictions 148–9
common law and civil law comparison, differences between 153–5
common law and civil law comparison, differences between, sources of law 153–4
common law and homogeneity between countries 157
comparative analysis techniques, use of 150
comprehensive codes, use of 154, 162, 163–7, 168
disappearance fears 151–2
doctrinal differences 161, 163
English language use and spread of Internet 152–3
fatal divide consideration 153–69
federal systems 146–7, 164–5, 168–9
globalisation effects, international trade 159
globalisation effects, Massive Open Online Courses (MOOCs) 170
globalisation effects, technological developments and Internet communication 158–61, 169–70
harmonisation as political project 147–8, 167
integration forces already at work 148–50
integration obstacles 158–65
integration without harmonisation 146–8
integration without harmonisation, at national level 146–7
judicial reasoning and justification 154–5, 164
justice administration, barristers and solicitors 156–7, 167–8
justice administration, judicial careers and responsibilities 156–7
language difficulties 160–61, 172
law of unfair competition 163, 165–8
legal culture as barrier to integration 151–2
legal education and training, differing attitudes to 161–2, 169–72
practical divides 160–62
prejudice and presumptions, effects of 162
reality versus perception 162–5, 168–9
significance of divide 168–9
treaty law 168
unifying principles 154
intellectual versus vocational philosophies 30–32
interdisciplinary approach, need for 175–6, 179–80
see also curriculum
international academic boycotts, South Africa 54, 58
international arbitration see advocacy before an international arbitral tribunal
international bodies, dispute resolution 5, 212–13, 276
International Centre for Settlement of Investment Disputes (ICSID) 5, 212–13
Philip Morris v Uruguay (Pending) 213
International Chamber of Commerce (ICC) 3, 280
International Commercial Arbitrations (IBA Rules) 282
international commercial arbitrations and usefulness of cross-examination 269–77
civil law jurisdictions 273–6
common law and civil law, hybrid procedural rules 272–3, 275
cross-examination, usefulness of 269–73
cross-examination, usefulness of, preparation and performance requirements 270–73

see also advocacy before an international arbitral tribunal international commercial arbitrations and usefulness of cross-examination, French system comparison 272, 273–6

history of 274–5

judicial power 275

lack of education in required skills 276

transnational dispute resolution 276

International Court of Arbitration 276

International Covenant on Civil and Political Rights (ICCPR), refugee status 218

International Covenant on Economic, Social and Cultural Rights (ICESCR) 216, 221

International Criminal Court (ICCt) 5, 275

international and domestic law, disconnect between, Australia 216–20

International Institute for the Unification of Private Law (UNIDROIT) 5, 272–3

International Legal Services Advisory Council (ILSAC) 44, 46

international mergers, increase in 236

international outsourcing, developing countries see developing countries, micro/macro reforms and international outsourcing

international practice focus, need for 234–6

international transactions, growth in number and scale 234–5

internationalisation

European legal market 235

human rights opportunities, Australia 214–16

Japanese curricula see Japan, legal education reform

limitations, Australia 66, 116–17

internationalisation of the legal systems, evidence for 1–17, 288–9

double degree programmes 13–14

EU student cross-border mobility 8–9

faculty mobility 16–17

foreign languages, learning 11–12, 15

humanist ideal 10–11

institutionalisation of unification laws 4–6

intergovernmental law-making agencies 4–5

international bodies of dispute resolution 5

legal education objectives 6–11

legal education objectives, market demand, matching 6–7

legal education objectives, political guidance and EU Bologna Declaration 8–9, 16, 41

legal globalisation 2–6

measures for 11–17

nation-states, globalisation effects 2

private initiatives of 19th century and NGOs 3

student mobility at graduate level 14–16

student mobility at undergraduate level 12–14

unification of state laws 3–4

internationalisation and philosophies of legal education 70–91

curricular reform, need for 79–83

curriculum design choices and balance 73–4, 76–9

curriculum design choices and internationalisation 78–9

knowledge becoming outdated 77–8

large bodies of formal knowledge, move away from need for 76–8

legal education goals 74–9

MacCrate Report 80, 227, 239–40, 290–91

philosophy meaning and impact 72–4

preparation of law graduates for the practice of law 75–6

schools’ and students’ self-perception 73

Stuckey Report 75, 80–81
Index

‘thinking like a lawyer’, questioning relevance of 77
internationalisation and philosophies of legal education, curriculum internationalisation challenges 87–9
expertise, lack of 88
institutional constraints and the NIMBY Syndrome 88–9
policy constraints 87
resource constraints 88
single subject incorporation as start to integration 90
student demand for electives 89
time and space constraints 87
internationalisation and philosophies of legal education, skills, ethics and values, integration 79–86
compulsory substantive law subjects 84
conflict between 81–2
current situation 84–6
integration approaches 83–4
integration challenges 86
professional competence development 82, 91
Internet communication 152–3, 158–61, 169–70
see also technology
Internet Corporation for Assigned Names and Numbers (ICANN) 127
isolationism and national political philosophies, South Africa 49–56, 58
Italy, Prato University, Monash University legal courses at 140–41
Iya, P. 59
Jakab, A. 70, 73, 74, 75, 77, 90
James, N. 50
Jansen, N. 3
Japan
Juris Doctor (JD) program 23–4, 203
Kyushu University, Fukuoka, English language master’s programme 15, 116

Tokyo University and Kyoto University legal elite 100
Japan, legal education reform 92–121
Justice System Reform Council recommendations 93, 96–7, 112, 113–14
legal education post-2004 96–9
legal education post-2004, diversification amongst law schools, lack of 100–101
legal education prior pre-2004 94–6
legal education reforms 94–105
national bar examination pre-2004, problems and low pass rate 93–4, 95–6
new graduate schools for legal education, establishment of 97–8
Supreme Court Legal Training and Research Institute training program 95, 96, 98, 109–10
university law training and the legal profession, disconnect between 95
Japan, legal education reform, national bar examination post-2004
applicant numbers, decrease in, and cost factors 102–3
bankruptcy and employment law, increased demand for 114
competitive nature, problems with 106
continued importance of 105–13
continuing focus and need for further change 99–100, 118–19
cultural factors and ‘mandarin meritocracy’ 107–8
curricula additions 106–7
disqualification rate 103–5
essay-type questions, increase in 107
gender mix 105
government involvement implications 108, 109–10
internationalisation of curricula 113–21
internationalisation of curricula, business lobby support 114–15
The internationalisation of legal education

internationalisation of curricula, elective subjects 114, 115
internationalisation of curricula, modernisation concept 115–16
law firms, lack of involvement in training 110
Law School Equivalency Exam (LSEE) 98–9, 102–3
legal philosophies of education 111–13
MEXT programs and curricula regulation 106, 109, 118, 120
overseas study, decrease in 117–18
pass rate 97, 100–102, 104, 117
retention, reasons for 105–10
Socratic method of learning 111–12
stakeholder interests 109–10, 120
JD (Juris Doctor) graduate entry 22–4, 25, 203, 205
Jessup, P. 125
Jessup International Law Moot competition 34
Johnstone, R. 84–5
Jones, C. 95, 99, 111–12, 118–19, 121
Joy, P. 95, 96, 190
judiciary
and apex tribunal, South Africa 57
careers 156–7
dialogue between different jurisdictions, developing countries 196
international commercial arbitrations and usefulness of cross-examination 275
judges and arbitrators, coinciding responsibilities 279–80
judicial reasoning and justification 154–5, 164
judicial review of discretionary executive powers, South Africa 54–5
Jukier, R. 71, 79, 88
Juris Doctor (JD) graduate entry 22–4, 25, 203, 205
justice administration 155–8, 164, 167–8
Kamiya, M. 183
Kashiwagi, N. 92, 95, 99–100, 103, 105–6, 114, 117, 118
Kawabata, Y. 183
Kaye, J. 184
Kelk, N. 131
Kift, S. 71, 77, 78, 86, 91, 93, 112–13
Kilian, M. 8
Kim, R. 203
Klabbers, J. 71, 72
Knake, R. 137
knowledge requirements 200–201
large bodies of formal knowledge, need to move away from 76–8
legal literacy and adaptability, need for 132, 139–42
substantive knowledge 239, 240–43
Köhler, H. 166
Kono, T. 116, 121
Korea, graduate-entry Juris Doctor (JD) 23–4
Kötz, K. 145
Kozyris, P. 174
Krieger, L. 81
Krishnaswamy, S. 39
Kwietniewska, K. 70, 71, 78, 79
Lacey, D. 227, 240
Langdellian methodology 226–7, 240
language competency, need for 128–9, 142, 199–200
difficulties 160–61, 172
English language use and spread of Internet 152–3
foreign language, teaching in 291
foreign languages, learning 11–12, 15, 291
Latin language requirement, discontinuation, South Africa 59
second language use, South Africa 53–4
large law firms ix, 7, 15, 34–5, 44, 110, 118, 120, 142, 162, 210, 215, 225, 228–9, 232–6, 238–9, 242, 244–6, 288
Laumann, E. 135
Index

Law, D. 196
law of unfair competition 163, 165–8
LAW survey 136
Lawley, P. 98
Lee, S. 93
Leeming, M. 146
legal aid
clinics 55
schemes, reduction in 136–7
legal design and innovation, future requirements 137–8
legal firms, new and expanding ranges, developing countries 195
legal information movement 133–4, 135–7
legal practice
modern requirements see modern legal practice requirements,
Australia, law practice in 2012
perceptions by students, need for clear 129–31
see also employment
Legrand, P. 145, 151
library/online exercises for research 177
lifelong learning 68, 78, 288
lifelong licence expectation 288
see also employment
Liguerre, C. 151
literacy, legal literacy and adaptability, need for 132, 139–42
Llewellyn, K. 80, 128–9
Lo, Chang-fa 193–208
Lubbers, J. 203
Luizzi, V. 72
McAlinn, G. 183
MacFarlane, J. 68
McGowan, D. 140
Mack, K. 82
McKenna, S. 94
‘magic circle’ law firms 34, 35, 235, 236
Malaurie-Vignal, M. 166
Malaysia, Monash University legal courses 140–41
Maranov, R. 39
market demand, matching 6–7
market failure, and glocalisation see glocalisation and market failure
market forces and duality in education system, South Africa 63, 67
Massive Open Online Course (MOOC) 63, 140, 170
see also technology
Matasar, R. 81, 85
Mattei, U. 151
Maxeiner, J. 180
mergers
increase in international 236
national law firms, Australia 228–9
Michaels, R. 3, 145
micro/macroe reforms, developing countries see developing countries, micro/macroe reforms and international outsourcing
Miyazawa, S. 94, 97, 100, 108, 109, 183, 193–4
modern legal practice requirements, Australia 225–45
affiliated foreign universities, studying with 241
comparative analysis versus substantive knowledge 240–43
financial transaction law 241
international mergers, increase in 236
international practice focus 234–6
international transactions, growth in number and scale 234–5
internationalisation and early entrants to Australian market 235–6
internationalisation of European legal market 235
internationalisation and UK–US cross-Atlantic mergers 235
Mallesons and international practice 234, 235, 238–9, 242, 243–4
professionalism 240, 243–4
real life situations, education in 244
Resilience@law project 244
skill requirements 239–43
traditional versus engaged approach 239–40
training requirements 243–4
see also employment; technology;
tutorials as preparation for
international legal practice
modern legal practice requirements,
Australia, law practice in 2012 237–9
large commercial transactions 237
one-stop shops 237–8
substantive legal knowledge 239
values and capabilities of law firms,
importance of 238–9
modern legal practice requirements,
Australia, university law studies in
1970s, Victoria 226–8
engaged learning principles, lack of
227–8
ethical studies as add-on 227, 228
Langdellian methodology 226–7, 240
Mallesons law firm and Victorian law
226, 228, 229, 234
moot court as compulsory subject
227
professionalism, lack of teaching of
227
modern legal practice requirements,
Australia, university law studies
post-1970s 228–33
annual billable hour expectations
229–30
billing by reference 232
client alignment issues 229, 232
e-mails and conference calls 230–31
interstate commercial transactions,
growth of, and increased work
pressures 229–31
national law firm mergers 228–9
negotiation skills, changing 230–31
overspecialisation risks 233
precedents and pro-forma opinions,
care in use of 232–3
stress levels among lawyers 231–2, 244
technology changes, impact of
230–32
modernisation 62–3, 73, 115–16
Moffitt, M. 86
Molewijk, A. 190
MOOC (Massive Open Online Course)
63, 140, 170
moot court
competitions, WTO 206
as compulsory subject 227
mooting 58, 161, 171, 186, 189, 292
Morawetz, N. 192
Morgan, T. 133
Morissette, Y.-M. 153
multilateral treaties, effects of 210, 211,
212, 216, 217, 221
multiple jurisdictions, need for
expertise in 184–5
Munday, R. 145
Murray, P. 139
Nagashima, Y. 110
national bar examination, Japan see
under Japan, legal education
reform
national law firm mergers 228–9
national philosophies, and isolationism,
South Africa 49–56, 58
national philosophies of legal
education, Australia 21–47
American Bar Association (ABA)
recognition 37
Australian National University
(ANU), Commonwealth-supported
places (CSP) 27
Australian National University
(ANU), funding 27–8
Australian National University
(ANU), graduate destination
survey 31
Australian National University
(ANU), Legal Workshop 31, 34,
36, 38
correlation with other countries
38–42
Council of Australian Law Deans (CALD) standards 45

current state of legal education, differing views on 33–4

erlier philosophy, comparison with 38

employment in UK ‘magic circle’ law firms 34, 35

generational cultures, effects of 36

graduate-entry Juris Doctor (JD) 22–4, 25

hands-on experience through clinical programs 31

harmonious international relations as goal 46–7

Higher Education Contribution Scheme (HECS) 27–8

insight versus stereotype 34–5

International Association of Law Schools (IALS) and learning from each other 42–3, 46–7

internationalisation effects 44–5, 46

internationalisation as part of emerging national philosophies 43–5

law graduates, employment outcomes 31–2

Melbourne Model law degree 22, 113, 267

national and federal regulation 26

positivism versus public service 29–30

Priestley requirements (core law subjects) 25, 26, 72, 74, 85, 87, 90, 211

primary law degree, undergraduate versus postgraduate 22–4

psychology of disagreement 36–8

public good versus private benefit, and funding 27–9, 34, 36

quality issues 32–8

self-contained versus contextual discipline 24–6

Threshold Learning Outcomes (TLOs) 45

vocational versus intellectual 30–32

negotiation skills, changing 230–31

see also modern legal practice requirements, Australia

Nelken, D. 145

Netherlands, University of Rotterdam, programmes offered in English 15

networking opportunities 127, 206–7

newly-qualified practitioners, adaptability requirements 132

see also employment

NIMBY Syndrome and institutional constraints 88–9

Nishida, K. 100, 101

Nottage, L. 150

O’Brien, R. 41

O’Connor, S. 198

O’Donovan, Darren 122–42

one-stop shops 237–8

see also modern legal practice requirements, Australia

online services 133–4, 135–7, 140, 177

see also technology

oral evidence 282–4

see also advocacy before an international arbitral tribunal

Orúcü, E. 145

Osaka, E. 105

O’Shea, P. 86

Otsuka, H. 100

outsourcing 124, 193–4, 204, 289

overseas study, decrease in, Japan 117–18

overspecialisation risks 233

see also modern legal practice requirements, Australia

Palermo, P. 81, 82

Palin, A. 241

Palmer, V. 174

Parker, C. 228

parliamentary supremacy doctrine, South Africa 51

pass rate, national bar examination, Japan 97, 100–102, 104, 117

Passa, J. 166

Patrick, J. 39

Pearce, D. 80
312  The internationalisation of legal education

Pearce, R. 81
Pejovic, C. 150
Petridis, Anesti 39, 92–121
Philippines, graduate-entry Juris Doctor (JD) 23–4
philosophies of legal education and internationalisation see internationalisation and philosophies of legal education
Japan, national bar examination post-2004 111–13
Picker, C. 149
Pickett, G. 60
Pihlajamäki, H. 9
Pinto, M. 39
political economy of law degrees 134–9
Post, A. 184
post-graduation employment 31–2, 68–9, 184
see also employment
practical experience 31, 176, 177–8, 205–6
Prasad, R. 237
precedents and pro-forma opinions, care in use of 232–3
see also modern legal practice requirements, Australia
prejudice and presumptions, effects of 162
Priestley 11 subject areas, Australia 25, 26, 72, 74, 85, 87, 90, 211
privatisation 27–9, 34, 36, 63
problem-solving, similarities in different law enforcement authorities 195–6, 199
professionalism
competence development 82, 91
lack of teaching of 227
modern legal practice requirements, Australia 240, 243–4
work experience, need for 131–2
see also employment
public good versus private benefit, and funding 27–9, 34, 36
quality issues, national philosophies of legal education, Australia 32–8

racial segregation and legislation, South Africa 54, 56
’real world’ experience, need for 191, 244
see also employment
refugee status
mandatory detention policy 218–19
transfer to another country for processing 219–20
regionalism, effects of 125–6
Reimann, M. 145, 151, 174
Reisman, W. 91
Reitz, J. 174
Resilience@law project, Australia 244
resolution skills 250
see also tutorials as preparation for international legal practice
resource constraints 88
see also funding
restrictive laws, interpretation of, South Africa 54–5
Rhode, D. 86, 191
Ribstein, L. 108–9, 110, 112, 132, 133, 134, 138
Rich, W. 88
Riles, A. 3
Robertson, M. 190
Rokumoto, K. 96, 107
Roman law, Corpus Iuris Civilis 53
Rowe, J. 146
Rüfner, T. 9
’rule by law’ and socially progressive tendencies, South Africa 51–2
Ruskola, T. 175
Russell, Rowan 225–45
Russia, bar exam refreshment 39
Ryan, T. 22, 106, 107, 109, 111, 119
Saegusa, M. 94
Saint-Gal, Y. 166
Sandel, M. 63
Saunders, C. 152
Schleef, D. 129
Index

Schroer, W. 36
Scott, C. 287
self-perception of schools and students 73
Sexton, J. 90
Shimbun, N. 120
silence and unresponsive students, dealing with 255–62
see also tutorials as preparation for international legal practice
Silver, C. 123–4, 141–2
Singapore, core curriculum decisions 187, 188–9, 190–91
single subject incorporation as start to integration 90
skill requirements
in current market 247–8
and integration see internationalisation and philosophies of legal education, skills, ethics and values, integration
modern legal practice requirements see modern legal practice requirements, Australia
Sloan, K. 130, 184
Smith, S. 1
Smits, J. 45, 46, 145, 147, 148, 152
Snyder, D. 3
social problems, dealing with, developing countries 196
socialisation of law 134, 135–7, 214
socially progressive tendencies and ‘rule by law’, South Africa 51–2
Socratic method of learning, Japan 111–12
South Africa
Foresti v Republic of South Africa 66
legal education changes see developing countries, South African experience of legal education
Minister of Economic Development v Competition Tribunal v Wal-Mart Stores 66
University of Pretoria Law School, human rights program 65–6
University of the Witwatersrand, Johannesburg, international economic law 66
Spamann, H. 174–5
specialisation, 62, 76, 160, 187
overspecialisation risks 233
see also modern legal practice requirements, Australia
Spiller, P. 52
stakeholder interests 109–10, 114–15, 120
Stanton, T. 288
Steele, Stacey 39, 92–121
Stevens, C. 113, 114, 116
stress levels among lawyers 229–32, 244
see also modern legal practice requirements, Australia
Stuckey, R. 71, 74, 75, 80–81, 85
students
demand for electives 89
legal practice perceptions 129–31
mobility 12–16
self-perception 73
student asks/tutor answers, problems with 252–3
unresponsive, dealing with 255–62
wellbeing and post-graduate employment, lack of research into 68–9
substantive legal knowledge requirements 239, 240–43
substantive law as compulsory subject 84
Sugiura, M. 99
Sullivan, W. 71, 74, 75, 227, 239
summer internships and legal skills, developing countries 197
Susskind, R. 68, 122, 132, 133
Svantesson, D. 164
Sweden, University of Lund, programmes offered in English 15
Switzerland, University of Zurich, Double Degree Master’s programme with University of Hong Kong 15
Taiwan
Asian Center for WTO and International Health Law and Policy (ACWH) 205–6
dothetical teaching, need for shift from 197
foreign professors providing technical assistance 204
hands-on experience in legal matters 205–6
international outsourcing, use of 204
legal education reform discussion 203–4
small-scale postgraduate JD type law programs 205

Tamanaha, B. 32, 184
Tanase, T. 107, 115–16
Tanikawa, M. 93, 102
Taylor, K. 92, 94, 106

Technology
changes, impact of 230–32, 291
foreign professors providing technical assistance, developing countries 204
Internet communication 152–3, 158–61, 169–70
library/online exercises for research 177
Massive Open Online Course (MOOC) 63, 140, 170
online services 133–4, 135–7, 140, 177

See also modern legal practice requirements, Australia
Templado, L. 117–18
theory and practice, lack of connection between 50–51
‘thinking like a lawyer’, questioning relevance of 77
thinking and speaking skills 247–8, 262–5

See also tutorials as preparation for international legal practice
Thornton, M. 33–4, 36, 63
traditional legal education issues 196–8, 239–40
transactions
commercial transactions, large 237
experience, usefulness of 247
financial transaction law 241
international transactions, growth in number and scale 234–5
interstate commercial transactions, growth of, and increased work pressures 229–31
transnational law definition 125
treaty law 168
tribunal
apex tribunal and judiciary, South Africa 57
arbitral see advocacy before an international arbitral tribunal
Triggs, Gillian 209–22
tuition costs 184
tutorials as preparation for international legal practice 246–65
confidence skills 248–9, 256
confrontational skills 249
group discussion advantage 250–51
law tutorials as ideal ground for training 250–51
resolution skills 250
silence and unresponsive students, dealing with 255–62
silence and unresponsive students, first principles, starting from 256–62
silence and unresponsive students, and tutorial participation marks 256, 262–5
simple interactions, avoidance of 251–5
skill requirements in current market 247–8
student asks/tutor answers, problems with 252–3
thinking and speaking skills 247–8, 262–5

thinking and speaking skills, curriculum development 262–3
transaction experience, usefulness of 247

tutor asks/student answers, progression from 254–5
tutor as facilitator 252–3, 263–4
see also comparative law teaching in ‘Asian Century’; curriculum; modern legal practice requirements, Australia
Twining, W. 82, 125, 127

UK
Anglo-German programme, King’s College London and Humboldt University, Berlin 14
core curriculum decisions 187, 189
Donoghue v Stevenson 154
European Roma Rights Centre 217
internationalisation and UK–US cross-Atlantic mergers 235
law of unfair competition 165, 167
Legal Services Act and Alternative Business Structures 133
Lord Chancellor’s Advisory Committee on Legal Education and Conduct (ACLEC) 75–6
‘magic circle’ law firms 34, 35, 235, 236
UN Convention on the Rights of the Child (CROC), refugee status 218
UN High Commissioner for Refugees (UNHCR), refugee status 218
unfair competition, law of 163, 165–8
Uniform Customs and Practices for Letters of Credit and the Incoterms 3
United Nations Commission on International Trade Law (UNCITRAL) 5
university rankings, South Africa 63
US
American Bar Association (ABA), accreditation requirements 184
American Bar Association (ABA), Mental Health Initiative 105
American Bar Association (ABA), recognition of Australian legal qualifications 37
American Law Institute, Principles of Transnational Civil Procedure 272–3
Australia-US Free Trade Agreement (AUSFTA) 212
Carnegie Foundation Report 227, 239–40
cigarette packet imaging regulation 213
Columbia Law School, New York 15–16
core curriculum decisions 187
cross-examination skills 276
deregulation pressure 121
Double Degree Master’s programme with Columbia Law School, New York and University of Frankfurt am Main 15–16
entrepreneurial skills by law students, need for 130
graduate-entry Juris Doctor (JD) 23–4
internationalisation and UK–US cross-Atlantic mergers 235
law graduates, employment outcomes 32
legal education imbalances 122–3, 124–5
licensing and accreditation 110
LLM programmes 14–15
MacCrate Report and curriculum reform 80, 227, 239–40, 290–91
post-graduation employment 184
Reynolds Tobacco Co v Food and Drug Administration 213
skills, ethics and values, teaching 80–81, 85
Socratic method of learning 111–12
Stuckey Report and preparation of law graduates for legal practice 75, 80–81
tuition costs 184
uniform licensing criticism 108–9
University of Zurich, Double Degree Master’s programme with University of Hong Kong or University of California 15
Uzun, M. 46
Valcke, C. 74, 77, 88, 90
values
and capabilities of law firms,
importance of 238–9
and integration see
internationalisation and
philosophies of legal education,
skills, ethics and values,
integration
van Caenegem, William 6, 65, 145–72,
241, 287–93
Van Rhee, C. 147
Vignaendra, S. 31, 84–5
Visser, D. 53
vocational versus intellectual
philosophies 30–32
Von Humboldt, W. 10
Wade, J. 70, 86, 87, 88
Waincymer, J. 94, 114, 115
Walker, N. 127
Wang, T. 93
Weaver, R. 32
Webb, J. 85
Weisbrot, D. 80
Wells, C. 32
Welsh, N. 77
Wenzler, H. 70, 71, 78, 79
Western liberal democracies,
impression of dominance of 175
see also comparative law teaching in
‘Asian Century’
WHO Framework Convention on
Tobacco Control 2005 (WHO
FCTC) 212
Wigmore, J. 270
Wilson, M. 92, 112
Wolfrum, R. 5
Wolski, Bobette 58, 70–91
Woolfrey, D. 60
work experience, need for 131–2
written examinations, essay-type
questions, increase in, Japan 107
written statements and oral evidence,
international arbitral tribunal
282–4
WTO
dispute settlement mechanism 5, 213
GATS bottom-up approach on
commitment of opening up
service markets 207
moot court competitions 206
Yoshida, K. 98
Zaloom, E. 110
Zerilli, J. 70
Zimmernann, R. 53, 145
Zumbansen, P. 126–7
Zweigert, K. 145