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RUMINATIONS ON COMPARATIVISM, MIXITY, AND BIJURALISM IN LEGAL EDUCATION

In addressing the biannual *Conference of Juris Diversitas*, it would be ‘carrying coals to New Castle’ to waste time in making the case for comparative law as having strong benefits for the study and teaching of law;¹ for *Juris Diversitas* members well know that ‘comparison’ is a natural human tendency that manifests itself in the evaluation of both football teams and legal systems.² Various historical circumstances, however, can impede the comparativist human instinct; so in this Article, I should like to focus on Anglophone jurisdictions, like the United States (U.S.), where the educational benefits of comparative legal education may not be so obvious—and where there are numerous institutional and academic obstacles to the achievement of these benefits.

What, then, are some of the obstacles to a comparative or transnational legal education in jurisdictions like the U.S.? First and foremost, there is the obstacle posed by modern law students who, in large, tend to resist serious and demanding pedagogy. This resistance was early diagnosed and described by Anthony D’Amato in his ground-breaking 1987 study of ‘law student consumerism,’³ wherein Professor D’Amato diagnosed, in its early

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¹ *Juris Diversitas*, *Crossing Boundaries* (9th General Conference, October 24–25, 2024) (identifying different legal problems by comparing and contrasting their underlying causes, thereby enabling respectful applications of different legal frameworks in harmony with the goal ‘of peaceful co-existence, in spite of differences’), available at <https://jurisdiversitas.blogspot.com/p/blog-page.html> (last visited Aug. 3, 2025). But if any persuasion as to the pedagogical value of comparative law is required, see generally Augustin Parise, *Legal Education in Argentina: A Plea for Comparative Law in a Multicultural Environment*, 81 *LA. L. REV.* 1275 (2021).

² See Leon Festinger, *A Theory of Social Comparison Processes*, 7 *HUMAN RELATIONS* 117, 140 (1954).

³ See Anthony D’Amato, *The Decline and Fall of Law Teaching in the Age of Student Consumerism*, 37 *J. LEGAL EDUC.* 462 (1987).

stages, the student *laissez-nous-faire* syndrome,⁴ which has metastasized during the ensuing decades. For example, the Loyola University (New Orleans) College of Law, for some seventy or so years, commencing in the early 1960s, maintained a ‘perspectives course’ requirement that all Juris Doctor candidates had to satisfy by passing one of five courses, ‘Jurisprudence, Comparative Law, Western Legal Tradition, American Legal History, or European Union Law.’⁵ The ‘perspectives’ course requirement aims to give Loyola law students a broader, more cosmopolitan perspective on the municipal law being studied in the rest of the curriculum.⁶

Then, in the mid-1980s, a new, ‘current events’ focused course was added to Loyola’s law curriculum as a requirement for graduation. It was denominated ‘Law and Poverty’⁷ and was eventually supplemented by ‘Street Law,’⁸ making the requirement sound action-packed, like an American

⁴ *ibid* 474-75, 483-85 (explaining that when law professors changed their teaching style to a less demanding approach in order to accommodate student preferences, they necessarily ceased encouraging the formation of new mental pathways or multifactorial perspectives in legal analysis). For further detail on the negative effects of such libertarian or *laissez-nous-faire* (leave us to do as we please) modes of teaching, see *below* text accompanying notes 10-11. See also Sarah Lee, *Laissez-Faire Leadership in Education: A Comprehensive Guide to Hands-Off Management in Schools*, NO. ANALYTICS (May 24, 2025) (discussing challenges of laissez-faire style teaching such as lack of clear guidance and supervision, inconsistent issue resolution, and limited student accountability), available at <https://www.numberanalytics.com/blog/laissez-faire-leadership-education-guide> (last visited Aug. 2, 2025); see also Clever B Makundi, Juliet Ntimba, *Effects of Head of Schools’ Laissez-Faire Leadership Style on Teacher’s Professionalism in Public Secondary Schools in Temeke Municipality, Tanzania*, 4 INT’L J. OF MULTIDISCIPLINARY RSCH. & GROWTH EVALUATION 513, 517 (2023) (arguing that laissez-faire leadership takes a ‘hands off’ approach, while lacking a ‘clear vision’ and goals for ‘intellectual growth,’ and leads to negative effects on performance and attitudes).

⁵ See, e.g., LOYOLA UNIVERSITY NEW ORLEANS LAW BULLETIN 2003-2004, at 35 (explaining the perspectives-course requirement, which mandates that students take one of the five philosophical or historical courses, namely, Jurisprudence, Western Legal Tradition, Comparative Law, American Legal History, or Law of European Communities); LOYOLA UNIVERSITY NEW ORLEANS LAW BULLETIN 2004-2005, at 38 (2004) (same). These five courses eventually, by the late 20th century, constituted the optional ‘required perspectives courses,’ but originally, there was only *one* required ‘perspectives’ course. See MARIA I. MEDINA, LOYOLA UNIVERSITY NEW ORLEANS COLLEGE OF LAW: A HISTORY 123 (La. State Univ. Press 2016) (mentioning that Jurisprudence first became a required course in 1965). In creating this required course in 1965, the Loyola faculty was perhaps inspired by LSU’s having made Jurisprudence a required course in 1953. See W. LEE HARGRAVE, LSU LAW: THE LOUISIANA STATE UNIVERSITY LAW SCHOOL FROM 1906 TO 1977, at 144-45 (La. State Univ. Press, 2004).

⁶ See, e.g., LOYOLA UNIVERSITY NEW ORLEANS LAW BULLETIN 2010-2011 (describing the purpose of the perspective courses as providing historical and philosophical perspectives on law), available at https://2010bulletin.loyno.edu/print/law.html#persp_crse (last visited on Aug. 2, 2025).

⁷ See MEDINA, above note 5, at 144 (stating that in academic year 1986-1987, the law school adopted a mandatory ‘law and poverty’ course requirement, designed to introduce all students ‘to the detrimental effects of poverty on society and poor people’ through ‘a critical examination of the legal system’s response to the economic, social and human problems of poverty, particularly in the fields of social security, welfare, unemployment and workmen’s compensation’).

⁸ *ibid* 148 (noting that newly hired Assistant Professor Catherine Clark in 1989 instituted the ‘street law’ program/course to teach local public-school students about their rights, responsibilities, and legal problems and that this course satisfied the poverty-law requirement); see also *below* note 14.

television police drama.⁹ About a decade after the adoption of the ‘Street Law’ requirement, Loyola students and some professors started arguing for fewer required courses in order to make room for elective courses¹⁰ which, as one might expect of student-preferred courses,¹¹ were not as intellectually demanding as, say, Comparative Law or Jurisprudence.¹²

In response to this bout of student consumerism, did the Loyola faculty abandon the mandatory ‘Street Law/Poverty Law’ requirement, along with the perspectives requirement of Jurisprudence, Legal History, etc.? Sadly, no: at a faculty meeting during the spring semester of 2013, the five perspectives courses *only* were demoted to elective status.¹³ And since then,

⁹ For example, see the popular television police procedurals ‘Hill Street Blues’ (NBC, 1981-1987), ‘Streets of San Francisco’ (ABC, 1972-1977), and ‘21 Jump Street,’ (FOX, 1987-1991), which are described in Wikipedia, https://en.wikipedia.org/wiki/Hill_Street_Blues; https://en.wikipedia.org/wiki/The_Streets_of_San_Francisco#:~:text=The%20Streets%20of%20San%20Francisco%20premiered%20on%20ABC%20on%20Saturday,and%20The%20Bob%20Newhart%20Show.; https://en.wikipedia.org/wiki/21_Jump_Street (last visited Aug. 3, 2025); see also SHEREEN HASSAN ET AL, INTRODUCTION TO CRIMINOLOGY 353 (Kwantlen Polytechnic Univ., 2023) (describing popular crime television dramas as shaping, while simultaneously amplifying and distorting, the public perception of crime, ultimately giving rise to reality police programs that influence the beliefs of ‘police, suspects and the general public’ by promoting the notion that effective law enforcement involves ‘high-speed chases, blocking and tackling, drawn weapons, and a shoot-first, think-later mind set’).

¹⁰ See MEDINA, above note 5, at 211-14 (explaining that in the aftermath of Hurricane Katrina, the law school reformed the curriculum, between 2006-2008, with a focus on expense, enrollment, and staffing). For a discussion of the recent trend toward undemanding collegiate and law-school courses, see D’Amato, above note 3, at 464-65, 485-88, 493-94.

¹¹ On the modern trend toward undemanding ‘boutique’ electives, see D’Amato, above note 3, at 461 (‘Elective curricula means that the popular professors are supported by student attendance, putting pressure upon the unpopular professors to become popular.’); *ibid* 493-94 (stating that while law schools owe the student ‘consumer’ a challenging legal education that stimulates the student to develop new paths of thinking and arguing, instead, most law teachers are ‘pushovers’ who opt to please their students rather than promoting the mental ability to cope with legal problems); see also James Étienne Viator, *Legal Education’s Perfect Storm: Law Students’ Poor Writing and Legal Analysis Skills Collide With Dismal Employment Prospects, Creating the Urgent Need to Reconfigure the First-Year Curriculum*, 61 CATH. UNIV. L. REV. 735, 742-743 (2012) (pointing out the academic declension occurs after the intellectually demanding ‘hard courses’ are replaced by ‘softer, easier courses’).

¹² Compare BART WAUTERS & MARCO DE BENITO, *THE HISTORY OF LAW IN EUROPE* 6-8 (Edward Elgar Publ’g Ltd., 2017) (explaining that an understanding of Roman Law requires a historical analysis, abstract reasoning, and integration based on multiple legal texts), with Medina et al., above note 7, at 27 (citing LAW BULLETIN 1998-1999, and explaining that the Street Law course satisfies the Law and Poverty requirement necessary for graduation); see also LOYOLA UNIVERSITY NEW ORLEANS LAW BULLETIN 2004-2005, at 102 (describing Street Law as a course designed to teach ‘inner-city middle school and high school students about law related issues’); above note 8.

¹³ *Academic Regulations*, LOYOLA UNIVERSITY NEW ORLEANS LAW BULLETIN 2024-2025 [hereinafter LOYOLA LAW BULLETIN 2024] (showing that as of 2024-2025, Loyola’s College of Law J.D. program required Law and Poverty, though not any perspective courses), available at <https://lawbulletin.loyno.edu/regulations/academic-regulations> (last visited June 29, 2025). Compare LOYOLA UNIVERSITY NEW ORLEANS LAW BULLETIN 2012-2013 (demonstrating a perspectives-course requirement for a J.D. during the 2012-2013 academic school year), available at <https://2012bulletin.loyno.edu/law/juris-doctor.html> (last visited June 29, 2025), with LOYOLA UNIVERSITY NEW ORLEANS LAW BULLETIN 2013-2014 [hereinafter LOYOLA LAW BULLETIN 2013] (showing that as of academic calendar year 2013-2014, perspectives courses are no longer required and are offered only as electives), available at <https://2013bulletin.loyno.edu/law/juris-doctor.html> (last visited June 29, 2025).

these five have been taught only sporadically in low-enrollment seminars, whereas Street Law and Law and Poverty still constitute and satisfy a graduation requirement.¹⁴

Moreover, the decline of required historical and comparative courses has been accelerating throughout American law schools.¹⁵ For example, the North Dakota University School of Law—atypically, as a Field Code state—had a required Roman-Law requirement in its curriculum for decades.¹⁶ That all changed, however, when, commencing in the 1980s, Roman Law

¹⁴ See LOYOLA LAW BULLETIN 2024, above note 13 (showing that a ‘law and poverty’ course is required for the J.D., which both Law and Poverty and Street Law satisfy); see also LOYOLA LAW BULLETIN 2013, above note 13. Compare General Law Electives, LOYOLA UNIVERSITY NEW ORLEANS LAW BULLETIN 2017-2018 (explaining that the Jurisprudence elective course focuses on the ‘natural law basis of the principal juridical institutions in the Roman and Anglo-American legal systems’), available at <https://2017bulletin.loyno.edu/law/general-law-elective-courses.html> (last visited July 10, 2024), with Spring 2025 Course Description, LOYOLA LAW BULLETIN 2025 (last updated Nov. 12, 2024) (indicating that during the spring semester 2025, no courses included instruction in Roman law or natural law), available at https://law.loyno.edu/sites/default/files/s25_course_descriptions_updated_11-12-24.pdf (last visited Aug. 3, 2025), and Fall 2025 Loyola University, LOYOLA LAW BULLETIN 2025 (last updated June 3, 2025) (indicating that during the fall semester of 2025, none of the courses offered included instruction on Roman law), available at https://law.loyno.edu/sites/default/files/f25_course_descriptions_6.3.25.pdf (last visited August 2, 2025).

¹⁵ See A. Benjamin Spencer, *The Law School Critique in Historical Perspective*, 69 WASH. & LEE L. REV. 1942, at 2000-01 (2012) (explaining that in 1922, the American Bar Association approved a required unitary set of educational standards for all law-schools), and SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, A SURVEY OF LAW SCHOOL CURRICULA: 1992-2002, at 25 (American Bar Association, 2004) (noting that in 2004, most law schools offered ‘roughly the same basic set of doctrinal’ and legal research and writing requirements followed by electives at the discretion of the student, and that course loads are traditionally ‘organized around tracks or concentrations’), available at https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/1992_2002_survey_of_law_school_curricula.authcheckdam.pdf (last visited Aug. 18, 2025); Michael H. Hoeflich, *Roman and Civil Law in American Legal Education and Research Prior to 1930: A Preliminary Survey*, 1984 UNIV. ILL. L. REV. 719, 719, 721-22 (noting that American legal education has neglected Roman Law and that a ‘1963-64 . . . survey of American law school curricula revealed that only seven schools taught Roman law, or Roman and comparative law’).

¹⁶ See Micheal H. Hoeflich, *Bibliographical Perspectives on Roman and Civil Law*, 89 LAW LIBRARY J. 41, 50 (1997) [hereinafter Hoeflich, *Perspectives*] (‘Roman law . . . was of great interest to American lawyers and judges from the beginnings of our Republic. The study of Roman law was included in the curriculum of most university law schools. Court decisions at both the state and federal levels are replete with references to Roman law in certain areas, such as commercial law and admiralty.’); Charles L. Crum, *The History of the University of North Dakota School of Law*, 35 N. DAKOTA L. REV. 5, 19-20 (1959) (stating that under O.H. Thormodsgard, who was named dean in 1932, the curriculum, which included Legal History, was an ‘inheritance [from earlier deanships] in many respects, and was designed to give the students a solid coverage of those subjects considered of a basic and essential character’); Orrin K. McMurray, *The Teaching of Legal History in the American Law School*, 7 AM. L. SCH. REV. 1122, 1122-23 (1934) (stating that legal history course descriptions varied among law schools and that generally the study of legal history was not encouraged in American law schools and further noting that as of 1932-1933, courses encompassing legal history remained limited, and the University of North Dakota Law School was one of the few schools offering such a course); Dean O. H. Thormodsgard, *Law School News*, 26 N. DAKOTA L. REV. 65, 65-66 (1950) (explaining that in 1950-1951, the University of North Dakota Law School implemented a required ‘pre-law program’ requirement for admission, which included English-European History). See also above note 15.

made only rare appearances as an elective course at North Dakota Law.¹⁷ One of the few American law schools that has not surrendered to the imperatives of student consumerism is the Washington and Lee University School of Law, where Professor Mark Drumbl's first-year required course in transnational law endures still.¹⁸

To be sure, particular Roman or Comparative Law requirements, now discarded in virtually every law school, were not much, but they were something. That is to say, even though in the typical American law school students tend to learn foreign law the way Americans learn foreign languages—namely, at the dilettante level, a little grammar, some vocabulary, no fluency¹⁹—nonetheless, some study or familiarity is better than none.²⁰

This primary obstacle to the comparativist pedagogy in the U.S. calls to mind the old, but still true, joke that Americans are a people who speak, at most, one language. And this old joke limns the second great obstacle to a comparative- or transnational-law curriculum, namely, monolingualism; for unless American law students are fluent in (at least) two languages,

¹⁷ *Academics: Curriculum and Courses*, UNIV. OF N. DAKOTA SCH. OF L. (November 15, 2021) (showing that neither Legal History nor any other course based in Roman law is currently offered at University of North Dakota School of Law), available at <https://law.und.edu/academics/courses.html#d65e288--2> (last visited Aug. 2, 2025).

¹⁸ See *Degree Requirements: Juris Doctor (J.D.) Degree Requirements*, WASH. & LEE UNIV. (identifying Transnational Law as a required 1L law course at the university), available at <https://law.wlu.edu/students/law-registrar/academic-policies/degree-requirements#:~:text=Required%20Courses%3A%20In%20addition%20to,candidates%20must%20successfully%20complete%20Professional> (last visited June 18, 2025); see also *Faculty Page, Mark A. Drumbl*, WASH. & LEE UNIV. (identifying Mark Drumbl as the Faculty Alumni Professor of Law and Director of the Transnational Law Institute), available at <https://law.wlu.edu/faculty/full-time-faculty/mark-drumbl> (last visited June 19, 2025).

¹⁹ See Matthew Rampe, *The US Needs to Improve Foreign Language Education*, THE TUFTS DAILY (October 27, 2023) (noting that only 10% of people in the U.S. speak foreign languages proficiently compared to 65% of Europeans and opining that the American education system contributes by not requiring foreign language education nor follow through with advanced study), available at <https://www.tuftsdaily.com/article/2023/10/the-us-needs-to-improve-foreign-language-education> (last visited Aug. 2, 2025); see also below note 20.

²⁰ Of course, translations of Roman law and civil law doctrine and laws provide a way to ameliorate the pitiful condition of foreign-language proficiency in American law schools. Unfortunately, quality Roman and civil law translations are less available and far more expensive today than during the antebellum period in America. See Hoeflich, *Perspectives*, above note 16, at 52 ("There can be no doubt that demand for [Roman and civil law translation] volumes, particularly in the antebellum period, was sufficiently high to warrant the maintenance of a trade in such books between Europe and America. Indeed, it is perhaps ironic to note that it was easier to purchase a basic library on Roman law in 1856 than it is today in 1996. It was also a good deal cheaper."). Cf. David J. Gerber, *Globalization and Legal Knowledge: Implications for Comparative Law*, 75 TUL. L. REV. 949, 967 (2001) (explaining that more than merely the literal meaning of the target language must be understood in order to competently apply legal principles across linguistic borders); RUDOLPH B. SCHLESINGER, *COMPARATIVE LAW CASES: TEXT AND MATERIALS* 478-81 (Foundation Press, 2d ed. 1959) (explaining that true comprehension of foreign laws requires more than just a bare translation of words).

comparative law instruction and scholarship obviously cannot flourish.²¹ And from an already very low historical baseline, foreign language study in the U.S. has recently gone into a precipitous decline²²—largely due, it would seem, to the ubiquitous triumph of student consumerism on undergraduate campuses.²³ In the twelve years from 2009 to 2021, the number of college students enrolled in foreign-language courses fell overall by over 29.3%.²⁴ Between 2016 and 2021, the number of students enrolled in Chinese courses declined by 14.3%; German study dropped by 33.6%; Spanish enrollment fell by 18%, French by 23.1%, and Russian by 13.5%.²⁵ Moreover, by expanding the temporal vista to 2009 though 2021, one will discover the egregious decline in Latin enrollment of 40%.²⁶

All of these languages are affiliated with significant legal systems, and therefore any comparative-law student should know or learn some of

²¹ See Anthony D'Amato, *The Path of International Law, Faculty Working Papers*, PAPERS NO. 97, NW. UNIV. SCH. OF L. SCHOLARLY COMMONS 5–7 (2010) (explaining the need for an understanding of foreign language in order to be effective in international law and the resulting monolingual limitations identified in American lawyers), available at <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1096&context=facultyworkingpapers> (last visited Aug. 2, 2025); see also Gerber, above note 20, at 967 ('Language is necessarily a key factor [in learning a different legal order] . . . Yet, despite the obvious centrality of language, comparative law scholarship has paid relatively little attention to its roles.')

²² See NATALIA LUSIN ET AL., ENROLLMENTS IN LANGUAGES OTHER THAN ENGLISH IN U.S. INSTITUTIONS OF HIGHER EDUCATION, FALL 2021, at 4 (Mod. Language Ass'n of Am., 2023) [hereinafter LUSIN, LANGUAGE ENROLLMENT] (documenting that the overall decline in language enrollment in colleges has fallen by almost 30% since 2009); see also Ryan Quinn, *Foreign-Language Enrollment Sees Steepest Decline on Record*, INSIDE HIGHER ED (Nov. 11, 2023) (detailing the fall of foreign-language study between 2016–2021 and linking it to preferences for practical 'job training' rather than language education, which has resulted in decreased funding and enrollment), available at <https://www.insidehighered.com/news/faculty-issues/curriculum/2023/11/16/foreign-language-enrollment-sees-steepest-decline-record#:~:text=> (last visited on Aug. 2, 2025).

²³ See, e.g., RICHARD ARUM & JOSIPA ROKSA, *ACADEMICALLY ADRIFT: LIMITED LEARNING ON COLLEGE CAMPUSES* 35–37, 70 (Univ. of Chicago Press, 2001); Francis J. Mootz III, *Vico's 'Ingenious Method' and Legal Education*, 83 CHI.-KENT L. REV. 1261, 1301 (2008) ('All too often students arrive at law school lacking basic communication skills because they have not been provided a rigorous [undergraduate] education'); cf. D'Amato, above note 3, at 461–62 (noting that law student consumerism is at the root of the decline in the number of professors who challenge modern students, who by collegiate experience and conditioning are prone to resist anything that challenges their way of thinking). And yet, while college students have measurably been learning less, their grades have been soaring—so grade inflation is both a cause and a result of the prevailing undergraduate atmosphere of student consumerism. See also ROGER L. GEIGER, *AMERICAN HIGHER EDUCATION SINCE WORLD WAR II* 135 (Princeton Univ. Press, 2019) (dating collegiate grade inflation to the 1960s, the same decade when, academically, 'college became easier'); Viator, above note 11, at 742–45 (linking grade inflation in modern law schools to the prevalence of programmatic, written evaluations of law professors and law courses); *ibid.* 751–54 (concluding that modern colleges endeavor to attract and retain students by 'softening' their curricula with the result that neither colleges nor their students treat classroom learning as 'job number one'); Anthony Grafton, *Our Universities: Are they Failing?*, N.Y. REV. BOOKS, Nov. 24, 2011, at 38–39 (concluding that the easy curricula of modern colleges, created to attract and retain students, have resulted in a campus environment where neither college professors nor their students appropriately prioritize classroom learning).

²⁴ LUSIN, LANGUAGE ENROLLMENT, above note 22, at 4.

²⁵ *ibid.* 5–6, 10

²⁶ *ibid.* at 21.

them.²⁷ Furthermore, whenever the U.S. has contained a critical mass of elite, multi-lingual lawyers—whether composed of native or foreign émigré legal scholars—such are the eras when comparative law has flourished.²⁸ One such fertile era for American comparativism was the first half of the nineteenth-century. Indeed, as legal historian Michael Hoeflich has phrased it, between 1800 and 1850, America was ‘awash with foreign law,’²⁹ partly because even some four decades after separation from Britain, American law was still in its infancy; therefore, the task of elite lawyers like Joseph Story and Rufus Choate was to develop a unique American law based mainly on the common law, but with supplementation and improvement from European civil law.³⁰

Moreover, early nineteenth-century America was a rising commercial nation eager to share in the bounty of transatlantic and transpacific commerce, which meant Americans needed to know the languages and

²⁷ See VERNON PALMER, *MIXED JURISDICTIONS WORLDWIDE: THE THIRD LEGAL FAMILY* 41–42 (Cambridge University Press, 2001) (explaining five reasons for the importance of language and linguistics in mixed jurisdictions: (1) foundational considerations for the written law available in an understandable language; (2) ‘mother language’ is a key predictor in basic orientation and perspective; (3) complex multilingual publications of laws and legal operations involve complex legislative dimensions; (4) an absence of linguistic fluency would leave jurists cut off from contemplated jurisdictions; (5) extinctions in literacy of foreign writings hinders familiarity with other-language traditions); see also JOHN D. BESSLER, *THE BIRTH OF AMERICAN LAW: AN ITALIAN PHILOSOPHER AND THE AMERICAN REVOLUTION* 114–20 (Carolina Academic Press, 2014); Hoeflich, *Perspectives*, above note 16, at 52; Gerber, above note 20, at 967.

²⁸ M.H. Hoeflich, *Comparative Law in Antebellum America*, 4 WASH. UNIV. GLOBAL STUDIES L. REV. 535, 541–45 (2005) [hereinafter Hoeflich, *Comparative Law*] (arguing that the proliferation of comparative law in the United States during the antebellum era is a result of independence from England and its laws, the rise of university-based legal education which encouraged comparativist study, the rise and marketing of university-based law schools, legal-science advances in European universities, and the rise of European colonization).

²⁹ See Hoeflich, *Comparative Law*, above note 28, at 537, 541–45 (observing that foreign laws and foreign thinking affected almost every aspect of early American legal culture, and thus antebellum America was ‘awash with foreign law and interest in foreign law’); see also Yoni Wilkenfeld, *First U.S. China Trade Deal—the Treaty of Wanghia Formalized the Burgeoning Ties Between the Two Countries, Opening the Door to New Commercial and Cultural Exchanges*, JSTOR DAILY (Oct. 23, 2019) (explaining that in the 1840s, President John Tyler believed the way to protect America and its national interests was through foreign trade and that during his administration the U.S. negotiated a treaty with China, which was the first Western commercial treaty forged without military conflict), available at <https://daily.jstor.org/the-first-us-china-trade-deal/> (last visited on Aug. 2, 2025).

³⁰ See Hoeflich, *Comparative Law*, above note 28, at 537–38, 541–45 (explaining that the basic concepts of Roman Law in its classical republican context served as the contextual framework for early American legal education and that along with European civil law, it provided the basic principles and rules of foreign commerce); JEAN V. MATTHEWS, RUFUS CHOATE: THE LAW AND CIVIC VIRTUE 105–46 (Temple Univ. Press, 1980); see also below note 35.

laws of their potential trading partners.³¹ In the 1830s, then, the works of Domat and Pothier became standard authorities for American lawyers and judges;³² and in this context, it should be no surprise that elite lawyers like Thomas Jefferson,³³ Joseph Story,³⁴ Rufus Choate,³⁵ and Caleb Cushing³⁶

³¹ See Hoeflich, *Comparative Law*, above note 28, at 538. See also, e.g., DAVID HACKETT FISCHER, *THE GREAT WAVE: PRICE REVOLUTIONS AND THE RHYTHM OF HISTORY* 3–9, 117–56 (Oxford Univ. Press, 1996); SAMUEL FLAGG BEMIS, *A DIPLOMATIC HISTORY OF THE UNITED STATES* 284 (Holt, Rinehart & Winston, 5th ed. 1936) (noting that during the first half of the nineteenth-century, America's overseas commerce was expanding); RICHARD K. VEDDER, *THE AMERICAN ECONOMY IN HISTORICAL PERSPECTIVE* 206–16 (Wadsworth Publ'g Co., 1976) (same); JOHN M. BELOHLAVEK, *BROKEN GASS: CALEB CUSHING AND THE SHATTERING OF THE UNION* 151 (Kent State Univ. Press, 2005) ('The orient posed its own set of opportunities for American farmers, merchants and ship owners. They realized the commercial possibilities . . . of carrying their goods to Far Eastern markets. American vessels had plied the China trade since the 1780s without a treaty . . .'); Wilkenfeld, above note 29 (explaining that during the antebellum era (circa 1825–1860) the prevailing American view was that the surest path to national prosperity was along international trade routes).

³² See MARK F. HERNANDEZ, *FROM CHAOS TO CONTINUITY: THE EVOLUTION OF LOUISIANA'S JUDICIAL SYSTEM, 1712–1862*, at 34 (La. State Univ. Press, 2002); Michael H. Hoeflich, *Savigny and His Anglo-American Disciples*, 37 *AM. J. COMP. L.* 17, 23 n.34 (1989). See also M.H. HOEFLICH, *ROMAN AND CIVIL LAW AND THE DEVELOPMENT OF ANGLO-AMERICAN JURISPRUDENCE IN THE NINETEENTH CENTURY* 56, 57, 62 (Univ. of Ga. Press, 1997).

³³ See DUMAS MALONE, *JEFFERSON AND HIS TIME: THE SAGE OF MONTICELLO* 172 (Little, Brown & Co., 1981) ('The [Library of Congress] collection consisted of perhaps three thousand volumes when the British invaders destroyed it in the late summer of 1814. . . . [Jefferson] promptly offered to sell to Congress his own library, which turned out to be more than twice the size of the one that was lost'); *ibid.* 173 (noting that contemporary observers described Jefferson's proffered library as 'without a question the most valuable in the world,' composed of titles 'in diverse tongues'). See also *Thomas Jefferson 1828 Catalogue*, ARTHUR J. MORRIS UNIV. OF VA. L. LIBR., SPEC. COLLECTIONS (2019) (noting that the 1828 Jefferson catalogue law-book collection highlights Jefferson's books on international, commercial, and public law), available at <https://digitalhistory.law.virginia.edu/catalogue/catalogue/collections/1828-catalogue?page=4> (last visited Aug. 2, 2025); FRANK L. DEWEY, *THOMAS JEFFERSON: LAWYER* 65–66 (Univ. of Va. Press, 1986) (observing that in working on a divorce case, Jefferson used several foreign-language legal treatises housed in his personal Monticello library, namely, Samuel Pufendorf's *The Law of Nature and Nations* (1707 French translation from Latin) and the Complete Works of John Selden (Latin)); DOUGLAS L. WILSON, *JEFFERSON'S BOOKS* (Thomas Jefferson Memorial Foundation, 2002); THOMAS JEFFERSON'S LIBRARY: A CATALOG WITH THE ENTRIES IN HIS OWN ORDER 56–58, 74–79 (Lawbook Exchange, Ltd., James Gilreath & Douglas L. Wilson eds. 1989) (listing numerous Roman-law and civilian jurisprudential works).

³⁴ See DANIEL R. COQUILLETTE & BRUCE A. KIMBALL, *ON THE BATTLEFIELD OF MERIT: HARVARD LAW SCHOOL, THE FIRST CENTURY* 135 (Harv. Univ. Press, 2015) (describing Story's sale in 1831 of his large personal library to the Harvard Corporation, which 'greatly advanced the law school library'); see also Corydon Ireland, *Evidence of Greatness: HLS Showcases Life and Work of Joseph Story*, HARV. L. TODAY (originally published in the Harvard Gazette, Nov. 19, 2012) (describing the 2012 Joseph Story exhibit at Harvard Law School, which included some pages from his digest of American and transnational law and official papers which provided a rare glimpse into the works and workings of the early federal courts), available at <https://hls.harvard.edu/today/evidence-of-greatness-hls-showcases-life-and-work-of-joseph-story/#:~:text=The%20Caspersen%20Room%20exhibit%2C%20in.%2C%20according%20to%20the%20exhibit.> (last visited Aug. 3, 2025).

³⁵ See 1 SAMUEL GILLMAN BROWN, *THE WORKS OF RUFUS CHOATE WITH A MEMOIR OF HIS LIFE* 221–22 (Little, Brown & Co., 1862) (noting that in the 1850s Rufus Choate's voluminous library included English and foreign language literature and historical works, which numbered 7000 volumes, and 3000 volumes in the library were dedicated to law, which constituted one of the best professional law libraries in the state of Massachusetts); see also MATTHEWS, above note 30, at 105–46.

³⁶ Dong Leshuo, *World's Biggest Library Grows with China*, CHINA DAILY USA 12 (Nov. 4, 2016) [hereinafter Dong Leshuo, *Library*] (noting that Caleb Cushing's donations helped to make the Asian division of the Library of Congress the largest collection of Chinese-language volumes outside of China, though his donations included not just works in Chinese, but also included works in the languages of the Manchus and the Asian Moslems).

all had voluminous libraries of foreign literature and law.³⁷ Thus, in 1843 when President John Tyler and Secretary of State Daniel Webster needed a commissioner to negotiate a trade agreement between the U.S. and Imperial China, Caleb Cushing was chosen,³⁸ in large measure because he was known to be a gifted linguist and to have a voluminous private library of books on Chinese culture, law, and government.³⁹

A brief side-bar—given that nowadays so many law schools are striving to imitate Harvard Law School, there is an antique Harvard academic feature that could help advance comparativist legal education. In its newspaper advertisements in the 1830s and 1840s, the Harvard Law School trumpeted that its students could take courses in the Harvard University foreign language department ‘for the additional fee of \$10 a year for each language studied.’⁴⁰ If modern U.S. law schools were to revive that antebellum Harvard practice, it would provide both symbolic and practical support for a more cosmopolitan legal pedagogy; and although that revival would be a good first step, it would merely seed a linguistic crop for a future comparativist

³⁷ See above notes 33–36.

³⁸ See SAMUEL FLAGG BEMIS, *A DIPLOMATIC HISTORY OF THE UNITED STATES* 345 (Holt, Rinehart & Winston, 5th ed. 1965) (‘[T]he essential cause [of the First Anglo-Chinese Opium War of 1839–1842] was the desire of the British merchants for favorable treaty guarantees for their trade. The American traders petitioned their government to protect their interests against any . . . possible [British-inspired trade] exclusion. President Tyler sent out a plenipotentiary, Caleb Cushing, a member of the Committee of Foreign Affairs of the House of Representatives.’); see also Dong Leshuo, *Library*, above note 36, at 12 (noting that Caleb Cushing was appointed U.S. plenipotentiary to negotiate the first treaty between the U.S. and China, the Treaty of Wanghia (1844)); see also BELOHLAVEK, above note 31, at 171, 183 (describing the successful negotiation of the Sino-American commercial treaty in the Buddhist Temple in the town of Wanghia, just a few miles north of Macau, and the treaty’s unanimous ratification by the Senate in January 1845).

³⁹ See THOMAS BAILEY, *A DIPLOMATIC HISTORY OF THE AMERICAN PEOPLE* 325, 325 n.12 (Appleton-Century-Crofts, 4th ed. 1950) (explaining that even before the First Opium War, ‘Cushing had, in fact, already become interested in the China Trade, and had acquired a considerable store of information about the Celestial Empire’ and that Cushing was ‘a remarkable linguist’ and a dedicated student of Chinese culture and politics); see also Dong Leshuo, *Library*, above note 36, at 12 (noting that gifts and donations from Caleb Cushing and other diplomats helped expand and increase the Asian Division at the Library of Congress from 933 volumes in 1869 to 16,900 in 1912, and that the Asian Division now holds the largest collection of Chinese works outside the Chinese mainland).

Although Cushing mastered, in addition to Latin and Greek, several modern European languages, see 2 CLAUDE M. FUESS, *THE LIFE OF CALEB CUSHING* 406 (Harcourt, Brace & Co., 1923) (‘Before [Caleb Cushing] was twenty-five, he had mastered French, Spanish, Italian and Danish. Both Latin and Greek were for him as simple as English . . .’), and although he assiduously studied Mandarin for many months before arriving in China, he acquired but ‘an imperfect knowledge of it.’ 1 *ibid* 426. Cushing therefore hired two veteran American missionaries in China as interpreters and translators for his diplomatic mission. 2 *ibid* 416, 426–27. See also BELOHLAVEK, above note 31, at 163 (detailing Cushing’s unsuccessful efforts to achieve fluency in Mandarin, but his greater success in mastering the imperial Manchu language).

⁴⁰ For representative Harvard advertisements, see Simon Greanleaf, *Law Institution of Harvard University*, VERMONT PHOENIX, July 24, 1840, at col. 47 (trumpeting the attention Harvard Law School gave to foreign jurisprudence, and declaring that foreign language instruction was an option even in its law-degree program); *The School of Harvard University*, NATIONAL WEEKLY INTELLIGENCER, February 12, 1848, at 7 (same); *Harvard University*, MOBILE REGISTER & JOURNAL, February 13, 1845, at 2 (same).

harvest. But to quote Lenin, ‘What is to be done now?’⁴¹ Part of the answer may lie in the successful bijural curricula of the three representative law schools with which I am familiar by study, matriculation, or teaching—namely, McGill University in Montreal, Canada; the Louisiana State University Law Center in Baton Rouge, Louisiana; and the Peking University School of Transnational Law in Shenzhen, China.

In recent years, all three of these law schools have awarded two law diplomas, one for each half of their bijural curricula.⁴² And each of these three programs is worth detailed examination, far more examination and rumination than this Article can offer; but let me touch on some salient features, for the three bijural programs have gone about teaching two legal systems in slightly different ways. First, the demographic-cultural predicates for a bijural legal education are quite similar for McGill and LSU, namely, historical bi-ethnic settlement patterns from France and Great Britain.⁴³ Akin to Louisiana, Canada is a polity where two systems of private law obtain—a civilian regime in Quebec and common-law systems in the provinces beyond Quebec.⁴⁴ These two different legal systems have co-existed in Canada, ‘with greater or less felicity since the late eighteenth

⁴¹ Ronnie Flores, *Grappling with the Real Lenin*, 107 INT’L SOCIALIST REV. (reviewing MARCEL LIEBMAN, LENINISM UNDER LENIN (2017)), available at [https://isreview.org/issue/107/grappling-real-lenin/index.html#:~:text=Lenin%20\(%20Vladimir%20Lenin%20\)%20was%20simply,required%20to%20commit%20it%20to%20revolutionary%20socialism](https://isreview.org/issue/107/grappling-real-lenin/index.html#:~:text=Lenin%20(%20Vladimir%20Lenin%20)%20was%20simply,required%20to%20commit%20it%20to%20revolutionary%20socialism). (last visited July 7, 2025).

⁴² John J. Costonis, *Introduction: Global Law and the Law School Curriculum*, 52 J. LEGAL EDUC. 1, 1 (2002) [hereinafter Costonis, Introduction] (observing that only two North American schools impose a comprehensive program of both common- and civil-law for all 1L students, namely, LSU and McGill); Michel Bastarache, *Bijuralism in Canada: Bijuralism and Harmonization—Genesis*, GOV. OF CAN. (Feb. 4, 2000) (noting that McGill University offers both civil and common law degrees in English), available at https://justice.canada.ca/eng/rp-pr/csj-sjc/harmonization/hfl-hlf/b1-fl/bf1g.html?utm_source=chatgpt.com (last visited Aug. 2, 2025); Rosalie Jukier, *From La Beauce to Le Bayou: A Transsystemic Voyage*, 12 J. CIV. L. STUD. 1, 10 (2019) (explaining that post-1999 McGill ‘would teach private law in an integrated manner and all graduates would obtain both civil law and common law degrees’); *Juris Doctor and Optional Graduate Diploma in Comparative Law Degrees*, LSU L. (2025) (offering an optional comparative-law masters diploma as a part of the Juris Doctor degree program), available at <https://law.lsu.edu/academics/curriculum/jdcl/> (last visited June 29, 2025); *Juris Doctor and Optional Graduate Diploma in Comparative Law Degrees*, PEKING UNIV. SCH. OF TRANSNAT’L L., available at <https://stl.pku.edu.cn/academics/55/55.html> (last visited June 29, 2025).

⁴³ See, e.g., ALFRED OLIVIER HERO, JR., *LOUISIANA AND QUEBEC: BILATERAL RELATIONS AND COMPARATIVE SOCIO-POLITICAL EVOLUTION, 1673-1993*, at 39–67 (Univ. Press of America, 1995); FRENCH AMERICA: MOBILITY IDENTITY, AND MINORITY EXPERIENCE ACROSS THE CONTINENT (La. State Univ. Press, D.R. Loudon & E. Waddell eds. 1983); JOE GRAY TAYLOR, *LOUISIANA: A BICENTENNIAL HISTORY* 3–29, 42–56 (W. W. Norton & Co., 1976); BENNETT H. WALL ET AL., *LOUISIANA: A HISTORY* 91–176 (Forum Press, 2d ed. 1990); LILIANE CRÉTÉ, *DAILY LIFE IN LOUISIANA, 1815-1830*, at 68–95 (La. State Univ. Press, Patrick Gregory trans., 1981); Jukier, above note 42, at 2 (referring to Louisiana and Quebec as ‘sister jurisdictions, sharing a common mixity in their legal systems’).

⁴⁴ See Yves-Marie Morissette, *McGill’s Integrated Civil and Common Law Program*, 52 J. LEGAL EDUC. 12, 13–14 (2002); *ibid* 12–14 (describing the multicultural influence seen in McGill’s curriculum with Quebec holding fast to its French roots in civilian private law, but also influenced by common law). See also Jukier, above note 42, at 5–6.

century.⁴⁵

It was, then, this historical, dual-system province—embedded within a parliamentary confederation—that provided McGill, eventually, with the opportunity to shift its curriculum—to blended or integrated bijural courses on each private law topic,⁴⁶ denominated ‘transsystemic education’ by the McGill Faculty.⁴⁷ Thus, after 1999, in the McGill law school there would be only one course on each private-law topic, covering both legal systems.

The pre-1999 McGill ‘dual course’ curriculum closely resembled the LSU law school’s bijural curriculum that had been in place, in fully developed form, since at least 1950.⁴⁸ But McGill’s 1999 shift to integrated bijural courses inspired the LSU faculty in 2002 (during the deanship of John Costonis) to imitate the McGill integrated or ‘transsystemic’ bijural curriculum.⁴⁹ Moreover, Louisiana may provide an even more favorable environment than Canada for the integrated teaching of common and civil law, because the state of Louisiana—ever since Napoleon sold it to the

⁴⁵ See Morissette, above, note 44, at 14.

⁴⁶ *ibid* 15–17 (explaining that the ‘National Program,’ which offered civil and common law topics in discrete courses that awarded diplomas for the two different legal systems, was in effect from 1925 to 1968).

⁴⁷ *ibid* 27–28 (explaining that the seriatim treatment of heritage courses, compare and contrast similarities and dissimilarities in both types of law had helped to facilitate teaching discrete private-law courses in bijural fashion post-1999, leading to one integrated dual system diploma—that is, all students learn both systems).

⁴⁸ See HARGRAVE, above note 5, at 62–63, 143–44 (demonstrating that the 1933 curriculum manifested LSU’s comparative-law pedagogical commitment by requiring, of all students, both civil- and common-law courses in the fundamental private law topics and that this comparativist approach was made more thorough-going in the 1950 curriculum); see also John J. Costonis, *The Louisiana State University Law Center’s Bijural Program*, 52 J. LEGAL EDUC. 5, 9 (2002) [hereinafter Costonis, *LSU Bijural Program*] (explaining that the longstanding LSU curriculum separated common and civil law courses into separate classes, but every student had to take all these discrete courses); *id.* n.2 (‘From its earliest days, in fact, LSU never bifurcated either its curriculum or its students on the basis of a common law and civil law track.’) see also Morissette, above note 44, at 18–19 (indicating that with the inception of the 1968 McGill dual course program, law students took discrete common and civil law classes in separate academic semesters and were graduated with a joint Juris Doctor-Bachelor of Civil Law diploma); Costonis, *LSU Bijural Program*, above, at 6 (noting that McGill awarded ‘a joint Juris Doctor/Bachelor of Civil Law degree’).

⁴⁹ See Costonis, *Introduction*, above note 42, at 2–3 (noting that McGill implemented their ‘transsystemic’ bijural program in 1999, which was partially and experimentally adopted by LSU in 2001, to commence in Fall Semester 2002); *Historical Highlights—LSU Law Center*, LSU L. [hereinafter *LSU Highlights*] (stating that ‘in 2002, the Law Center became the sole U.S. law school, and one of only two in the Western Hemisphere, to concurrently award both the Juris Doctor and the Bachelor of Civil Law, recognizing the education that LSU students receive in both the civil law and common law traditions’), available at <https://law.lsu.edu/aboutlsulaw/history/timeline/> (last visited July 20, 2025).

United States in 1803⁵⁰—has enjoyed, in contrast to the nation of Canada, an exclusive and internally integrated regime of Franco-Hispanic civil law and Anglo-American common law.⁵¹ Unlike McGill, then, LSU has no interprovincial distinction and separation in legal systems to account for—in Louisiana it is intrastate hybrid private law, all the way down—and Louisiana therefore enjoys, it seems, a law market innately fit for integrated teaching.⁵² For various academic and institutional reasons, however, the LSU faculty was unable to duplicate the McGill's success in creating courses of fully integrated civil-law and common-law content.⁵³ Thus, after a few years of effort toward implementing blended common law-civil law courses, the LSU Law Center returned to its historical bijural curriculum of paired and discrete civil-law and common-law courses taught sequentially.⁵⁴ Perhaps, therefore, LSU's confident adoption, followed soon by informal abandonment, of the McGill-style integrated curriculum contains practical lessons for law faculties that might be considering the adoption of a transnational or a comparativist dual-degree program.⁵⁵

Indeed, the practical wisdom of LSU's original, traditional approach to

⁵⁰ See WILFRED MCCLAY, *THE LAND OF HOPE: AN INVITATION TO THE GREAT AMERICAN STORY* 97–99 (Encounter Books, 2019) (discussing the U.S. government's purchase of France's Louisiana colony); EDWIN ADAMS DAVIS, *LOUISIANA: A NARRATIVE HISTORY* 260–68 (Claitor's Publ'g Co., 3d ed. 1971) (same); James Étienne Viator, *Book Review*, 33 *AM. J. LEGAL HIST.* 368, 368–69 (1989) (reviewing RICHARD HOLCOMBE KILBOURNE, JR., *A HISTORY OF THE LOUISIANA CIVIL CODE: THE FORMATIVE YEARS, 1803–1839* (Paul M. Herbert L. Ctr. Publ'n Inst., 1987)) (same).

⁵¹ See Morissette, above note 44, at 12 (noting that the Canadian landscape includes both French civil law traditions and Anglo-Canadian common law traditions).

⁵² Dean Costonis offered another reason why LSU possessed 'greater facility than McGill in adopting a bijural curriculum,' namely, 'the far greater percentage of LSU students who derive from and will practice in their home jurisdiction.' Costonis, *Introduction*, above note 42, at 9 n.2.

⁵³ See *LSU Highlights*, above note 49. See also HARGRAVE, above note 5, at 228 (stating that '[successful curricular reform] occurs only when it does not drastically alter the affairs of those who are not in full accord with the provision' (quoting P. Michael Hebert, *Curriculum Study, as reported to LSU Law Faculty* (Sept. 11, 1974)); Morissette, above note 44, at 22 (pointing out that important considerations in curricular reform are the extent to which 'faculty [are] prepared to collaborate in the design of new courses, to teach together, to participate in team teaching, to share course evaluations').

⁵⁴ *LSU LAW BULLETIN* 2004–2005, at 20–21, 23 (Paul M. Hebert L. Ctr. 2004) (showing that by academic year 2004–2005, LSU had separate civil and common law courses in its dual-degree bijural program). See above note 48.

⁵⁵ Recently, however, LSU appears poised to make another try at the implementation of the McGill-like integrated bijural curriculum that LSU had originally tried to implement in 2002. Compare Costonis, *Bijural Program*, above note 48, at 9, and *LSU Highlights*, above note 49, with Steve Sanoski, *LSU Law Faculty Unanimously Approves Sweeping Changes to First-Year Curriculum*, *LSU L.* (June 9, 2025) [hereinafter Sanoski, *LSU* 2025] (announcing that in the 2026–2027 academic year, LSU will be making sweeping changes to its bijural program and that the keynote of 'the new first-year curriculum will be an intensive, year-long, five-credit comparative course that explores common law contracts and civil law obligations, with a separate companion course in comparative methodology and legal systems'), available at <https://law.lsu.edu/news/2025/06/09/lsu-law-faculty-unanimously-approves-sweeping-changes-to-first-year-curriculum/> (last visited Aug. 3, 2025). Obviously, this 2026–2027 LSU bijural curriculum, like LSU's 2002 predecessor, will be less extensive than the McGill transsystemic curriculum of 1999. See above text accompanying notes 44–48.

teaching the civil-law of Louisiana and common-law in discrete sequential courses⁵⁶ may have been ratified by the similar manner in which the Peking University School of Transnational Law (STL) teaches American common law and Chinese law in its dual-degree program.⁵⁷ In the STL program, students earn a Juris Doctor (J.D.) in American law and a Juris Master (J.M.) in Chinese law;⁵⁸ and STL's manner of teaching resembles not at all the McGill transsystemic approach,⁵⁹ but looks very much like the traditional LSU curriculum of paired but separate courses in each basic civil-law and common-law topic.⁶⁰ The STL degree program is about equally divided between courses dedicated to the basic American law school courses in both public and private law—taught in English and mostly during the first year of the 4-year program—followed by approximately two years of courses in Chinese law (taught in Mandarin) and American-law electives (taught in

⁵⁶ See above note 48 and accompanying text.

⁵⁷ Compare *LSU Highlights*, above note 49 (pointing out that LSU (2002-2008) offered two degrees, a Juris Doctor (J.D.) and a Bachelor of Civil Law (B.C.L.), thereby certifying instruction in both common law and civil law), and *ibid* (noting that the B.C.L. 'degree changed to diploma in civil law (D.C.L.) in 2008'), with *J.D. and J.M. Admissions*, PEKING UNIV. SCH. OF TRANSNAT'L L. [hereinafter *STL J.D./J.M.*] (showing that Peking University School of Transnational Law (STL) awards to every graduate a dual degree which is a 'fusion of an American-style Juris Doctor degree (J.D.) and a China law Juris Master degree (J.M.)'), available at <https://stl.pku.edu.cn/admissions/admissions/jd.html> (last visited June 29, 2025). See below note 58.

⁵⁸ See *Curriculum and Course Offerings*, PEKING UNIV. SCH. OF TRANSNAT'L L. (indicating that 'STL offers an American-style J.D. degree taught in English alongside a Chinese J.M. degree as well as an LL.M. degree taught in English'), available at <https://stl.pku.edu.cn/academics/55/55.html> (last visited June 29, 2025).

⁵⁹ See *Required and Complimentary Courses*, MCGILL STUDENT AFF. OFF.: FAC. OF L. (demonstrating that although similar in some respects, McGill University diverges from both LSU and STL because McGill teaches private-law topics simultaneously, blending common- and civil-law sources, specifically in contractual obligations, legal foundations, property, and criminal law), available at <https://www.mcgill.ca/law-studies/bcljdstudies/structure/courses> (last visited July 7, 2025).

⁶⁰ Compare *JD and J.M. Curriculum*, PEKING UNIV. SCH. OF TRANSNAT'L L. [hereinafter *STL Curriculum*] (showing that STL's J.D./J.M. program requires first year law students to take foundational American and Chinese law courses and in the subsequent years to take Chinese law and comparative-law courses), available at <https://stl.pku.edu.cn/academics/academics/JDandJMCurriculum.html> (last visited June 29, 2025), and *Core Foundation Courses*, PEKING UNIV. SCH. OF TRANSNAT'L L. (demonstrating that Chinese and American law courses are offered separately in civil procedure, constitutional law, contracts, criminal law, and legal writing and research), available at <https://stl.pku.edu.cn/academics/65/65.html> (last visited June 29, 2025), and *STL J.D./J.M.*, above note 57 (explaining that the dual J.D./J.M. program can be completed in 4 years), with *Juris Doctor and Optional Graduate Diploma in Comparative Law Degrees*, LSU LAW (2025) (indicating that in recent years, 2015-2025, LSU pairs the J.D. with a Diploma in Comparative Law (D.C.L.) which requires an additional 15 credit hours of comparative law and that for 1L students 'Contracts, Torts, Federal Civil Procedure, Criminal Law, Criminal Procedure, and Legal Writing and Research are required, as well as Obligations, Civil Law Property, and Legal Traditions, a study of the traditions and methodologies of the civil law and common law system' and that thereafter students may select from 15 hours of other various global, comparative, or civil-law electives), available at <https://law.lsu.edu/academics/curriculum/jdcl/> (last visited June 29, 2025), and *LSU Highlights*, above note 49, and *BCL/JD Program Structure and Requirements*, MCGILL STUDENT AFF. OFF.: FAC. OF L. (explaining that McGill University offers a dual degree program in comparative law, Bachelor of Civil Law (B.C.L.) and J.D., which can be completed in 3.5 to 4 years), available at <https://www.mcgill.ca/law-studies/bcljd-studies/structure> (last visited July 7, 2025). See also above note 48 and accompanying text.

English).⁶¹

What I suggest, then, is that any faculty contemplating a transnational or bijural degree program might want to favor the traditional LSU post-1950, and current STL, approach;⁶² for it seems more compatible with faculty teaching habits and preferences⁶³ and also with the learning capacities and inclinations of most law students—who typically find it daunting enough to learn, for example, one system of property law at a time, and therefore likely will be confused and overwhelmed by trying to learn common-law and civil-law property simultaneously in one integrated class. And one final observation or, better said, hypothesis: the McGill-style fully integrated bijural curriculum may be more suited to law schools located in strong ‘code jurisdictions’ that are situated in a legislative-supremacy polity, especially if those polities have remained largely untouched by American-style judicial-supremacy,⁶⁴ American Legal Realism,⁶⁵ and American student consumerism.⁶⁶ The name of one such nubile polity is the modern, Blackstonean United Kingdom.⁶⁷

The innate compatibilities and affinities of such ‘strong code’ legislative-

⁶¹ See *STL Curriculum*, above note 60 (stating that the J.D. portion of the dual J.D./J.M. degree, encompassing almost the entire first year, is taught completely in English); see also *Program Structure and Curriculum*, PEKING UNIV. SCH. OF TRANSNAT’L L. (demonstrating that STL offers the J.D./J.M. degree in a four-year program with bilingual curriculum), available at <https://stl.pku.edu.cn/admissions/admissions/jd.html> (last visited on Aug. 3, 2025). The third and fourth years of the STL dual-degree program allow for electives plus extramural clerkships and externships. See PEKING UNIVERSITY SCHOOL OF TRANSNATIONAL LAW ACADEMIC HANDBOOK 2024-2025, at 55, available at https://stl.pku.edu.cn/upload/s/202411/26100406_21647_39060313%5B-%5D%E3%80%90stushiwu%E3%80%91SchoolofTransnationallLawAcademicHandbook2024-2025.20241126.pdf (last visited Aug. 2, 2025).

⁶² For the traditional LSU Law curriculum, see above note 48 and accompanying text.

⁶³ See above note 53.

⁶⁴ For the errors in the conventional understanding of *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), as having established not only judicial review of congressional legislation, but also the primacy of the Supreme Court’s constitutional ‘opinions,’ see James Étienne Viator, *Marbury and History: What Do We Really Know About What Really Happened?*, 37 REVUE JURIDIQUE THÉMIS 329 (2003). For thoughtful analysis and critique of juristocracy, see generally COURTS AND THE CULTURE WARS (Lexington Books, Bradley C. S. Watson ed. 2002).

⁶⁵ For Anglo-European rejection of American Legal Realism’s assault on legal doctrine and the autonomy of law, see Dan Priel, *The Law and Politics of Unjust Enrichment*, 63 UNIV. TORONTO L.J. 533, 561–64 (2013). See also WILFRID E. RUMBLE, AMERICAN LEGAL REALISM: SKEPTICISM, REFORM, AND THE JUDICIAL PROCESS (Cornell Univ. Press, 1968); Wilfrid E. Rumble, *Legal Realism*, in 4 ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION 1580, 1580 (Macmillan Ref. USA, Leonard W. Levy et al. eds., 2d ed. 2000) (noting that the ‘rule-skepticism’ of the American Legal Realists contained antinomian tendencies which necessarily depreciated the value and role of legal doctrine in judicial decision-making).

⁶⁶ See above notes 3-10 and accompanying text.

⁶⁷ See JOHN PHILLIP REID, RULE OF LAW: THE JURISPRUDENCE OF LIBERTY IN THE SEVENTEENTH AND EIGHTEENTH CENTURIES 80–81, 93–94 (N. Ill. Univ. Press, 2004) (discussing the development of parliamentary supremacy and sovereignty in eighteenth-century Britain); WILLIAM SELINGER, PARLIAMENTARISM: FROM BURKE TO WEBER passim (Cambridge Univ. Press, 2019) (arguing that the classic parliamentary form of government is defined by four characteristics: an elected and powerful, even sovereignly supreme, legislature; ministers who can remain in office only with parliamentary support; a constitutional monarch without constitutional prerogatives; and a system of multi-party competition for seats in parliament).

supremacy polities with the integrated bijural curriculum may be part of the explanation for why the integrated-course approach thrives in universities like McGill, and the University of Luxembourg, and Maastricht University in the Netherlands⁶⁸—all schools where English, not American, common law is the second system to be taught and where there is little to no influence of American legal realism or American-style judicial supremacy.⁶⁹

Given this Article's attention to Peking-STL and given the *Juris Diversitas* connection with Macau University, it is appropriate, I think, to close with a reference to Lu Chi, a Chinese soldier-poet of the third century C.E. Lu Chi produced a primer to teach others how to write belletristic literature; his primer is entitled *Wen Fu*, which translates freely as 'the art of literary composition.' In the preface to his primer, Lu Chi wrote a passage to both encourage and console the student, which passage might provide the same consoling encouragement to law professors and *Juris Diversitas* members, as we strive to explain and teach comparative law. Lu Chi wrote: 'Still the beautiful can be distinguished from the common, the good from the mediocre. . . . Each writer finds a new entrance into the mystery, and it is difficult to explain. Nonetheless, I have set down my thinking as clearly as I can.'⁷⁰

Thus, in the spirit of Lu Chi, I close with the hope that you will deem my ruminations clear enough to provide a fitting preface to the Macau University *Juris Diversitas* Conference.

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⁶⁸ See Jukier, above at note 42, at 11–12, 18–19 (describing a transsystemic approach as one which 'blends indigenous legal traditions as well as those of the civil and common law' and noting that the University of Luxembourg emulated McGill's transsystemic approach and 'adopted a version that might be called a close cousin'); see also *Faculty of Law, Bachelor European Law 2023-2024*, MAASTRICHT UNIV. 3-7 (indicating that as of the 2024–2025 academic year, Maastricht University's Bachelor in European Law curriculum comprised several required courses in which legal concepts were taught through a comparative methodology involving the concurrent analysis of multiple jurisdictions), available at <https://www.maastrichtuniversity.nl/file/curriculum-law-bachelor-european-law-school-2024-2025pdf> (last visited Aug. 5, 2025); see Morissette, above note 44, at 18 (describing McGill's transsystemic approach to bijural legal education as one that presents courses as 'a unified field across the divide between legal traditions' of civil law and common law, engaging both systems simultaneously to create an 'amalgamated whole').

⁶⁹ See above notes 64 & 65.

⁷⁰ LU CHI, *WEN FU: THE ART OF WRITING* 3-5 (Milkweed Editions, Sam Hamill trans., rev. ed. 2000).