

CORRESPONDENCE

TO THE EDITOR IN CHIEF:

July 30, 1990

From its inception, the Society has had an interest—reflected in the *Journal*—in the teaching of international law.¹ Often that interest has been implicit, deriving from the fact that many Society members at one time took courses in international law and some decided to become teachers of international law. Regularly and periodically, this general interest in teaching intensifies; the Society may have panels at its Annual Meeting focusing on teaching and has, from time to time, sponsored surveys of teaching.

In 1962, as part of its program to strengthen the teaching of international law, the Ford Foundation made a grant to the American Society of International Law for a comprehensive survey. The principal tangible products of the grant were two publications, *International Legal Studies: A Survey of Teaching in American Law Schools 1963–1964* (1965) and *A Survey of the Teaching of International Law in Political Science Departments* (1963), both written by Richard Edwards, then a program assistant with the Society. These studies remain the most thorough and comprehensive compendiums of information and analysis of international law teaching produced in the United States. Especially noteworthy is the combination of two different perspectives, i.e., general summaries of the state of international law teaching and descriptions of individuals' experiences, course syllabuses, and so on. Both studies were carried out in two "waves," one going to academic administrators and another to faculty members teaching international law.

The political science department survey found that roughly two-thirds of institutions offered no course in international law. Of the 264 departments that did offer international law, about one-fifth combined it with international organizations. If one had to explain whether or not a school offered international law, the strongest determining factor appeared to be enrollment; over 80 percent of institutions with an enrollment of over 10,000 offered international law.²

As for law schools, Edwards found that of the 134 law schools surveyed, 91 (or 68 percent) offered international law and almost half of the law schools offered more than one course in international law. Although many of the deans whom Edwards surveyed indicated that 20–40 percent of law school students took international law, the small size of most international law classes suggested that, as of the early 1960s, probably not more than 10 percent of law students elected international law. Only two schools—Rutgers (Newark) and Washington University—required international law.³

¹ The first article ever published in the *Journal* was Secretary of State Elihu Root's eloquent plea for better and broader education in international law, *The Need of Popular Understanding of International Law*, 1 AJIL 1 (1907).

² R. EDWARDS, A SURVEY OF THE TEACHING OF INTERNATIONAL LAW IN POLITICAL SCIENCE DEPARTMENTS 9 (1963).

³ R. EDWARDS, INTERNATIONAL LEGAL STUDIES: A SURVEY OF TEACHING IN AMERICAN LAW SCHOOLS 1963–1964, at 32, 14 and 33 (1965).

During the 1970s, the Society endeavored to update its survey, although resources did not exist to replicate the 1962 work. Michael Cardozo supervised an update and was able to report that, in 1974, 140 of 150 nationally accredited law schools (some 93 percent) offered at least one "international legal studies" course.⁴ He found much cause for optimism: "the state of education in international law is good. The number of institutions offering courses in the field has increased since 1964. More teachers are involved in the subject. Courses are available to more students. The interest of teachers and students has increased both relatively and absolutely."⁵

The need for an up-to-date survey was acknowledged by many people during the 1980s. When, in mid-1989, the Ford Foundation seemed receptive to funding a survey, agreement on the content of the proposal was achieved easily.

The work of the Survey of Academic International Law (SAIL) has been carried out with the assistance of a project advisory committee.⁶ This group, whose assistance to us has already been invaluable, was selected to provide the widest range of experience and perspectives on international law teaching.

During the fall of 1990, we shall mail thousands of questionnaires to administrators and international law teachers. Several objectives have shaped our approach to this task. First, we want our results to be comparable to the earlier surveys (the first of which was conducted in 1912 by the Carnegie Endowment for International Peace). The possibility of having an 80-year perspective on international law teaching is very important. The survey will include schools of law and departments of political science in both the United States and Canada—a major change from previous studies, which sometimes neglected political science departments and never included Canada.

We are confident that the survey will provide an accurate, comprehensive picture of international law teaching in the United States and Canada. But two additional aspects of SAIL will help to put those results in perspective. Michael Molitor will assist with an "international" survey that will assess

⁴ M. CARDOZO, *THE PRACTICAL STATE OF TEACHING AND RESEARCH IN INTERNATIONAL LAW* 1974 (1977).

⁵ Cardozo, Remarks, 71 *ASIL PROC.* 95 (1977).

⁶ The advisory committee consists of the following members: K. Adede, United Nations; Anne-Marie Burley, University of Chicago; Goler Butcher, Howard University; Hugo Caminos, Organization of American States; Michael Cardozo, the Society; Abram Chayes, Harvard University; Lori Damrosch, Columbia University; Richard Edwards, University of Toledo; Cees Flinterman, University of Limburg (the Netherlands); David Forsythe, University of Nebraska; Maria Frankowska, Southern Illinois University; John Lawrence Hargrove, the Society; Douglas Johnston, University of Victoria (Canada); Charlotte Ku, the Society; Igor Lukashuk, Institute of State and Law (USSR); Steven Marks, Yeshiva University; Michael Molitor, Harvard University; Yasuaki Onuma, Tokyo University (Japan); Bernard Oxman, University of Miami; Alain Pellet, University of Paris (France); M. J. Peterson, University of Massachusetts; Bruno Simma, University of Michigan and University of Munich (Germany); Edwin Smith, University of Southern California; Louis Sohn, University of Georgia; Tullio Treves, University of Milan (Italy); Daniel Turp, University of Montreal (Canada); Wang Tieya, Peking University (China); Sharon Williams, York University (Canada); Stephen Zamora, University of Houston.

international law teaching in twenty-five other countries. After the results of the broadly based U.S./Canadian survey are evaluated, we shall undertake a "focused" survey examining in more detail twenty-five institutions that seem remarkable in their attention (or in some cases, inattention) to international law.

There are both new opportunities and some risks associated with carrying out a survey in the 1990s. Because of computers, we have access to more information about teachers, institutions and courses. We can store and manipulate vast amounts of information far more easily than at any time in the past. In other ways, surveying is more difficult today. Most of us in academia feel inundated with questionnaires of all types; it may be too tempting to ignore another questionnaire, regardless of how important it is. In the thirty years since the Edwards surveys, international law teaching has become much more specialized and varied. For example, thirty years ago most law schools offered at most a public international course and a course in international business transactions.

For the SAIL project to have the maximum positive impact, we must be careful to separate advocacy from description. We began this endeavor convinced that international law does not receive the attention it deserves. We have ample reason for this belief, not the least of which is the results of numerous earlier studies. But the primary goal of SAIL must be to provide an accurate, thorough description of international law teaching as it exists today. Only then will we be in the strongest position to make a case for more attention in the form of faculty positions, courses, grants, and so on. If we are going to assert, as Judge Vanderbilt did forty years ago, "that not one lawyer in five hundred, possibly not one lawyer in a thousand, has ever even had a course in international law,"⁷ we must begin by getting our facts right.

We invite all readers of the *Journal* to help us conduct a successful study, largely by seeing that any questionnaires that come their way or to the attention of their colleagues are answered promptly and completely. This way, the results of the SAIL project can be of maximum benefit to us all.

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TO THE EDITOR IN CHIEF:

March 22, 1990

I must write to disagree with the argument by my friend and colleague Frederic L. Kirgis, Jr., that the state of Palestine does not meet the standard recognized criteria for statehood under customary international law (84 *AJIL* 218 (1990)). At the request of the Palestine Liberation Organization (PLO), on June 22, 1987, I delivered a speech before a special session of the

⁷ Vanderbilt, *Responsibilities of Our Law Schools to the Public and the Profession*, 3 *J. LEGAL EDUC.* 207, 209 (1950).