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# The Feng Shui of Study Abroad Programs

Gregory W. Bowman



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# **West Virginia University College of Law**

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**The Feng Shui of Study Abroad Programs**

**Gregory Bowman**

**THE FENG SHUI OF STUDY ABROAD PROGRAMS**  
**JOURNAL OF TRANSNATIONAL LEGAL ISSUES (FORTHCOMING 2013)**

*Gregory W. Bowman\**

ABSTRACT

*U.S. law schools currently run more than 200 study abroad programs annually, but scant law review literature exists on the subject. This is surprising, because study abroad programs are a central mainstay of U.S. law schools' global programming efforts. This essay therefore addresses the design and administration of law school study abroad programs, and does so through the comparative lens of feng shui principles. The result is a useful taxonomy of factors that must be considered, and balanced, in order for law school study abroad programs to be fully effective—both as stand-alone programs and as platforms for additional global programming.*

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## 1. INTRODUCTION

From 2008 through 2011, I spent one month each summer directing and teaching on a summer study abroad program in Seoul, Korea. It was a highly gratifying experience, and no small amount of work. The experience helped me refine my views regarding globalization<sup>1</sup> and legal education, and in particular about the design and operation of law school study abroad programs. Appropriately enough, Seoul’s very location influenced my views on the subject. The nature of this influence, and the conclusions I have drawn based on it, are the subject of this Essay.

Seoul is a city described by Koreans as having excellent feng shui, because it has “mountains behind and water in front.” Indeed, this favorable placement—which according to principles of feng shui gives the city balance and positive energy—is what led to Seoul’s

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\* Associate Professor, West Virginia University College of Law. An earlier draft of this Essay was presented at the 2011 Annual Meeting of the Southeastern Association of Law Schools (SEALS), as part of a faculty workshop on “Challenges & Opportunities in Global Legal Education.” I wish to thank Will Rhee and Patricia Lee for their comments and feedback on this Essay; Yasmine Ghantous (J.D. 2012) and Sarah Beth Yoder (J.D. 2013) for their excellent research assistance; and the Hodges Foundation for generous research support. I also wish to thank Matthew Steffey for his thoughtful insights about study abroad programs and for serving as a sounding board for my developing views on study abroad programs and law school programming generally. Finally, I extend my heartfelt thanks to my family for allowing me to undertake my study abroad adventures, which too often have taken me away from hearth and home. Any errors or omissions in this Essay are of course solely my own.

<sup>1</sup> For purposes of this Essay, I am defining “globalization” and related terms quite loosely. Useful distinctions have been made between *internationalization* (characterized by a focus on international law and international institutions), *transnationalization* (characterized by comparativism), and *globalization* (characterized by collaboration and legal pluralism), but I am not drawing such distinctions here. See Alex Aleinikoff, *The Globalization of the American Law School*, 101 AM. SOC’Y INT’L L. PROC. 184, 184 (2007).

designation as Korea's capital in the 1390s.<sup>2</sup> I am of the view that these same feng shui principles of balance and energy that favor Seoul's location can offer useful guidance for designing and operating law school study abroad programs, and for designing law school international programs generally.

Let me be clear about my purpose. This Essay is not a treatise on feng shui, and I do not advocate for a technical application of feng shui principles to study abroad programs. What I do suggest is that looking at U.S. law school study abroad programs through a feng shui lens can yield useful and practical insights into the design and administration of these programs. This observation is more than a little ironic. A central benefit of law school study abroad programs is that they facilitate comparative analysis of legal issues; application of comparative thinking to study abroad programs themselves, by viewing them through feng shui principles, can afford us a different—and I think quite useful—perspective on these programs. The result, in my experience, is an enhanced appreciation of the need for balance in these programs, the need for structure, and the need for curricular flow. A further result is that study abroad programs structured along these lines are more likely to support a law school's overall strategic goals.<sup>3</sup>

In particular, feng shui's principles of balance and energy flow offer a useful perspective on the difficult balance between the robustness of international programming and the cost of this programming. Such balance is important: U.S. law schools strive to improve the quality of their programming, but increasingly they do so in the face of serious fiscal constraints<sup>4</sup> and

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<sup>2</sup> MICHAEL J. SETH, A HISTORY OF KOREA: FROM ANTIQUITY TO THE PRESENT 127-128 (2011); HONG-KEY YOON, THE CULTURE OF FENGSHUI IN KOREA: AN EXPLORATION OF EAST ASIAN GEOMANCY 231-238 (2006) (describing Seoul's location as "one of the most [geomantically] qualified capital sites of Korea"). While Seoul has sprawled far beyond its former city gates, from the air Seoul continues to feel balanced despite its huge size, located as it is along the broad Han River and seeming to flow (along with the river) around the region's granite peaks.

<sup>3</sup> The principles and recommendations in this Essay are of course more broadly applicable to non-law school study abroad programs, as well as to non-U.S. school programs, but for the sake of brevity—and because this Essay is largely a reflection on my own experiences with U.S. law school study abroad programs—U.S. law school programs are the primary focus of this Essay.

<sup>4</sup> See ABA Commission on the Impact of the Economic Crises on the Profession and Legal Needs, *The Value Proposition of Attending Law School*, American Bar Association, 2 (Nov. 2009), available at <http://www.abanet.org/lsd/legaled/value.pdf> ("[T]he recent economic downturn will likely make legal education even more expensive. Endowment losses, declining state support, and difficulties in fundraising have hit law schools hard."); American Bar Association, *ABA President Carolyn B. Lamm Creates Commission on Impact of the Economic Crisis on the Profession and on Public's Legal Needs*, American Bar Association (Aug. 4, 2009), available at [http://apps.americanbar.org/abanet/media/release/news\\_release.cfm?releaseid=729](http://apps.americanbar.org/abanet/media/release/news_release.cfm?releaseid=729) ("The economic recession has left many lawyers in reduced or deferred employment or out of jobs, while many Americans suffer from legal problems related to the recession, such as evictions, foreclosures, bankruptcies and family disruption caused by financial hardship. We need to help lawyers and the public weather this storm and move forward."); Karen Sloan, *At Public Law Schools, Tuition Jumps Sharply*, NAT'L L.J. (Aug. 3, 2009), available at <http://www.law.com/jsp/article.jsp?id=1202432727154>; Karen Sloan, *Law Schools Dealing with Budget Cuts*, NAT'L L.J. (Jan. 19, 2009), available at <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202427496279>. See also The White House Office of the Press Secretary, *Remarks by the President in State of the Union Address*, The White House (Jan. 24, 2012 9:10 PM), available at <http://www.whitehouse.gov/the-press-office/2012/01/24/remarks-president-state-union-address> ("States also need to do their part, by making higher education a higher priority in their budgets. And colleges and universities have to do their part by working to keep costs down.").

growing public concern about the cost of legal education.<sup>5</sup> These pressures are particularly strong at regional U.S. law schools. Regional law schools often have smaller budgets, smaller faculties, and smaller support staffs than their national counterparts, and they tend to have fewer international programs already in place than their national counterparts. They also educate the majority of U.S. lawyers.<sup>6</sup> In combination, these factors mean that most U.S. law students are graduating from law schools that are more likely to face competitive disadvantages in preparing lawyers for careers in an increasingly globalized world.

Well-balanced and cost-effective study abroad programs, therefore, can have an enormous positive impact on U.S. legal education. Structuring and administering such programs with core feng shui principles in mind can help make these programs more effective on multiple levels—as educational programs, as foundations upon which other law school international programs can be built, and as life experiences that will help participating law students, and faculty members, become better lawyers and more informed public citizens.<sup>7</sup>

This Essay is organized as follows. Part II provides a very brief discussion of feng shui's historical origins and relevant modern iterations, and also discusses some of the implications of feng shui for legal study abroad programs. Part III reviews some of the

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For a list of various articles concerning national education budget cuts, see LSU Office of Legislative & External Affairs, *National News: What Other States Are Doing Regarding Budget Cuts and Higher Education*, LSU Homepage, <http://www.lsu.edu/departments/externalaffairs/news/national.html> (last visited Nov. 1, 2012).

<sup>5</sup> Maimon Schwarzschild, *The Ethics and Economics of American Legal Education Today*, 17 J. CONTEMP. LEGAL ISSUES 3, 5 (2008) (“Beginning in the 1980s . . . and consistently since then, the tuition costs of legal education have risen dramatically. Over the past three decades, law school tuition has gone up at between double and triple the general rate of inflation, both for private and public law schools.”); David Segal, *For Law School, A Price to Pay to Play the A.B.A.’s Way*, N.Y. TIMES (Dec. 17, 2011), available at <http://www.nytimes.com/2011/12/18/business/for-law-schools-a-price-to-play-the-abas-way.html?pagewanted=all> (“The debate about legal education has focused on tuition costs in the stratospheric layers of the law-school world.”); David Segal, *Law School Economics: Ka-Ching!*, N.Y. TIMES, Jul. 16, 2011, available at <http://www.nytimes.com/2011/07/17/business/law-school-economics-job-market-weakens-tuition-rises.html?pagewanted=all>. For the full collection of Segal’s series of articles on this subject, see The New York Times, *Search*, The New York Times, <http://query.nytimes.com/search/site/search/#!/david+segal+law+schools> (last visited Oct. 30, 2012).

<sup>6</sup> I am not trying to draw a bright-line distinction between regional schools and national schools, and I fully realize that the regional-national distinction can be an ambiguous one, especially at the margins. Nonetheless, the distinction does have merit, at least for making general observations. For this Essay, it is sufficient (and I think non-controversial) to observe that U.S. law schools ranked highly in popular rankings such as the one published by *U.S. News and World Report* are generally considered “national” U.S. law schools, while schools ranked closer to the lower end in such rankings are generally considered “regional” law schools.” For the full *U.S. News and World Report* rankings of U.S. law schools (with the top 145 ranked in order), see U.S. News and World Report, *Best Law Schools*, U.S. News and World Report (2012), available at <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-rankings> (last visited Oct. 30, 2012).

<sup>7</sup> It is worth pointing out that the application of feng shui to programmatic or institutional design is not unprecedented. A recent law review article on (of all things) the restructuring of hospital corporations characterized feng shui as “a structural system” that can be used “to align an internal environment with the outside world. . . . [F]eng shui [thus] can be applied to institutions, and while some may question such application, few students of organizational theory would quarrel with the need for an organization to be properly structured to meet internal and external objectives.” John D. Blum, *Feng Shui and the Restructuring of the Hospital Corporation: A Call for Change in the Face of the Medical Error Epidemic*, 14 HEALTH-MATRIX: J. L.-MED. 5, 5 (2004).

challenges globalization presents for U.S. law schools, and Part IV considers the central role of law school study abroad programs in meeting these challenges. Part V discusses how feng shui principles can be applied to improve the design and administration of U.S. law school study abroad programs. In particular, I provide a list of various program factors that are in tension with one another and offer my views on the balance of these factors. This section, in other words, seeks to take the feng shui principles discussed in this Essay and offer practical thoughts on their application in the study abroad program setting. Central to this discussion is the fact that the American Bar Association's rules for U.S. legal study abroad programs are nowhere near sufficient to ensure that programs are well-designed or well-run. Part VI offers final, concluding thoughts.

## 2. A BRIEF DISCUSSION OF FENG SHUI

### 2.1 Historical Origins

Feng shui, which originated in China and is often (but perhaps not entirely accurately) translated as Chinese geomancy,<sup>8</sup> literally means “wind-water.”<sup>9</sup> Originally, feng shui focused on the proper location of tombs and dwellings, in order to enable those structures to benefit from the positive flow of universal energy (*qi* or *chi*).<sup>10</sup> The first known use of the term “feng shui” appears in the Chinese *Book of Burial* (fourth century CE), which states, among other things, that “*Qi* rides the *feng* [wind] and scatters, but is retained when encountering *shui* [water].”<sup>11</sup> In other words, feng shui practices were intended to “hinder[ ] the wind and hoard[ ] the waters.”<sup>12</sup> The Chinese *Book of Burial* described *qi* as “life breath”; in other works, *qi* was considered to manifest as atmospheric forces “composed of the six phases of cold, warmth, wind, rain, darkness and light” that could affect the human body.<sup>13</sup> The dispersion or concentration of *qi* was thus viewed at that time as being influenced by the landscape, observable as weather phenomena, and affecting human health. From this, Feng shui scholar Hong-Key Yoon has concluded that feng shui was developed “by people who lived in foothill areas where there were

<sup>8</sup> Stephen L. Field, *Qimancy: The Art and Science of Feng Shui* (1998), [www.fengshuigate.com](http://www.fengshuigate.com) (last modified Feb. 12, 1998), available at <http://www.fengshuigate.com/qimancy.html> (“The ‘art’ of fengshui derives little or nothing from the elemental, physiological plane but requires adherence to a belief in something like a force of destiny or fate. Borrowing the less than appropriate Western term, ‘geomancy,’ and adapting it to the Chinese tradition, I refer to the art and science of fengshui as ‘qimancy,’ divination according to qi.”).

<sup>9</sup> YOON, *supra* note 2, at 3; OLE BRUUN, FENG SHUI IN CHINA: GEOMANTIC DIVINATION BETWEEN STATE ORTHODOXY AND POPULAR RELIGION xiii, 1 (2003); Jeffrey F. Meyer, *Feng-Shui of the Chinese City*, 18 HISTORY OF RELIGIONS 138, 138 (1978); ERNEST J. EITEL, FENG SHUI 2 (Forgotten Books 2007) (1873); M.G. Chandrakanth & Jeff Romm, *Sacred Forests, Secular Forest Policies and People’s Actions*, 31 NAT. RESOURCES J. 741, 753 (1991).

<sup>10</sup> BRUUN, *supra* note 9, at 3; Field, *supra* note 8. The general view is that grave geomancy appeared first and was followed by dwelling geomancy—a view that Yoon disputes. See YOON, *supra* note 2, at 10, 15-19, 21-29 (“My analysis of geomantic principles suggests that the ancient art [of geomancy] was most likely engendered by early cave dwellers of the Loess Plateau of China.”).

<sup>11</sup> GOU PU, THE ZANGSHU, OR BOOK OF BURIAL, (Stephen L. Field, trans., 2009), [www.fengshuigate.com](http://www.fengshuigate.com) (July 26, 2009), available at <http://www.fengshuigate.com/zangshu.html>.

<sup>12</sup> Field, *supra* note 8.

<sup>13</sup> *Id.* Note that these atmospheric forces consist of three pairs of opposites.

various types of landforms” and “varied climatic conditions”—namely, the Loess Plateau of China.<sup>14</sup>

Early feng shui assessments were also made through astrological observations that employed the Chinese zodiac. Yoon notes that this second approach developed “as geomancy spread to flat areas from the Loess Plateau and began to be used in an urban environment.<sup>15</sup> It is not entirely clear how the earliest such astrological observations were made, but feng shui scholar Stephen Field believes they likely involved use of a cosmographic instrument called the *shipan*, which consisted of a circular disc *kan* (considered male) within a square base plate *yu* (considered female).<sup>16</sup> The male disc and female base plate could be moved to determine what times and locations possessed positive feng shui (locations could be determined because the constellations in the Chinese zodiac were considered to correspond to particular geographic locations).<sup>17</sup> The compound word *kanyu* means heaven and earth<sup>18</sup>—and this bipolarity of heaven and earth, of yin and yang (which is also a male-female pair),<sup>19</sup> exemplifies the important principle of balance of opposites in feng shui.

Two primary feng shui schools evolved from these early practices, and these schools continue to exist today. The “Form School” concerns the location of physical structures in relation to surrounding geographical features; it traces its origins to the feng shui practices for choosing sites for tombs and homes. The “Compass School” likely derived from *kanyu*; it considers the cardinal compass directions to possess special *qi* and takes direction into consideration when making feng shui determinations.<sup>20</sup>

From a western perspective, feng shui has always proven difficult to define. Nineteenth century western observers in China found the subject of feng shui maddeningly opaque: colonial administrators in Hong Kong and Macao repeatedly faced strong local objections to industrialization projects (roads, railways, telegraph lines, etc.) on the basis of feng shui, and yet they were unable to get a clear explanation of just what feng shui meant:

Sinologues looked through the Chinese Classics for an answer to this question, searched through their Dictionaries, and found none. Merchants asked their comparadores and house-boys, What is Feng-shui? but the replies they got were rather obscure and confused, and at best they were told, that Feng-shui means

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<sup>14</sup> YOON, *supra* note 2, at 10, 15-19, 21-29.

<sup>15</sup> *Id.* at 29.

<sup>16</sup> Field, *supra* note 8.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Meyer, *supra* note 9, at 146. For a detailed discussion of yin and yang in the context of feng shui, see YOON, *supra* note 2, at 57-65.

<sup>20</sup> *Id.* at 149; Field, *supra* note 8; Stephen L. Field, *The Truth About Chinese Fengshui*, [www.fengshuigate.com](http://www.fengshuigate.com) (June 26, 2001), available at <http://www.fengshuigate.com/Art-of-Fengshui.html>; Michael Y. Mak & S. Thomas Ng, *The Art and Science of Feng Shui—A Study on Architects’ Perception*, 40 BUILDING & ENVIRONMENT 427 (2005).



“wind and water,” and is so called, “because it’s a thing like wind, which you cannot comprehend, and like water, which you cannot grasp.”<sup>21</sup>

In some ways, modern academic commentary on feng shui is not all that different from the efforts of those nineteenth century western administrators. In 1978, Jeffrey Meyer described original feng shui sources as “cryptic rather than explanatory”—acknowledging that precise definitions could not be gleaned from feng shui’s founding texts.<sup>22</sup> More recently, feng shui scholar Ole Bruun lamented that feng shui has not “been researched in any profound way” in the West, and that no “consensus has been reached as to its interpretation or even its proper disciplinary placement as a topic of study.”<sup>23</sup> Bruun has suggested that this is at least partly due to “an absolutist bias in [western] methodology,” pursuant to which “efforts at definition [have] forced fengshui into Western intellectual conceptions,” at the expense of understanding.<sup>24</sup> Yoon observes that “[m]any Western studies do not convey the full picture of geomantic principles,” and that as a result, “geomancy remains a confusing subject to contemporary Western scholars.”<sup>25</sup>

## 2.2 Modern (and Western) Feng Shui

Despite this lack of definitional clarity—or perhaps in part because of it—over the past thirty years feng shui has become the subject of growing popular attention in the West.<sup>26</sup> A perusal of the Internet turns up a large variety of feng shui websites<sup>27</sup> and self-help books,<sup>28</sup> with a particular focus on interior design, architecture, and life balance. New schools of feng shui have emerged to address these interests and the needs of modern life—most notably the Black

<sup>21</sup> EITEL, *supra* note 9, at 2. The disconnect between the thinking of westerners in China and the feng shui sensibilities of the local populace in fact contributed to China’s Boxer Rebellion at the beginning of the twentieth century. VICTOR PURCELL, *THE BOXER UPRISING: A BACKGROUND STUDY* 129-130 (2010); DIANA PRESTON, *THE BOXER REBELLION: THE DRAMATIC STORY OF CHINA’S WAR ON FOREIGNERS THAT SHOOK THE WORLD IN THE SUMMER OF 1900* 26-27 (2000).

<sup>22</sup> Meyer, *supra* note 9, at 139.

<sup>23</sup> BRUUN, *supra* note 9, at 1-2.

<sup>24</sup> *Id.*

<sup>25</sup> YOON, *supra* note 2, at 9.

<sup>26</sup> BRUUN, *supra* note 9, at 1-2. The writings of Carl Jung and others contributed to this western interest. Bruun notes that “[w]ith the writings of Joseph Needham, Andrew March, C.G. Jung, Lynn White and many others, Chinese cosmology gradually gained prominence. From previously being seen as a collection of absurdities it now re-emerged as a source of holistic truths with direct relevance for the individual in modern Western society.” *Id.* at 235-236.

<sup>27</sup> See, e.g., Rodika Tchi, *Feng Shui*, About.com, <http://fengshui.about.com> (last visited Oct. 30, 2012); Rodika Tchi, *What is Feng Shui?*, About.com, <http://fengshui.about.com/od/thebasics/qt/fengshui.htm> (last visited Oct. 30, 2012); *Feng Shui Works*, <http://www.fengshui.org/> (last visited Oct. 30, 2012); American Feng Shui Institute, *Learn Feng Shui*, Welcome to the American Feng Shui Institute, <http://www.amfengshui.com/> (last visited Oct. 30, 2012).

<sup>28</sup> See, e.g., ANGEL THOMPSON, *FENG SHUI: HOW TO ACHIEVE THE MOST HARMONIOUS ARRANGEMENT OF YOUR HOME AND OFFICE* (1996); JAYME BARRETT, *FENG SHUI YOUR LIFE* (2003); VINCENT M. SMITH, *FENG SHUI: A PRACTICAL GUIDE FOR ARCHITECTS AND DESIGNERS* (2006). Yoon asserts that “[i]n recent years, more than one thousand books have been published in Western languages on *fengshui* or geomancy,” and that “[a]lmost all of them are popular geomantic guides and manuals for curious westerners who want to learn and practice this exotic art of place divination.” YOON, *supra* note 2, at 8.

Hat (or Black Sect) Tantric School, which fuses feng shui with Tibetan Tantric Buddhism,<sup>29</sup> a branch of Buddhism that focuses on rituals and meditation intended to achieve both worldly goals (such as protection from danger or illness) and soteriological goals.<sup>30</sup> The Black Hat Tantric School of feng shui school has been described (not terribly concisely) as a feng shui “framework to bridge the cultural gap between East and West,”<sup>31</sup> and a central feature of this school is that it seeks to maximize feng shui for *interior* spaces, with little emphasis on the exterior orientation or location of the building in question.<sup>32</sup> The explanation given is that it is not practical in the modern world to tear down a house or other structure, and that feng shui should evolve to adapt to the needs of the modern world.<sup>33</sup> This adaptability of traditional feng shui principles to modern life is a key theme of modern (and Western) feng shui, and some modern observers have even tied the *qi* in feng shui to quantum physics.<sup>34</sup> It also has become popular to characterize feng shui as both an art and a science—an art because it is imprecise and mystic, a science because it espouses principles that can be consistently applied to achieve desired outcomes.<sup>35</sup>

This Western adaptation of feng shui is our departure point for consideration of feng shui in the context of U.S. legal study abroad programs. Black Hat Tantric feng shui views internal balance and energy flow as centrally important to harmony. It also espouses other principles whose origins lie in ancient feng shui practices but translate readily to modern life—namely, the “principle of subconscious reaction” and the “principle of intentionality.”<sup>36</sup> The “principle of

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<sup>29</sup> ERIC SCHAFFERT, *FENG SHUI AND MONEY: A NINE WEEK PROGRAM FOR CREATING WEALTH AND USING ANCIENT PRINCIPLES AND TECHNIQUES* ch. 2 (2002). Other modern feng shui schools include the New Age Compass School and Pyramid school. See KARTAR DIAMOND, *FENG SHUI FOR SKEPTICS: REAL SOLUTIONS WITHOUT SUPERSTITION* 11, 121 (2004).

<sup>30</sup> See PAUL WILLIAMS & ANTHONY TRIBE, *BUDDHIST THOUGHT: A COMPLETE INTRODUCTION TO THE INDIAN TRADITION* 192-94 (2000). Tantric Buddhism is enormously “complex and multiform,” *id.* at 194, and a discussion of it is beyond the scope of this Essay. There is an irony in the fusion of feng shui and Tantric Buddhist thought, however, in that an historical feature of Tantric Buddhism is its incorporation of non-Buddhist deities and rituals. See *id.* at 242-44.

<sup>31</sup> Vincent M. Smith & Susan M. Reid, *Feng Shui: A Universal Philosophy of Environmental Psychology*, SK005 ALI-ABA 3107 (Jul. 28-31, 2004).

<sup>32</sup> *Id.*; SMITH, *supra* note 28, at 6; DIAMOND, *supra* note 29, at 120.

<sup>33</sup> SMITH, *supra* note 28, at 6.

<sup>34</sup> See FRITJOF CAPRA, *THE TAO OF PHYSICS: AN EXPLORATION OF THE PARALLELS BETWEEN MODERN PHYSICS AND EASTERN MYSTICISM* (1975); see also MICHAEL Y. MAK, *SCIENTIFIC FENG SHUI FOR THE BUILT ENVIRONMENT: FUNDAMENTALS AND CASE STUDIES* 13, 171 (2011).

<sup>35</sup> See, e.g., HENRY LIN, *THE ART AND SCIENCE OF FENG SHUI: THE ANCIENT CHINESE TRADITION OF SHAPING FATE* 206 (2000) (asserting that “there should be no doubt that feng shui is both a science and an art”); Mak & Ng, *supra* note 20, at 427 (discussing the Form School and Compass School of feng shui); Alfred B. Hwangbo, *A New Millennium and Feng Shui*, 4 *J. ARCHITECTURE* 191 (1999) (describing feng shui as “a mélange of art and science”); Field, *supra* note 8.

Bruun offers a nuanced perspective on this art-science blend, suggesting that it is part of a re-emergence (in Western cultures at least) of religion and spirituality in a way that co-exists with science. Specifically, he asserts that the meteoric rise in feng shui’s popularity in the West since the 1980s is due in part to a backlash against hard “scientism” and a “need for new perspectives that allow unity.” OLE BRUUN, *AN INTRODUCTION TO FENG SHUI* 5 (2008). See also Ole Bruun, *Feng Shui—A Universal Mode of Thought?*, in *INTERNATIONAL CONFERENCE ON FENG SHUI (KAN YU) AND ARCHITECTURE IN BERLIN* 19 (Florian C. Reiter, ed., 2011).

<sup>36</sup> Smith & Reid, *supra* note 31, at 3.

subconscious reaction” focuses on eliminating hidden stressors or tensions in our surroundings— aspects of our environment that we might not consciously identify, but which we nonetheless feel on a subconscious level, such as our reaction (read: relief) when we enter a room that previously was cluttered but now is organized.<sup>37</sup> The “principle of intentionality” stands for the idea that balance and positive energy flow can be achieved only through intentional action—that in order to affect our environment’s balance and energy flow, we must consciously intend to do so. This focus on intentionality encourages deliberate thought about desired outcomes and possible paths to those outcomes.<sup>38</sup>

### 2.3 Implications for Study Abroad Programs

With feng shui’s history and modern developments in mind, a viable working definition of feng shui for study abroad programs might be that feng shui is the “art and science of making an institutional (study abroad) program exist in harmony with its surrounding environment.” In fact, it takes relatively little effort to extend the modern view of feng shui to the design, location, and timing of U.S. law school study abroad programs. A study abroad program is, quite literally, an internal (U.S. law school) program that exists in an external (foreign country) environment, which requires some balancing of internal programming needs with the administrative challenges of being abroad. Other tensions also come into consideration: the balance between holding class and giving students free time; the balance between encouraging students to immerse themselves in the local culture and giving them opportunities for cultural “time-outs”;<sup>39</sup> the balance between the need for course coverage and the desire to not overload students; the balance between organized outings and unstructured free time; the balance between interacting with the students on a more informal level than usual and maintaining professorial control and authority over the program. Even the pacing of study abroad programs can be thought of in terms of achieving balance: time, after all, is a dimension, and timing is a relevant consideration under the Compass School of feng shui. A poorly paced program—such as one that tries to cover too much material, or too little, or rushes at the end—lacks balance and is less effective in promoting student learning. Balance is therefore essential.

Similarly, intentionality is important, as is subconscious reaction. A study abroad program that is not carefully thought out or executed might be successful, but there are greater possibilities for difficulties or disaster. I know of no law school whose slogan is “Success by Accident.” Thoughtful consideration of how to structure a study abroad program, where to locate it, and how it fits into a law school’s larger institutional goals will result in a more effective program. Thoughtful consideration of the stresses of studying abroad on students will help reduce sources of stress that impede the effectiveness of the program—including stressors that do not appear obvious but exist nonetheless.

With this general conceptual background in mind, this Essay now turns to the challenges of globalization for U.S. law schools, and how law schools have striven to address these challenges through study abroad programs.

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<sup>37</sup> *Id.*; see also SMITH, *supra* note 27, at 3.

<sup>38</sup> Smith & Reid, *supra* note 31, at 3; see also DIAMOND, *supra* note 32, at 19.

<sup>39</sup> A visit to the local McDonald’s fast food restaurant or going to see an English-language movie can do wonders in this regard.

### 3. THE CHALLENGES OF GLOBALIZATION FOR U.S. LAW SCHOOLS

U.S. law schools are, as a whole, far more globalized than only twenty years ago. They have many more faculty members who teach and write on subjects concerning globalization, more courses with international focus or content, more study abroad programs and faculty exchanges,<sup>40</sup> more examples of sweeping curricular reform,<sup>41</sup> and more transnational joint degree programs.<sup>42</sup> It can be extremely difficult for some law schools to keep pace with these changes, however—especially for regional U.S. law schools, with their (often) smaller budgets, smaller faculties, and smaller staffs. Direct budgetary constraints are perhaps the most obvious restrictions, but there are also significant indirect costs in terms of faculty time, and too often these indirect costs go under-appreciated. There is a certain amount of administrative effort required to run any law school, regardless of size—and at law schools with fewer faculty

<sup>40</sup> See American Bar Association, *Foreign Summer and Winter Intersession Programs*, americanbar.org, [http://www.americanbar.org/groups/legal\\_education/resources/foreign\\_study/foreign\\_summer\\_winter\\_programs.html](http://www.americanbar.org/groups/legal_education/resources/foreign_study/foreign_summer_winter_programs.html) (last visited Oct. 30, 2012) (Foreign Summer and Winter Intersession Programs); American Bar Association, *Semester and Year-Long Study Abroad Programs*, americanbar.org, [http://www.americanbar.org/groups/legal\\_education/resources/foreign\\_study/semester\\_programs.html](http://www.americanbar.org/groups/legal_education/resources/foreign_study/semester_programs.html) (last visited Oct. 30, 2012) (Semester and Year Long Study Abroad); Association of American Law Schools, *Foreign Visiting Faculty Register*, aals.org, [http://www.aals.org/services\\_visitingregister.php](http://www.aals.org/services_visitingregister.php) (last visited Oct. 30, 2012).

<sup>41</sup> See, e.g., *Harvard to Revise its Case Law Approach*, WOMEN HIGHER EDUC., Dec. 1, 2006, at 5 (discussing Harvard's move "away from case studies and toward problem solving, international law and law making by government bodies"); New York University School of Law, *NYU Law Announces Ambitious New Study-Abroad Program as Part of Curricular Enhancements Emphasizing Focused Study in Third Year*, law.nyu.edu, available at [http://www.law.nyu.edu/news/NYU\\_LAW\\_ANNOUNCES\\_STUDY-ABROAD\\_PROGRAM\\_CURRICULAR\\_ENHANCEMENTS\\_THIRD\\_YEAR](http://www.law.nyu.edu/news/NYU_LAW_ANNOUNCES_STUDY-ABROAD_PROGRAM_CURRICULAR_ENHANCEMENTS_THIRD_YEAR) (last visited Oct. 30, 2012) (announcing various reforms to its third-year curriculum, including "NYU Law-designed and managed programs for its students to study in Buenos Aires, Paris, and Shanghai during their final semester of law school"); Washington and Lee University School of Law, *Washington and Lee School of Law Announces Dramatic Third Year Reform*, law.wlu.edu/ (Mar. 10, 2008), <http://law.wlu.edu/news/storydetail.asp?id=376> ("We believe it is incumbent on our Law School to be more ambitious in our mission and innovative in our approach to education as we strive to fulfill our duties to the public consumers of legal services, to the profession, and to the system of justice."). See also Louis F. Del Duca, *Educating Our Students for What? The Goals and Objectives of Law Schools In Their Primary Role of Educating Students—How Do We Actually Achieve Our Goals and Objectives?*, 29 PENN ST. INT'L L. REV. 95, 101-04 (2010); Louis F. Del Duca, *Enriching the Law School Curriculum in an Increasingly Interrelated World—Learning From Each Other*, 26 PENN ST. INT'L L. REV. 834 (2008); Dianne Penneys Edelman, *It Began At Brooklyn: Expanding Boundaries for First-Year Law Students by Internationalizing the Legal Writing Curriculum*, 27 BROOK. J. INT'L L. 415 (2002); Elaine McArdle, *A Curriculum of New Realities: At Harvard Law School, Some New Answers to the Question, What do Future Lawyers Need to Know?*, HARVARD L. BULL., Winter 2008, available at [http://www.law.harvard.edu/news/bulletin/2008/winter/feature\\_1.php](http://www.law.harvard.edu/news/bulletin/2008/winter/feature_1.php) ("But over the last several decades, with the rise of specialization, globalization and an increasingly regulatory environment both at home and abroad, the practice of law has become more international in scope and has come to require a systematic grasp of statutory and regulatory institutions and practices as much as an ability to glean principles from appellate decisions.").

<sup>42</sup> See, e.g., American University Washington College of Law, *International J.D. Dual Degree Programs*, International Law Programs Abroad, [http://abroad.wcl.american.edu/index.cfm?FuseAction=Abroad.ViewLink&Parent\\_ID=0&Link\\_ID=DC1B78B7-782B-CB2F-B9597AA389E14DC6](http://abroad.wcl.american.edu/index.cfm?FuseAction=Abroad.ViewLink&Parent_ID=0&Link_ID=DC1B78B7-782B-CB2F-B9597AA389E14DC6) (last visited Oct. 30, 2012); Columbia Law School, *Double Degree Programs*, law.columbia.edu/, [http://www.law.columbia.edu/center\\_program/intl\\_progs/double\\_degree](http://www.law.columbia.edu/center_program/intl_progs/double_degree) (last visited Oct. 30, 2012); Washington University School of Law, *Transnational Law Program (TLP)*, Washington University School of Law Home Page, <http://law.wustl.edu/tlp/> (last visited October 30, 2012).

members, the per capita administrative burden on faculty and staff can be immense.<sup>43</sup> These obligations, of course, take time away from the building and running of innovative programs.

Law school programs in other countries also present administrative difficulties that domestic programs do not present—language and cultural barriers, time zone differences, travel costs, and so on. These costs also are likely to be more burdensome for regional U.S. law schools, and this is especially true for schools that are trying to establish their very first international programs. If the law school in question has few faculty members with international backgrounds or areas of expertise—or any interest in developing such expertise—these large administrative burdens will fall on a very small number of faculty members indeed.

In addition to these challenges, there is yet another difficulty that too often goes unstated for some U.S. law schools: the potential for insularity. The fact that it is *hard* to ignore the importance of globalization does not mean it is *impossible* to do so. At law schools with few or no existing international programs, there may be less internal faculty support for globalization efforts—and indeed there may be some faculty who are openly opposed for a number of reasons, including fiscal concerns or a desire to focus on local or domestic educational matters. There also may be less support from outside constituencies such as alumni, donors, and legislatures. Quite sadly, there even may be a significant portion of the student population that is indifferent, because they see study abroad opportunities as not relevant to their careers. This sort of inertia or indifference can be a feedback loop that is difficult to break.<sup>44</sup>

In this sort of environment, it becomes critically important to develop globalization programs that are (a) cost-effective, (b) time-effective (in terms of the time needed to plan and administer them), (c) well-designed (so as to minimize the risk of failure and any resulting “once bitten, twice shy” faculty mentality about globalization programs), and (d) synergistic with a law school’s other strategic programming efforts. One such way—a very successful way in my experience—is through modestly-sized summer or intersession study abroad programs.

#### 4. THE ADVANTAGES OF SUMMER AND INTERSESSION STUDY ABROAD PROGRAMS FOR U.S. LAW SCHOOLS

Summer and intersession study abroad programs offer numerous advantages that make them particularly attractive to U.S. law schools. They do not require major curricular reform. They do not require students (or faculty) to alter their semester schedules. They provide an opportunity for travel by faculty and students to foreign destinations. Depending on when they take place, they can allow students to work for at least part of the summer, which is a critical

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<sup>43</sup> In economic terms, this is a fixed administrative cost of running a law school; the additional cost of running larger, more complex law schools can be thought of as a variable administrative cost.

<sup>44</sup> It is important, in the interest of fairness and full disclosure, to state clearly for the record that my own experience in developing and running study abroad programs has been a very positive one. At my previous school, where I developed and ran the Korea study abroad program, I did not run into faculty roadblocks or opposition, and there was very strong administrative support, which was critically important and which I deeply appreciate. However, I do know of faculty at other schools who have not fared as well or not had such strong support in their international program-building efforts, and all too often I have experienced student myopia regarding how study abroad programs can benefit them both professionally and personally.

part of the job-seeking process. Depending on how they are designed, they need only a modest critical mass of students to make them financially viable.<sup>45</sup> They offer yet another way for law schools to promote themselves to other law schools<sup>46</sup> and to recruit new law students.<sup>47</sup> For faculty, their experiences abroad may lead to future faculty exchanges and research collaborations, as well as new areas of research interest, all of which benefit the law school.

In other words, summer and intersession study abroad programs can offer a lot of benefit for a relatively small investment. They may not offer the depth or richness of full curricular reform efforts, transnational joint-degree programs, or foreign campuses with permanent faculty, and they do not offer the immersive experience (for students or faculty) of spending a full semester or year abroad. However, they are a relatively straightforward way for a U.S. law school to provide groups of students with meaningful international experiences at relatively low cost. In modern feng shui (Black Hat tantric) terms, a school can foster globalization within its existing programmatic structure, rather than tearing down the existing structure and re-orienting all programs to face in the direction of globalization.

Moreover, in my experience, a successfully run summer or intersession study abroad program is a way to cultivate faculty, student, and alumni support for a law school's overall globalization efforts. In four years, the law school at which I started my teaching career (Mississippi College School of Law) went from having no international programs (and very few internationally focused courses) to having three summer study abroad programs (in Korea, Mexico and Germany),<sup>48</sup> multiple international or comparativist faculty members,<sup>49</sup> an International and Comparative Law Center,<sup>50</sup> an International Speakers Series,<sup>51</sup> and an active

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<sup>45</sup> For a discussion of the financial considerations of study abroad programs, see Part 5.1.4 below.

<sup>46</sup> A law's school's peer reputation among other U.S. law schools is a central factor in the *U.S. News & World Report* rankings methodology. See Theodore P. Seto, *Understanding the U.S. News Law School Rankings*, 60 SMU L. Rev. 493 (2007).

<sup>47</sup> See Arlene S. Kanter, *The Presumption Against Extraterritoriality As Applied to Disability Discrimination Laws: Where Does It Leave Students With Disabilities Studying Abroad?*, 14 STAN. L. & POL'Y REV. 291, 311 (2003); ("[I]nternational programs provide a basis for recruiting students."); Christopher J. Gearon, *Law Schools Go Global*, U.S. NEWS & WORLD REP., Mar. 29, 2011 (stating that experts believe "global experience has become a major plus on résumés" and that "[c]learly, the thousands of students who enroll in these programs agree."). In my own experience, this is indeed a significant indirect benefit of study abroad programs. Students admitted to law school often have asked me about international programs and opportunities to study abroad when trying to make decisions regarding what law school to attend.

This competition for students through international programming is occurring against a backdrop of growing focus and attention on globalization in U.S. higher education generally. See generally American Institute for Foreign Study, *Impact of Education Abroad on Career Development* vol. I (Martin Tillman, ed.); see also Susan W. Herrera, *Effectiveness of Study Abroad in Developing Global Competence and Global Consciousness: Essential Outcomes for Internationalizing the Curriculum 17-19* (2008) (PhD. dissertation, University of Florida), available at [http://etd.fcla.edu/UF/UFE0022495/herrera\\_s.pdf](http://etd.fcla.edu/UF/UFE0022495/herrera_s.pdf).

<sup>48</sup> See Mississippi College School of Law, *Foreign Summer Studies Programs*, Mississippi College School of Law Home Page, <http://law.mc.edu/academics/law-centers/international/study-abroad> (last visited Oct. 30, 2012).

<sup>49</sup> See Mississippi College School of Law, *Meet the Faculty*, Mississippi College School of Law Home Page, <http://law.mc.edu/faculty-staff/faculty> (last visited Oct. 30, 2012).

<sup>50</sup> See Mississippi College School of Law, *International & Comparative Law Center*, Mississippi College School of Law Home Page, <http://law.mc.edu/academics/law-centers/international> (last visited Oct. 30, 2012).

<sup>51</sup> *Id.*



student International Law Society<sup>52</sup>—as well as strong overall faculty and administrative support for these programs. A fourth study abroad program was launched in France in 2012.<sup>53</sup> Much of this support came after the law school’s very first international study abroad program was established in Seoul, Korea in 2008—and I am convinced that almost none of it would have happened (and certainly not happened as quickly) had that program been ill-conceived and poorly executed. Equally important is the fact that these programs were truly a group effort: they were conceived, established and administered jointly by multiple faculty and administrators, and some of the programs listed above (namely, the Mexico and Germany study abroad programs, as well as the newer program in France) were spearheaded by other faculty members. I am pleased and proud to have played a central role in the globalization of legal education in Mississippi—to have helped change the direction of discourse and focus faculty energies on global programming—and I am especially pleased and proud that the international programs there continue to thrive and expand.

## 5. THE DESIGN OF STUDY ABROAD PROGRAMS: FENG SHUI

With these considerations in mind, how should a study abroad program be properly designed? The ABA’s criteria for review and approval of study abroad programs provide some guidance, but the ABA guidelines focus largely on the qualifications of the faculty and personnel involved in the program, the basic adequacy of the program’s physical environment (student and faculty housing and classroom space), and student and faculty safety.<sup>54</sup> Program design is mostly left to the discretion of the sponsoring U.S. law school(s)—key caveats being that the ABA (a) places limits on daily classroom time and weekly class credit given,<sup>55</sup> (b) requires that some local legal institutions be visited,<sup>56</sup> (c) requires that courses offered must be of the same quality (and must be approved in the same way) as the law school’s other courses,<sup>57</sup> and (d) requires that courses offered must relate in some way to the foreign host country.<sup>58</sup>

In other words, the fact that a U.S. law school’s study abroad program satisfies these requirements does not ensure that the program is well-designed, well-run, or being used to its full advantage to promote globalization or other strategic goals of the law school.<sup>59</sup>

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<sup>52</sup> *Id.*

<sup>53</sup> See Mississippi College School of Law, *Foreign Summer Studies Programs*, Mississippi College School of Law Home Page, <http://law.mc.edu/academics/law-centers/international/study-abroad> (last visited Oct. 30, 2012).

<sup>54</sup> American Bar Association, *Criteria for Approval of Foreign Summer and Intersession Programs Established by ABA-Approved Law Schools (revised August 2010)*, in 2012-2013 ABA STANDARDS FOR APPROVAL OF LAW SCHOOLS 91, 92-95 (2012), available at [http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2012\\_2013\\_aba\\_standards\\_and\\_rules.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2012_2013_aba_standards_and_rules.authcheckdam.pdf) [hereinafter *ABA Foreign Program Criteria*].

<sup>55</sup> *Id.* at § IV.A.

<sup>56</sup> *Id.* at § IV.H.

<sup>57</sup> *Id.* at §§ I.B & I.C.

<sup>58</sup> *Id.* at § I.D.

<sup>59</sup> In fact, the American Bar Association’s website expressly acknowledges this:

The ABA’s oversight role with regard to study abroad programs is designed to provide assurance of a sound educational experience in a study abroad program sponsored by an ABA-approved law school. . . .

Consideration of feng shui principles, however, can help better advance these goals. Based on my experience, I believe that a well-designed study abroad program should balance the following tensions, which I have grouped into three categories: (a) size of the program, (b) faculty considerations and diversity, and (c) scheduling considerations. Most or all of these aspects of study abroad programs will be familiar to anyone who has been involved in such a program. However, I am suggesting that developing and deliberately (intentionally) applying a taxonomy of these factors can facilitate effective planning and implementation of study abroad programs, and thus result in positive programmatic “energy” in the forms of beneficial student learning, the broadening of student perspectives, student and faculty safety, the reduction of student stress while abroad, the financial viability of the program, student body support for the program, positive effects on law school student recruitment, benefits to faculty teaching and research endeavors, and faculty (and university) support for the program. Failing to consider these factors, I believe, is likely to result in less effective programs, greater possibility of program failure, and other negative effects.

## 5.1 Size of the Program

### 5.1.1 Programming Robustness versus Administrative Cost

It is tempting (especially when perusing glossy flyers that arrive in the mail from other law schools) to design a large program with many faculty and course options. To be sure, such programs can offer a rich educational experience. They can allow for more in-depth treatment of a chosen subject (such as, for example, international human rights), and they may attract a larger number of students because of the variety of classes offered and the instructors involved. It is not uncommon for leading legal experts and jurists (such as U.S. Supreme Court justices) to participate in these programs as visiting faculty—and the opportunity to meet and rub elbows with such luminaries is a strong attraction indeed for students.<sup>60</sup>

On the other hand, the overhead for larger programs can be significant, because more persons are involved. Faculty members must be transported, provided with room and board, and paid. And of course, the more students there are, the more classroom space (and study space) is required. Administrative staff may need to be hired, or pulled from other tasks in order to help

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These Criteria recognize that the primary responsibility for determining the quality of the educational experience that students receive during a study abroad experience rests with the faculty and administration of the law school.

American Bar Association, *Foreign Study*, americanbar.org, [http://www.americanbar.org/groups/legal\\_education/resources/foreign\\_study.html](http://www.americanbar.org/groups/legal_education/resources/foreign_study.html) (last visited Oct. 30, 2012). One might surmise that, at least in the year of an ABA site visit, a study abroad program must needs be well run in order to receive ABA approval. That might be so—but on the other hand, ABA site evaluators do not stay on site for the duration of the program, and site visits generally only occur every seven years. *ABA Foreign Program Criteria*, *supra* note 54, at § IX.B.2. In other words, the system of site evaluation (and annual reports filed by sponsoring law schools) is largely based on good faith and self-reporting. *See id.* at § IX.B.

<sup>60</sup> *See* Consortium for Innovative Legal Education, *Galway, Ireland 2012 Program on International and Comparative Human Rights Law*, cile.edu, <http://www.cile.edu/galway.html> (last visited Oct. 30, 2012) (regarding involvement of various U.S. Supreme Court Justices); Tulane University Law School, *Summer Abroad*, Tulane University Law School, <http://www.law.tulane.edu/tlsabroad/> (last visited Oct. 30, 2012) (same).



run the program (which, while an indirect cost, can have a significant impact nonetheless in terms of opportunity costs).

The size and complexity of larger programs therefore makes them more vulnerable to problems of insufficient student registration, because more students are needed to make larger programs economically viable. (Whether that means the programs must break even or simply incur an acceptable loss will differ from school to school.) It also makes larger programs more susceptible to staffing problems, because more teachers and administrators are required to run the program. The burden of a large program can be particularly acute on smaller law schools.

Often, therefore, a smaller program may offer a better balance of costs and benefits. An ideal structure for a modest-sized program might be one with two or three courses, two or three professors, and a small group of 10-20 students who take all courses together. Of course, this being an exercise in balancing different interests, there is not one correct solution. A law school with a particular focus or interest may wish to offer study abroad programs that complement that focus or interest (such as law & economics, or a Latin American focus)—and running a larger program with broader and richer class offerings may be a way to accomplish that goal. Also, local faculty or guest lecturers can be used to add depth and richness to the classroom component of a study abroad program—although that approach presents the administrative challenge of coordinating multiple speakers. In other cases, several law schools could partner to offer richer and more diverse study abroad programming than they might be able to offer separately. This sort of economies of scale approach has been undertaken by the four member law schools of the Consortium for Innovative Legal Education (CILE), which currently collectively offer seven summer and semester-long study abroad programs for their students.<sup>61</sup>

### 5.1.2 Number of Students

One school of thought about study abroad programs is that the number of participating students should be large enough to pay for much (but perhaps not all) of the program's costs, yet small enough to be cohesive as a group. In my experience, any number above 15 may adversely affect group cohesion, and it also may make transportation for field trips more difficult (e.g., motor vehicle excursions might require travel in multiple vehicles or a large coach). In fact, it is my view that lower group cohesion may be one of the more significant non-financial adverse effects of larger programs.<sup>62</sup> The common, shared experiences of a study abroad program can

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<sup>61</sup> See Consortium for Innovative Legal Education, *Study Abroad*, cile.edu, <http://www.cile.edu/mission.html> (last visited Oct. 30, 2012). The consortium's member schools are California Western School of Law, the New England School of Law, South Texas College of Law, and the William Mitchell College of Law. See Consortium for Innovative Legal Education, *The Consortium*, cile.edu, [http://www.cile.edu/cile\\_members.html](http://www.cile.edu/cile_members.html) (last visited Oct. 30, 2012).

<sup>62</sup> The point I am making about group cohesion and coordination is different than the common assumption that smaller classes result in better educational experiences for students—and it so happens that my point is also a much less controversial one. For general discussion on the relationship between class size and student learning, see Frederick Mosteller, *How Does Class Size Relate to Academic Achievement in Schools?*, in *EARNING AND LEARNING: HOW SCHOOLS MATTER* 117 (Susan E. Mayer & Paul E. Peterson, eds, 1999); Eric A. Hanushek, *The Evidence on Class Size*, in *EARNING AND LEARNING: HOW SCHOOLS MATTER* 131 (Susan E. Mayer & Paul E. Peterson, eds, 1999). See also Sid Gilbert, *Quality Education: Does Class Size Matter?*, *CCSH PROFESSIONAL*

help form powerful friendship bonds among the students, and the students hopefully will link their study abroad experiences—new activities as a group, close and informal interaction with faculty, a broadening of their horizons—with the sponsoring law school in a positive way. That sort of associational thinking becomes more difficult with larger groups—much in the same way that it is easier to get to know students in a small class setting than in a large class section.

Of course, restricting the size of a study abroad program may not be feasible for a program that has high overhead costs. Moreover, if there is significant student demand for the program in question, a law school might reasonably decide to risk lower group cohesion in order to allow more students to participate in the program. For large programs, therefore, how might the adverse effects of group size on group cohesion be minimized? One approach is to limit participation to students from a single, sponsoring school, so that students will be more likely to know one another in advance. A related approach is to hold program meetings in advance of the program (prior to departure) to promote group cohesion. A third approach is to have the program operate as a “traveling program”—one that travels to multiple locations en masse—instead of being based in a single location abroad. Because the location is constantly new, students and faculty will be drawn more closely together in a cooperative adventure and be less likely to engage in separate explorations of the locales.<sup>63</sup> Of course, that too presents its own cost, because independent exploration—and the resulting lessons about independence and self-sufficiency—can be one of the most profound learning experiences in a study abroad program. Still, group cohesion can be enhanced in this way. All three of these methods can be used separately or in combination to promote group solidarity.

### 5.1.3 Number of Credit Hours

The ABA permits a maximum of 220 minutes of classroom instruction per day on ABA-monitored and -approved study abroad programs,<sup>64</sup> and a maximum of 1.5 hours of credit per week.<sup>65</sup> This ties in nicely with the ABA’s standard formula that 700 minutes of class time constitutes one semester credit hour.<sup>66</sup> One purpose of these limitations is to help ensure an appropriate balance between time in the classroom and time for students to explore the local environment. Too much time in class reduces the quality of the classroom experience and casts a pall over the entire study abroad enterprise; too little renders the experience merely a holiday.

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FILE, No. 14, Winter 1995 (noting a weak correlation between teaching effectiveness and class size, and discussing instructor characteristics for effective teaching of large classes).

<sup>63</sup> See, e.g., West Virginia University College of Law, *Legal Study in Brazil Program*, law.wvu.edu, [http://law.wvu.edu/academics/legal\\_study\\_in\\_brazil](http://law.wvu.edu/academics/legal_study_in_brazil) (last visited Oct. 30, 2012). It should be noted that this program is run as an internal West Virginia University program. In other words, it is essentially an internal law school course that is taught in a foreign location, and it is therefore not subject to ABA study abroad oversight. This difference, however, does not affect its usefulness as an example of a “traveling” study abroad program.

<sup>64</sup> *ABA Foreign Program Criteria*, *supra* note 54, at § IV.A.3.

<sup>65</sup> *Id.* at § IV.A.2.

<sup>66</sup> *Id.* at § IV.B. Interpretation 304-4 to ABA Standard 304 (Course of Study and Academic Calendar) states, “Law schools on a conventional semester system typically require 700 minutes of instruction time per ‘credit,’ exclusive of time for an examination.” ABA STANDARDS FOR APPROVAL OF LAW SCHOOLS 23 (2012), available at [http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2012\\_2013\\_aba\\_standards\\_and\\_rules.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2012_2013_aba_standards_and_rules.authcheckdam.pdf).

While the goal of the ABA's daily maximum for classroom instruction is laudable, I do not believe it strikes the ideal balance between work and play. A study abroad program that meets five days a week for 220 minutes each day is the short-term equivalent of taking 22 semester credit hours in a semester<sup>67</sup>—something far in excess of the standard course load in law school.<sup>68</sup> For the same reasons that taking so many semester hours is often discouraged or prohibited by law schools,<sup>69</sup> offering maximum credit hours in a study abroad program may not be ideal.

I have found that averaging approximately one credit hour (700 minutes) of instruction time per week (inclusive of classroom time and certain class-related field trips) can achieve a healthy balance between work and leisure. This somewhat slower pace—which is on par with taking fifteen credit hours in a regular semester<sup>70</sup>—allows for both full weekends without classes and one or more days during the week with no classes. Of course, less instruction may mean lower tuition revenue, which in turn may affect a program's financial viability, but it is my view that the benefits of this more modest pace often outweigh the adverse economic impact.<sup>71</sup> In fact, letting financial considerations alone determine the time spent in the classroom while abroad is very much a case of the tail wagging the dog.

#### 5.1.4 Cost of the Program

While at one time study abroad programs were profitable for the U.S. law schools that ran them, the same is generally not true today. Greater competition and higher tuition have conspired to reduce or entirely eliminate profit margins for many programs. Many U.S. law schools in fact offer discounts to students—either for tuition or administrative costs—in order to make their study abroad programs affordable.

<sup>67</sup> A student taking fifteen 50-minute credit hours in a 14-week semester will be in class 750 minutes per week (assuming classes meet only five days per week). A student in a study-abroad program that meets for 220 minutes a day, five days a week will be in class for 1,100 minutes per week, or 15,400 minutes total, which for a 14-week semester is the equivalent of exactly 22 credit hours.

<sup>68</sup> The ABA requires a minimum of 58,000 minutes of instruction for a juris doctor degree. *See* ABA STANDARDS FOR APPROVAL OF LAW SCHOOLS, *supra* note 66, at 22 (Standard 304.B). That minimum is the equivalent of taking 83 semester credit hours, or just under 14 credit hours per semester (for six semesters). A requirement of 90 credit hours would require a standard course load of 15 credit hours per semester for six semesters.

<sup>69</sup> *See, e.g.,* Duke Law School, *Duke Law Academics: Rules & Policies Section 3, Rule 3-6*, law.duke.edu, available at <http://www.law.duke.edu/about/community/rules/sec3.html#rule3-6> (last visited Oct. 30, 2012) (“No student shall take for credit courses totaling more than sixteen credits per semester nor audit and take for credit courses totaling more than seventeen credits per semester, except with the permission of the Dean.”); Fordham University School of Law, *Registrar Q&A*, law.fordham.edu, available at <http://law.fordham.edu/registrar/10682.htm> (“No student in the day division may take fewer than twelve (12) hours or more than sixteen (16) hours per semester without special permission.”) (last visited Nov. 1, 2012); West Virginia University College of Law, *WVU College of Law Student Handbook 2012-2013*, 4-5, available at <http://law.wvu.edu/academics> (requiring students to obtain approval of the Chair of the Academic Standards Committee to take more than 17 credit hours in a semester).

<sup>70</sup> *See supra* note 67.

<sup>71</sup> To increase the credit hours of a program (and thus perhaps revenue), a law school might offer some study abroad program course instruction prior to trip departure (an approach discussed in Part 5.1.1 above in the context of building group cohesion)—although that has its own logistical drawbacks, such as the need to schedule around other semester activities and the challenge of including any participating students from other law schools.

Despite this, U.S. law school study abroad programs continue to proliferate—over 200 at the time this Essay was published.<sup>72</sup> Clearly, many U.S. law schools are of the view that study abroad programs offer significant indirect financial benefits—for example, in terms of student recruiting and retention and faculty recruiting and retention. The benefits of these programs can be difficult to quantify, however. It is the age-old quandary of weighing direct-cost apples against indirect-benefit oranges.

To the extent that the benefits of a potential (or existing) program are being questioned, it is therefore important to intentionally reframe the debate—to think about the central purpose of study abroad programs, and how they fit into the overall stable of programs offered by a law school. One way to do so is to compare study abroad programs, which do generate some revenue, to other law school programs that do not—such as moot court programs. Moot court programs are generally regarded as beneficial despite their fairly significant expense. To state it differently, moot court programs are not expected to “pay their own freight.” Why not view study abroad programs—which expand student horizons, provide curricular diversity, and help prepare students for practice in an increasingly globalized world—in the same way? Or to state matters differently, why not view study abroad programs as programs that at least partially pay their own freight, unlike many other law school programs such as moot court programs—and even, for that matter, student-run law reviews?

Study abroad programs also can be usefully characterized as “loss-avoidance” measures. The fact that students study abroad through other law schools’ programs might result in a loss of tuition to the student’s home law school (depending on the home school’s tuition structure). If the student’s home law school offers at least one study abroad program, however, this can help to avoid at least some of this tuition loss. The precise nature of this calculus will depend on the tuition structure of the school in question—but at a law school where students pay tuition on a “pay as you go” system (*i.e.*, by the credit hour as courses are taken), the financial effect of retaining such tuition can be significant.

The main point regarding the cost of study abroad programs is that it is easy to see the hole and not the doughnut. A deliberate, intentional effort to focus on the desired benefits of legal education, and how study abroad programs can promote those goals, can help show how a study abroad program is (or is not) in line with the sponsoring law school’s strategic goals. This in turn will help ensure that the law school’s energies expended on the program reap the desired rewards.

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<sup>72</sup> See American Bar Association, *Foreign Summer and Winter Intersession Programs*, americanbar.org, [http://www.americanbar.org/groups/legal\\_education/resources/foreign\\_study/foreign\\_summer\\_winter\\_programs.html](http://www.americanbar.org/groups/legal_education/resources/foreign_study/foreign_summer_winter_programs.html) (last visited Oct. 30, 2012) (Foreign Summer and Winter Intersession Programs); American Bar Association, *Semester and Year-Long Study Abroad Programs*, [http://www.americanbar.org/groups/legal\\_education/resources/foreign\\_study/semester\\_programs.html](http://www.americanbar.org/groups/legal_education/resources/foreign_study/semester_programs.html) (last visited Oct. 30, 2012) (Semester and Year Long Study Abroad); American Bar Association, *Cooperative Study Abroad Programs*, americanbar.org, [http://www.americanbar.org/groups/legal\\_education/resources/foreign\\_study/cooperative\\_programs.html](http://www.americanbar.org/groups/legal_education/resources/foreign_study/cooperative_programs.html) (last visited Nov. 1, 2012) (Cooperative Programs).

## 5.2 Faculty Considerations and Diversity

### 5.2.1 Cost of Faculty versus Number of Faculty

Each faculty member adds significant cost to a study abroad program (in terms of travel expenses, living expenses, and/or salary), so the benefit of additional faculty must be balanced against their cost. That said, there should be at least two faculty members on each program. Not only can they share the program's heavy administrative and teaching loads, but having at least two faculty members also will help avoid cancellation in the event one of the faculty members experiences an illness or personal emergency. Canceling a program for lack of staffing is most certainly not a good way to promote a school's global programming or other strategic goals. Moreover (and I speak from personal experience), running a study abroad program on a solo basis adds a great deal of background stress to the administrative and teaching endeavor. In other words, even when the stress of being a sole faculty member is not readily apparent, it is there subconsciously (per the feng shui principle of subconscious reaction), and only is eliminated through the addition of at least one other faculty member. Having three or more faculty members might be even more beneficial (assuming the faculty work well together), but this of course would increase the cost of the program.

### 5.2.2 Expert Faculty versus Engaging Faculty

Hopefully a choice does not need to be made between faculty members who have subject matter expertise relevant to the program versus faculty members who are better at engaging with students. If the choice does need to be made, however, it can be a tough and delicate one, and it needs to be thought through carefully. On the one hand, it is desirable to include faculty with international expertise of some sort, and indeed the ABA's rules concerning study abroad programs require that the program's director "shall have had some experience with the same or a similar program or possess a background that is an adequate substitute for such experience."<sup>73</sup> On the other hand, students want to travel and spend time with interesting and engaging faculty members who will in turn enjoy spending time with the students. The choice of faculty therefore can affect a program's student census—which in turn can affect the program's revenue, reputation among students, and long-term viability.<sup>74</sup>

If a difficult choice of this sort must be made, it may well be preferable to choose a gregarious and outgoing faculty member with less international expertise, and have this faculty member teach a comparative course in her or his particular discipline. Any concerns about the international depth of the program could be offset (if possible) by pairing this faculty member with another faculty member who possesses greater international expertise of some sort.

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<sup>73</sup> *ABA Foreign Program Criteria*, *supra* note 56, at § II.C.

<sup>74</sup> This point also relates back to the decision by some U.S. law schools to hire high profile faculty, such as U.S. Supreme Court justices, to teach on their study abroad programs. *See supra* text accompanying note 60. Those visiting faculty may or may not interact much with students outside the classroom, but they certainly serve as a strong draw for students to participate in the program.

It is also important to view a faculty member's lack of international expertise as a short-term problem: faculty members who participate in study abroad programs will develop experience relevant to the program and its subject matter, which then can be carried over into future years. In other words, the problem is in important respects a self-correcting one—which is all the more reason to choose engaging faculty members for study abroad programs, even if they begin with less international experience or expertise. In feng shui terms, this conscious design decision at the outset of the program will affect the flow and outcome of the program; starting off with the incorrect balance of expert-versus-engaging faculty can seriously hinder a program and reduce its effectiveness.

### 5.2.3 Faculty Experience with the Host Country

Tensions also exist with respect to choosing between faculty who have experience in and knowledge of the host country and faculty who do not. Early in the life of a study abroad program—that is, in its first several years—it is extremely valuable to involve faculty who have direct experience with the host country in question. In fact, a common genesis for study abroad programs is a faculty member's interest in establishing such a program in a foreign country with which she or he is familiar. As time goes on, however, other faculty can be brought into the mix and gain similar experience through their participation in the program. In other words, early on, the analysis may skew in favor of faculty members who have direct experience in and knowledge of the host country—even if those faculty might not be ideal for student recruitment.

On the ground experience is therefore critically important, especially in the first years of a program. It is not, however, absolutely essential. It is possible to launch a successful study abroad program with faculty who are unfamiliar (in a first-hand sense) with the host country. This does raise some risks, of course—it is, for example, harder to identify and plan for problems in advance—but the challenges are not insurmountable. This is especially true if a law school's university has a preexisting relationship with a local college or university in the host country, or if faculty members have trustworthy local contacts (e.g., local law faculty, or even local members of the practicing bar in some cases) who can serve as proxies for personal experience, and who can help arrange for and administer the program.<sup>75</sup> It is also possible to hire faculty or administrators with host country experience from some other U.S. law school, and thereby obtain host country knowledge and experience.

The main point is that the absence of direct faculty experience should not be viewed as an absolute deterrent to the launching or expansion of a study abroad program. There are short-term costs and challenges involved—launching a program without faculty who have direct experience in and knowledge of the country is quite a challenge—but when the costs and challenges are weighed against the longer-term benefits of the program, it may be worth it to proceed.

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<sup>75</sup> Having someone on site who is fluent in the local language and familiar with the host country is in fact required under the ABA's study abroad program rules. See *ABA Foreign Program Criteria*, *supra* note 54, at § II.D.

#### 5.2.4 Faculty and Student Diversity Considerations

It is always important to take diversity into consideration when selecting faculty and students for a study abroad program. With respect to faculty selection, it is preferable to have gender diversity, because students (in my experience, at least) may be more comfortable seeking counsel on sensitive matters from faculty of their own gender. The same point also holds true for ethnic and racial diversity. Moreover, having diversity within a program, both of faculty and students, will affect a program's richness and tone for the better. It is worth pointing out that gender diversity also ties in nicely with feng shui's *kan-yu* and *yin-yang* pairs of opposites.<sup>76</sup>

On the other hand, it is also my experience that a study abroad program can be highly successful with less diverse faculty, provided that the faculty members who participate in the program are sensitive to and conscientious about diversity issues. In addition, a study abroad program can be successful even if there is relatively little student diversity: because a study abroad program takes place in a foreign location with a different culture, various aspects of (and experiences with) local culture can be used to bring different perspectives into the classroom. This is not to suggest that such approaches are preferable to having internal faculty and student diversity, but it is to suggest that study abroad programs can be designed to be sensitive to (and benefit from) diversity considerations, even in the absence of actual internal diversity.

### 5.3 Scheduling Considerations

#### 5.3.1 Class Days and Times

Study abroad programs seek to balance formal learning with experiential learning and exploration outside the classroom. Focusing on one at the expense of the other reduces the effectiveness of the program. I have found that it works well to hold class in the mornings and leave most afternoons free, or have class three or four days a week instead of five (with a free day in the middle of the week and/or a long weekend). As discussed in Part V.A.3 above concerning credit hours, such schedules set a manageable pace and do not overload students. Classroom time should be classroom time, and students should be held accountable for the course material and be given sufficient time to prepare—yet students also need time to experience the foreign locale without shirking their academic work.

#### 5.3.2 Classes Offered

There is a central tension in legal education between providing practical skills training and offering broader perspectives on the law.<sup>77</sup> While arguably any single law school course

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<sup>76</sup> See *supra* text accompanying notes 14-20.

<sup>77</sup> See, e.g., WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 34 (2007) (commonly referred to as the Carnegie Report) (“[M]any of the ongoing questions in legal education, such as how much uniformity is needed versus how much variation to promote or how broad a preparation for practice law schools should provide, concern relations among what we have called legal education’s cognitive, practical, and formative apprenticeships.”); SECTION ON LEGAL EDUC. AND ADMISSIONS TO THE BAR, AMERICAN BAR ASS’N, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM 235 (Report of the Task Force on Law Schools and the Profession: Narrowing the Gap, 1992) (commonly referred to as the *MacCrate*

should do both, I have found that in the setting of a law school study abroad program, it is effective to offer one fairly technical course and one more perspectives-focused course. This approach provides students with a multi-dimensional experience regarding the law and the foreign host country. It also can help attract a greater number of students, because, in my experience, students may be primarily interested in one type of course or the other.

### 5.3.3 Class Instruction and Field Trips

I have found it useful to provide more classroom instruction in week one of a study abroad program and wait to begin field trips in week two and beyond. Students as a whole are less adventurous and more academically attentive early on during study abroad programs. In addition, frontloading classroom instruction provides students with a base of knowledge that subsequent field trips will help reinforce. For example, in Korea I had my students attend a briefing at a prestigious local law firm, visit the Demilitarized Zone, attend an economic briefing at the U.S. Embassy, attend security briefings by U.S. military personnel, and tour the Constitutional Court of Korea. Every visit complemented topics we had studied and discussed in class, and offering these visits later in the program enabled the students to ask better questions and engage in higher-quality post-visit discussions. On the few occasions when I had to frontload field trips prior to classroom instruction on relevant topics, the students asked fewer (and more basic) questions during the field trips, and some students expressed regret about their lack of foundational knowledge of relevant legal issues during the field trips.

If a study abroad program's classroom instruction is frontloaded in this fashion, it is important to explain the rationale to students. This is part of intentionality in feng shui: it is conscious programmatic design that seeks to achieve a particular outcome. Students will better understand that there is a deliberate structure to the program—as opposed to a series of interesting events in no particular order—and that in turn will increase student confidence in and support for the program (and other international programming by the law school). It is also a way to reduce subconscious student stress.

### 5.3.4 Overnight Field Trips

Overnight field trips can enrich a study abroad experience, because they allow a group to venture farther afield than is possible on day trips. Too many overnight trips (by all or part of the group), however, can disrupt the daily rhythm of living abroad. Balance is therefore essential. I have found that for study abroad programs that are based in a single location (as opposed to traveling programs that visit various locations as a group), overnight trips preferably should not occur until about halfway through a program and should be limited to no more than one trip per week. In Korea, I took my students on one overnight trip within Korea, and I also took them on a multi-day trip to China that truly offered a comparative cultural experience and

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*Report*) (“Law schools can, and should, teach [professional values of the legal profession] in clinical and traditional courses and should instill in students the desire to achieve them in the course of their professional careers.”); see also Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34, 34 (1993) (“For some time now, I have been deeply concerned about the growing disjunction between legal education and the legal profession.”).



put Seoul in an entirely different light (as well as helped to reestablish some group cohesion).<sup>78</sup> The change of pace also refreshed the students and faculty for our remaining time in Korea.

For traveling study abroad programs—those that rotate through several locations—the considerations are of course different. For such programs, the benefit of establishing a daily rhythm is made secondary to the opportunity to see multiple locations within the host country or countries. As with all things feng shui, it is a matter of intentionally achieving the desired balance.

### 5.3.5 Housing

Living abroad in a new environment can be stressful, and not all students take to the experience naturally or with grace. Some students are quite cognizant of the stress they feel due to being in a foreign environment; others are less aware, but feel stress nonetheless. It is therefore beneficial, when possible, for students to have some private space, as well as a commons area in their quarters where they can gather. Private space and group commons areas allow students to take “time outs” from the local culture, if need be—and perhaps most importantly, even if they do not realize they need such time outs. Some students eagerly adapt to foreign cultures, and some students accept cultural differences with aplomb—but others do not. For the latter, the ability to take a break from local culture in a private space or group commons can be an important means to prevent cultural overload and withdrawal. In other words, a more positive student experience abroad can be fostered simply through attention to housing arrangements.

In addition, the benefits of having faculty housed in the same space as students, versus elsewhere nearby, must be considered, because this affects the tone and tenor of a study abroad program. Faculty members, like students, can benefit from having their own private space (something to which I can definitely attest). There are some advantages to having faculty housed close to the students—the ability to keep tabs on students and to tamp down mischief—but on the other hand, constant close proximity means less (or at least qualitatively different) down time for both faculty and students, which, again, can lead to stress. It is therefore important to deliberately decide what values are more desired, and try to obtain housing arrangements that further those values.

## 6. CONCLUSION

This Essay is not an exhaustive treatment of the tensions present in U.S. law school study abroad programs, and it is not an exhaustive discussion of feng shui. However, it is my hope—and my belief—that deliberately applying some of the principles of feng shui to U.S. legal study abroad programs can help U.S. law schools design programs that synergistically complement and foster their other globalization efforts. It is also my belief that the benefits of this approach may be particularly significant for regional U.S. law schools.

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<sup>78</sup> See *supra* Part 5.1.2.

The key, I believe, is to appreciate that the tensions present in the factors discussed above cannot be resolved, and in fact *should not* be resolved. Rather, when these tensions are properly balanced they can contribute to the energy of a study abroad program in positive feng shui fashion. That is, these tensions—such as between in-class and outside activities, between the classes themselves (with possibly different styles or focuses on the local country), and between faculty being both peers and teachers for the students—can enhance the overall dynamic of a study abroad program and make it a far more rich and rewarding experience for all concerned. Deliberate attention to these factors can result in a better designed program that supports the desired goals of the sponsoring law school. And if it is true that “nothing breeds success like success,” then nothing leads to strong international programs and happy participating students (and future alumni) than well-designed and well-executed programs that properly balance these tensions.

This same feng shui approach also can be used to ensure that the benefits offered by one study abroad program are complemented by other programs, be they additional study abroad programs in different regions and offering different courses, domestic efforts at globalization (such as new courses, inbound exchange programs, and the like), or other initiatives. These programs also will exist in tension with one another to a certain extent, and the same deliberate and intentional balancing approach that works to design a single program can be applied on a larger scale to balance the benefits of multiple international programs, and create a whole that is greater than the sum of its parts.

That, at least, has been my experience. And it is more than a little ironic, in the most positive sense possible, that my own study abroad time in Seoul exposed me to a culturally very different way of thinking about study abroad programs. That sort of diversity of thought—and the insights afforded to me by it—demonstrate in a quite gratifying way the intrinsic value of these programs.