

The Stanford Programme in International Legal Studies (SPILS) – An Alternative to the ‘Classical’ LL.M. Programme

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A. Introduction

A new faculty member of Stanford Law School, asked for his reason for coming to Stanford, simply stated: ‘A world class institute in paradise – who can resist?’ Indeed, Stanford Law School has gained an exceptional reputation² in a variety of areas, including, among others, interdisciplinary legal studies, constitutional law, environmental and natural resource law, business law as well as criminology and alternative dispute resolution.³ Additionally, Stanford Law School has the benefit of being small, having a total student body of about 550 and a permanent faculty of over 40.

It is at this very institute that there is offered, since 1994, the ‘Stanford Programme in International Legal Studies (SPILS)’, a one-year graduate degree programme focusing on policy oriented research and interdisciplinary approaches to law. This programme differs considerably from LL.M. programmes. The latter offers either advanced studies focused on particular areas of law, such as tax, or a broad-based, course-oriented programme designed to familiarize foreign lawyers with American law and legal practice. In contrast, SPILS emphasizes international issues, interdisciplinary approaches to law reform, and intensive research. Finally, SPILS only admits ten to 15 fellows each year; this small programme size is critical to the its reliance upon intensive one-on-one advising for each fellow who will have at least two faculty advisors with whom they will be working throughout the year. It is the aim of this note to elaborate on the specific characteristics of SPILS.

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¹ The unavoidable (but not necessarily helpful) US rankings position puts Stanford Law School on average in fourth place among the US law schools, with Yale, Harvard and Chicago leading the way.

² Other areas in which Stanford Law School has specific expertise encompass regulatory reform and economic development, alternative dispute resolution and negotiation, and intellectual property and high technology law.

B. Eligibility of Fellows

The SPILS programme is very small: each year, 12 to 14 fellows from outside the US are invited to join it.⁴ While the programme description indicates that 'applications will be accepted from lawyers, judges, academics, mid-career executives, government officials, politicians and others who have worked extensively outside the US', most of the current fellows have an academic orientation and wish to pursue careers in teaching. Most fellows have a law degree (this year, there is only one fellow having a background in economics) or even an advanced degree in law.⁵ Besides strong scholastic qualifications and a research project that fits into the categories described above, prior experience in academia or the public or private sector is helpful. The average age of the current fellows ranges from 26 to 30 years. In one important aspect SPILS is (unfortunately) similar to a LL.M. programme: it involves payment of one year of graduate level tuition.⁶

While SPILS is independent of Stanford's JSD (Juridical Science Master's) programme⁷ it is occasionally possible to build upon the research and thesis completed for the SPILS master's degree and to pursue a doctoral degree. The tuition paid to SPILS and the academic credits earned are transferable to the JSD programme; this means that fellows having successfully completed the SPILS programme do not need to pay additional tuition or to take additional academic courses but could proceed directly to writing their JSD dissertation. In fact, this possibility is used by most of the SPILS fellows.⁸ The year of study in Stanford offers very good opportunities to form relationships with faculty members who might serve as JSD thesis supervisor.

³ Additional information about Stanford Law School and the SPILS programme is available from: Stanford Programme in International Legal Studies, Stanford Law School, Graduate Admissions, Stanford, CA 94305-8610 US; Fax: (650) 725-0253; Email: deboer@leland.stanford.edu; Internet: <http://www.leland.stanford.edu/group/law/pc/spils/home.htm>

⁴ An advanced degree may be helpful in the application documents and SPILS searches applicants who have focus and specialization in their studies. However, this focus can be documented in many other ways (e.g. work experience, academic specialization during the 'regular' academic education).

⁵ The tuition for the academic year 1997/98 is US\$24,066.

⁶ The JSD degree is the law school equivalent of a PhD.

⁷ In the last year, ten out of 12 people continued with the doctorate degree.

C. The Academic Programme

I. General characteristics

The core element of SPILS is an intensive research project, done on an individual basis or as part of a small group.⁹ Additional course work, needed to fulfil the degree requirements,¹⁰ is used to broaden the students' conceptualization of their research problems. Thus, the courses fellows take and the papers they write must be tightly integrated with their year-long research project.

While there is no specific limitation as to which research topic can be pursued in the framework of the SPILS programme, SPILS research projects typically focus on areas of international concern or concerns of the fellow's home country or region, require interdisciplinary analysis and preferably have a policy orientation. According to the strengths of Stanford Law School and Stanford University as a whole, there are four areas of concentration that this programme emphasizes. These include:

1. law, legal institutions, and civil society (studies in the sociology, history and theory of law);
2. law and political economy, including the transition of legal systems; privatization, deregulation, and economic institutions; and international trade and finance;
3. law, advanced technology and intellectual property;
4. environmental law and sustainable development.

The range of particular topics is thus very broad, although, in any given year, there will be subgroups of fellows working on related topics. Indeed, fellows in the current programme are dealing with such different questions as 'insider trading', models of securities regulation, the role of lawyers in contemporary China, bankruptcy law in Israel and the US, as well as Internet regulation and public participation in European environmental law.

II. The academic components of the SPILS programme

It is important to note that the SPILS programme consists of three different building blocks: first, there are two compulsory seminars that are exclusively designed for SPILS fellows. Secondly, every fellow has to choose three to five advanced courses offered by the law school or one of the University's other graduate departments or

⁸ Currently, all SPILS fellows work on individual projects.

⁹ Fellows that have a law degree are eligible for the Juridical Science Master's (JSM) from Stanford Law School. This degree presupposes the accumulation of at least 26 credits during the one-year study programme and is in this regard comparable to a LL.M. degree. Fellows who do not have a law degree are eligible for the Master's in Legal Studies (MLS), a non-professional degree. It is also possible to be admitted to the programme as a non-degree candidate.

professional schools. Thirdly and most importantly, fellows must undertake an intensive research project, done on individual or group basis, and must publicly present the results of their research prior to graduation. These components are now explained in more detail.

1. The SPILS seminars

One of the two compulsory SPILS seminars focuses on alternative approaches to law, including law and social theory, cross-cultural comparison, and interdisciplinary analyses of legal institutions. This seminar, designed and taught by Lawrence M. Friedman,¹¹ has a 'law and society' perspective which emphasizes sociological approaches to law. It studies law as a social phenomenon, without passing judgment on its normative content.¹² It asks many questions. What is the impact of law on society? What is the social impact of law? How are legal systems structured, and what are the dominant actors? To what extent is there a relationship between social change and the production of law? These questions are examined empirically. To highlight the contextual nature of these issues, the readings and discussions examine a variety of different countries and associated legal cultures. It has to be stated that one does not have to share the premises of the 'law and society movement' to gain valuable insights from this course: the information given is also useful for research that is more philosophical or theoretical in nature.

The other compulsory SPILS seminar is the core research seminar. Here, fundamental issues faced in evaluating, designing and conducting legal, social and policy-oriented research are analyzed. It is acknowledged that legal scholarship and social inquiry in other social sciences like political science, economy, and sociology differ; therefore, interdisciplinary research has to be based on methods other than those used in legal scholarship. Questions tackled are the role of social scientists,¹³ different research form and styles, the analysis of policy-oriented argumentation, research objectives and effectiveness,¹⁴ and the pitfalls that are associated with doctrinalism in policy and legal research. In addition, the seminar surveys lines of thought (from social, political and legal theory) relevant for non-formal, interdisciplinary, international and transnational legal scholarship. Recent intellectual currents in North American as well as European social and legal scholarship are

¹⁰ This year, the seminar was co-taught by Rogelio Perez-Perdomo (Venezuela).

¹¹ Lawrence M. Friedman, 'The Law and Society Movement' in (1986) 38 *Stan. L. Rev.*, at pp. 763–765, points out: 'The law and society movement relates to the legal system more or less like the sociology of religion relates to religious life. Sociologists of religion study religion as a social phenomenon'.

¹² Here, a light is shed on the contextual, i.e. cultural and historical, construction of social 'problems' and 'solutions'.

¹³ The relationship of social inquiry and social problem solving is dealt with, as well as the role of the audience(s) in social research.

reviewed.¹⁵ The seminar also provides a workshop forum within which fellows' individual research projects are analyzed and developed through discussions and exercises based on the methodological issues raised in the course.

2. 'Free-Choice' courses in law school and other departments

In addition to the core SPILS seminars that are open only to SPILS fellows, each fellow chooses three to five advanced courses related to his or her research project. At least one of these courses has to be taken outside the law school in one of the University's other graduate departments or professional schools.

With regard to the law school classes,¹⁶ there is one decisive difference between the SPILS programme and LL.M. programmes offered by other law schools. Instead of writing the 'normal' final examination in the respective law school course,¹⁷ the SPILS fellows have the option (which is highly suggested) of writing a short research paper. This paper synthesizes the course content and combines it with other research findings, the aim being that it should form a direct contribution to the final research thesis.¹⁸ What becomes obvious once again is that SPILS does not intend to prepare students for the American Bar exam or for practice in an American law firm, but to foster the development of high quality research.

The variety of courses offered by the other departments like political science, economy, sociology or by the Graduate School of Business is enormous and allows fellows to find courses tailor-made to their own needs. According to my experience, most such courses benefit from small class sizes, interested students and outstanding teaching performances.

3. The research project

The research project forms the core of the SPILS experience. Besides the guidance given by the research seminar, the fellows work closely together with one or two faculty advisors that are chosen according to the respective research interests. Considerable importance is attached to the development of a concise and precise research proposal. Tight deadlines are set during the autumn semester for developing an ever more focused research proposal. Throughout this semester, the proposal has to be reworked and improved, continually incorporating one's new research findings

¹⁴ The course presents as lines of thought, among others, the economic approach to law, comparative law and economics, critical legal studies and post-critical studies (feminist and race-related). Additionally, it examines ideas from European social theory, focusing, for example, on intellectual ideas formulated by Habermas, Luhmann, Teubner or Ladeur. Unfortunately, Asian and Latin American lines of thought play only a minor role.

¹⁵ In contrast, classes in other departments are examined and graded according to the respective customs.

¹⁶ These examinations take the form of three to four-hour written exams.

¹⁷ These papers are not graded by the respective course teacher, but by teachers and supervisors associated with the SPILS programme.

and the feedback received by the various advisors.¹⁹ The research proposal elaborates on the fellows' project motivation, the historical and institutional context of the problem at issue, the fellows' analytical objectives and imagined audiences, as well as on the research procedure itself and the anticipated line of argument. While these requirements seem very rigid, they assist in focusing research efforts and encourage the fellows to communicate their research intentions to others, so that they can benefit from the collaborative practice of academic research that SPILS fosters.

According to my experience and observance of the development of the research undertaken by other SPILS fellows, each thesis project seems to undergo a transformation characterized both by a specification and focus of the research effort (many subjects initially thought necessary are revealed to be unnecessary) and, at the same time, a broadening of the conceptualization of the research, for example, by taking into account research findings from other social sciences. To give an example: in the case of my own thesis, which focuses on emergent, contending and inter-related models of public participation and 'reflexive law'²⁰ in European environmental law,²¹ I become increasingly convinced that theories of reflexive law do not have a universal application but have to be combined with institutional considerations in order to adopt these theories to a specific context.²²

Additionally, fellows must arrange to present the results of their research publicly. These public presentations are not only in the spirit of an ongoing academic dialogue but also reflect the belief that policy ideas will only influence policy making if they are put into debate and not left to academic archives. Last year, for example, six

¹⁸ The dialogue with the advisers does not take place only by meetings in person, but also via email. The latter is very common in Stanford and is also used for giving course assignments, reporting grades, and announcing events.

¹⁹ According to Eric W. Orts, 'Reflexive Environmental Law' in (1995) 89 *Nw. UL Rev.*, at pp. 1227 and 1232, reflexive law 'focuses on influencing the self-referential capacities of social institutions subject to regulation rather than direct intervention through agencies, highly detailed statutes or delegation of great powers to the courts'. It aims 'to establish self-reflective processes within businesses to encourage creative, critical and continual thinking about how to minimize environmental harms and maximize environmental benefits' (*ibid.*, at p. 1232).

²⁰ Attending to the current 'multi-level polity' of contemporary Europe, the project considers how these EU models relate to the associated legal models in the Member States, focusing especially on Germany. It examines how Europe-wide models are incorporated into legal and regulatory cultures, and how they are modified and even transformed in such incorporation.

²¹ The shortcomings of the theories of reflexive law are stressed by Philip Selznick, 'Self-Regulation and the Theory of Institutions', in *Environmental Law and Ecological Responsibility*, (Teubner *et al.* (eds.)) (1994), at p. 395, who points out that the combination of a theory with reflexive law and institutional considerations allows us to ask: 'Self-regulation for what? What values are at stake? How are they affected by the play of organizational imperatives? By the needs and dynamics of systems?'

fellows presented their research at a special conference organized in their honour at the University of Indonesia.

The SPILS academic programme is complemented by visits from legal academics and other specialists from outside the United States who give research seminars, participate in research discussions, and sometimes teach courses. Among this year's visitors was Justice Goldstone, judge of the new constitutional court in South Africa. Last but not least, SPILS organizes social activities such as dinners or trips into the beautiful environs of Stanford, and fosters close and enduring friendships among the small groups of fellows, who, even after they graduate from Stanford, remain involved in an ongoing network of research and policy discussions.

III. Leisure at Stanford

It is needless to say that Stanford and its environs offer innumerable possibilities for leisure activities and is embedded in a breathtaking landscape. On the beautiful campus, all kinds of sport facilities (included an outdoor pool open throughout the year) are offered, and it takes only a 40-minute car ride to go to San Francisco. Stanford is close to such wonderful places as the Pacific Ocean beaches and the wine country. Additionally, it enjoys a sunny and mild climate, and the notion of frost is an alien one. I do not wish to decide whether it is really the 'best place on earth', as one local TV station argues. The jealousy of people studying in East Coast universities is a good indicator that it is at least one of the best places on earth.