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The Globalization of Legal Education

A Critical Perspective

Bryant Garth and Gregory Shaffer

Legal academics and practitioners in recent decades increasingly emphasize the so-called "globalization" of legal education. The diffusion of the Juris Doctor (JD) degree to Australia, Hong Kong, Japan, and South Korea, as well as the advent of a very similar Juris Master (JM) degree in China and a shift in the late 1980s and beyond to a new, US-influenced format in India, exemplify shifts toward US legal education practices (Flood 2014). The global and Americanizing trend is evident on the websites of law schools around the globe, with many law schools competing to be the most "global" in terms of their faculty, curricula, teaching methods, and students. Less pronounced but related to the literature on legal globalization is that on "transnationalization" and transnational processes, which is a strong component of the move toward globalization in legal education. As this book shows, if we look to see what is celebrated as part of globalized law schools and faculties, we see increased cross-border flows of professors and students, teaching of transnational legal subjects, development of particular forms of teaching practice such as legal clinics, explicit focus on transnational rankings, and transnationalized scholarly communities sharing teaching and research methods and approaches across domains of law.

These trends do not mean that globalization in law simplistically equals Americanization, that influences are unidirectional, that local factors are less important than global, or that there are not counter and competing trends. At this moment, the processes that we show in this book make US influences paramount in this self-conscious legal globalization—but not because US practices are inherently superior. Our approach in this book is critical, seeking to understand the processes behind the globalization of legal education. These processes involve global hierarchies and competition for influence, marketization, the global spread of corporate law firms, major

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inequalities in access to the credentials to get ahead in the global economy, and links between globalization and generational warfare against entrenched local legal hierarchies.

This chapter introduces the book's themes and presents how the individual chapters illuminate them. We begin by drawing on law school websites to illustrate the widespread emphasis on features of legal education most identified with the United States. We then situate today's globalizing trends in relation to interconnected histories, especially the histories of empire and colonization; globalization is not new. We next introduce two theoretical approaches, which stem from the orientation of each of the co-editors' scholarship. One is the study of transnational legal orders and the other is the comparative sociology of the legal profession. We believe that together they provide useful vantage points to understand the phenomena explored in this book. After discussing the book's themes, we present the chapters in light of them through the two theoretical perspectives we bring.

We begin with a brief look at websites to document how law schools in different countries market themselves in "global" terms. Consider some Asian examples. Chinese University of Hong Kong (CUHK LAW), befitting that global city, states: "The outstanding quality of our taught programmes is acknowledged worldwide and evidenced by collaborations with many leading law schools in the world. The cutting-edge research conducted by our professors from 20 different jurisdictions and by our research students with equally diverse backgrounds generates significant impact. CUHK LAW offers a truly agile and global learning and research environment." The emphasis here is on connections with "leading law schools," "worldwide" recognition now seen in global rankings, "cutting-edge" research no doubt defined by "global standards," and a wide assortment of globally diverse professors and students. KoGuan Law School in Shanghai, named after a key Chinese-American philanthropic supporter who made his fortune in the information technology industry after obtaining a law degree from New York Law School, states on its website: "In the age of globalization, legal education has transcended national boundaries. The legal challenges faced, and the practice of law have become increasingly, more global in character. An international perspective is a fundamental component of the competencies needed by every lawyer and legal academic." KoGuan emphasizes foreign exchange programs as a key to learning these competencies.

The two Singapore competitors echo similar sentiments. The Law Dean at National University of Singapore states that "NUS Law is Asia's Global Law

School. Widely regarded as the region's leading law school, we also see ourselves as part of a global conversation about the study and practice of law. This global perspective infuses our academic programme—from the diverse courses that we offer, taught by faculty from most major jurisdictions, to the exchange arrangements we have with other top law schools around the world." More than CUHK, it also emphasizes the globalization of the academic program. The Law Dean at the Singapore Management School, in parallel, emphasizes its faculty's transnational, elite, educational backgrounds: "Our distinguished faculty are educated at such reputable universities as Oxford, Cambridge and Harvard, just to name a few. Our research agenda and publication are equally top classed."

The emphasis on faculty who are graduates from globally elite law schools in the legal centers of the world is not unusual on these websites. They emphasize global jobs as well. Melbourne Law School states, for example, "Melbourne Law School JD students can participate in exchange programs, undertake a dual degree at one of our partnered universities overseas and apply for an international internship during their degrees. A Melbourne Law School degree also prepares graduates for global careers. More than one-third of our graduates have worked or are working in international locations."

In Germany, Bucerius Law School, funded by one of the largest German foundations, created by Gerd Bucerius, a German judge, lawyer, politician, and founding publisher of the weekly newspaper *Die Zeit*, advertises that its "international approach to legal education remains a unique feature among German high education institutions. Our internationality presents itself in four main areas: (1) International Research, (2) Global Partner Network, (3) International Study Programs, and (4) Internationalized curriculum for our LL.B. students." Exchange is a key part of Bucerius's internationalization, but also emphasized are international research, including interdisciplinary research, and the presence of foreign faculty as part of the program. Emphasizing multinational jobs for graduates, the Sciences Po Law School in Paris lists on its website a group of "partners" that suggests where the graduates may go: "Clifford Chance, Gide Loyrette Nouel, August & Debouzy, Berthelot, Bredin Prat, De Gaulle, Fleurance et Associés, Dechert LLP, Hogan Lovells, Latournerie Wolfrom Avocats, Quinn Emanuel Erquhart & Sullivan, LLP, Vivant Chiss, and White & Case LLP." The rise of corporate law firms—and the profession of the "avocat d'affaires" (business lawyer)—is one component of this globalization of legal education.

New law schools in emerging economies likewise position themselves as global law schools. In India, Jindal Global Law School succinctly explains its vision of the global: "JGLS imparts a rigorous and multi-disciplinary legal education with a view of producing world-class legal professionals, scholars, leaders and public servants. . . . The School's expert faculty comes from across the globe and engages in critical scholarship that contributes to public debates both in India and abroad." The emphasis on interdisciplinarity and scholarly participation in global dialogues is again stressed as key elements of a global law school. Similarly, in Brazil, Fundação Getulio Vargas Law School in São Paulo (FGV DIREITO SP) states, "To meet the demands of today's market, DIREITO SP students are prepared to work in public and private organizations and to dialogue with other fields of knowledge, so that they can positively and profoundly influence the legal scenario in Brazil and in other nations." DIREITO SP highlights the importance of engaged teaching, reflected in many of these law schools' websites. Going against traditional teaching involving boring lectures often delivered by assistants to professors, and research that takes the form of commentaries on codes, the website stresses the "calling" "to be a school with PhD Professors and students fully dedicated to teaching and research and committed to constant innovation, both in using participatory methods of teaching and conducting research—preferably empirical, collective, and of public interest—with high level of quality."

Across these schools' websites, we see themes of interdisciplinarity and participation in global scholarly debates; engaged teaching; internationalized faculty through exchange and hiring; internationalized student exchange; global positions for graduates, including in corporate law firms; and at least nods—and often much more—to a curriculum that covers transnational legal domains. While not a random sample, it is notable that the websites most emphasizing globalization are often new schools, including new private ones such as Bucerius, FGV São Paulo, Jindal, and new public ones such as Sciences Po and KoGuan. Private philanthropy is often central to the schools' reform efforts. They often were conceived as alternatives and even challengers to traditional law schools, as in the case of Bucerius, FGV, Jindal, and Sciences Po. Other times they are seeking to compete with the more traditional schools and approaches, as with KoGuan and Melbourne (the first in Australia to convert from undergraduate legal education to a JD). Or their position in entrepôts, such as Singapore and Hong Kong, internationalizes the schools by definition. There is notably less emphasis on the global in the

law school websites traditionally at the top in many locales, such as Harvard, Oxford, the University of Sydney, or Yale. That does not mean that the curriculum or faculty hiring has not shifted, but it is interesting that it is less part of their marketing.

In the former colonial power of Great Britain, one of the leading examples of a commitment to the global is the Dickson Poon School of Law (King's College London), named after an entrepreneur from Hong Kong in the field of luxury goods: "Our faculty are at the cutting-edge of international legal scholarship and are committed to exploring the role of law in solving today's global problems through a transnational lens that transcends national borders. . . . Our teaching is led by internationally respected, leading academics, visiting lecturers and practitioners from global law firms. . . . The courses we offer are informed by our research expertise and you are encouraged to engage with issues at the cutting-edge of your studies, giving you the skills and confidence to engage with complex legal issues and global challenges." Following a huge gift from its namesake, which was the largest ever to a UK law school, and its aggressive hiring of international professors, the school rose significantly in the UK rankings.

Within the United States, there is less emphasis on the themes of schools located outside of the United States in large part because much of what is promoted as "global"—engaged teaching, interdisciplinary research, participatory education, preparation for global jobs—is modeled on the US law school. There is, for example, less emphasis in US law schools on international faculty coming from outside the United States, although, as Anthea Roberts shows, the numbers are also increasing (Chapter 14). The US law schools have already built tight connections with corporate law firms to hire graduates, which is a feature that the globalized law schools outside of the United States stress to distinguish themselves. The volumes from the GLEE project (Globalization, Lawyers and Emerging Economies) led by David Wilkins out of Harvard show that "global" educational reforms are closely related to the remarkable spread of US-style corporate law firms around the globe that service global business. Although the volumes on Brazil (Gross Cunha, Gabbay, Ghirardi, Trubek, and Wilkins eds. 2018) and India (Wilkins, Khanna, and Trubek eds. 2017) focus on the rise of corporate law firms, they include chapters on legal education that illuminate the connections between legal education reform and corporate law.

Nevertheless, within the United States, some schools have aimed to position themselves through their "global" brands or programs. New York

University School of Law, the pioneer "global law school" (Chapter 11) in the United States, remains strongly committed to that brand, which it adopted in 1995, the year that the World Trade Organization was created. NYU's website proclaims:

> The Law School's global and international law program integrates world-leading research with the preparation of students to make major impacts in a world that is fast-changing, increasingly interconnected, and often contentious and challenged. Our faculty and curriculum are unsurpassed, with about 50 courses, seminars, clinics and other experiential classes each year covering the spectrum of core "public" and "private" international law fields; . . . NYU Law's global law work is strongly interdisciplinary, integrating faculty expertise in economics, sociology, anthropology, history, and philosophy.

Stanford is a recent addition to those emphasizing the global, creating a new W.A. Franke Global Law Program in 2019, "spearheaded" by Professor Rob Daines, a former "investment banker at Goldman Sachs where he helped clients structure transnational deals." The website asserts: "Our innovative model for training tomorrow's law and business leaders is comprised of four elements: (1) a global quarter: an intensive, 10-week immersion in international law and finance (2) a foundational course on global legal practice (3) courses that combine rigorous classroom training with intensive overseas study trips (4) greater integration of comparative law and international issues into existing core courses."

This book advances empirical study regarding the processes through which law schools have changed their approaches in terms of hiring, international exchange, scholarship, and curriculum. Some of the change is largely symbolic. Most legal education remains local, as, for example, a critical study of "global" law schools in Latin America showed (Montoya 2010). But that does not mean that globalization has failed to spur significant change, whether in self-designated global law schools or more broadly within law schools. For example, we know that transnational legal fields such as human rights, international economic law, international commercial arbitration, rule of law promotion, and others have earned places in many law schools' hiring and curricula. This volume cannot chronicle the extent of the globalization of law schools nor detail all the manifestations of that globalization. But, as the quoted websites suggest, there is a remarkable amount of attention

to this phenomenon that, for the most part, is taken for granted as an indicator of progress.

Most of the literature on this phenomenon is promotional. The small but growing scholarship on the globalization of law schools tends to consist of inventories of relative successes or critiques of the law schools that have, or have not, embraced modern practices. Examples include books edited by Klabbers and Sellers (2008), Jamin and van Caenegem (2016), and Gane and Hui Huang (2016). There are, in parallel, books on the globalization of clinical education, one of the major components of reform in many places (Wilson 2017), and a useful volume on Asia (Steele and Taylor 2010). Some of the literature contends that innovation is now coming from the east and south (Chesterman 2017), which is no doubt true but not inconsistent with an orientation toward the northern consensus on what "modern" looks like. The editors or authors of these volumes rarely seek to explain why these reforms are on the agenda, why they are contested, or what their implications might be.

The chapters in this volume provide empirical evidence of the transnational diffusion of approaches to legal education, together with insights from a critical approach to these processes. What diffuses and how it diffuses to different places at different times depends on the local situation in the importing country. The reforms, or various parts of reforms, such as promotion of interdisciplinary scholarship or even hiring of full-time professors, may run into barriers that cannot be overcome, depending on the local context. For example, scholars view the move to the JD in Japan as a dramatic failure in contrast to the same process in South Korea (Taylor, Chapter 6). Similarly, the new and meritocratic national law schools in India have not displaced traditional local law schools nor the importance of personal relationships in recruitment into the prestigious world of Indian advocates (Dezalay and Garth, Chapter 5). The remarkably innovative FGV DIREITO in São Paulo is challenged every day because its position is "out of place" in the Brazilian world of legal education (Vilhena Vieira and Garcez Ghirardi, Chapter 8). Yet, the processes are still in play, and the website rhetoric, competition for rankings, and practical observation (Menkel-Meadow, Chapter 12) show that changes have taken place in many areas, including in clinical legal education and in teaching new areas such as dispute processing, including international commercial arbitration.

This book does not take a position on what constitutes "best practices" in legal education.[1] Rather, this book seeks to understand the processes of legal

[1] We support, in our own context of US legal education, most of what is discussed in terms of reform in the book's chapters, such as multidisciplinary work on law, legal clinics, attention to the

education reform and resistance and point to what these processes mean for law, lawyers, and governance. The book seeks to understand the forces driving these processes and to evaluate their implications. Its substantive chapters provide critical insights into how these transnational processes operate in different jurisdictions around the world in light of globalization and local competition. Taken together, the chapters show how norms regarding legal education move across jurisdictions and shape legal education practices transnationally, as well as the challenges and limits these processes face.

This introductory chapter lays the groundwork for this study. It places this inquiry into the context of broader scholarly debates about the impact of globalization on legal education. We note that, although there is much material in this book and elsewhere on forces and trends in the globalization of law schools, there remains little available quantitative data on changes in teaching styles, research approaches, hiring criteria, and internationalized curricula. The absence of such research is understandable, since the shape of "globalization" in any given context depends largely on how influences are received locally—where reforms may be hotly contested. This book helps map avenues for future research.

I. Historical Perspectives

Global law schools are not a new phenomenon. From a historical perspective, the globalization of legal education can be traced to medieval Italy. Children of feudal lords, aristocrats, nobility, and church officials began to study at what became the University of Bologna. The recently rediscovered Corpus Juris of Roman Law and the emergence of scholars explicating that work led ambitious and well-connected individuals to seek to acquire expertise in Roman civil law and the emerging canon law (the latter in part based on Roman civil law) (Brundage 2008). The power of that expertise, combined with its embeddedness in elite social capital, helped broker solutions to the many jurisdictional and other conflicts of a rapidly changing era—including the rise of the Italian City States (Martines 1968). These successes spurred

politics of law in broader policy context, awareness of law in transnational context given the complexity of problem-solving in an economically globalized world, and the need to address the broader challenge of unequal access to legal education and its reproduction of hierarchy. Part of the mandate for a critical examination of how these reforms are spreading globally is to explore the complexity of local contexts rather than take sides.

imitators elsewhere, such as in Paris and Oxford. The structure of legal education based on the model developed in Bologna evolved in different but related ways in England and on the continent (Dezalay and Garth 2021). These European models then were exported as part of the age of imperialism.

The age of empire from the late eighteenth to the twentieth century was a propitious period for the development of professions such as law. As in the present, a technological revolution was central to the expanded role of what Kris Manjapra (2019) calls "the semiperipheral hand" to highlight the position of intermediaries between the imperial centers and activities in the colonies. As noted by Manjapra, "the world system was marked by an unprecedented acceleration of communication, exchange, and circulation in the nineteenth century, . . . [and] the semiperipheral hand played the functional role making goods, labor, ideas, and services move faster—faster accumulation of land and labor products, faster ships and distribution technologies, faster transfers of credit, faster transfers of information." He refers to "a planetary military-fiscal-scientific-agricultural-industrial complex" that "relied on gentlemanly capital, which was anchored in imperial metropolitan centers, and on managerial and information capital that maintained webs of connection and communication between metropolitan centers and the imperial peripheries." Attorneys were at the top of his list of these knowledge intermediaries: "those functions were historically provided by attorneys, mercenaries, army officers, surveyors, engineers, travel writers, Man Fridays, secretaries, translators, and scientific advisors who helped produce and manage colonial frontiers of difference and helped create pathways of circulation and appropriation across those frontiers" (Manjapra 2019).

The current phenomenon of the creation of global law schools is therefore a new but path-dependent version of what existed in the age of empire. In the British empire, for example, local elites in colonial settings, either through their own resources or through British efforts to co-opt them with scholarships, came to England to study at Oxford or Cambridge and even join the Inns of Court. Prominent leaders of independence movements, including Jawaharlal Nehru in India and Lee Kwan Yew in Singapore, used both the credibility that they gained from their credentials abroad and the tools that they learned to make the case for independence and their own leading roles in independence movements (Dezalay and Garth 2010). From the perspective of the British empire, individuals from the colonies not only gained a superior education in England, but, in turn, brought enlightenment back to the colonies. The English-educated lawyers prospered enormously as well

within the British Raj. Not surprisingly, foreign-educated leaders continued to follow the colonial practices that they knew well, including in legal education, after independence. They saw those practices as the most modern of the time. Arguments couched in "modernity" continue in contemporary debates about global legal education.

This history helps clarify the core and periphery phenomenon that we also see today, which varies over time and by region. The terms "core" and "periphery" are relative and relational ones, where there are many examples, including regional examples such as African students going to South Africa to study today. Yet they also reflect longer histories. The core of the law in the British Empire, for example, was identified with London's courts and the Queen's or King's Counsel who practiced in them (Benton and Ford 2016). The QCs who practiced in the courts that forged the leading precedents and their applications were ipso facto the most prominent legal advocates in the empire. Accordingly, when there was crucial litigation within the colonies, the top advocates from London typically were sought for their expertise and authority. The same held true for the writing of the constitutions of the formal colonies when they became independent states (Shaffer, Ginsburg, and Halliday 2019; Kumarasingham 2019). These colonial patterns tended to survive the demise of the great European empires. There remains a strong influence, for example, of English and French law and legal education, respectively, in the former English and French colonies (discussed in Chapters 3 and 14). There is also a strong German influence in countries such as China, Japan, and South Korea, which imported German legal approaches under pressure from Western powers to demonstrate that they were "civilized" and "modern" according to western standards (Zhang 2018; Hattori 1963; for the strong German influence in India in the nineteenth century, see Manjapra 2014).

The flow of people and ideas continues to reflect this core and periphery phenomenon, as in the past. Ambitious and well-connected people tend to come to what they see as the core to study, and then bring back ideas and enhance their status and credibility in the peripheries. The flow of students, as Anthea Roberts shows (Chapter 14), tends to follow patterns set in the colonial era. Students from francophone Africa with the opportunity to study abroad tend to favor France and especially Paris for legal study. The credentials they obtain will be recognized at home—in part because predecessor elites obtained the same credentials during and after the colonial period. Moreover, the material that they learn is naturally relevant to legal

systems set up by the French and modeled on the French civil codes. The same holds true for former British, Portuguese, and Spanish colonies, where there has been a long tradition of local elites going to colonial capitals to build their credibility and a claim to the "superior" education at the core of the legal system that still reigns to a great degree in their countries. Even where there are no longer linguistic fits, such as with Indonesia and its former colonial relationship with the Netherlands, students from Indonesia may be more likely to go to the Netherlands than other countries to study abroad, even if the language of instruction is in English (*id.*).

The competition between and among empires is a strong part of the history of globalized law schools. Facilitated by technological advances in communication and travel, such competition helped drive greater imperial investment in law in the late nineteenth and early twentieth century (Mazower 2012). It then helped spur enhanced US efforts to reform legal education abroad after World War II (Levi, Dinovitzer, and Wong, Chapter 2). Countries in the core hoped to bolster the legitimacy of their empires through increasing efforts to provide education for colonial subjects beginning late in the nineteenth century, especially for those with elite status, such as Brahmins in India and the Javanese elite in Indonesia. In this way, they hoped to respond to criticisms at home and abroad. For example, the British increased their investment in law in response to challenges at home to the economic exploitation of the colonies (Dezalay and Garth 2010). The Dutch similarly responded by seeking to invest more in the "civilizing mission" within their colonies. By increasing training in law and administration, and by giving local elites more of a role in governance, they aimed to enhance the legitimacy of their empires at home, within the colonies, and internationally. Locals were co-opted, but, in turn, they also co-opted the colonists while pursuing their own interests (Benton and Ford 2016). As today, they could at the same time be critical of empires and hegemons while supporting the use of the expertise they learned in the imperial capitals.

The latest wave of globalization of legal education follows the rise of the United States in the competition for global leadership and hegemony. The United States became a colonial power in the late nineteenth century, most notably in the Philippines and Puerto Rico (Burbank and Cooper 2010), while also participating in the creation of colonial enclaves imposed on China, where the United States located a district court from 1906 to 1943 within the jurisdiction of the Ninth Circuit to handle disputes involving Americans (Ruskola 2013). The United States, however, also sought to

position itself as an "anti-imperial" empire, urging the granting of independence to countries under colonial domination, the development of the rule of law, and policies of free trade consistent with an "open door" (Dezalay and Garth 2010; Coates 2016). Legal and economic missionaries, mainly from the private sectors, began to promote these policies in the nineteenth century in places such as Japan and China and accelerated and extended such efforts throughout the twentieth century (Kroncke 2016).

Beginning in the 1950s, the support of legal education reform (as well as education in economics) became both a private and US governmental priority. As assessed in Chapter 2, however, US legal educational reform efforts at that time, including in Brazil, Chile, India, Japan, and South Korea, were not very successful. US ambitions, together with those of many local actors, to encourage—depending on the setting—full-time professors, more engaged teaching, scholarly inquiry beyond the interpretation of codes, more practical instruction, and less formalism in instruction and practice, failed (Gardner 1980; Krishnan 2004). Critics charge that the programs illustrated legal imperialism, but that is somewhat too simplified (Gardner 1980). In fact, there was already a cadre of local reformers seeking to import educational reforms inspired by US examples, in part, because of the growing importance of the United States in the world.

Today, there is even greater local demand for legal education reform modeled on the United States. From a historical perspective, this local demand parallels the growth of US power and influence, especially as it peaked in the 1990s and early 2000s. The influence of US law spread, facilitating and regulating market transactions, as exemplified by contract law and contract practices used for commercial transactions, corporate governance standards, approaches to environmental law, trade law, and human rights law. Relatedly, post–Cold War globalization and market liberalization spurred the proliferation of US-style corporate law firms along with the investment banks that keep them busy. Competition and marketization spread to the global law school world as well. Finally, as in the age of empire, dramatic advances in technology, above all the digital revolution, were central to overcoming obstacles to the globalization of law and legal education. The availability of email communication, e-libraries, and e-journals, for example, along with less expensive global travel, brought access back and forth from centers and peripheries. Students and professors from around the globe in law and other fields could draw easily on the most respected scholars in the most

prestigious sites. The technology also facilitated rankings in scholarship and among academic institutions.

Rankings, in turn, shape processes of globalization and transnationalization. In particular, as Hamann and Schmidt-Wellenburg (2020: 173) argue in a recent study of rankings generally, "rankings themselves contribute to the transnationalization of the academic field by lending specific milieus, paradigms, agents, and strategies symbolic authority from transnational sources, i.e., private corporations, media corporations, and data providers." That role is "far from impartial and equitable." It advances

> a global circulation of expertise and knowledge that conforms to English-language, journal-based publication cultures; has value in its practical application; or corresponds to political and market interests. The resulting geographies of higher education display striking disparities between the economically prospering regions in North America, Europe, East Asia, and Australia, and large parts of South America, Africa, and Asia . . . Academic rankings do not only accompany these processes by interconnecting fields, circumventing the authority of nation-states, and tapping transnational sources of authority. They also lend processes of transnationalization moral integrity by allowing for a clear conscience of meritocracy and transparency.

The authors note also, citing Espeland and Sauder (2007), that "[t]he irony of a meritocratic belief in rankings that do not depict but recreate social orders seems to escape the subjectivized actors the more they are engaged in the game."

Those at the top of local legal professions have long capped their local legal education with study abroad. But what followed the global trend toward US-style corporate law, and to a lesser extent international human rights law, shifted the direction of the flows—now encouraged also by global rankings. Where once Latin American lawyers would have scoffed at the relevance of US law to practice or teaching in Latin America, now US degrees became the most prestigious global credentials (Chapters 14 and 15), although of course there are still many other sites and programs that attract ambitious lawyers. The ascendency of corporate law firms also fueled the demand for local legal education reform. Those attuned to the practices of corporate firms often lead attacks on formalism in legal education in favor of a more practice-oriented curriculum and an emphasis on problem-solving—which is identified with

US educational practice. For example, the founding dean of FGV Direito in São Paulo (discussed in Chapter 8), Ary Oswaldo Mattos Filho, had earlier established one of the most important corporate law firms in Brazil.

History teaches, finally, that global hierarchies and domestic politics change. The rise of emergent powers, such as China, could affect the role, structure, and substance of international law in trade, investment, and other domains, particularly in relation to sovereignty (Ginsburg 2020; Shaffer and Gao 2020). This shift could reflect a return to earlier patterns of dominance. Spanning from 1368 to 1841, China, Korea, Vietnam, and Japan "maintained peaceful and long-lasting relations with one another" (Kang 2010: 3), with China being "the dominant military, cultural, and economic power in the system" (*id.*)—a "hegemon . . . operating under a presumption of inequality, which resulted in a clear hierarchy and lasting peace." Historians call it a "tribute" system, which involved travel, educational exchange, and gifts. In the process, other countries "consciously copied Chinese institutional and discursive practices in part to craft stable relations with China." As a result, "there was no intellectual challenge to the rules of the game until the late nineteenth century and the arrival of the Western powers." China could gain the same kind of role in the future, perhaps this time with more focus on law and lawyers. During the period of the Cold War, as another example, leftists who received educational credentials from Russia or, for Latin America, Cuba, were privileged in local leftist movements (Castañeda 1993). Today, even in countries where legal institutions are most clearly established (including in the United States), religious groups, populist political parties, and authoritarian movements could reduce law's importance in national and transnational governance. Although the future unfolds as we write, common patterns still characterize these long-standing transnational processes that shape national and global rules and governance practices.

II. Theoretical Approaches

There are different ways of framing the study of the globalization and transnationalization of legal education. One is simply to compare law schools and faculties of law according to various criteria. For example, one could assess how global is the composition of the students and the professors, how transnational is the curriculum, how well is the curriculum designed for practice in transnational and international organizations, corporate law

firms, multinational corporations, and transnational nongovernmental organizations (NGOs), or what career paths do graduates actually pursue. This kind of systematic cataloguing is unavailable today, but it would certainly be interesting to have it. Such data could facilitate assessment of transnational diffusion and ordering of legal education practices, a critique of imperial influences, and a search for "best practices."

In this book, we combine theoretical perspectives to examine these phenomena. One theoretical framework—that of transnational legal ordering—addresses how legal norms are constructed, flow, settle and unsettle, affecting legal practice across jurisdictions. Another—the comparative sociology of the legal profession—examines imperial competition, hierarchies of power, how legal fields connect to power, and the way that transnational processes of legal education reform both challenge and reinforce local and transnational hierarchies. Our goal is to show how these approaches combine to illustrate and explain the interaction of transnational processes and domestic settings in the field of legal education.

A. Transnational Legal Ordering

The theoretical framework of transnational legal orders is a processual theory developed to challenge methodological nationalism in the study of law. From this sociolegal perspective, "transnational legal ordering" consists of the transnational construction and flow of legal norms across borders (Shaffer 2013), which can give rise to transnational legal orders when the norms settle in practice and transcend borders (Halliday and Shaffer 2015). The transnationalization of legal education can serve as a mechanism for transnational legal ordering that affects law and practice in different substantive domains. By training elites on particular subjects in similar ways, including through the cross-border exchange of students, professors, pedagogies, and ideas, transnational processes shaping legal education can potentially facilitate a common conceptualization of "problems" in social life and legal responses to them. In this way, legal educational reforms potentially can facilitate the transnational flow of legal norms in different subject areas, from corporate and business law to human rights and constitutional law.

Transnational legal ordering tends to begin with the framing and construction of a "problem" (Halliday and Shaffer 2015), such as the problem of how to reform legal education to adapt to contemporary challenges.

Problems are not natural. They are social constructions reflecting social norms and movements, actors pursuing particular interests, and competitive processes of marketization. Contests regarding the framing of problems and their resolution are thus frequent. Through economic and cultural globalization, the framing of these problems more likely becomes transnationalized.

These transnational processes potentially can give rise to a "transnational legal order," which Halliday and Shaffer (2015) define as a collection of formalized legal norms and associated organizations and actors that authoritatively order the understanding and practice of law across national jurisdictions. Scholars seek to understand how such orders are created, maintained, legitimated, resisted, and challenged, facilitating the settlement and unsettlement of legal norms across levels of social organization. On the one hand, transnational legal ordering can have deep effects within states, shaping not only laws but also state institutions, the role of markets, the development of legal professions, and broader normative framings. On the other hand, legal developments within states recursively can affect developments in international law and institutions.

Legal education can be both a symptom and a mechanism for these transnational changes. It can be a symptom, for example, when new corporate elites and other actors seek particular types of training of law students, and new law schools work to meet these incipient demands. Similarly, it can be a symptom of economic and cultural globalization and normative diffusion more broadly. In turn, it can be a mechanism for the conveyance of different conceptualizations of problems and the appropriate legal response through exchanges of students, professors, teaching methodologies, and ideas. States and entrepreneurs may invest in new law schools, in particular, with an eye to participate in the shaping of transnational legal ordering processes, as well as to address domestic challenges in light of transnationally exchanged ideas and experiences.

Participants in the reform of legal education include entrepreneurs who wish to improve legal education, whether to better contribute to problem solving in various domains of social life, or simply to anticipate and meet market demand. These processes potentially can be "progressive" to address particular national challenges, such as access to justice, advancement of civil, political, economic, social, and cultural rights, or of particular development perspectives of the Global South in international settings. They also can reflect power differentials when they respond to and help institutionalize practices that are characterized as "universals," but that do not serve all states and

individuals equally. Entrepreneurs conceive of "problems" to be addressed in particular ways, reflecting particular ideological predispositions, as well as cultural and socioeconomic backgrounds. Issues of core and periphery are reflected in the weight given to solutions that gain traction in the centers of the legal and political world, both internationally and nationally.

Key to this transnational perspective is its attention to both norm carriers and local practices. Norms regarding legal education practices do not travel by themselves. They are conveyed by actors, as exemplified by the study of the Ford Foundation's efforts in South American in Chapter 2, of colonial processes in Africa and India in Chapters 3, 4, and 5, and of transnational networks of professors in Chapters 7 and 14. At times, these actors may simply aim to advance their individual careers, as in the case of student flows addressed in Chapters 14 and 15. At others, they may work to shape international and transnational law and institutions, as reflected in Chapters 8 and 10.

How transnational processes play out at the local level, however, is anything but determined. Transnational processes always confront local settings, with their traditions and configurations of interest and power, which may resist them. The study of transnational processes of the reform of legal education thus must include a comparative sociology of the legal professions that is grounded in both transnational and domestic contexts.

B. Comparative Sociology of Legal Professions

The comparative sociology of legal professions of Dezalay and Garth starts with a sociological and political observation that lawyers—more precisely the "legal field"—serve state power and that such service is often critical for lawyer prosperity (Dezalay and Garth 2010). Law and lawyers provide legitimacy to power and, in exchange, the holders of power—domestically or transnationally—agree to be governed by law (although they do not always submit to law in practice). Governance in the language of law reinforces power, while also potentially constraining it. From this vantage, processes of transnational legal ordering can serve existing power configurations and help to sustain them, while also being used to challenge them.

The goal of this sociology is to uncover the power structures and processes that shape and transform the role of law and lawyers nationally and transnationally. Legal change involves both reproduction and revolution. The

comparative study of legal professions illuminates how reform processes play out in different settings, including why local investment in legal education reform occurs in particular places, the extent to which it aligns with US models and the spread of corporate law firms, and with what impact. This approach focuses on interconnected histories and the national legal fields produced out of these histories. The structure of national legal hierarchies is a crucial factor that shapes how legal education reforms are received (Dezalay and Garth 2021).

Legal hierarchies within the profession develop in relation to, and are embedded in, state power. The histories of legal professions in different countries are interconnected, but there are also particular national histories that lead to different hierarchical structures—sustained also by different educational structures and approaches (Dezalay and Garth 2021). To date, as suggested in Chapters 13 and 14, transnational legal ordering, often backed by international courts and law schools with transnational curricula, has not changed the fact that both national and transnational legal careers develop out of positions in national legal professions.

A comparative, sociological perspective foregrounds how national legal hierarchies differ from country to country. In the United States, partners in corporate law firms are typically at the top of the hierarchy (Dinovitzer and Garth 2020). Their power comes in part from their service as brokers connecting economic and corporate power with state power, as reflected in the "revolving door" between top administrative and political officials and leaders in Wall Street and K Street business lobbies. Legal education is both embedded in and constitutive of this hierarchical structure. The leading law schools have very close, almost symbiotic relationships with elite corporate firms, and the top law graduates almost as a rule start their careers in corporate law (Dinovitzer and Garth 2020). The leading partners, as part of the link between economic and state power, move from time to time into government positions where they help use the law to regulate but not disrupt their powerful clients.

We see different hierarchies in the legal profession across countries. In Brazil, notable jurists are at the top of the legal profession, typically serving as a professor, politician, public intellectual, member of a prominent family, and broker to economic and political capital that also may be familial (Dezalay and Garth 2002). Legal education is symbiotic with the maintenance of this hierarchy. In India, at the top are the grand advocates, the lawyers in India's high courts who typically descend from generations of judges and advocates

trained in the British Empire, and who reproduce this hierarchy through personal relations and apprenticeships that require family capital (Dezalay and Garth, Chapter 5). The weak role of legal education in India helps sustain the power of the grand advocates and judges.

These groups at the top, connected closely with structures of political, economic, and social power, may become complacent, conservative, and resistant to change, which works fine for them when state and economic power are stable. But in times of change, outsider groups within and outside of the legal profession can challenge them. A major challenge for the reform of legal education is that the legal establishment tends to use its position to tip the balance away from merit and scholarly capital in favor of familial and social capital. The globalization of legal education that we present in this book is in part a challenge to the relative complacency of these groups in Brazil, India, and other places through a more US-oriented meritocratic approach.

These challenges to power often arise through changes in imperial relationships and the forces of competition between and among former imperial powers and new hegemonic ones. The rise of intensified transnational legal ordering in the late twentieth and early twenty-first century closely relates to US hegemony in the post–Cold War period. Legal entrepreneurs at the end of the Cold War produced and built on existing theories supportive of the new global balance of power—US hegemony through establishing a market-oriented "legalist empire" (Coates 2016)—which political actors, such as Warren Christopher in the Clinton administration, embraced. Elite law found its place as part of this hegemony, supporting human rights, free trade, privatization, arbitration, and the spread of corporate law firms around the globe that further diffused US legal models. Transnational legal orders such as for international trade with the World Trade Organization at its pinnacle, fitted and reinforced this new balance of power, which actors like the Ford Foundation recognized (Chapter 2).

Yet the success of a legalist empire cannot be assured for the future. Major changes nationally and internationally threaten this privileging of law and open doors for trade. Authoritarian regimes, for example, may favor a rule *by* law that supports authoritarianism, or they may decide that law entails too much restraint and they do not need lawyers to legitimate their rule. It is easy to find leaders today whose evolving relationship to law is tenuous. Global changes in balance of power—such as the rise of China—may bring hegemonic approaches to global governance that do not privilege law, lawyers, and transnational legal ordering. Nonetheless, US approaches, which helped

promote legal, economic, and political changes in many places, still resonate. China has responded to them by often mimicking and repurposing US legal models for its own ends (Shaffer and Gao 2020).

US strength has helped to foster the global diffusion of financialization and neoliberalism[2] in the past four decades, and this global development has shaped the attractiveness of particular local legal education reforms. In practice, interactions between reformers and those traditionally at the top of existing national legal hierarchies often entail a two-part process. Traditional legal oligarchies first resisted corporate law firms, which were an innovation very foreign to local ideals of professionalism. The corporate law firms were first cabined to serve almost exclusively foreign clients. But these corporate firms found a place, in part, by co-opting local legal elites (involving a process of mutual benefit). This foothold made it possible for entrepreneurs, including the descendants of the largely unsuccessful law and development movement of the 1970s (Trubek and Galanter 1974), to seek to challenge the existing legal hierarchy and spur a legal revolution through reform of legal education in ways that are consistent with US tenets. Legal revolutions, as Berman (1983) shows, do not occur just through changes within the legal field, but also through links with outsiders (Dezalay and Garth 2021). In the case of legal education, reformers are more meritocratic and scholarly than those they target. In challenging the complacent legal establishment, they can gain influence and power by aligning with emerging political (or other potentially powerful) movements that can benefit from the legal legitimacy provided. The huge contributions of wealthy entrepreneurs to law schools seeking to redefine educational models are prominent examples, as seen in the funding of KoGuan Law School in Shanghai, Dickson Poon in London, Jindal in India, and Bucerius in Germany.

Major "successes," when they occur, depend on how the local context interacts with the transnational "model" exported. This interaction shapes what pieces of a model take hold, and in what manner, whether emanating from the United States or elsewhere. The relative successes and failures of legal education reform are ultimately a function of domestic struggles, or "palace wars," that become transnationalized in light of the resources and legitimacy that transnational norms offer (Dezalay and Garth 2002). In some

[2] By neoliberalism, we refer to a shift toward market liberalization and a greater role for market mechanisms across areas of social life. Neoliberalism, however, is a multifaceted concept, which variously refers to "finance capitalism," "market fundamentalism," and the "commodification" of culture (Rodgers 2018).

settings, for example, scholars import "Law and Economics," while in others they import "Critical Legal Studies," as scholarly approaches. In each case, they aim to shape approaches to substantive law and policy, from competition and business law to social rights and antidiscrimination law. There will always be contenders for new "revolutions" in legal education, as global and domestic contexts and contests change. There could even be radical movements, such as in China during the Anti-Rightist Movement and the Cultural Revolution, that close down or marginalize law schools and minimize the role of law and lawyers.

In sum, although evolving global hierarchies shape what is seen as "modern" in legal education and thus affect the extent and shape of transnational ordering, national political, economic, and social power are vital, affecting where and to what extent reforms take root. It is noteworthy, for example, that leaders of the democracy movement in South Korea seized on the US JD model not because they valued the model as such, but because this kind of reform was a means to undermine the legal oligarchy that propped up authoritarian governments and the chaebols in South Korea. It is not that the entrepreneurs for legal education reform were pro–United States. In fact, they saw the United States as shoring up the authoritarians. But the prestige of the US model and its attractiveness to the rising corporate law firms in Seoul made the JD reform a promising way to attack, and ultimately close, the Judicial Research and Training Institute thought to be central to the conservatism and complicity of prosecutors and judges with the status quo (Dezalay and Garth 2021). The relative success of reform in legal education, in turn, affects what defines a good law professor, what legal scholarship should be and how it should be assessed, what is good legal teaching, and even what defines a good legal argument. The websites we discussed at the beginning of this chapter clearly reflect the rise of this modernity in legal education that mimics US standards of excellence.

III. General Themes: The Transnational Meets the Local in Legal Education Reform

The collection of studies in this volume provides critical insights regarding the context and implications of the globalization of law schools across countries. Six interconnected themes emerge. We highlight these themes here, before discussing how the individual chapters illustrate them.

First, we focus particularly on efforts to shape legal education outside the United States in the image of the United States, which is part of *a longer history of transnational ordering*. It is, for example, an extension of the anti-imperial imperialism that began in the late nineteenth century as the United States was becoming a major player in international affairs and attempted to build a "legalist empire" (Coates 2016). One aspect of that legalism was investment in international courts and other institutions. After World War II, the cosmopolitan and internationalist elite in the United States sought to engage US and foreign law schools to promote lawyers to become progressive leaders of moderate change. The Ford Foundation was a major player in this relatively idealistic law and development movement (Chapter 2), whose model for the kind of lawyer needed was the US corporate lawyer-statesperson at the top of the US legal hierarchy. In the short term, it was not successful in changing the formalistic, conservative, and narrow approach of the faculties of law in places like Brazil, Chile, and India. However, the end of the Cold War, coupled with new technologies and global rankings, enhanced the impact of US legal education models.

That impact does not mean that US schools are always at the top. The relationship is more complex, as suggested by Hamann and Schmidt-Wellenburg (2020: 169). They argue that business schools, which were invented in the United States and globalized, with the help of philanthropy, in the 1950s and 1960s, changed through the criteria used by the *Financial Times*. The *FT ranking* "managed to redefine what these schools are about, putting more emphasis on the traits of European business schools, thereby opening and altering the US-American field." The change was in the interests in the long term of "the top US business schools . . . [as] they are now able to draw on resources on a global scale and have managed to proliferate their model, albeit slightly altered, worldwide." The same process could happen for law schools. The *QS* international rankings of law schools, for example, in contrast to rankings from within the United States, has metrics that include the ratio of international faculty to total faculty and the ratio of international students to total students. US schools may lose ground on these factors, but they benefit overall through the transnationalizing of key aspects of the US model. The re-export of aspects of the US model now comes from Britain, Germany, France, Australia, and other places.

Second, curiously, the recent and more successful efforts to move legal education abroad into a new direction that challenged the traditional, local, legal elites, *comes predominantly from the demand side*, especially as these

countries deepen their connections to the global economy. The law and development movement of a generation earlier influenced some of the actors, but the rise and legitimation of corporate law firms globally increased demand, which was consistent with the legalist empire that the US sought to build in the post–Cold War period. This involved even greater investment in courts, legalization, and institutionalization, which facilitated the rise of transnational legal orders (Halliday and Shaffer 2015). Cosmopolitan actors, outside of conservative and traditional legal elites in many countries, saw the changed situation as an opportunity to push harder against the conservatism of legal education and legal practice. This change, which advantaged US law schools at the center of the global hierarchy, shifted somewhat the flow of law students from peripheries to cores. Unlike the idealism of the law and development movement, which sought to create lawyer statespersons as moderate reformers, much of this recent transformation is about *building elite careers in corporate law and in the institutions that sustain them, including law schools*.

The demand is not just for corporate law, as there are parallel drives for an enhanced role for constitutional, civil, political, and social rights, including through enforcement by courts and an enhanced role for NGOs. This parallel drive is captured in the chapters on the creation of FGV Direito (Chapter 2), the constitutional law ambitions of those who participate in the SELA network in Latin America (Chapter 7), the goals of those working to make law more responsive to policy in Africa (Chapter 4) and Asia (Chapter 6), and the aims of the collaborative Center for Transnational Law in London (Chapter 12). As the websites quoted at the beginning of this introduction show, a central aim also has been the desire of new and reformed law schools to produce scholarship that contributes to global debates as well as local reform. Their students and professors may then join and contribute to the reform of international and national institutions, thereby shaping transnational legal ordering processes (Shaffer 2021).

Third, changes in legal education oriented toward globalization depend on the way in which the contested "legal revolution" emanating from the United States (and other allies around the globe) *interacts with local legal hierarchies and political dynamics* (Dezalay and Garth 2021). The contrast between South Korea's JD experience versus that of Japan exemplifies how local context matters. The reformers in Japan had no real political allies. South Korean legal education reformers, however, were closely linked to the democracy movement, which gained power and used legal education reform

to undermine (at least somewhat) the power of prosecutors and judges who had sustained the authoritarian government and its legacy. More subtle is the watering down of the ambitious innovations of the National Law Schools in India through the governance of the very conservative elite Indian bench and bar.

Fourth, *core-periphery relationships "tilt" the production of legal imports and exports, including in legal education*. Changes in global legal hierarchies may occur and vary by regional context, and changes in domestic legal politics may undermine the strength and prestige of the models at the core. Yet transnational processes help define what is a successful argument in legal debates, what constitutes the most influential legal scholarship, and what the top qualifications are for hiring legal scholars. These processes have tilted international law and transnational legal orders toward US models and more generally those of the Global North and West. The book's authors from the Global South, as reflected in the chapters on South Africa, SELA, and FGV Direito, confirm that they are subject to national and transnational hegemonic relationships that they cannot overturn, but they work within and harness them for their own purposes.

Fifth, the structural tilt is *not inconsistent with a realistic "transnational optimism."* The goal of many programs is to gain access to and harness global and transnational debates about legal education, transnational law, and legal reform. In order to play, as the chapter on FGV Direito underlines, it does not help to ignore the hierarchies and pretend that there is no such thing as transnational economic law, for example. Scholars and students conversant in such subjects increase their clout by mastering the language of the debates, even if the debates are structured through global hierarchies. Latin American scholars from SELA, schooled in US theories and approaches, for example, are leading global commentators on trends in constitutional law. Participation in such transnational debates may serve to legitimize particular frames of transnational legal ordering, but it is still participation in processes that would continue with or without these scholars' input. Legal education reformers, drawing on transnational debates, may in fact make a "better" law school. But they cannot credibly win recognition globally if they advocate, as they could, for cheaper and more efficient law schools with traditional, part-time professors delivering formal lectures to large numbers of students.

Scholars of transnational legal ordering may be optimistic or pessimistic in relation to structures of power. Yet there is still agency exercised in constituting, debating, and reforming such structures. Indeed, sensitivity to power imbalances may lead to an openness to reforms rather than taking the status quo for granted. Menkel-Meadow makes this point by arguing that international exchange and study leads to more "humility" about what seems natural and normal, especially for those who look down from the "upstairs" position within existing structures. Structural sociology teaches that the world is not flat, unlike what Thomas Friedman famously argued in 2005, and that legal hierarchies reproduce themselves and serve to moderate reforms for their own purposes and those they serve. But acting as if the world is flat may also be consequential.

Finally, the ticket for admission into scholarly debates, corporate law firms, and other organizations consistent with transnationalization *is not evenly distributed, including within any one country*. The diffusion of US approaches to education and markets has helped produce a dichotomy between a mass of law schools—1,000 or more in some countries—and students at an elite few law schools open only to a select group. Those who benefit must have a background that allows them to learn English and excel on standardized tests. They frequently must pay the costs that have risen dramatically in many law schools, including the Indian elite schools, FGV Direito, and African law schools under the encouragement of the World Bank. If they then decide to go abroad to pursue the most valued credentials, they must pay very high travel and tuition costs, particularly to the United States, where scholarships are few and tuitions high. Menkel-Meadow notes, for example, that students at the Center for Transnational Law have in common that they are all from relatively privileged backgrounds. The SELA network too is open only by invitation, and those invited are from the elites educated abroad at Yale and comparable places. In this respect, the globalization of legal education reflects an economic and skills divide that has become salient in the United States, to which transnational legal ordering both contributes and is called to address. This highly skewed meritocracy lends even greater weight to those few who can attend the global brand names, such as Oxford, Cambridge, Harvard, and Yale (as reflected in Chapter 13 on "who rules the world" of the international judiciary).

IV. An Introduction to and Thematic Reading of the Book's Chapters

The purpose of this Section IV is not just to introduce the chapters, but to provide a thematic reading of them in light of our respective theoretical approaches of transnational legal ordering and the sociology of the legal profession. One should of course fully read the rich chapters for their full exposes of the book's themes. In this section, we "converse" with them in light of our approaches.

We have organized the book's chapters into three parts, respectively regarding transnational processes, global law schools, and academic flows. The first part, comprising Chapters 2–7, uncovers the transnational processes that lie behind the globalization of legal education. There are of course other processes than those we can capture in this book, including, for example, the Erasmus exchanges, the marketization of legal education within Europe, and the continuing influence of German legal science on countries with civil codes. We focus, in particular, on how and why the US model has gained particular influence, a phenomenon that has not been adequately studied. We begin with the work of the Ford Foundation, which has been a key player in setting the stage for what we see today. The next chapter provides a broad look at Africa, where legal education approaches went from weak colonial investment to a kind of seesaw of reform and lack of reform depending on trends among donor groups like the Ford Foundation and donor states competing at times for ascendency. Next, we look at legal education in South Africa, both a regional legal center and a place of huge inequality traced to apartheid and colonialism. We then explore India, which advanced reforms in the late 1980s, with some help from Ford, but which took off only after Ford had given up on reform prospects there. Then we move to other countries in Asia, where again much of the story of legal education reform begins elsewhere, within donor states and foundations, but where the highly variable local impacts depend on local political economy dynamics. The last chapter in this section describes the highly successful and organically developed "Seminario en Latinoamérica de Teoría Constitucional y Política" (Latin American Seminar on Constitutional and Political Theory), also known as SELA. This North-South dynamic reveals how the globalization of legal education unfolds.

The second part, comprising Chapters 8–12, presents variations on the theme of the global law school, with each chapter covering a single law

school: FGV Direito in São Paulo; the new (and first) law school in Bhutan, Jigme Singye Wangchuck School of Law; the Peking School of Transnational Law in Shenzhen; New York University's Global Law School; and the Georgetown Center for Transnational Legal Studies in London. Finally, the third part, consisting of Chapters 13–15, examines the flow of people around the globe into and out of the leading, globally recognized, law schools and faculties of law. We first look at the judges of international courts to assess the educational backgrounds of this part of the "invisible college" of international law. We next examine the global movement of students and faculty that shape the study and understanding of "international law." We then conclude with a study of non-US students coming to US law schools—the most-sought after destinations for students seeking law degrees from abroad, who become, in turn, potential conveyors of transnational legal norms.

A. Transnational Processes in the Reform of Legal Education

1. The Ford Foundation as Catalyst. Chapters 2–5 are devoted to the processes of diffusion of a US model of legal education into the Global South. We begin with the chapter by Ron Levi, Ronit Dinovitzer, and Wendy H. Wong on the evolution of Ford Foundation programs on law and legal education since the 1950s. Ford is central to the long history of US agendas in legal education reform. Ford Foundation leaders understood academic trends and political subtleties and positioned the Foundation to bring a progressive synthesis to policy experiments and initiatives at home and abroad. Other foundations such as Rockefeller played similar roles, but the Ford Foundation took the lead.

Locally, the Ford Foundation in the 1950s sought to strengthen the role of elite lawyers in relatively progressive governance. At home, this meant investment in updating comparative and international capacity in elite law schools to ensure that professors and graduates would engage with issues of foreign policy consistent with the enlarged role of the United States after World War II. An "international sensibility" was essential for lawyers to help lead and insure global engagement that would protect US interests abroad. In addition, Ford sought to educate "able foreign leaders" to encourage lawyers abroad to gain strong positions with an eye toward facilitating moderate progressive social change to stave off Communism. One prime example in the

1950s was a foray into India to try to move elite lawyers to a more progressive and respected position in governance. The Foundation found, however, that the Indian bar was highly resistant to change. The same effort was made in the "law and development" programs of the late 1960s and 1970s, again with disappointing results.

The chapter emphasizes the work on legal education in Chile. The goal of the grants to Chile was to work with small groups of local reformers to build law schools with full-time professors, which was not at all the norm at the time; hire scholars and teachers who would not hew dogmatically to formalism and who would embrace interdisciplinary approaches and problem-solving (as in the United States after Legal Realism); and form clinics for more practical education (following the Foundation's major efforts to expand legal clinics in US law schools). The program to upgrade legal education, as the authors point out, sought to "disrupt established hierarchies" in order to create a new kind of lawyer who would play a progressive role in development through harnessing a new set of tools beyond stale legal formalism. In the authors' words: "By converting law from its place as traditional and formalistic analysis, this register of law and development sought to build up legal training as *problem-solving*." The reformers wanted to translate the ideal of the American bar as adept at managing social change. As in India, they were not successful in this attempt at conversion. The Foundation, following famous self-criticisms by US participants in the programs, backed off of legal educational reform.

The Foundation largely stayed out of legal education reform abroad until the late 1970s. Responding to opportunities in the changing global environment, the Foundation quickly moved to invest in law, clinical legal education, legal exchange, and legal scholarship in and about China after its reopening of legal education in the late 1970s. A number of leading law professors in China, educated before the Communist victory but still active in building legal institutions after that victory, resurfaced after persecution in the Anti-Rightist Campaign and the Cultural Revolution.

They had international ties before the purges, and they quickly embraced exchange with the United States for themselves and their students after they regained positions in the newly reopened legal academy. US-trained lawyers, it was hoped, might move China in a pro-West and pro-Democracy direction. Columbia Law School was a key recipient of Foundation funds for these exchanges. Investment in building clinical legal education throughout China formed another large part of that investment. Clinical lawyers, it was

hoped, might help to train and create lawyers who would promote rights strategies within China. Changes within China, however, thwarted that hope, as Chapter 6 on legal education reform in Asia shows. Nonetheless, the law schools in China have become thoroughly globalized in terms of their scholarship, their intellectual debates, and their connections to corporate law firms. Moreover, their students are the leading source of graduate law students in the United States (Chapter 15). The Foundation helped build, in short, a strong role for internationalized lawyers and law in China, but not legal liberalism. In contrast, the investment in legal clinics in South Africa was a key element in the move against apartheid and the establishment of democracy (Chapter 4).

Finally, we highlight the Foundation's shift in emphasis at the end of the Cold War in the 1990s, when US global hegemony was largely uncontested. By this time, the Foundation had aligned with a new US, anti-statist, economic orthodoxy shared by Democrats and Republicans. The growth of the state was increasingly seen by foundations such as Ford with suspicion, so that there was less appetite to provide advice to government and more appetite to privilege independent expertise and groups beyond the state, including to foster legal strategies for change. The enthusiasm for law expanded along with particular US models for law's globalization, as reflected in the spread of corporate law firms, US models of regulation, human rights, international criminal law, international trade through the World Trade Organization, and expanded international commercial and investment arbitration.

From the perspective of the Ford Foundation, it was critical to support global legalization processes. The reports stressed the objectives of advanced training of scholars and practitioners in the fields of international organizations and international law, education to enhance public understanding of the role of international organizations and law in furthering world peace, and research and policy analysis on important multilateral institutions. The Foundation's long commitment to legal education reform abroad facilitated the building of global exchanges and markets in legal education.

In short, the chapter shows that the Ford Foundation sought to build up a world where progressive and internationalized lawyers played leadership roles in the United States and could connect with counterparts abroad who would embrace the same kind of role—becoming moderate reformers who would help build trade and investment, democracy, and resistance to Communism. The Foundation felt that success in that venture required a new kind of lawyer, which required a new kind of legal education.

These efforts to export US modes of legal education had limited success at the time. The study shows how exporting models is only part of the story, and needs to be complemented by attention to importers. On the one hand, China after the Cultural Revolution aggressively imported some ideas from the United States and sought to build exchange relationships, create corporate law firms top down, and encourage scholarship embedded in Western scholarly communities. On the other hand, in India and Brazil (addressed in Chapters 5 and 8), there was a delayed impact. Locals who had participated in law and development were among the leaders of new calls for change a generation after law and development when the establishment and legitimation of corporate law firms increased the local demand for a more "modern" kind of law teaching.

2. Core and Periphery: Legal Education in Africa. Chapter 3, by Michelle Burgis-Kasthala, focuses on Africa. Africa can only be understood in relation to core and periphery relations that are evident but not emphasized in the preceding chapter. As she makes clear, "We need to flip our thinking . . . on Africa to regard it intellectually as the most pronounced and concentrated site of transnationalised education *because of its peripheral status*." She refers to "epistemic dependency" as well as issues of financial dependency. Accordingly, "the continent also possesses extreme degrees of internationalisation, whether through its student mobility or dependence on foreign funding and epistemic resources."

Colonial legal investment was very weak in the English colonies that are her main focus in this chapter. As Burgis-Kasthala notes, "the British were suspicious of the disruptive power of legal education, especially as 'the Indian nationalist movement had been led by lawyers." After African contributions to the war effort in World War II, the British encouraged legal education in Africa through scholarships at the Inns of Court, rather than development of law schools in Africa. African students at the Inns of Court by the early 1960s greatly outnumbered the law students "of all English-language universities of Middle Africa."

After independence, African law schools built on African lawyers' Inns of Court experience, which unified much of the legal profession in these countries. In doing so, they adopted a curriculum and general approach to law that followed the relatively narrow approach of the British, reflected in formal teaching and weak and formalistic scholarship. The number of law schools in Africa increased substantially, with some forty-three African universities having a law faculty by 1972.

In addition to the British, "new players in the region: the US, China, the Soviet Union and US private charitable entities provided a range of direct and indirect aid contributions to higher education." At the time, UNESCO was the leading international organization promoting legal education, and it sought to support legal education in furtherance of development. But what kind of education supported law and development was "understood quite differently between various donors. Given Cold War rivalries too, higher education served as a site of competing hegemonic projects and pressures so that African perspectives were often overlooked."

From the US side, as in Latin America and India, "technical competence was not enough for fostering social transformation; a broad-based social education for lawyers was required so that they could play a central role in all sectors of society." As in Latin America, the Ford Foundation created an ambitious program, known as SAILER (Staffing of African Institutions of Legal Education and Research), which promoted an alternative to the British approach to legal education. US scholars "embrace[d] more clinical methods, which aimed at students' active resolution of 'real' social problems" (Harrington and Manji 2003). This "law and development" pedagogical approach "embodied an instrumentalist reading of both law and legal education, which could play a seminal role in the transformation of society." The British effort ended in the early 1960s, followed by the US SAILER program, in each case through the same critiques of Law and Development that also terminated programs in Latin America (Krishnan 2012).

The British story is further interesting because it provides an example of how international experiences help produce innovations that take root in the core. Legal Realist–influenced professors from Britain, notably William Twining and Robert Stevens (a Brit educated in the United States and a professor at Yale), were part of the program. Twining notes in his autobiography that the experience in Dar es Salaam helped spur the "law in context" approach: "The absence of textbooks, the fact that we were dealing with several countries and jurisdictions, the heady political atmosphere and the rapidity of change combined to make it virtually impossible to teach or learn law as a static system of abstract rules. We were forced by circumstance to be contextual, critical, comparative and to be concerned with how to think about dynamic problems and values" (Twining 2019). Twining met Stevens at Dar es Salaam and then again at Yale. Stevens "was already an iconoclastic critic of the English Bar and English legal education . . . He and I persuaded Weidenfeld and Nicolson to try to break the near-monopoly of Butterworths

and Sweet and Maxwell over academic law publishing in UK by launching a series of 'counter-textbooks'. Our aim was 'to subvert and revolutionise' the prevailing orthodoxy in English legal education." The influential "Law in Context" series produced by this collaboration continues to flourish and challenge traditional British legal scholarship.

With the debt crisis, the rise of neoliberalism, the attitude of key donors toward legal education in Africa changed. The World Bank became the major player, and UNESCO, which had played a major role, became marginalized. UNESCO's embrace of "dependency theory" led to the US withdrawal from it in 1984, followed by the United Kingdom and other countries. The World Bank stepped in. Its orthodoxy at the time was that human capital investment should not include investment in tertiary education, which only rewarded individual actors: "Although the Bank re-embraced higher education in its 1994 Report and has since worked strategically with UNESCO to reverse negative trends from the latter part of the 20th century, the long-term effects of these foreign policies continue to mar the African landscape." Burgis-Kasthala sees "this period as one of re-colonisation most directly through the IFIs [International Financial Institutions] and foreign NGOs, but far more profoundly, for the nature of African thought itself." The movement was from "privatization to commercialization."

Law schools gained a greater role in the 1990s, but the role of "re-colonized" legal education placed African legal education squarely in the periphery. Law faculties have been assigned very poor positions in global rankings, and they have been assimilated into the "broader trend of the growing role of transnational regulation within a globalising knowledge economy." Those who can find places in that world thrive: "Lawyers equipped with the skills and networks provided by training in elite law schools can move deftly through a range of jurisdictional zones. Resources are required though to begin such a journey and for most law students in Africa, the chances of entry are extremely limited. The best routes are through scholarships to prestigious Northern law schools or to the continent's regional legal training hubs, such as South Africa."

Legal education in Africa, buffeted by changing hegemons and legal and economic changes in the West, finally has a recognized role. But it is largely dependent on and oriented toward serving a privileged minority able to gain access to the "globalized legal education" that will embed them in global businesses, organizations, and to some extent NGOs, all of which have Northern cores and African peripheries. We will get hints of the continuing

story in Chapter 15, when we trace the paths of African and other non-US students trying to build their competitiveness in the global marketplace through US JD degrees.

This chapter extends hope for reform along the lines of progressive law akin to that promoted in the United States. On the one hand, "the biggest challenge remains at the epistemic level in (re)thinking 'Africa' and law's role in its social transformation." On the other hand, "Law can serve as a tool of social transformation for a decolonial future, but it can also facilitate entrenched, colonial and neo-colonial forms of dependency." Despite the peripheral relationship of African legal education, if it produces enough members of a global legal elite with that orientation (which challenges the approach of existing local legal elites), they could at least open the knowledge economy to different voices, even though largely speaking the same legal language as a ticket to enter the discussion. This conclusion raises the complexity of how to define success—including the question of what it means to be "counter-hegemonic"—in legal education reform in a world where what is "modern" and even "innovative" is also "imperial." Many chapters take up that issue, but it is directly the focus of Chapter 8 regarding the challenges of establishing a new law school in Brazil.

3. Legal Education in South Africa: Racialized Globalizations, Crises, and Contestations. Chapter 4, by Ralph Madlalate focuses on South Africa, which looks at first glance to be one of the relative winners in legal globalization, especially within Africa. Students from all over Africa and beyond come to study there, its law schools are the highest ranked in Africa, and there is a thriving corporate bar. The legacies of colonialism and apartheid are still very present, however, leading to a stratification by race and class very present in legal education today, giving rise to movements attacking the "global" in the South African context.

As was typical of the British Empire, the first lawyers in South Africa were British educated. Local law schools did not arrive until the late nineteenth and early twentieth centuries, and divided into British and Dutch language schools, focusing on the "cores" of the British common law on the one hand, and Roman Dutch Law on the other. Rhodes Scholarships later built up the connections between London and legal education in South Africa. A few Black South Africans managed to gain admission through study in Britain, but not through Rhodes Scholarships. Apartheid in 1948 entrenched and legalized the racial divide. With apartheid, "the government strategically expanded opportunities for black students in an effort to train staff for the

administrations of quasi-independent 'Bantustans,'" which led to the creation of law faculties at the Universities of Fort Hare, the North, Zululand, Bophuthatswana and Transkei. The legacy of apartheid was very strong. Despite these new law schools, "in 1994 African, Indian and Colored lawyers made up a mere 14 percent of the profession, with the remainder consisting of white lawyers." There were prosperous private law firms, but very few nonwhites had positions in them. Nevertheless, African South African lawyers such as Nelson Mandela challenged legalized apartheid and were leaders of independence. Another legacy was a narrow positivism: "legal education of this era was premised on narrow, technical and positivist approaches to law which elided engagement with the racialized social context in which the law operated." The new constitution after independence and the experience of public interest law in the 1970s brought hope that law would be more oriented toward social justice.

Criticisms, such as that by the Council of Higher Education, reflect local and global concerns—first of all, there are "too few African South African instructors." Teaching was criticized also: "too often, students were assessed, either wholly or substantially, on their rote learning ability." Positivism was still an obstacle: "law faculties 'have not yet fully internalised the notion of "transformative constitutionalism"—either in their curricula or among the entire corpus of staff and students.'" Research rankings have brought globalized change. Medlalate quotes a scholar noting: "Academics, especially from those universities that have bought into the rating system, now concentrate far more on their international profiles and faculties are less inward-looking than before and encourage contact with sister institutions around the world. This has begun to break the isolation and insular thinking that characterized the apartheid years and it may well encourage more theoretical, discipline-orientated research over more practice-orientated approaches."

The historically English faculties of law, led in global rankings by the University of Cape Town, attract students from the region as well as from South Africa: "the major destinations for international students are the country's historically white institutions, . . . [which] boast internationally recognized research outputs, faculties that include 'former Rhodes Scholars and Alexander von Humboldt fellows,' 'exceptionally strong and varied international ties' and 'students from all over South Africa, Africa—and at LLM level from many other parts of world.'"

In contrast, there are enormous challenges for the historically black universities and law faculties and for the historically disadvantaged Africans

more generally. The research requirements do not fit the apartheid-created universities, these schools lack resources, and they face other problems. Yet they play a crucial role "in educating black lawyers." As we see in India in the next chapter, the deeper problem is *who* has access to the so-called top law schools which provide gateways to the top positions. As Madlatate notes, fundamental is "students' ability to succeed in higher education given the educational challenges they face before university, not least the important role of language."

This two-tier and racialized "meritocratic" division, unlike in the United States or India, is not without challenge. The year 2015 saw the "(re-)emergence of university students as a powerful force in the country's higher education system. Organized around slogans including #RhodesMustFall and #FeesMustFall, these movements introduced a radical anti-colonial critique of higher education in South Africa." These criticisms, whatever their success, suggests that it is naïve to expect that the mantra of meritocracy will thwart criticism of globalization when the mantra creates structures through which only a few, mostly from advantaged backgrounds, gain admission to a few privileged law faculties and schools, and then gain the rewards of the few elite positions available in a globalized political economy.

4. Transformations and Contests over Legal Education in India. Chapter 5, by Yves Dezalay and Bryant Garth, looks at the Indian example of legal education reform and seeks to place it in the context of a "legal revolution" associated with financialization of the economy, neoliberalism, the rise of corporate law firms, and the reform of legal education aligned with these other features. The establishment of the National Law School in Bangalore in 1986 resulted from a mix of Indian entrepreneurs promoting the US model to upgrade and modernize legal education at a particular time of challenge for the legal profession in India. A faction of the elite recognized the need to provide more openness and legitimacy to the very conservative legal hierarchy led by senior advocates and judges of high courts and the Supreme Court. That establishment was embarrassed by the weak role the Supreme Court played during the emergency declared in the mid-1970s by Indira Gandhi. The long process culminated in the creation of one underfinanced law school, the National Law School at Bangalore, which sought to produce public interest lawyers who would take advantage of Public Interest Litigation unleashed by the Supreme Court after the debacle of the Emergency. After financial challenges threatened to end the experiment, the Ford Foundation provided funds to allow its survival.

Fortuitously, the first class graduated just at the time of the liberalization of the economy in 1991, and the first and subsequent classes pursued the resultant legal opportunities in new corporate law firms modeled explicitly on US law firms (Ballakrishnen 2019; Krishnan 2004, 2005). The success of the first National Law School led to the proliferation of twenty or more built on the same model in subsequent decades. These schools are open to those who do well on standardized tests, charge a tuition that is high by Indian standards, seek to have more engaged teaching, and try to provide an Americanized approach.

They are deemed to represent a major upgrade in Indian legal education, joined now by private alternatives led by the Jindal Global Law School, funded by an Indian billionaire industrialist, Naveen Jindal, the Chancellor of Jindal Global Law School. JGLS is even more embedded in US legal education than the National Law Schools with close ties to Harvard and Indiana in particular.

The weakness of the National Law Schools, rarely noted by scholars of legal education reform, is that in order to gain the acquiescence of the Indian bar to operate, they gave complete control of the schools to the Senior Advocates and Judiciary, which have no incentive to promote substantial change. From the perspective of reformers, the National Law Schools are underfunded, the professors underpaid and disrespected by the bench and bar, and there is little opportunity for professors at all but a few of the schools to undertake scholarly research.

Meanwhile, the Senior Advocates and Judiciary thrive despite criticism that they stubbornly resist what a "modern" legal education offers: sophisticated legal arguments fortified with interdisciplinary insights versus forensic artifice and lack of preparation; focused hearings versus endless rambling; and more meritocratic entry from more diverse groups versus personal connections and long family dynasties. Hierarchy within the bar continues to reproduce itself through family capital leading to apprenticeships out of schools that barely teach, such as the Government Law College in Mumbai. The Senior Advocates thrive because they are essential in big cases in order to gain the attention of the top judiciary that come from the same social world.

Yet the legal revolution is challenging this legal oligarchy. The corporate law firms, which continue to hire National Law School graduates, are increasingly looking for ways to bypass the Senior Advocates. Their hiring and promotion practices are notably meritocratic (Ballakrishnen 2019). Meritocratic

graduates who receive Rhodes Scholarships and other scholarships to study abroad are increasingly returning and promoting scholarship about the courts and advocacy from independent bases in think tanks and some of the law schools, including Jindal. These think tanks and Jindal, in turn, are funded by major corporations and entrepreneurs, not lawyers, who also encourage an upgrading of legal scholarship and practice and are impressed with the elite credentials of the young founders of these groups. This combination of meritocratic, scholarly, international, economic, and even political capital, is working to upgrade the careers of legal academics, challenge the bar where it is vulnerable, and put pressure on the bar's method of reproduction in favor of more meritocratic selection. To date, however, the bar is closed to this effort. One indicator is that no National Law School graduate has become a judge or Senior Advocate.

More than a generation after law and development, there is a pretty strong movement to upgrade and modernize legal education, building on the National Law Schools. The demand has become much stronger. It is only a matter of time until the bar will have to recognize the force of these challenges and retool for what the latest legal revolution defines as modern. What is modern, once more, is deeply embedded in the global community of corporate law firms, global NGOs, and the transnational legal ordering of business and other areas of law.

5. The Efforts and Limits to Engage Lawyers with Policy in Asia. Chapter 6, by Veronica Taylor, follows a number of these themes into other parts of Asia. The chapter takes up a normative challenge that is part and parcel of global efforts to modernize legal education. There are again donor countries and foundations in the story, but the United States is not always a major player. The theme, however, is one that comes initially from US legal education, but it is reinterpreted and adapted in the different Asian contexts. It is the need for law schools and their professors to become scholarly actors in issues of intellectual debate and reform. Historically, that has not been the case either in the British model of legal education nor in the continental model. Very formal analysis of cases in Britain and codes on the Continent were the norm. Taylor asks whether "a 'revival' of law in some Asian states . . . is reflected in a 'knowledge to policy' process by law schools?" She asks, "in what ways do Asian law schools influence the state or broker norms that are part of the globalization of law, and with what kinds of drivers, partners, politics and constraints?" The goal is for law schools to adopt a model that touches on politics and political controversy at home and abroad.

After describing donor projects addressing the rule of law and transitional justice in Myanmar, Taylor looks at the role of legal academics. First, it is striking that, while, "Well-paid jobs and preferment were open to young, English-speaking, 'reform-minded' legal intermediaries, . . . there have been fewer opportunities for legal academics and other government employees." They cannot compete with the cosmopolitan reformers integrated already into a global donor community of legal reformers. Further, even the tentative efforts to instill the idea of law school "knowledge to policy" engagement hit resistance. Partly, the university leaders may have had a different politics than the new regime, but there is also some nationalistic resentment "of pressure to accept international legal norms or sanctions." Taylor points to "universal themes within this skirmishing." Instead of embracing a new internationally inspired role, there is a "struggle to insulate the law school at a national university from global engagement that may have ramifications for domestic politics."

Transformations in legal education and in the legal profession, once more, are contested. They are generally effective only if they are part of a broader political and social movement. The previous chapter on India, for example, suggests that the new pressure to transform and modernize the Indian legal elite—the grand advocates and high court judges—is gaining momentum because of the support of certain parts of the government, corporate philanthropy, the new corporate law firms, and the opinions of transnational corporate law firms.

Taylor provides a mix of case studies to illustrate similar themes. The rise of the clinical education movement in China, much of which was funded by the Ford Foundation, is the first example. The focus on access to justice and legal empowerment, she says, did not survive the turn to "rule by law" in the past decade in China. Thus, "the clear implication here is that Chinese law schools do not have an unfettered ability to advance into an engagement or nascent policy space like clinical legal education, even if they are producing a public good, if that conflicts with the Party's fear of 'empowerment' translating into social instability." Although there was some real success in building a strong position for an internationalized legal elite, that did not translate to investment in "liberal legalism" (Zhang and Ginsburg 2019).

The discussion of Indonesia is instructive. Taylor notes the transnational debate about how Indonesian law schools should relate to the modernist push we have seen generally: "A scholarly debate has simmered across decades about the mission of the Indonesian law school—whether it should

teach 'pure law' [as a legacy from the Dutch], whether it should serve the national interest and teach 'progressive law', or whether it should have a more socio-legal, empirically-informed cast." Part of the debate, as elsewhere, is whether "the formalist character of legal education in Indonesia [is] an impediment," which would be "consistent with [Simon] Chesterman's thesis about the constraining power of colonial models." The Chesterman thesis does not say, but could have said, "constraining" in comparison to the US model. There does not seem to be much local resonance for reform of legal education in Indonesia so far. Only the private Indonesia Jentera Law School offers a different model.

Another repeated issue is the impact of international funders within the local legal market. In Indonesia, for example, there are experienced lawyers capable of getting the positions offered by funders, but these projects have "the effect of taking the most productive staff out of the law school, paying them a premium to work for an outside organization, and framing the law schools as 'recipients' of aid, rather than as agents and genuine partners in the design and implementation of the projects." Despite this embedded hegemonic relationship, Taylor nevertheless is hopeful that the new and more creative partnering with Australia might be more effective in building local commitments to evidence-based policies "that advance social equity."

Finally, Taylor concludes with the failure of the adoption of the US graduate law school model in Japan, in contrast to South Korea. The inability to make the bar exam less of an obstacle, through the resistance of the legal establishment, effectively killed any liberal impetus in Japanese reforms. The bar passers now generally are those who study law at both the undergraduate and graduate levels, instead of bringing other perspectives to law through wide-ranging undergraduate experiences. The crushing dominance of the bar exam and the need to teach to it also undermines social engagement. Some of the new law schools did seek to "deliver a distinctive style of socially-engaged and practical legal education that would have been a departure from the abstract rote-learning of the past," with foreign law professors teaching some courses, such as international commercial law courses in English, and with "skills training through clinical education and mooting." However, "fifteen years into the experiment, arguably none of reform goals has been achieved, and instead the law schools' knowledge mandate has shrunk." Taylor highlights the issue of "design" in Japan compared to South Korea, which did not keep the undergraduate law programs open. That design issue closely relates to the fact that the South Korean reform, unlike that in Japan,

overcame the resistance from the legal oligarchy because it joined with a "democracy movement" challenging authoritarian government, the chaebols, and the complicity of the legal system in protecting that reactionary alliance (Dezalay and Garth 2021).

6. A Yale-Forged, Transnational Scholarly Network in Latin America. The last chapter in this section, Chapter 7, by Javier Couso, takes us to Latin America and an extraordinarily successful North-South venture, the "Seminario en Latinoamérica de Teoría Constitucional y Política" (Latin American Seminar on Constitutional and Political Theory), also known as SELA. Couso himself has been active in this group since 2001. The network constituted by this group, as Couso points out, "brings together legal scholars from Latin America's most important law schools, and one of the U.S.'s most prestigious centers of legal education, Yale Law School." SELA represents one of the most consequential networks contributing to global legal education in Latin America in the last two decades." Couso states upfront that there is a core-periphery or hegemonic relationship, noting the "the role that it plays in furthering U.S. conceptions of law and legal education throughout Latin America," but this is not inconsistent with embracing the contribution of SELA in improving scholarship and legal education in Latin America.

This annual seminar began in 1995 through the entrepreneurship of Owen Fiss of Yale Law School, who, with some of his Latin American students, sought to build a seminar to keep together networks that had developed around the Argentine liberal legal philosopher Carlos Nino, who had died very suddenly. SELA's membership has always been by invitation only. It began with Yale and a few law schools in Argentina and Chile, and then expanded to include a good portion of the leading law schools in Latin America. Rigorously intellectual, the seminar works with plenary sessions and critiques of individual papers. As Couso notes, "while in the first years of SELA the papers were commissioned by the Yale faculty, since the mid 2000s they started to be selected in a competitive way by the Organizing Committee, from abstracts submitted by the members of the network." Yale provides most, but not all, of the financial and administrative support.

Intellectually, "[t]he paradigm that frames most of the debates taking place at a typical SELA meeting is a liberal-egalitarian one. Thus, the kind of authors most likely to be cited in the papers are Ronald Dworkin, H.L.A. Hart, John Rawls, Owen Fiss, Robert Alexy, Catherine Mackinnon, Reva Siegel, Carlos Nino, Jürgen Habermas, Tom Scanlon and Thomas Nagel, as well as scores of Anglo-American and European scholars who work within

that tradition." The network has broadened to include critical legal studies, law and society, feminist jurisprudence, and other disciplinary approaches, but the seminar has maintained "its liberal democratic and egalitarian outlook."

The Latin American scholars, at the beginning mostly with graduate law degrees from Yale, were ambitious. They sought "a cultural shift in Latin America's legal academy" that drew on their Yale educations. They sought "the gradual construction of a community of scholars sharing a 'common language,' 'a certain vision of law,' and an 'intellectual style' characterized by sharp, analytical, and horizontal debates." This was not the prevailing "language" or "style" in Latin America. SELA provided a meeting place and supporting network for "scholars from different countries of the region sharing the above-stated conceptions." There was a very clear target. The network was expected to help their members "confront the hierarchical, parochial and formalistic traditional legal discourse then prevailing in Latin America." They hoped to become influential players and reformers in their own legal systems.

SELA's launching was at a propitious time. Democratic transition brought a new focus on public law. The conservatism of the legal establishment and the judiciary during the dictatorship periods spurred the young legal challengers. There was "strong criticism of the way the judiciaries—and more broadly, the legal systems—had behaved during the wave of brutal military dictatorships in the preceding decades," such that "a new generation of legal scholars was starting to challenge the old one."

As we have seen repeatedly, "[t]he most common criticism issued by the new generation against the judiciary and the legal academy was its 'formalism.' By this, they meant the mechanical application of statutory law, even in cases where it led to utter violation of important constitutional values (with the material injustice that came with it)." Accordingly, "most original SELA members shared the notion that courts can be important actors on behalf of social justice, through an active enforcement of the constitutional principle of substantive equality," including through engaging with international courts, and, in particular, the Inter-American Court of Human Rights. A final and related theme that contributed to SELA's original cohesion was the strong indictment shared by its members of the way legal education and research was being conducted in Latin America at the time. SELA's launching "coincided with the constitution of the first fully professional academic communities in Argentina, Chile, Peru and Colombia." This

reform agenda replaced "teaching by prestigious litigants and lawyers on an hourly basis, using legal treatises written by themselves in their spare time," with "a legal academy made of scholars devoted to full-time teaching and research, as happens in the legal academy of most of the Global North." These scholars were part of "an important 'struggle' to replace what was seen as an obsolete—and deeply flawed—legal academy with a more professional and modern one."

Couso raises the question of whether SELA presents an example of legal imperialism, noting that, "SELA has been a way to transmit U.S. legal ideas to Latin America. It also involves a link between top Latin American law schools and prestigious academic institutions in the United States." More generally, the mission involved "the 'modernization' of the legal field in Latin America." Yet, he maintains, the process was "almost communitarian," rather than imperial, and it was successful in a number of respects.

Regarding SELA's influence, Couso concludes by noting "the disproportionate number of presidents of universities and deans of law schools, justices of supreme and constitutional courts, and highly influential legal scholars that have been members of SELA." Their careers show the growing legitimacy in Latin America of the scholarly approaches and legal politics that originally were identified especially with the United States. The old guard may still exist, but its power is much diminished.

Many of these law schools have reformed toward engaging full-time professors, valuing interdisciplinary scholarship that meets "global" standards, and instituting clinics and transnationalized curricula. We see one example from Brazil in the next chapter—FGV Direito in São Paulo—where Oscar Vilhena Vieira, the current dean and co-author of the chapter, is also an active participant in the SELA seminars and network. That chapter also shows how these reforms from the public law side complement the institutionalization of large corporate law firms and processes of transnational legal ordering. It adds to the complexity of the question raised in several chapters. What does it mean to talk about hegemonic and counterhegemonic approaches to legal education?

B. Global Law Schools

1. FGV Direito, São Paulo: A Global Law School in Brazil. Chapter 7, by Oscar Vilhena Vieira and José Garcez Ghirardi, critically examines their own

law school, Fundação Getulio Vargas (FGV) Direito, São Paulo, which has now been in operation for eighteen years. The title of this inspiring chapter, "The Unstoppable Force, the Immovable Object: Challenges for Structuring a Cosmopolitan Legal Education in Brazil," perfectly captures the contest between the advocates of a new global revolution in legal education and a local (in this case Brazilian) legal oligarchy embedded in economic, social, and political power. The authors stress that the story of FGV Direito "illustrates the difficulties to implement a new paradigm for legal education in an emerging South. It also suggests that any successful attempt at reform in this area depends on the institution's ability to strike a politically workable, educationally sensible balance between global demands and local realities, between new and traditional paradigms."

Prior to the split with Portugal in 1822, there were no law faculties in Brazil. The first was established in 1827 to train the legal bureaucracy. There was from the start "an enduring propensity to be encyclopedic, with courses usually closely following the structure of the major codes" enacted almost a century later in Brazil and based on European models. But more important than study were networks: "Beyond the impact that the goal of forming State bureaucrats had on curricula and teaching priorities, the vicinity to power which characterized law schools also importantly affected their institutional dynamics. Not unlike the English Inns of Court, Brazilian Law schools were primarily *loci* for networking and jockeying for advantageous positions." As a result, "technical legal expertise was less important than political acumen, as the ability to ingratiate oneself to the right colleagues was key to success in a country where legal and political elites were virtually identical. Students who prioritized lessons and books over socializing were often ridiculed as *rábulas*, a derogatory term used to designate petty-minded lawyers."

Professors were part-time teachers with private legal practices and links to politics and business. They were "praised according to their standing on the public stage. More often than not, it was their success outside the academy that validated their position as scholars. Higher Court Justices, state ministers and secretaries, alongside with the most successful and prestigious private lawyers of the day, were considered natural professors to an institution that aimed at preparing for government office." Accordingly, "the selection of new professors, in tandem with this practice, seemed to depend more on personal allegiances than on academic achievement." Academic research involved mainly the production of outlines and commentaries on codes. The

analysis and teaching were highly formalistic. This was the model that the SELA reformers also attacked.

There were some criticisms from Brazilian legal scholars of the "formalism, teacher-centered pedagogy, lecturing and parochialism," but this system, organized around the eminent "jurist" professor, politician, and notable, was deeply embedded in structures of power. The law and development efforts to challenge this hierarchy in the 1960s and 1970s failed. The main "reform" in legal education in the neoliberal-oriented 1990s was to marketize it by deregulation. The number of law schools rose from 165 in 1995 to over 1,300 in 2015—largely through increases in private law schools, with the hope that market competition would foster improvements in legal education. This deregulation and dramatic increase in the number of law schools occurred in many other countries, including China and India.

FGV Direito challenged the traditional law schools in numerous ways. First, the faculty was selected to gather scholars with international experience, advanced degrees, and the ability to participate in "cosmopolitan academic dialogues" and interdisciplinary debates. Second, the curriculum was transnationalized in order to "respond to a more complex, globalized and entrepreneurial context, both in the private and public spheres." New required undergraduate courses included: "Crime and Society; Regulation and Development; Corporate Procedural Law; Law and Economics; Global Law; Law and Development; Law and Arts." There was also a new Global Law program bringing visiting professors and encouraging domestic students to study abroad. Recognizing the school's challenge to prevailing national approaches, FGV Direito became active in the Law School Global League, a group of more than twenty like-minded law schools around the world. The school moved away from "the letter-of-the law, statute-commentary syllabuses which characterize traditional legal teaching." Instead, "FGV Direito SP implemented a student-centered methodology designed to foster problem-solving abilities and to lead students to think critically about Law." These innovations in engaged and full-time teaching and globally sophisticated research meant that FGV Direito made no place in its structure for the Brazilian jurist/professors who are at the top of the Brazilian professional hierarchy. This was a bold innovation.

The authors recognize that, like SELA, it is easy to criticize this institution as "as an attempt to merely transplant US/European models to a regional context. At worst, it may be perceived as a spearhead to the agenda of North cultural dominance." Some critics on the left, indeed, say that FGV represents

a US-oriented "neoliberal" program designed to train corporate lawyers. The founding dean of FGV Direito São Paulo was Ary Oswaldo Mattos Filho, a supporter of the earlier law and development program of the 1970s, who later created a very successful corporate law firm in São Paulo at a time when there were very few such law firms. The current dean, Oscar Vilhena Vieira, comes from the human rights world, but, as noted earlier, has links to US approaches to scholarship and education through SELA and its networks.

The legal imperialism criticism, however, misses the point of the school. As stated by the authors, "The best path to take seems that of being clear about the choices one is making and explicit about the reasons for making them." They do not dispute that they are facilitating a kind of modernization consistent with the legal revolution of corporate law firms, financialization, and transnational approaches to issues of governance, including human rights. They note, however, that "the workings of international financial markets, organizations and agencies, the problems of refugees, environmental hazards and terrorism, affect the country and pressure its legal and political institutions to respond to them. These problems will not go away simply by being ignored, nor will Brazil's capacity to handle them be improved if no action is taken." The traditional law schools had ignored these issues and global transformations that deeply affect Brazil.

The authors recognize that, at the same time, "in the international arena, these problems have been shaped and dealt with, from a legal viewpoint, by instruments and dynamics mirroring, unsurprisingly, those of the global North powers leading the globalization process. This hegemony is hardly surprising and has been described and discussed at length." Nevertheless, they contend, legal actors "have to be taught the rules currently shaping the game so that they can operate, question and eventually contribute to shape these rules. A refusal to learn or teach the grammar in which global transactions are made denies the country the much-needed skills of being able to question it." The school, in other words, aims, in part, to help Brazilians build legal capacity to participate in shaping the rules of the game, even though the rules structurally reflect hegemonic power (Shaffer 2021).

FGV Direito's powerful challenge to the traditional legal hierarchy and the legal education system that supports it is not naive. It will not topple the Brazilian hierarchy. Yet it does aim to foster deliberation toward change. As the authors write, "even though there are numerous examples of resistance, and criticism against a more problem-oriented, interdisciplinary and globalized approach to law, a new dialogue has begun." FGV Direito, in fact, plays a

significant role in refurbishing and upgrading schools such as the University of São Paulo (USP), the most prestigious law school in Brazil. The students at all the elite law schools, including USP, are well aware of the advantages of study abroad, including especially the United States. Some of these graduates find their way to the FGV faculty, where they maintain their networks with USP's professors and students.

Although it is not the focus of the chapter, the ongoing dialogues point to the truism that legal revolutions not only can be resisted, but also co-opted. Brazil's economic reforms over several decades have been led by economists and mostly resisted by the jurists of the most prestigious law faculties. FGV is helping make law and Brazilian lawyers more relevant to issues around Brazil's participation in the global economy. The result of FGV Direito's leadership affects the teaching and research in USP through interchange and common experiences. Yet it could go the other way as well. FGV Direito could, in theory, seek to increase its local position by moving closer to the traditional law schools, such as by hiring or allowing internal development of prestigious jurist/professors, with perhaps a reduced emphasis on teaching. The dynamics of these struggles will play out over time.

It is interesting in this respect that the first corporate law firms in Brazil were initially outside of and challenging the mainstream of the profession, and they served mainly international clients as well. The pioneering firm of Pinheiro Neto, in particular, in the 1990s rejected allowing professors to join the firm and allowing partners to get involved in politics. The law firms have now made their peace with the jurists, who are now involved in corporate law firms, and who indeed often recruit their own students according to the traditional model. Successful challenges to the traditional elite, whether in Brazil or India, are more likely to update and rebuild the elite than to topple it from positions deeply embedded in political, economic, and social power.

2. Modeling a Nation's First Law School: Bhutan. Chapter 9, by David S. Law, examines the Jigme Singye Wangchuck School of Law (JSW) in Bhutan, which opened in 2017 and became the first law school in that country. The school started with a "clean slate," but it also sought global credibility and the adoption of global best practices. Graduates from the first class, with only twenty-five students, were supposed to become "elite lawyers, judges, and bureaucrats." The law school is also in part a nation-building exercise, as Law notes. It aims to build legal autonomy from India while also contributing to building the global identity of Bhutan as the pioneer of the concept of Gross National Happiness. There is a compulsory course in "Law

and Gross National Happiness," as well as requirements in Buddhist philosophy, environmental law, "Appropriate Dispute Resolution," and "Penal Code & Restorative Justice" (in place of Criminal Law).

JSW offers a five-year undergraduate LLB program. The school is free of any economic fees for the students. The curriculum includes all kinds of global as well as locally oriented classes: "To the extent that there is an international or global version of some subject on the curricular wish list, JSW has been happy to embrace that version. And to the extent that there is not, JSW has been happy to develop unique offerings of its own." The school offers clinics as well. As a result, "pedagogy at JSW is, like Bhutanese law itself, an eclectic mix: it reflects the heterogeneity of the faculty and ranges from lecturing (in philosophy), to almost fully Socratic instruction (in torts), to simulation and experiential learning."

The chapter recognizes that JSW could not really operate on a blank slate: "In the absence of raw materials for constructing a system of law or legal education that could plausibly be described as autochthonous, resistance to foreign models is not an option, and necessity is the mother of imitation. The case of legal education in Bhutan illustrates the extent to which globalization is often not a matter of choice but of necessity." Accordingly, "outsiders have been essential to the creation and design of JSW at every step of the way, from the hiring and training of faculty to the design of the curriculum, to the construction of the campus." Law stresses the challenges of bridging the local and the global: "On the other hand, Bhutanese policy is focused intently on maintaining local control of the development process and bolstering national identity and autonomy. . . . In legal education as in other domains, the challenge for Bhutan is to find ways of obtaining outside help while not only preserving but enhancing local ownership and identity."

While seeking to build autonomy from India, where Bhutanese lawyers had been educated in the past, JSW also decided to embrace the five-year program of India's National Law Schools, which also were subject to transnational curricular influences. This move was almost natural since the National Law Schools were modeled on the US law school. Bhutanese leaders also shared criticisms of traditional Indian law schools that had, in part, inspired the creation of India's National Law Schools:

> [T]he term used to describe traditional Indian pedagogy is "chalk and talk": an instructor stands at a chalkboard and speaks from "dusty yellow notes" that have barely changed in decades. India's elite National Law

> Schools sought to address these ills in the late 1990s with a significantly revamped and interdisciplinary curriculum that expanded the course of study from three to five years, but they are still afflicted by what one graduate described as "low-paid, bad instructors."

As we stressed earlier, this ongoing challenge reflects the dominance of the very conservative senior advocates and judges over India's National Law Schools. In a sense, Bhutan picked up the baton of the modernist challengers to the Indian legal establishment.

The strong US influence, which is consistent with that challenge, came from personal networks, funding, and the serendipity of a relationship with White and Case, a US-based, transnational law firm with which the founders consulted from the start. Relationships to a few US law schools also proved fruitful, such as with Stanford and George Washington. The international hierarchy that the flow of professors and students from the periphery to the core exemplifies (Chapters 14 and 15) was bound to play a role in this and any other efforts to build world-class law schools, just as for Jindal Global Law School and FGV Direito São Paulo. That relationship is reflected in the background of the president of the law school, Her Royal Highness Princess Sonam Dechan Wangchuck, who has an undergraduate degree from Stanford and a Harvard LLM.

This hierarchy also appears in the foreign faculty hired, including a vice dean, Michael Peil, who had been at Washington University School of Law. The goal of encouraging all the Bhutanese faculty at JSW "to obtain LL.M. degrees from various countries in the English-speaking world, mainly the United States and Australia" also illustrates these hierarchies. Nonetheless, as stressed in Chapter 8 regarding FGV, the embrace of a US-inspired legal revolution reflects not just hegemonic relationships but also an opportunity both to better participate in international policy debates and to address domestic challenges. Law concludes that "American influence will remain considerable, albeit unsystematic and uncoordinated."

3. A Transnational Law School in China. Chapter 10, by Philip J. McConnaughay and Colleen B. Toomey, takes up the story of another notable global experiment, this time in Shenzhen, a city in the heart of the Pearl Delta and at the forefront of China's embrace of economic globalization, serving "as a principal gateway for China's 'Belt and Road Initiative.' " The Peking University School of Transnational Law (STL) admitted its first class in 2008. STL was a local initiative that seems to have no relationship

to foreign donors or sponsors. Hai Wen, an economics professor with a US PhD, became Chancellor of Peking University's Shenzhen Graduate Campus, and came up with the idea after observing that a growing number of Chinese students were going abroad to seek JD degrees from US law schools (as Chapter 15 shows). The goal was to establish a law school on Peking University's Shenzhen campus that "would offer an American JD, in English; be competitive academically with the very best U.S. law schools; and charge tuition and fees that would be dramatically lower than those a growing number of Chinese graduate students were paying for U.S.-based legal education." In the words of the founding dean, the aim was for STL graduates to enjoy identical professional opportunities so that they can "walk out and work for Paul Hastings, Akin Gump and other similar firms."

The founders intended not just to have a US-modeled law school. It was to grant JD degrees with full accreditation from the American Bar Association (ABA). They had support for accreditation from many corporate law firm leaders in China and elsewhere, eager to hire lawyers trained for those firms. After securing approval in China, they hired Founding Dean Jeffrey Lehman, formerly dean of the University of Michigan Law School.

The US legal recession helped to kill this prospect, however. As a reminder that globalization is contested at home and abroad, the lawyers within the ABA, especially in a recession dominated by the rhetoric of "too many lawyers," felt that there should be no competition from lawyers produced in China or anywhere else outside the United States. Prior to the bad news in 2012, the STL JD curriculum had gone ahead with a small resident faculty and "visiting scholars recruited from the very best U.S. law schools . . . together with U.S. practitioners who were among the profession's most esteemed, including two former ABA presidents." The former ABA presidents modeled the US "lawyer-statesperson" role identified with corporate lawyers at the top of the US legal profession. The school thus presented the ideal of elite law in the United States, which we also saw in the Ford Foundation's programs (Chapter 2).

The founders aimed to build this model in China. The school's identification with China's leading research university—Bei-da, Peking University—plus the attraction of the JD, attracted students to it. Early enthusiasm was reflected in a commitment by the government of Shenzhen "to fund a new signature building for the law school designed by the leading architectural firm Kohn Pederson Fox of New York."

After the prospect of ABA accreditation evaporated, the leaders of STL refocused on STL's China law Juris Master (JM) curriculum, which had existed only to comply with China's educational regulations. The school did not offer the LLB, which remains the most prestigious law degree in China. The JM degree they were authorized to offer was created in 1998, partly in response to the shift toward JDs in South Korea and Japan. There was optimism at the time that it would be the main vehicle for training practicing lawyers in China (Erie 2009: 67), but the challenge to the LLB degree's status was not successful (*id.*). The school nonetheless has done well, and it has exceled in placing its students in elite law firms, despite its inability to offer the highest prestige degree.

STL decided to retool to offer both the JM and the JD in a four-year program. Their revisions in the curriculum "recognize that China law and civil codes, although based largely on the civil law codes of Germany, in fact reflect a host of customary, communist, Soviet, American and other influences." The niche they sought was combining the civil and common law "in a way that is directly analogous to the juxtaposed legal traditions of Shenzhen and Hong Kong." STL focused research and teaching on the hybrid transnational legal approaches that China might employ for the Belt and Road Initiative (Erie 2021; Shaffer and Gao 2020). It particularly sought scholars who focused on "new and emerging mechanisms of transnational governance, such as the multinational networks of public, private, national and international actors that are producing transnational norms and regulatory structures independently of national government action with respect to such matters of transnational concern as climate change, technology transfer, food safety, energy and natural resource protection." It also seeks scholars who are able to address "the legal systems of major Belt and Road countries" for "transactions and commercial dispute resolution involving non-Western parties." In reflection of the school's name, first-year students take a year-long course in "Transnational Legal Practice," which focuses on legal literacy in English and essentials of Common Law analysis and advocacy.

The ambitions of STL are significant, reflected in its location in what aspires to be "China's Silicon Valley." STL aims to train Chinese students to be participants in the shaping of transnational legal ordering. In this way, it hopes to build from US models while also "challenging as never before prevailing assumptions of a global convergence of law around the Western legal tradition." In this way, it can train lawyers that are responsive to preferences among Asian parties to address "relational" concerns contractually, such

as through a duty of "good faith" and principles of "equity," coupled with "dispute resolution clauses [that] might require more flexible procedures or more elastic notions of impartiality so that mediation and arbitration may be blended more easily with the same decision-maker. And so forth." In this way, STL can train elite lawyers for China's Belt and Road Initiative that "portend significant non-Western influence on the development of commercial and legal practices and principles, both within the region and globally." It thereby will provide legal support for "China's global economic ascension."

STL, as other *avant garde* global schools, promotes an agenda of domestic legal education reform. As the authors note, "legal education in China still is largely theoretical and provided via one-way lecturing to large numbers of students, often hundreds at a time. The study of law is not based on the case method, classes are not interactive, the acquisition of professional skills is not a priority, and the overall academic rigor of most law programs is not high. In a very real way, the reform of STL's China law curriculum is creating a new model of J.M. legal education for China."

STL pursues its ambitions through building from US legal education models that involve "rigorous analytic thinking, the ability to see all sides of an issue, the ability to solve complex problems creatively, and the ability to persuade, both orally and in writing." It does so through use of the "case method" and "interactive classes." STL has responded to the growing role of advanced technologies and financial services in Asia's rise and economic globalization more generally, with an internationalized curriculum that supports related legal services, such as in intellectual property, law and biotechnology, bilingual contracts, cross-cultural dispute resolution, international banking, and other cutting-edge areas. The school also sponsors an entrepreneurship clinic that advises on the legal needs of start-up companies in Shenzhen's "incubator." STL includes a strong comparative element in its preparation of students for such transnational practice.

STL faces some bureaucratic challenges, including the limitation on the number of students and, to a lesser extent, the inability to offer the LLB; but it has found an identity and connection to the Pearl Delta and the Belt and Road Initiative. Professional placement of STL graduates appears to have been highly successful, with close to 100 percent of graduates securing positions by graduation with domestic and international law firms and companies, state-owned enterprises, or government. The destination of students has shifted in interesting ways over the last ten years, reflective of changes

in the market for legal services in China. During STL's early years, well over 50 percent of graduates went to Beijing, and 25 percent or more joined international law firms, often abroad. In recent years, almost as many graduates have joined Shenzhen law firms and companies as have gone to Beijing (about 30 percent of graduates to each location), with graduates overwhelmingly, regardless of destination, joining Chinese law firms and companies over international firms. The shift reflects the fact that Chinese law firms continue to capture an increasing share of both inbound and outbound international legal work involving China and Chinese companies.

The impact of STL on legal education in China is hard to predict. The JM did not gain prestige because of the long history of prizing graduates of the top undergraduate faculties of law, who then go on to get LLMs (Erie 2009). STL is also relatively small, regulated by quota allocated by the Ministry of Education to Chinese universities, with only 79 graduates in 2019, although it may now admit 155 students in each entering class, for a total student population of 620. Nonetheless, the scholarly and teaching focus of STL could, as with FGV Direito, help the country participate more effectively in shaping transnational governance through law. China is much better positioned economically to exercise such influence.

STL, in sum, has elements in common with other globalized law schools, such as the three Hong Kong law faculties, JSW in Bhutan, the Jindal Global Law School, FGV Direito, and a number of Australian law faculties. They compete, for example, for expatriate professors to internationalize their schools. As shown by Roberts in Chapter 14, a core and periphery phenomenon continues to affect their positioning. Nonetheless, with China's rise and its transnational ambitions, STL reflects an attempt at modernization of legal education along a US model while adapting it to a world in which China is rapidly developing and, more recently, becoming more assertive in global governance (Shaffer 2021).

4. The Original "Global Law School": NYU. Chapter 11, by Kevin E. Davis and Xinyi Zhang, moves to the United States and the original US "global law school," New York University School of Law. Their chapter assesses why students from NYU decide to take advantage of NYU semester-long programs, notably in Shanghai, Paris, and Buenos Aires. The authors critique "the derived demand theory," which in this case means that, "if globalization generates demand for multijural lawyers, then prospective students will demand multijural legal training from law schools," such as that available from these study-abroad programs.

It is interesting to compare this global law school with those already discussed. First, it is squarely in the core, habituated to the scholarly and teaching approaches that are now promoted by law schools such as Jindal, FGV Direito, STL, and JSW to challenge traditional approaches and hierarchies outside the United States. Domestically, however, NYU occupies a similar position to many of the law schools that have globalized. As noted for China by Wang, Liu, and Li (2017), the national schools mostly likely to invest in "globalization" are those who see the investment as a way to compete with the most elite schools, which are naturally more complacent. Certainly, we find more complacency in the most elite Brazilian schools, notably University of São Paulo and the schools that traditionally produce the elite of grand advocates in India, such as the Government Law College in Mumbai. It is not a surprise that new schools or schools outside of—but close enough to compete with—the elite schools embedded in political and economic power seek to distinguish themselves with a global brand. NYU fits this profile perfectly, and the global initiative helped push NYU into the top five of US law schools.

Twenty years ago, under the leadership of an entrepreneurial dean, John Sexton, NYU established the Global Law School Program, later renamed the Hauser Global Law School after major donors to the program. The Global Law School Program had a "global faculty" "invited to teach repeatedly at the NYU campus in New York," but not actually on the NYU faculty. Other components included a global scholars' program for recruiting foreign graduate students, and support for curricular innovations and research from a transnational perspective.

Currently, as the authors note, NYU Law is not the only globalized law school in the US, as others followed its lead: "Other top-ranked US law schools . . . expanded their numbers of visiting faculty and many US law schools expanded LLM programs aimed at students from overseas. In addition, there was a broad consensus in the US legal academy around the need to adopt a transnational perspective on curriculum design and academic research." Still, NYU remains the elite law school that is most branded as "global."

Sexton went on to be president of NYU, and he continued to push the theme of globalization as key to the identity of the university: "He almost immediately expanded NYU's network of overseas facilities for hosting New York-based students studying abroad. He also launched an ambitious plan to build two new campuses overseas, one in Abu Dhabi and the other in

Shanghai." Accordingly, if the Global Law School was designed "to bring the world to NYU," new programs in law and elsewhere try to bring NYU to the world. The law school version of this is NYU Law Abroad.

NYU Law Abroad allows NYU Law students—3Ls, 2Ls, and LLMs—to study for a semester in NYU facilities in one of three locations: Buenos Aires, Paris, and Shanghai. A committee of the law school's board of trustees, citing the "increasingly global nature of law practice, in areas ranging from climate change to commerce and war crimes to taxes," and the increasing importance as well of "knowledge of local languages," proposed that NYU Law School "develop . . . a more ambitious, integrated program that combines language training, cultural education, and foreign practice opportunity (through internships and clinics) with formal course study in other countries." The first group of students to go overseas went in the second semester of 2014. Enrollment in the Buenos Aires and Paris programs, but less so the Shanghai program, became consistently at or near their full capacities.

From the domestic viewpoint, NYU is solidifying its leadership in the global law school space. It attracts students and inspires alumni to give and build the brand. Domestically, the stakes of success or failure in accomplishing the program's goals are not that important. Part of the reason is that, as the authors point out, there is no real competitive advantage for students who spend the semester at NYU Law Abroad. The ranking of NYU and student grades are the leading criteria determining who gets the competitive law firm positions. Moreover, the vast majority of the students have jobs before they enter the program. Indeed, NYU Law strongly discourages third-year students without a permanent job offer—needed to build NYU's placement statistics—from leaving New York, recognizing that the experience abroad will not make a difference.

The provocative question raised by the authors is why students go and what they get out of the program. Students reported seeking to work on language skills, and many noted that they picked up some skills and experiences that helped them in their work after graduation. Program alumni also note "personal benefits they gained from the program, such as cultural immersion and making close friends," having fun, and the appeal of the specific sites. Some chose "to study abroad in attempts to diversify their law school experience," to "take more risks" because they already had a job, and "as the 'last chance' they have to be able to live in and travel around a different part of the world *for fun*."

The authors raise the question of how these choices fit into the Bourdieusian concept of "habitus" as applied to the law students. The term refers to internalized orientations or strategies that shape their approach to competing within a particular field, such as law. Anticipating Chapter 15, we can suggest that in many countries, especially China, the internalized habitus orients ambitious and well-connected students toward study abroad, especially in the United States. Whether they study abroad for the prestige and connections, the experience, or the substance of what they learn, one cannot say, but the substance of most one-year LLM programs in the United States is thin. The goal for most students coming to the United States is explicitly instrumental, however (Chapter 15). The habitus that leads US students abroad, however, is more of a mystery.

NYU students are united by the habitus of immersion in a very competitive race almost from birth to get into the top schools, to excel, and to have a choice of the top jobs (which most students agree on) (Markovits 2019). But a group of students seeks this experience abroad for fun and other non-instrumental reasons. The gloss of a foreign experience, in the United States and elsewhere, can be one way the privileged legitimate and maintain their status and deepen their contacts, even if they are doing it for fun. But pretty clearly, for most US law graduates, already with the credentials to be taken seriously in the core, the worth of study abroad is nowhere near as valuable as it is for graduates from the periphery.

5. A Transnational Consortium Led by Georgetown from the US Capital. Chapter 12, by Carrie Menkel-Meadow, has two themes that we highlight. One is to assess the experience of the Center for Transnational Legal Studies (CTSL), which has now been open for twelve years. She helped found the center and has participated greatly in its design and teaching. The second major theme is to draw on her experience teaching, speaking, and evaluating law schools at home and abroad to assess the phenomena of transnationalization and globalization. We shall treat the two themes separately, beginning with CTLS, which was conceived at Georgetown University but involves many law schools from around the globe. It is "a program of legal education for students from over 20 different countries, who study together, where no one is 'home,' in London, and are taught by professors from different institutions, educated in many different legal systems—civil, common, religious (e.g. Shari'a) and hybrid systems of law, on many different subjects."

The founding schools were Georgetown Law School and King's College (United Kingdom), Melbourne (Australia), Frei Universitat (Germany),

ESADE (Spain), Hebrew University (Israel), Fribourg (Switzerland), Universidad di São Paulo (Brazil), University of Torino (Italy), University of Toronto (Canada), and National University of Singapore. Currently, there are twenty schools: the founders minus Universidad di São Paulo, plus four more schools from Europe, three from Latin America, two from Asia, including China and South Korea, and one from New Zealand. The 150 to 175 students spend a semester or full year taught by faculty from participating schools. The students receive a "Certificate in Transnational Legal Studies" and credit for their work in their home institutions.

The curriculum is remarkably transnational and comparative. From the beginning, first year of the program, there has been a required "Global Practice Exercise" to begin the first week and start the students working together. The 2019–2020 curriculum also includes mandatory courses and colloquia on transnational law, and a mix of electives from public and private transnational law. The professors were from the United States, Europe, and National University of Singapore.

The classrooms appear to be very engaged with the innovative programming and pedagogy: "For many students in this course, engagement with issues of the 'law in action' or socio-legal approaches to law, as well as theoretical and philosophy of law questions, were a departure from their more conventional doctrinal courses at home." Menkel-Meadow concludes the analysis as follows:

> The founding of CTLS . . . was an effort to create a totally new institution—a place for transnational, comparative and international legal study, without a "home" institution. Although many institutions came together to found and fund this program, the idea was that teaching, and, eventually administration, would be shared by all the institutions participating to create something different from, and "free-standing" from, more conventional law schools. . . . My anecdotal experience is that those who have studied at CTLS are much more likely to seek legal work in international institutions and transnational practices around the world, but this could clearly be the effect of self-selection into the program in the first place.

The program exemplifies transnationalism, both in its practice and in its aims.

The program is reminiscent of SELA with its facilitation of exchange and debate among scholars and students from many different places. It has the

North-South dimension of SELA as well, but probably for financial reasons, the South is not as active in the CTLS as in the SELA network that is largely funded and administered by Yale. Georgetown also is notable for not making this a strictly Georgetown program, branded like the NYU Global Law School, but instead has fostered a transnational collaboration among law schools. Finally, and we will return to this subject below, this program's embrace of the transnational is remarkable.

One sees Menkel-Meadow in the program. She characterizes herself in this chapter as an "optimistic transnationalist," drawing on Thomas Friedman's observation in *From Beirut to Jerusalem* (1989) that he learned at Oxford that people from different parts of the world could learn from and change opinions through constructive engagement among people with very different backgrounds and ideologies. She embraces legal pluralism and transnational law in a legal world that is "more varied, horizontal and complex with both overlapping and also potentially conflicting rulings. There is no Supreme Court of the World to smooth out conflicting interpretations." Those who gain the tools of a transnational legal education are ready for the key positions in the global economy. Indeed, "graduates of cosmopolitan transnational legal programs may have more commonalities with each other in their elite statuses than they may have with their own countrymen," but at the same time there may be ways to open access to this kind of elite education.

A key point for Menkel-Menkel is that "law and legal rules are chosen not given (except in some colonial and religious based legal systems)," which makes the "study of different choices made in different legal systems" important. "At both theoretical and practical levels, truly transnational legal education raises questions about legal hegemony, diffusion, and transplantation of legal ideas, practices and power." But there also is an "increasing influence of non-American sources and interpretations of law. True transnational legal education should induce a form of humility about any one way of 'solving' legal problems and an openness to other legal configurations and interpretations."

Therefore, she emphasizes that, in the program, "[w]e no longer totally accept the 'rightness' of 'laid down' civil codes or legal institutions of the past, or the 'superiority' of particular groups over others (at least in theory, if not in world-wide practice!)." We "aspire" to "learn from everyone—social pluralism produces legal pluralism." She understands that this aspiration faces structural challenges: "As we know from past encounters with 'law

and . . . . . (development, colonialism and intellectual imperialism)', ambitious and perhaps hegemonic projects (e.g. democracy building and good governance, not to mention economic development and promotion of particular legal or economic systems) will be subject to economic and political factors beyond our control as educators and scholars." Recognizing such political and economic factors, however, does not preclude optimism:

> [W]hat I am still certain of, in the current era, troubling though it is for the flourishing of transnational cooperation, is that innovation and influence in law, in education, in culture and yes, even in politics, travels in multiple directions now. The diversity and growth in transnational legal programs now on offer are promoting a "globalization of legal education" that in my view . . . is, in fact, a qualitative good.

This chapter is not necessarily inconsistent with chapters on FGV Direito, Africa, SELA, and Bhutan, which are the most self-conscious about how power differentials, hierarchies, hegemonic relationships, and empires play a major role in what defines a globalized law school and its teaching of transnational law. These chapters reveal tilts to the North even where all are open and where many approaches appear to be on the table. The efforts of the Ford Foundation to build modern law schools, now evolved into global law schools, and to strengthen transnational law and legal institutions, is a recognition, on the other side, that cosmopolitan and progressive interests in the United States—as well as US economic interests—thrive in a world where law, courts, legal NGOs, and corporate law firms also thrive.

Transnational optimists, such as Menkel-Meadow, are cognizant of this political economy, but that is not inconsistent with working to make transnational rules better and more open to non-US or generally non-Northern participation. As she writes, "True transnational and comparative legal education allows professors to challenge the received wisdom of their own legal educations, often formed within single legal systems, establishing a sort of intellectual hegemony in their minds and legal education practices, and when well-practiced allows both students and professors from different legal environments to learn from each other." The last section of the book now turns to the political economy of core and periphery, North-South, and the role it plays in legal education in today's world.

C. Transnational Flows of Students, Faculty, and Judges in the Constitution of Legal Fields

1. The Educational Backgrounds of Judges on International Courts. Chapter 13, by Mikael Rask Madsen, asks "Who Rules the World? The Educational Capital of the International Judiciary." Madsen takes up the question of where the more than three hundred judges in international courts (ICs), which have proliferated in recent decades with the rise of international law and processes of transnational legal ordering (Shaffer and Coye 2020), received their legal education. The study, he notes, cannot examine in depth how international courts are embedded in "transnational power elites," and vice versa, which would show more precisely how these courts relate to global hierarchies, core and periphery relationships, and national powers. As Madsen states, "it is not the institutions as such, in this case ICs, that are seen as governing the world but the transnational power elites constituting and instituting them."

Nevertheless, it is helpful to understand this power elite in international and transnational courts through their educational credentials. What kinds of credentials are valued stems in part from a path dependency built by the North and stemming from the Permanent Court of International Justice in the post–World War I period. The kinds of capital valued at that time left a mark that set a pattern—a strong valuation of academic capital, for example.

A key question for Madsen "is the relative internationalization of the international judiciary in terms of education." He asks: "are international judges national legal champs promoted to international tasks? Or, alternatively, are they internationally trained and thereby part of a more cosmopolitan segment of the legal profession?" After conducting "a comparative analysis of the judges at nine international courts based in Africa, Europe, Latin America, and the Caribbean," he finds that these judges are not "denationalized" cosmopolitans as often depicted by critics. Citing an in-depth study of the European Court of Human Rights, he notes that the judges were "very often powerful domestic actors who had been promoted to international posts due to important national careers and who maintained deep connections to their home states. In other words, although they were international when sitting at the ECtHR, they were in practice first and foremost prestigious senior lawyers in their domestic fields." The combination of national and international experience and links is one way that more powerful countries can influence the construction of transnational legal norms. The judges themselves

serve as intermediaries between the international and the national in the construction and the conveyance of transnational norms. From the perspective of transnational legal ordering, as Madsen notes, judicial appointment strategies appear to tacitly aim to ensure "that knowledge and know-how of national legal systems are both available and likely to influence the outlook of the system at large."

Madsen notes that there are increases over time in study abroad among the international court judges, with the greatest numbers in non-European international courts such as in Africa and the Caribbean, suggesting that those in more peripheral countries have a greater need to gain internationally prestigious degrees to advance nationally to the courts. He also asks which universities claim the most international judges. The hierarchy is instructive: Cambridge (38), University of London (33), Harvard (25), the University of Paris (24), Oxford (19), Columbia (14), Yale (11), Madrid (10), Bonn (10), and NYU (10) are the leaders. Examining more closely, Madsen also notes the importance of the National Autonomous University of Mexico (UNAM) and Moscow State University. UNAM occupies a recognized place in the training of a number of Latin American judges, while Moscow has trained "East European judges particularly from neighboring countries of the former Soviet Union." He shows that another circle worth noting is in Kampala, Uganda, "where a number of African judges have received training." We also see the role of such regional and global markets—different manifestations of cores and peripheries—in the next chapter by Anthea Roberts. But Madsen's main point is that those markets operate mainly to build, and to build from, national careers.

Madsen summarizes by noting that, in fact, international courts are not occupied by a transnational elite with particular cosmopolitan legal credentials. Rather, the "international sphere of law to a large extent is a continuation of domestic forms of reproducing elites. The different patterns observed in this study between, for example, Europe and Africa are in fact not differing from the regional models of producing elites. While European elites typically pursue elite education in their top national universities, African elites are more likely to go abroad."

2. Academic Flows and the Creation of Transnational Legal Fields. Anthea Roberts, in Chapter 14, takes a different topic but applies a complementary analysis in "Cross-border Student Flows and the Construction of International Law as a Transnational Legal Field." Her initial question is parallel to Madsen's: What kinds of national and transnational educational

trajectories make national careers in international law, and how do the national trajectories translate into positions of influence within the field of international law? She thus looks at another (and no doubt overlapping) branch of the "invisible college" associated with international and transnational law. One question is, how unified is this group? Roberts responds, "it might be better to understand the transnational field of international law as comprising a 'divisible college' of international lawyers marked by patterns of difference and dominance."

Her approach is not to focus only on international law, however. She examines the flow of people—professors and students—to suggest the role of educational flows in the construction and evolution of transnational and international fields generally. There is a strong core and periphery in the flow of both students and professors. She notes that "these transnational flows reflect and reinforce certain nationalizing, denationalizing, and westernizing influences that characterize the field of international law." These flows facilitate processes of transnational legal ordering that have a particular structural tilt.

> When students only study law in their own state, they are more likely to develop a nationalized approach to international law, though this depends in part on the state in which they study. When they cross borders to study international law, this has a denationalizing effect as they are exposed to another national approach to international law and a different community of international law professors and students. However, because students typically move toward core, Western states, transnational legal education often introduces or reconfirms a western orientation. As many of these students return home to practice or teach after their studies, these movements create pathways for ideas, approaches and materials to move from core states to periphery and semi-periphery ones.

The take-away is pretty straightforward:

> These educational patterns reflect and reinforce some of the hierarchies and inequalities that characterize the international legal field more generally, including the disproportionate power of legal elites in core states to define the "international" in their own image and to transpose their national ideas, materials, and approaches onto the international plane. These patterns of difference and dominance are central to understanding the

construction of international law as a transnational legal field and are at odds with the self-image of universality that the field likes to project.

Law students flow to the core, represented especially by the United States, the United Kingdom, and France. There are also regional flows, as Madsen noted as well, in this case best exemplified by Australia and South Africa. The flow is also affected by the history of colonialism and imperial competition that continues. China, to date, sends many law students to the United States, the United Kingdom, and Japan. Relatively few students from those countries go to China. However, "Chinese law schools are beginning to offer LLM programs in English designed to attract students from around the world. The Chinese government is offering tens of thousands of scholarships to Chinese universities to foreign students, scholars, and diplomats, including a significant number to individuals coming from Africa." There is a competition to gain influence. China seeks "to build up its soft power by sensitizing foreign students to Chinese views, customs, and preferences, and to cultivate professional and personal networks that will carry on into the future." It remains to be seen whether China's rise will provide Chinese views a greater foothold in other countries (Ginsburg 2020), especially those along the Belt and Road Initiative (Shaffer and Gao 2020).

The flow of students reflects "multiple core/periphery relationships in legal education based on language and legal families." Roberts suggests that the first two waves of globalization of legal thought "occurred first through colonization and then through legal educational routes following ex-colonial pathways." The flows from ex-colonies to France and the United Kingdom illustrate the continuing importance of language and prior colonial relationships. The third wave, however, is a "broad movement toward core, English-speaking states, most notably the United States and the United Kingdom, in view of the general importance of these states as educational destinations, the emergence of English as the educational and business global lingua franca, and the dominance of US and UK firms in the market of 'global' law firms." The current globalization of law schools also reflects this third wave. The hierarchy that pulls students to the centers of the corporate law world, such as the United States and the United Kingdom, also catalyzes educational reforms in national law schools that emulate the practices of law schools at those centers.

The recent role of the United States reflects a change in what is perceived as the core of legal education. Roberts notes that, "in the nineteenth and early

twentieth centuries, universities in civil law states played a far more prominent role in Western legal education and thought." US international lawyers gained credibility and legitimacy within the United States, for example, by study in Europe. This core has shifted in response to changing hierarchies in the law and legal education, reflecting global hierarchies that shift but remain contested. These hierarchies ultimately impact what constitutes international and transnational law, and thus the makeup and stability of transnational legal orders.

As Roberts shows, students and legal ideas flow in opposite directions as part of transnational processes, helping to shape transnational legal ordering. As regards scholars and their ideas, "the asymmetric nature of these student flows means that legal academics at elite schools in core states are prone to be highly influential in constituting the transnational field of international law; . . . international law academics and practitioners often complete part of their legal education at a handful of elite law schools in a small number of core states." More generally,

> legal ideas and materials typically move in the opposite direction to transnational student flows. . . . Students moved primarily within legal families and from peripheral and semiperipheral states (former colonies) to core states (former colonial masters). By contrast, legal sources moved in the opposite direction. The textbooks of core states contained few references to legal materials from other legal systems. The textbooks of peripheral and semiperipheral countries contained numerous references to foreign case law, which came predominantly from core countries and especially from those within the same legal family tree. . . . In this way, the national approaches of some states are able to assert disproportionate influence in defining the "international."

The United States, as the most prestigious destination for legal education, has fewer numbers of international law academics but an outsize influence.

With respect to professors, there is variation in the degree of internationalization of countries' law faculties. As regards the United States, it is noteworthy that over two-thirds of international law academics have no diversity in their educational background, and those that do generally received their first degree abroad, "often before completing a second or third law degree in the United States or elsewhere." In other words, "almost all of the diversity of

education in the US law academy comes from inbound rather than outbound diversity, which reflects the United States' status as a core state."

A minority of faculty with international backgrounds brings some different perspectives to the elite US law schools, but the larger point is that they are hired according to the criteria of excellence within the elite US academy. Similarly, for transnational networks such as SELA, the diversity comes with a confirmation of the "legal language" of what constitutes outstanding scholarship. Roberts notes provocatively that "[i]t may well be that the more 'international' a field becomes, the more it dollarizes on particular currency, reflecting and reinforcing certain hierarchical relationships that inhibit hetereogenity."

There are clear implications for the study of transnational legal orders generally. Roberts writes, "these patterns of diversity and difference, and hierarchy and heterogeneity, also create a template for understanding the construction of transnational legal orders." New perspectives are absorbed, as the optimistic legal transnationalists note, but the field has a tilt that remains constitutive. This tilt is not the result of a conspiracy. It just means that international hierarchies are built into global governance, including through formal international law and deeper processes of transnational legal ordering.

3. The Magnet of US Law Schools. Chapter 15, by Carole Silver and Swethaa S. Ballakrishnen, entitled "International Law Student Mobility in Context: Understanding Variations in Sticky Floors, Springboards, Stairways, and Slow Escalators," looks closely at the students who come to the United States for law degrees. The number has increased dramatically in recent decades for several reasons. One is the core and periphery phenomenon noted by Roberts in the previous chapter. But another is the strictly domestic desire among core country law schools to gain revenues from international students to compete in law school rankings. As a result, "today nearly 80% of all law schools [in the United States] offer at least one post-JD degree program for international law graduates, reflecting an approximate doubling of the law schools offering such a program over the last ten years." The number of students in such programs more than doubled from 2004 to 2016, reaching almost 10,000 students. In addition, an increasing number of international students enroll in JD programs. Indeed, "the percentage of international students in mainstream JD programs not only has increased substantially in the last decade but also has surpassed other domestic minority

groups in certain instances, and this is particularly the case in law schools ranked at the top of the U.S. News rankings."

The authors point to some key factors on the demand side. In many ways, as Roberts also notes, one might have expected colonial patterns to continue, with a rough divide defined by "civil law" and "common law." Certainly, until the 1980s, Brazilian or Argentine lawyers, as two examples, would have deemed an LLM from the United States largely worthless in the context of their domestic legal practices. What changed? As the authors write, "the rise of the United States as an important site for educating international lawyers occurred roughly in tandem with the ascendance of U.S. law firms in the global market for legal services and during a period when U.S. higher education also increasingly was valorized." Further, "[a]s legal practice became more remunerative and prestigious around the world, international lawyers and law graduates could throw off the pretense of scholarship and justify pursuit of a graduate degree on other grounds."

The authors examine the motives for coming to the United States from the late 1990s to the early 2000s on the basis of surveys. In contrast to the students at NYU going abroad largely for reasons such as the attractiveness of the destination and the opportunity to have fun, most of the non-US LLM students were very instrumental. Now, "students talk about the LLM as advancing their career opportunities, helping them strengthen their English language skills, and in gaining the cultural exposure that comes with living outside of their home countries—all motivations for pursuing an LLM that were expressed by the LLMs who graduated between 1996 and 2000." But "LLMs today also increasingly describe the degree as a means to another end—whether the bar, a U.S.-based practice experience or both—that *itself* is necessary in order for the LLM credential to serve as a mark of distinction in the student's home country." We can understand this change as reflecting an increase in competition that requires even better and more prestigious US credentials.

The increased number of non-US nationals in JD programs reflects this increased competition. The authors find, "overall, as a percentage of all JDs in all ABA-approved law schools, non-resident aliens increased from 1.78% of the JD student body in 2011 to 3.32% in 2017." Significantly, "there were more non-resident aliens than Black students at half of the Top-20 law schools in 2017, up from only 10% in 2011." These trends implicate access to corporate law jobs in the United States, since these foreign students may qualify for and take advantage of law firm diversity programs. They typically come from

relatively more privileged backgrounds than many diverse students from the United States.

The authors focus their chapter on the Asian component of the LLM and JD programs: "The biggest Asian sending countries for legal studies, according to these data, were China, South Korea and Japan, which together account for over one-third of the total number of visa approvals for international students to study law in both degree levels, combined." From the perspective of the Asian students that the authors interviewed, reasons for the JD included "the dilution of the LLM as a credential" and the need to take the bar examination in the United States. Some start with the LLM and decide to convert it to a JD, as many schools permit, and others enroll in JD programs after obtaining a first degree in the United States.

There are many reasons to seek LLMs and JDs in the United States. The pull of the core lures many students to make the trip. But the authors note that the advanced degree does not reward all equally. They posit that there are "four kinds of metaphorical pathways: *sticky floors, springboards, stairways,* and *slow escalators*." These categories suggest that the value of LLMs and JDs depends on many factors. Students are not always rewarded, and the rewards vary enormously depending on individual and social context. In general, however, "getting an LLM is a passport of sorts. But with the globalized demands of legal services markets, . . . returning LLMs gain advantages in their home countries both because of the practical advantages the LLM offers (training in international law, exposure to new networks, etc.) as well as its signaling 'halo' advantages, which come from being associated with an international law school from a high status country." In addition, returnees may gain other advantages, "such as using the LLM to create contacts and networks with a global legal community and even locally, and drawing language and cultural capital from this association." The increasing number of students getting a JD, they note, may disrupt the market for LLMs who return home, since the JD is treated very differently.

This globalization of the JD means that non-US JDs also could disrupt domestic JD markets. One phenomenon that is reportedly prevalent in Australia, for example, is that Chinese or Australian-born Chinese law graduates are favored by Australian law firms focused on the China trade, which is Australia's most important trading partner. The rise of China has an impact on the value of Chinese linguistic and cultural capital in corporate law firms (and many other businesses), reflecting China's rise and its potential indirect impact on transnational legal ordering processes. In the process,

these students can "become conduits for the flow of transnational legal norms and legal practices, such as drafting particular kinds of documents," as for China's Belt and Road Initiative.

V. Final Remarks

The study of the globalization of legal education is typically understood in terms of how law schools improve and adapt traditional, locally focused curricula to the "demands" of globalization. The critical perspective of these chapters shows that a closer look at transnational processes reveals a much more complex, evolving picture. Global and local hierarchies, global and local contests for power and influence, the rise of corporate law firms, inequalities of access to rewarding and prestigious careers associated with globalization, and a range of evolving core-periphery relationships complicate the task of understanding this dimension of legal globalization and how it leads—or not—to a kind of transnational order in legal education.

Returning to the themes we introduced previously in Section III, all the chapters reflect the relevance of long colonial and imperial histories, as well as the rise of US hegemony that reached its zenith in the 1990s and early 2000s. That hegemonic power supported a greater role for law in governance through processes of transnational legal ordering, affecting the rules of the game internationally and domestically. US actors, such as the Ford Foundation, recognized the consistency of such transnational legal ordering with US interests, which could be advanced through relatively open trade, investment, and democratic legal orders that respected international human rights. US hegemonic power was both recognized and reflected in the self-conscious programs of legal reformers around the world, such as those active in SELA, FGV São Paulo, and Jindal Global Law School.

Second, what fuels many of the reforms is the rise of the corporate law firms engaged in transnational transactions. These law firms reflect a broader financial and neoliberal revolution in business, and they work alongside investment banks, private equity, hedge funds, accounting firms, and graduates of MBA programs that have proliferated, in parallel, outside the United States and globalized. Aspiring elite students seek admission to the leading law schools, which, in practice, offer the best access to transnational corporate law firms. These law school degrees, blazed on curriculum vitae, serve as professional entry points locally and transnationally. The cutting-edge

programmatic features that circulate among ambitious law schools play into corporate law firm demands for pragmatic "problem-solving" and "interdisciplinary" skills.

Third, local contexts continue to entangle with, and thus remain central to, these globalization processes, just as in the past. Varying degrees of resistance and adaptation affecting the shape of reforms are detailed in the book's chapters, such as on India (where we see ongoing conservatism in the elite bench and bar), China (where the JM program did not dislodge the LLB and liberal activism fell flat when the regime clamped down on dissent), and elsewhere in Asia (where the ideal of enlightened policy promotion through law schools encountered frequent political pushback). Similarly, the chapters on SELA and FGV São Paulo show the need to take account of local hierarchies and traditionally embedded approaches to law in assessing educational reform endeavors.

Fourth, there remains a structural tilt favoring (relative) cores over (relative) peripheries, which technological changes facilitate. Information and communication technologies have sped up the flows of ideas and scholarly approaches, including through the ability to rank legal education practices in ways consistent with dominant approaches in the core. Some law schools outside of the core may obtain relatively high rankings, but the rankings overall serve to legitimate and spread the basic traits of the top schools in the core. Indeed, in today's world, one could not credibly advance a global rankings system that did not deploy criteria that placed Harvard and Oxford at or near the top.

Fifth, one can remain a "transnational optimist" despite these structural tilts. That optimism reflects a pragmatic approach to transnational legal ordering. On the one hand, transnational processes can be useful for local actors who are contesting local hierarchies and prevailing conservative practices, as captured in many of this book's chapters. On the other hand, local actors aim to enhance their voices in global debates. The authors of the chapter on FGV are most explicit in stressing this latter point, as they seek to find a way to play within rules that come from the North and especially the United States. Legal actors, they contend, "have to be taught the rules currently shaping the game so that they can operate, question and eventually contribute to shape these rules. A refusal to learn or teach the grammar in which global transactions are made denies the country the much-needed skills of being able to question it." The websites of many schools talk about faculty contributions to global debates, while not contesting the global

structures. Some contend that China could do so, given its increasing economic clout (Ginsburg 2020). So far, however, China has mostly worked within the current rules and structures to advance Chinese interests for its own ends, as have Brazil and India (Shaffer 2021). Optimism for most countries outside of the core, nonetheless, generally means obtaining a voice and seeking some modifications and applications that take their interests into account. In the process, they can make the rules appear more legitimate and inclusive, while reflecting the same or a similar structural tilt.

Finally, we discussed the way that globalization processes have increased meritocracy while at the same time exacerbating inequality. The trend away from "public" law schools toward private funding of legal education by very wealthy individuals tied to business interests contributes to these developments. Competition over "rankings" drives the need for private funding, which can blur distinctions between "public" and "private" legal education, as tuitions and fees escalate. The rise in prominence of global rankings, in turn, depreciates the value of degrees from most of the South, while appreciating those from Northern centers of power. The costs of travel to such schools, the acquisition of linguistic skills and cultural competence, and inflation in the kinds of degrees needed (such as from the LLM to the JD), create enormous barriers, even though there are some scholarships available. Travel by relatively privileged elites from outside the global centers, in parallel, can change career opportunities in the centers when foreign students obtain key positions in the North in law firms and faculties of law that promote "diversity."

This book melds two theoretical perspectives addressing these processes of transnational ordering. The framework of transnational legal ordering examines how legal education can serve both as a producer of transnational legal norms and as a symptom of broader transnational processes. Transnational legal ordering processes became more prominent with the rise of US hegemony, US emphases on law and rights, US-modeled, transnational corporate practice, norm-driven NGOs, and private philanthropy. Legal education reform, from this vantage, is both vehicle and outcome. The approach of the comparative sociology of the legal profession, complementarily, focuses on enduring national competitions in which transnational processes become entangled with local hierarchies. It stresses, in particular, the historical contexts that produced transnational structures consistent with US-inspired legal educational approaches, as well as their relation to local structures. Both approaches assess how the direct and indirect diffusion of

US approaches affects the role of law and lawyers distinctively in different national contexts. In bringing together these theoretical perspectives, this book assesses both what drives transnational normative "consensus" over what constitutes "good," "modern" legal education, and enduring national competitions within the legal profession that disrupt any such "consensus." These entanglements of transnational and local processes, which occur within transnational and local structures, define the field of legal education globally and locally.

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