

Book Review

Ronald A. Brand and D. Wes Rist, eds., *The Export of Legal Education—Its Promise and Impact in Transition Countries*. Surrey: Ashgate, 2009, pp. 212, \$99.95.

Reviewed by Jon Eddy

[T]he logic of the symbolic worlds of expertise and knowledge does not operate according to the strict dictates of imperial or hegemonic wishes.¹

Both at home and abroad, legal education is in a state of flux.² In the domestic market, considerable attention has been devoted to “transnational,” “international,” and “global” impacts.³ But our understanding of the direct impact that U.S. legal education of foreign nationals has upon foreign legal education and foreign legal and socio-economic systems remains incomplete and disturbingly impressionistic.⁴

Ron Brand directs the Center for International Legal Education (CILE) at the University of Pittsburgh School of Law; he also has long experience in overseas technical legal assistance programs. In this volume he has collected

1. Yves Dezalay & Bryant G. Garth, *The Internationalization of Palace Wars: Lawyers, Economists, and the Contest to Transform Latin American States* 95 (Univ. of Chicago Press 2002) [hereinafter *Palace Wars*].
2. *See, e.g.*, William M. Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond & Lee S. Shulman, *Educating Lawyers: Preparation for the Profession of Law* (Jossey-Bass 2007); *Legal Education in Asia: Globalization, Change and Contexts* (Stacey Steele & Kathryn Taylor eds., Routledge 2010).
3. *See, e.g.*, Duncan Bentley & John Wade, *Special Methods and Tools for Educating the Transnational Lawyer*, 55 *J. Legal Educ.* 479 (2005); Barbara Atwood, Graciela Jasa Silveira, Nicole LaViolette & Tom Oldham, *Crossing Borders in the Classroom: A Comparative Experiment in Family Law*, 55 *J. Legal Educ.* 542 (2005); Rosalie Jukier, *Transnationalizing the Legal Curriculum: How to Teach What We Live*, 56 *J. Legal Educ.* 172 (2006); Sadiq Reza, *Transnational Criminal Law and Procedure: An Introduction*, 56 *J. Legal Ed.* 430 (2006).
4. Earlier evaluations in this area include works by John Henry Merryman and David Trubek, discussed further in the text of this review, the research of Dezalay and Garth detailed in *Palace Wars*, as well as relatively recent work; *see, e.g.*, Carole Silver, *Winners and Losers in the Globalization of Legal Services: Situating the Market for Foreign Lawyers*, *Va. J. Int'l L.* (2005).

Jon Eddy is Professor & Director of the Asian Law Center, University of Washington School of Law.

the reflections of recent graduates of CILE's LL.M. program, anchored by brief introductory chapters by himself and by Wade Channel, senior advisor at USAID, and long active in rule of law projects and programs.

The book is loosely structured, but bound together by three common elements: The contributions are essentially all from recent Pittsburgh LL.M.s;⁵ nearly all the contributors are identified as representative of "transition countries;"⁶ and the bulk of the contributors discuss their application of U.S. expertise, methodologies, or knowledge as legal educators in their home countries.⁷ A few of the chapters fit within one or another of the above threads, but nonetheless appear as outliers.⁸

"Transition country" is a term lacking any tight definition. In the immediate aftermath of the fall of the Berlin Wall and the collapse of the Soviet Union, it served to define countries of Eastern Europe and the former Soviet Union transitioning from centrally planned to market economies. In that case, it usefully tied together countries that had shared prior economic characteristics and, to a greater or lesser degree, shared cultural or political backgrounds. Later in the 1990s, the term was extended to refer to any country undergoing liberalization of its economy.⁹ It is in this broader sense that the term is employed throughout this volume (23).¹⁰ With a third of the contributions

5. Leaving aside Brand and Channel, all the contributors are CILE graduates save one—the exception is a former Fulbright scholar in residence at Pitt.
6. See *infra* note 8; see also Fukuyama, *infra* note 9.
7. Seven of the twelve contributions deal explicitly with exportation of one or more characteristics of American legal education or experience into legal education in the returnee's country. Several contributors comment upon more than one role, e.g., as a faculty member and as a government official.
8. A contribution by an Italian instructor in Roman law is interesting but very marginally related to the book's central thesis; the same might be said of a contribution comparing American and Uzbek ICT legislation. Three further contributions, dealing with Pakistan, Uzbekistan, and the Philippines, I would also class as outliers, linked to the book largely through the Pittsburgh tie alone.
9. Largely in the context of the triumphalist vision that all corners of the planet were now destined to follow an arc to openly democratic market economies; cf. Francis Fukuyama, *The End of History and the Last Man* (Harper Perennial 1993) [hereinafter Fukuyama]. The term has outlived universal adherence to the vision and runs the risk of encouraging reliance on optimism rather than fact.
10. For purposes of this volume the term is meant to include: 1) countries of Eastern Europe and the former Soviet Union that have to varying degrees abandoned Soviet command economies in favor of markets; and 2) countries elsewhere that have similarly loosened regimes of state regulation. There is often an assumed overlap with a process of increasing political democracy.

stemming from the Ukraine and former Yugoslavia,¹¹ the book is flavored by Eastern European experiences.¹² Other contributions stem from Uzbekistan and Pakistan, from Mexico, Brazil and Peru, and from Kenya, the Philippines and Italy.

Brand and his co-editor, D. Wes Rist, an adjunct professor of law at Pitt who also works with CILE programs, have crafted a book that can be read at several levels. Brand, Rist and Channel are all engaged in the business of exporting U.S. expertise, as am I. It serves our interests, and reflects our intuitive views, to press the opinion that “U.S. legal education can have an impact on democracy and rule of law in transition countries” (7). This is a statement that read literally defies falsification, but the book does not merely state this as a testable hypothesis. It purports to offer a proof:

The stories here elaborate upon...anecdotal evidence and...intuitive beliefs. They also confirm the limited empirical research on the effect of foreign education on democracy, supporting the capacity building approach to international education. *These stories demonstrate that U.S. legal education can have an impact on democracy and rule of law in transition countries. In doing so, they demonstrate very clearly the value of the export of U.S. legal education* (7, emphasis added).

I enter upon the scene predisposed to accept this hypothesis. I am an American lawyer, the product of American legal education, and this thesis validates my self-worth. Moreover, as noted, I have spent, on and off, significant portions of my professional life engaged in overseas technical legal assistance, most recently as manager of a U.S. State Department program to provide graduate training to Afghan legal educators. On their surface, the stories offered here do support the value of the export of U.S. legal education, both in capacity building terms, and derivatively as a catalyst for the development of democracy and rule of law. Moreover, the stories are consistent with much of my own anecdotal experience, both as a U.S. educator in LL.M. programs and working abroad as an international “expert” in legal technical assistance.

Yet in the end, what the book tenders are anecdotes. The anecdotes are interesting, sometimes inspiring, and nearly always hopeful. But they remain anecdotes. These are largely stories of personal change and development; they do not necessarily portend broader social change and development, and least of all, social change and development along the same lines as the personal. This is not inconsistent with Dezalay and Garth’s earlier work, and is also not

11. All of which deal with legal education, although other contributions cast a wider net.
12. The strong representation of Eastern Europe and former Soviet territories echoes the emphasis on those countries that occurred in overseas technical legal assistance programs following the end of the Cold War. Unfortunately, that emphasis has contributed to a tendency to assume that “solutions” for Bulgaria are transferable to Yemen; *see infra* note 20. The looseness of thinking about “transition countries” is evident in this volume as well. Alongside the chapters centered on Eastern Europe and the former Soviet Union another group of chapters deals with Mexico, Brazil and Peru. When Pakistan (and Italy!) are also included, it is questionable whether the concept reveals more than it conceals.

inconsistent with the book's thesis, but the stories can hardly be said to prove the thesis, much as I would like it if they did.

For example, we can group the experiences of three of the authors: Jelena Arsic, visiting lecturer, University of Belgrade and Pitt LL.M. 2005; Milena Dordevic, lecturer in International Commercial Law, University of Belgrade and Pitt LL.M. 2002; and Vjosa Osmani, assistant professor of International Law, American University in Kosovo and Pitt LL.M. 2005. Each has provided a fascinating portrait of their experience post-LL.M. returning to teach in their native country. What do these stories reveal to us, and what remains concealed or at least untold?

There is little question that each of these educators highly valued their American experience and altered their approach to pedagogy in their own institution as a result. Several common themes emerge. The Socratic Method makes nearly as large an impression upon foreign-trained LL.M. students as it does on entering 1Ls—it is new, it is distinctly different, and by-and-large (here perhaps in distinction to many 1Ls), it is welcome. While retaining a critical perspective that balances other concerns in their local environment, all three introduce the Socratic Method to some degree upon return home. Casebook teaching materials receive a somewhat more mixed review. Clinical education (broadly defined to include skills training, mooting activities, and more hands-on client activities) also is adopted with enthusiasm.

Finally, each author appreciates that a year of immersion in another system of law and legal education has provided them with a critical comparative perspective that enhances their ability to question practices within their own legal system. While not necessarily seeing superiority in all aspects of the American system (Dordevic's chapter is particularly thoughtful and balanced), they have gained useful contrasts to the usual way of doing things in their native land.

What do these stories not tell us or conceal?

Change has enemies. In another story from Eastern Europe, Daniel Fedorchuk discusses his experiences upon return to Donetsk National University in the Ukraine. He documents the force of custom and tradition. Interestingly, Fedorchuk is listed as "former" senior lecturer at Donetsk, a post he was immediately offered after his return with an LL.M. In footnotes, he indicates that he is presently in private practice; he also indicates that the ranks above senior lecturer (associate professor and professor) are only open to candidates who have defended their dissertation and [obtained] the Candidate in Legal Sciences (C.L.S.) and Doctor of Legal Sciences (D.L.S.) degrees.

What are the reasons and circumstances under which Fedorchuk is no longer at Donetsk? Of course, throughout the world, talented academics desert the academy for more remunerative careers; several contributors to this book

identify that as a challenge faced in their countries. Is that what accounts for Fedorchuk's change of employment? Was his upward path blocked, whatever his merits and whatever his aspirations, by academic regulations that arguably had not moved with the times? Was he forced out by jealous colleagues threatened by his new knowledge and his access to new sources of power? All of these are familiar scenarios in transition countries and elsewhere—all of them bear on the capacity of the export of American legal education to alter conditions in other countries.

This desire for greater context was with me throughout my reading of the book. For instance, in order to qualify for inclusion in the EU-sponsored European Higher Education Area, both Donetsk and Belgrade Universities have been restructuring their programs in line with the 1999 Bologna Declaration and subsequent developments. When one considers both the movement towards, and resistance to, the reform of legal education in Eastern Europe, how does the Bologna Process interact with American legal education exports (and with other American initiatives in the legal field, such as support for "the rule of law")? Each of these initiatives will forcefully challenge powerful interests, but perhaps in different ways.

Donetsk University has established a Center for International and European Law with the assistance of and in cooperation with the University of Pittsburgh, as well as with U.S. Department of State funding. The Central European University in Budapest has also participated in this endeavor. Because law is not neutral, these relationships have political implications. How does the center function within the faculty? Who are its local allies and antagonists, and what interests do those parties represent?

At Belgrade University, Pitt LL.M.s work alongside LL.M.s from Duke, Harvard, Brooklyn, and George Washington. How do these individuals interact? Do they form a bloc within the faculty? Are they arrayed competitively against each other? Do other factors (rank, ethnicity, gender) predominate in faculty politics? Again, these are contextual questions that bear heavily on the ultimate likely effects of American LL.M. exports.

Intuitively, the socio-political dynamic of importing U.S.-minted expertise into Serbia seems likely to differ in important respects from the dynamic of importation into Kenya, even if there are some broadly similar themes. For example, compare the chapter by Maurice Oduor, lecturer at Moi University in Kenya and 2004 Pittsburgh LL.M. Oduor describes an experience markedly similar to that of his Eastern European colleagues. Yet it is unlikely that the same input, in terms of exported U.S. expertise, will produce the same output in Kenya, a common-law system influenced by a period of British colonialism,

as it does in Eastern Europe countries, with remnant power structures from communism and competing intellectual entrepreneurs based in the EU.¹³

These stories reveal how individual actors have been changed by their experiences as well as their efforts to set change in motion upon return to their home countries. What we cannot know, without both considerably more context and also the passage of time, is the outcome. We cannot even be certain of the lasting impact on the structure of legal education in their countries, let alone of the lasting impact on “democracy and the rule of law.” It is possible that these efforts will grow and strengthen, and build capacities and outlooks that lead the nations in question in the direction of the American society and polity. It is also possible that they will provoke reaction and be crushed. And perhaps most likely, they will interact with competitors, both local and foreign, to produce some amalgam that we do not yet foresee. To my knowledge, we do not yet have the Eastern European version of *The Internationalization of the Palace Wars*,¹⁴ but reading this book left me crying out for it.

The lack of both immediate and broader context for this series of positive personal stories contributes to the feeling that we have not yet moved beyond the anecdotal. But there is a rather deeper issue that troubles me here and that is the issue of program evaluation. What are the salient measures of success,

13. The University of Pittsburgh also has a continuing relationship with Moi University in Kenya, but, according to Maurice Odour, the relationship is not balanced: “So far it has been a one-sided affair between Moi University and the University of Pittsburgh. . . . Students from Pittsburgh can add to and enliven the learning environment in Kenya just as Kenyan ones have been said to do in Pittsburgh” (36). In raising these contextual questions, I by no means intend to criticize the development of such continuing relationships. My anecdotal experience with such relationships has been overwhelmingly positive, and I believe that they can actually contribute much more than “one-off” exports. This is particularly the case when such ties are also viewed from an import perspective, as LL.M. programs also should be. The immersion of a greater number of American lawyers-in-training in foreign legal environments might also significantly increase the level of sophistication employed in U.S. technical legal assistance efforts: comparative perspectives can benefit both parties.
14. In *Palace Wars*, Delazay and Garth have analyzed at length the complex process by which Northern expertise is imported to the South, and how the importers use their “internationally legitimated expertise” to exert power in local struggles. It is not necessarily the case that existing power structures are displaced; rather they may “re-legitimate” themselves within the terms and vocabulary of the new knowledge. See *Palace Wars*, *supra* note 1, at 249. *Palace Wars* develops data from four Latin American countries (Mexico, Argentina, Brazil and Chile), and shows how local context shapes the nature and effect of imported expertise. They also focus on two sets of institutions, law firms and courts, and again demonstrate the complex relationship between intention and outcome. Brand and Rist assert an essentially global claim (“transition countries”—but with no clear delimitation, see text accompanying notes 9–10, 26) and assert that the linkage of impact is demonstrated to extend not only to transformation of legal education, but to “democracy and the rule of law.” This is indeed a bold claim.

against what yardstick are they to be taken, and what is the appropriate timeframe for measurement?

The soaring confidence of American legal educators—and American evangelists for the rule of law—is hardly a new phenomenon. In the late 1960s and early 1970s, the so-called Law and Development Movement, well-funded by USAID, the Ford Foundation and others, maintained active programs in Asia, Africa and Latin America aimed at promoting development and social change through legal education and legal reform. David Trubek and Mark Galanter have long been credited with ringing the death knell for these activities with their oft-cited 1973 article in the *Wisconsin Law Review*.¹⁵ The Trubek/Galanter critique was aimed primarily at off-shore activities: endeavors in legal education and legal reform undertaken in the then-denominated Third World. To what extent does their critique translate to LL.M. activities undertaken by bringing students to domestic locations? As Channel points out, and as Brand and Rist clearly desire, there is a linkage between “export” in the form of LL.M. graduates, and activities internal to recipient countries:

For those who work in the field of international legal and regulatory reform, one of the most valuable partners imaginable is the local legal professional who has studied or worked abroad. Such counterparts improve the efficiency and effectiveness of the reform process by infusing it with a greater understanding of the policy implications under consideration and enhancing acceptance of change based on local values and priorities. In short, the cross-cultural legal professional serves as an irreplaceable bridge between what is and what can be. This reality is founded on a greater reality: law is not simply a system of rules and regulations; it is a policy tool for changing or maintaining certain aspects of socio-economic behavior. As such, policies—and the legislative acts that flow from policies—embody the norms and values of the cultures in which they are adopted, and cannot be properly understood outside that context. *Consequently, local legal professionals with cross-cultural understanding and local sensitivities play a crucial role in reforming local policies in accordance with international standards”* (13).

For these reasons LL.M. programs often receive support from various government or quasi-governmental organizations, including often the same national agencies that support direct overseas technical legal assistance.

American support for in-country reform activities and the assertion of the utility and desirability of American LL.M. studies both often proceed from a shared set of assumptions:

1. That law is primarily an instrumental tool of social policy, such that changes in law can reliably bring about intended social results;

15. David Trubek & Marc Galanter, *Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United States*, 1974 *Wis. L. Rev.* 1062 (1974).

2. That America and American lawyers have perfected the use of law as an instrument of social policy to the highest degree in the contemporary world. (More thoughtful practitioners, such as Channel, note their concern for local conditions and culture, which are still largely viewed as inhibitions to be overcome en route to “international standards.”); and

3. That American legal education has in turn developed the analytic and problem-solving skills that have led to this American preeminence.

Brian Tamahana has elsewhere suggested concerns for the first of these propositions,¹⁶ and nearly forty years ago the Trubek/Galanter article provided a searching critique of the latter two propositions. Writing contemporaneously with Trubek and Galanter, the gifted comparativist John Henry Merryman indicted the Law and Development Movement:

[I]n third world law and development programs, the American actor has neither a reliable “feel” for the local situation nor an explicit theory of law and social change on which to base his proposals. His only recourse is to project what is familiar to him onto the foreign context. There his status as “expert,” the implied superiority of foreign “developed” over domestic “underdeveloped” expertise...give the proposals privileged status, an opportunity for lateral entry at the top without the disciplining need to work their way up through the community of scholars or through society either in the U.S. or in the “target” nation....

These characteristics: unfamiliarity with the target culture and society (including its legal system), innocence of theory, artificially privileged access to power, and relative immunity to consequences, have been typical of many law and development proposals and programs for the third world. Put another way, we [Americans] were probably incompetent to propose or execute third world law and development action, we were encouraged by our own self-image, by the foreign assistance psychology and by third world conditions to do so, and we did not suffer the consequences of having done so. I would argue that the Law and Development Movement has been largely misdirected and that the subsidence of interest—within AID, in the foundations and among law and development scholars—is the result of more or less tacit recognition that what was going on was ineffectual as technical assistance and peripheral as scholarship. The mainstream Law and Development Movement, dominated by the American legal style, was bound to fail and has failed.¹⁷

16. Brian Z. Tamanaha, *Law as a Means to an End: Threat to the Rule of Law* (Cambridge Univ. Press 2006).

17. John Henry Merryman, *Comparative Law & Social Change: On the Origins, Style, Decline & Revival of the Law and Development Movement*, 25 *Am. J. Comp. L.* 457, 480-81 (1977).

Merryman's critique is directed at in-country legal reforms undertaken by foreign (in the cases he critiques, American) legal advisors. Yet as the case for utility of American LL.M.s in the development process shares assumptions with the Law and Development Movement, it is fair to ask whether it also shares parallel weaknesses. Is the "native ethnicity" of the LL.M. recipients proof against the charges leveled many years ago at Law and Development and its practitioners?

Neither Brand (and Rist) nor Channel is a simplistic legal imperialist. Each would readily admit the importance of local factors, and indeed both see LL.M. graduates as important facilitators who with their cross-cultural experience are able to "intermediate." Channel identifies as the very first utility of LL.M. graduates their ability to serve as "the first line of defense against the 'hasty transplant syndrome.'" In the same vein, Channel sees the comparative insights gained from LL.M. programs as providing an additional lens for viewing the home legal system, and for separating the utilitarian from the simply existing. Thus, rather than seeing the LL.M. as providing a body of knowledge, both Brand and Channel emphasize the ability of the programs to provide skills and perspective that graduates put to fresh uses in their countries.

I have great sympathy with this view, otherwise I could not spend my time as I do. But it is important not to understate the bias inherent in the skills and perspective themselves. The instrumentalist view of law is hardly the only view on offer; it is diametrically opposed to other views of law abroad, most notably in parts of the Muslim world. Introducing the instrumentalist view may be seen as promoting change in a transitional country; it also can be viewed as importing discord into fragile societies.

This book leaves me conflicted.

We have thus far been exploring the book's central thesis, that the export of U.S. legal education through LL.M. programs promotes development and democracy. The volume brings together a wealth of interesting and suggestive material, and is both novel and helpful in providing a self-evaluation by LL.M. recipients across a broad spectrum of countries and settings. But in the end, it cannot be said that the stated thesis is proved by the material in the book.

However, Brand, in his personal contribution to the volume, also poses a challenge, almost as an aside: Assuming (as he does, and as is also widely assumed in rule of law circles) that the thesis is correct, are U.S. institutions "providing that education in a manner that best serves the process that creates the impact" (11); more broadly, is the best use being made of a powerful resource for social change? In the end, this challenge may both be the more interesting question and the actual aim of the book.

The challenge and the thesis are of course interwoven. To say that something is useful, one needs to know, useful for what? Channel identifies LL.M.s, with their cross-cultural experiences, as able to "intermediate." Intermediate

between what, exactly? His answer: “local reality” and “foreign possibility”—or “what is and what can be” (14). But in the real world, interests don’t come to the table wearing those labels. “Local realities” may be Ministry of Higher Education regulations protecting senior, marginally trained professors, or the strongly-held views of a dominant religious group in the region, or any other imaginable aspect of conditions, interests and values in the home country. “Foreign possibilities” come to the table in the form of “international standards” offered by the GTZ,¹⁸ or as a group of returning ex-patriate investors. Both “local realities” and “foreign possibilities” might promote or might impede change towards some desired end. Most of the questions raised by Trubek and Galanter about the smug assumption that “law is good” are loosely translatable to the assumption that “the export of U.S. LL.M.s to strengthen law is good.” The individual stories collected in this volume give us tantalizing peeks at intermediation, but as noted, leave us with a need for added context.

Brand and Rist’s challenge about “the manner in which the education is being provided” might build naturally upon some of Merryman’s (regrettably) neglected suggestions made many years ago. If LL.M. education is seen as a tool for social change in foreign countries,¹⁹ what are the implications for U.S. LL.M. programs? Merryman decried the lack of a sophisticated comparative understanding on the part of the Law and Development Movement; in the field of technical legal assistance, this has not abated (and in my personal

18. GTZ, the Deutsche Gesellschaft fuer Technische Zusammenarbeit (German Association for Technical Cooperation) is a German government technical assistance organization with a core competence in capacity building which includes support for legal reform initiatives. In the years since Trubek and Galanter’s article, technical assistance providers have of course multiplied hydra-like, but unfortunately many of the authors’ original charges remain cross-culturally, if not universally, applicable.
19. I purposely broaden the term from “transition countries.” As noted earlier, there are a number of things I dislike about that term, notwithstanding its common usage. On the one hand, it suggests that some states are “in transition,” while others are apparently in stasis. Surely this is usually nonsense, at least with regard to some of the countries that are “non-transitional” including those in North America, Western Europe, and Japan. With the possible exception of North Korea, it is hard to identify a country in stasis, and my choice of even that state probably stems from lack of knowledge. Even when “transitional” was used in its original restricted sense (applicable to planned economies transitioning to market economies), it painted with a very broad brush. As it has branched out to also be used for major portions of the formerly-denominated Third World, it has lost further utility. At present, the term seems principally employed to denote those territories that are not materially wealthy as measured against per capita GDP of rich nations, but that on an optimistic basis might someday achieve equivalent levels of wealth under a regime of open markets and pluralistic democracy. It invites disregard to significant differences between countries. However, the broadened use of the term in the development field is also troubling, as it invites applications of “lessons learned” in places like the Balkans, to places where those lessons may have little or no transferability, such as Yemen and Afghanistan.

experience has worsened) since the 1970s.²⁰ If one concentrates on legal education, the picture is not necessarily brighter. Although this book stresses the “comparative lens” acquired by the foreign LL.M. recipient, often this occurs incidentally: Class work focuses on U.S. (or international) material, and the student acquires a comparative view through contrast to prior knowledge. Part of the comparative lens acquired by most foreign LL.M. students is a heavy exposure to the problem-solving, fact-oriented American method. But to the extent that LL.M. programs are seen as a delivery vehicle for capacity in foreign countries (again, far from all LL.M. programs are, or probably should be, directed to this objective), Brand and Rist very accurately suggest that more thought should be given to this function and its implications for curriculum, methodologies, and more.

In the end, I see *The Export of Legal Education* as suggesting several avenues of necessary and potentially quite useful additional research:

- More robust studies building out the stories of LL.M.s after returning to their home institutions would be useful. How does the returned LL.M. fit into, and interact with, colleagues, the home regulatory environment, competing intellectual entrepreneurs, and numerous other factors? The stories in this volume are a step in the right direction, but we need both a broader and a “thicker” description of the role of returned LL.M.s.
- Longitudinal studies of LL.M.s would also be illuminating. If we look out over the horizon of the full professional life of returned LL.M.s, what do we find?²¹
- Who enrolls in U.S. LL.M. programs, who teaches in these programs, and what is being taught and learned? U.S. programs do vary in their content and focus; some are much more overtly directed towards development and rule of law than others. Moreover, approaches to rule of law (its very definition and certainly the means or desirability of its “promotion”) vary considerably.

20. *But see* David M. Trubek & Alvaro Santos, Introduction: The Third Moment in Law and Development Theory and the Emergence of a New Critical Practice, in *The New Law and Economic Development—A Critical Appraisal 1* (Cambridge Univ. Press 2006). I have been rebuked by Scott Newton, one of the contributors to the volume Trubek and Santos edited, for an unduly negative misreading of that volume. Taken at the level of theory, I would accept this. But in practice and implementation, I would not—and one of the sadder stories is the increasing disengagement of serious academic thought (rampantly on display in the Trubek and Santos volume) from actual field practice: That distance was much shorter in the 1970s.

21. In contrast to the “happy stories” of this volume, I could offer my own less optimistic anecdotes: the former colleague (and Yale LL.M.) who became the special prosecutor in the tribunal trying crimes against the people under Mengistu’s brutal Dergue regime in Ethiopia; the former star pupil who served as foreign minister in that same government (he later broke with the regime and fled); and a number of other colleagues, LL.M. returnees and very bright students who died, sometimes at the hands of each other, as Ethiopia achieved “social change” in the 1970s. These instances serve to moderate my usual irrational exuberance for legal education.

- How do ABA standards and the accreditation process currently work to enhance or inhibit what Brand and Rist see as the promise of U.S. legal education?
- What efforts might be made to increase reciprocity in this area? That is to say, what are American academics and American students learning from the presence of foreign LL.M.s in the law school community, and how might those impacts be magnified?²²

Since I share the view of Brand and Rist that U.S. LL.M. education can have positive effects in foreign countries, putting that proposition on a sounder theoretical and empirical footing may improve the actual likelihood of those positive effects.

22. *See* ABA Standard 308. This standard, addressing Degree Programs in Addition to J.D., is wholly negative in its orientation, canvassing the ways in which such programs can detract from J.D. education without suggesting possible benefits to the J.D. community. This is counter to the experience at most schools with robust international programs, to say the least. However, I invite further ABA attention to this issue with some trepidation.