

International Students from the Perspective of U.S. Law Schools

by Kathryn Hendley and Alexander J. Straka

Students who are not based in the United States—referred to here interchangeably as foreign students or international students—are flocking to U.S. educational institutions.¹ Law schools are no exception.² Many U.S. law schools now have programs specifically designed for foreign students.³ The number of such students has increased dramatically, though pinning down the precise number of students is complicated by the lack of consistent record keeping. In 1996, slightly more than 1000 foreign students earned LL.M.s from U.S. law schools. The number of LL.M.s awarded had increased to 2263 by 2005.⁴ The popularity of LL.M. programs continued to grow. Silver and Ballakrishnen report that the “number of students enrolled in post-JD programs more than doubled between 2004 and 2016 to just below 10,000 students.”⁵ As they note, “all indications suggest that the lion’s share of growth . . . is fueled

Kathryn Hendley is the Roman Z. Livshits and Theodore W. Brazeau Professor of Law and Political Science at the University of Wisconsin-Madison. **Alexander J. Straka** is a practicing attorney in Chicago. The authors are grateful to Carole Silver, Olivia Radics, Jack E. Miller, and Jason Smith for assistance at various stages of the preparation of the article.

1. *2019 Fast Facts: International Students in the United States*, OPEN DOORS, <https://opendoorsdata.org/wp-content/uploads/2020/05/Fast-Facts-2019.pdf> (2019) (documenting the growth from almost no international students in the late 1950s to over a million students by 2019).
2. Anthea Roberts, *Cross-Border Student Flows and the Construction of International Law as a Transnational Legal Field*, 3 UC IRVINE J. INT’L, TRANSNAT’L, & COMP. L. 3 (2018); Carole Silver & Swethaa S. Ballakrishnen, *Sticky Floors, Springboards, Stairways & Slow Escalators: Mobility Pathways and Preferences of International Students in U.S. Law Schools*, 3 UC IRVINE J. INT’L, TRANSNAT’L, & COMP. L. 39, 40-42 (2018).
3. *Why Are U.S. LL.M. Programs so Popular?*, THE NAT’L JURIST (Nov. 19, 2014, 10:06 AM), <http://www.nationaljurist.com/national-jurist-magazine/why-are-us-llm-programs-so-popular>; Michael D. Goldhaber, *They Rule the World; One-Year LL. M. Programs at US Law Schools Are on the Rise Again, Attracting Fledgling Power Brokers from Around the World*, 27 AM. LAW. (2005); Carole Silver, *States Side Story: Career Paths of International LL.M. Students, or “I Like to be in America,”* 80 FORDHAM L. REV. 2383 (2012). Foreign students are not only coming to the United States but are seeking out legal training in many settings. *E.g.*, Peter Devonshire, *Law Schools and the Market for International Postgraduate Students*, 25 LEGAL EDUC. REV. 271 (2015).
4. Carole Silver & Mayer Freed, *Translating the U.S. LLM Experience: The Need for a Comprehensive Examination*, 101 NW. U. L. REV. COLLOQUY 23, 23 n.3 (2006).
5. Silver & Ballakrishnen, *Sticky Floors*, *supra* note 2, at 49-50.

by international students.”⁶ For the most part, foreign students spend a year doing coursework in pursuit of an LL.M. degree, though some opt to enter J.D. programs.⁷ Those interested in an academic career can work toward S.J.D. degrees, which typically take more time.⁸ A robust literature has developed that explores the institutional landscape of these programs and the motivations of U.S. law schools in establishing them.⁹ Scholars have also studied the experiences of foreign law students while studying in the United States and their career aspirations through creatively designed surveys and interview-driven research.¹⁰ This literature remains incomplete.¹¹ One of the missing pieces is a systematic study of the origins of foreign law students, where they opt to study, and how

6. *Id.* at 50. Silver and Ballakrishnen rely on data collected by the American Bar Association. The Institute for International Education approaches the question from a different vantage point. They gather data on the influx of foreign students generally. They break them down by broad topics that change over the years, but do not distinguish between undergraduate and graduate foreign students, such as the law students that interest us. The 2019 “fast facts” sheet reports 16,894 foreign students studied “Legal Studies and Law Enforcement,” up from 12,702 in 2012. From 1998 until 2011, the only relevant category was “Social Sciences.” The numbers were, unsurprisingly, much higher, ranging from 41,662 in 1998 to 66,163 in 2011. *Fast Facts 1998-2019*, IIE, <https://www.iie.org/Research-and-Insights/Open-Doors/Fact-Sheets-and-Infographics/Fast-Facts> (last visited June 2, 2020).
7. Some enroll in traditional three-year J.D. programs alongside U.S. students. Swethaa S. Ballakrishnen & Carole Silver, *Language, Culture, and the Culture of Language: International JD Students in U.S. Law Schools*, in POWER, LEGAL EDUCATION, AND LAW SCHOOL CULTURES, (Meera E. Deo et al. eds., 2020); Swethaa S. Ballakrishnen & Carole Silver, *A NEW MINORITY? International JD Students in US Law Schools*, 44 LAW & SOC. INQUIRY 647, 647-78 (2019); Silver & Ballakrishnen, *Sticky Floors*, *supra* note 2, at 39. In recent years, 26 U.S. law schools have introduced two-year J.D. programs for foreign students. They are aimed at those who intend to practice in the U.S. As the assistant dean of international programs at Syracuse University College of Law commented: “The J.D. allows students more time to . . . prepare for a bar exam. . . . The legal job market in the U.S. is . . . more familiar and comfortable with a J.D. when hiring.” Angela Morris, *Two-Year J.D. Programs for Foreign Students are Spiking*, THE INT’L JURIST (Oct.16, 2018, 3:38 PM), <http://www.nationaljurist.com/international-jurist/two-year-jd-programs-foreign-students-are-spiking>.
8. When foreign law students first began enrolling at U.S. law schools, they typically pursued S.J.D.s. Those who lost interest or were seen as ill-suited for academic life were sloughed off with LL.M.s. In an intriguing case of the tail wagging the dog, the terminal LL.M. has now become the more popular degree. Gail J. Hupper, *The Rise of an Academic Doctorate in Law: Origins Through World War II*, 49 AM. J. LEGAL HIST. 1 (2007); Gail J. Hupper, *Education Ambivalence: The Rise of a Foreign-Student Doctorate in Law*, 49 NEW ENG. L. REV. 319, 319-448 (2015); Silver & Ballakrishnen, *Sticky Floors*, *supra* note 2, at 45-6.
9. *E.g.*, George E. Edwards, LL.M. ROADMAP: AN INTERNATIONAL STUDENT’S GUIDE TO U.S. LAW SCHOOL PROGRAMS (2011); Carole Silver, *Internationalizing U.S. Legal Education: A Report on the Education of Transnational Lawyers*, 14 CARDOZO J. INT’L & COMP. L. 143 (2006); Silver & Ballakrishnen, *Sticky Floors*, *supra* note 2, at 42.
10. Mindie Lazarus-Black & Julie Globokar, *Foreign Attorneys in U.S. LL.M. Programs: Who’s In, Who’s Out, and Who They Are*, 22 IND. J. GLOBAL LEGAL STUD. 3 (2015); Silver, *States Sides Story*, *supra* note 3; Carole Silver, *The Variable Value of U.S. Legal Education in the Global Legal Services Market*, 24 GEO. J. LEGAL ETHICS 1 (2011); Silver & Freed, *Translating*, *supra* note 4, at 23.
11. *E.g.*, Carole Silver, *What We Don’t Know Can Hurt Us: The Need for Empirical Research in Regulating Lawyers and Legal Services in the Global Economy*, 43 AKRON L. REV. 1009 (2010).

they support themselves. This article, which is based on a survey of U.S. law schools, begins to fill that gap.

We begin by laying out how we carried out the research. The bulk of the article is devoted to analyzing our the data collected through the survey. The survey reveals that larger and highly ranked law schools are more likely to have programs for foreign law students. Almost all that had such programs offer LL.M. degrees. Far fewer offer S.J.D. degrees. The number of students fluctuates widely, ranging from zero to 350. Students come from all corners of the world. At most schools, no single region dominated, though East Asian countries represent the most common source of foreign students. Relatively few foreign students pay their own way. Only three surveyed law schools told us that all their students pay full tuition. Over 70 percent of law schools that shared funding information reported that their students pay less than half of their tuition, with the rest being made up by grants from their home government, the U.S. government, private sources, and the law schools themselves.

I. Background on the Survey

Before delving further into the results of the survey, a few words of explanation about the survey's organization are in order. It was designed as a much-delayed follow-up to a survey carried out by Professors Jane and Sidney Picker in the late 1990s that was aimed at understanding the extent to which Russian students had become part of the corpus of foreign law students in the United States in the wake of the collapse of the Soviet Union in 1991.¹² As we began to design the survey, we reasoned that if we were going to ask U.S. law schools for information, it made little sense to limit our questions to Russia.¹³ A review of the literature convinced us that the bulk of existing studies focused on the foreign students. Our approach of taking the law schools as the unit of analysis promised to yield new information.

In contrast to the Pickers' concise one-page survey, composed of five open-ended questions focused solely on Russia,¹⁴ our online survey was composed of forty-five wide-ranging questions, many with multiple parts. Of these, thirty-four dealt generally with respondents' programs for foreign students. The remaining questions addressed their experience with Russian students. We estimated that completing the survey would take no more than twenty minutes. We did not include any open-ended questions that would have required respondents to write lengthy answers. Our goal was to have a set of questions that, at most law schools, one person could answer based on personal knowledge gleaned through experience. We reasoned that calling upon multiple staff members would tend to depress our response rate and undermine the reliability of the

12. Jane M. Picker & Sidney Picker, Jr., *Educating Russia's Future Lawyers - Any Role for the United States?* 33 VAND. J. TRANSNAT'L L. 17 (2000).

13. We included a separate module of questions about law schools' experience with students from Russia. This portion of the survey is not being analyzed in this article.

14. Picker & Picker, *supra* note 12, at 77.

answers. We piloted the survey with colleagues at the University of Wisconsin and Indiana University who manage these law schools' programs for foreign students. Their comments allowed us to hone the possible responses to our questions and to discard unlikely answers. They also prompted us to discard our original plan to ask about foreign students pursuing J.D.s. They explained that those in their positions would know little about such students; their focus would typically be solely on foreign students who fall outside the J.D. program.¹⁵ They also cautioned us that some respondents would be unable to answer our questions about the proportion of students from different regions or about their funding without doing extensive research. It was, of course, not our intent to foist more work onto these staff members. As a result, we added language to the instructions clarifying that we were asking for respondents' best guesses. For most questions we also included options that allowed participants to indicate either that they did not know the answer and could not hazard a guess or that the information we were seeking was viewed as proprietary by the law school and so could not be shared with us. As we discuss below, there was considerable disagreement among the respondents about what sort of data are proprietary.

The Pickers mailed their surveys to all U.S. law schools in February 1997.¹⁶ We updated the process by fielding our survey via e-mail in the spring of 2019. We sent it to the 195 accredited U.S. law schools. We studied the law schools' websites to identify the staff member charged with managing foreign students. When this was not apparent from the website, we identified an alternate person, often the dean or an associate or assistant dean who dealt with students. We sent an e-mail to these individuals with an explanation of the survey, emphasizing its research goals. We explained that we were interested not in foreign students who were pursuing J.D.s, but rather students who either were not pursuing specific degrees or were seeking LL.M., S.J.D. or equivalent degrees. This e-mail included a link to the online survey. We sent periodic reminders, encouraging participation. Several schools contacted us with questions of clarification as they worked through the survey, to which we responded. We occasionally reached out to acquaintances who are faculty members at schools that were slow to respond in the hope that they could nudge the appropriate staff member to complete the survey. This worked sometimes, but not always.

Eighty-one law schools completed the survey, representing a response rate of 41.5 percent.¹⁷ These included schools of various size and rank, as reflected by Figures 1 and 2. The identities of the schools and those who responded on their behalf have been anonymized. Those who responded had a range of responsibilities. Almost all of them were active in the admissions process, which included responding to the questions of prospective students. Around two-

15. The survey results confirm their suspicions. While almost all of those who answered our questions had regular contact with LL.M. students, fewer than half interacted with J.D. students.

16. Picker & Picker, *supra* note 12, at 68.

17. Our response rate is remarkably similar to that of the Pickers, who received responses from 44 percent of the 180 U.S. law schools to which they mailed surveys. *Id.*

thirds traveled abroad to recruit students, though this portion was considerably higher for larger and more highly ranked schools. Fewer worked with students after they arrived on campus to advise them on course selection (57 percent), financial aid (52 percent), or housing (47 percent).

Figure 1: Size of law schools, measured in terms of number of students enrolled, that participated in the survey

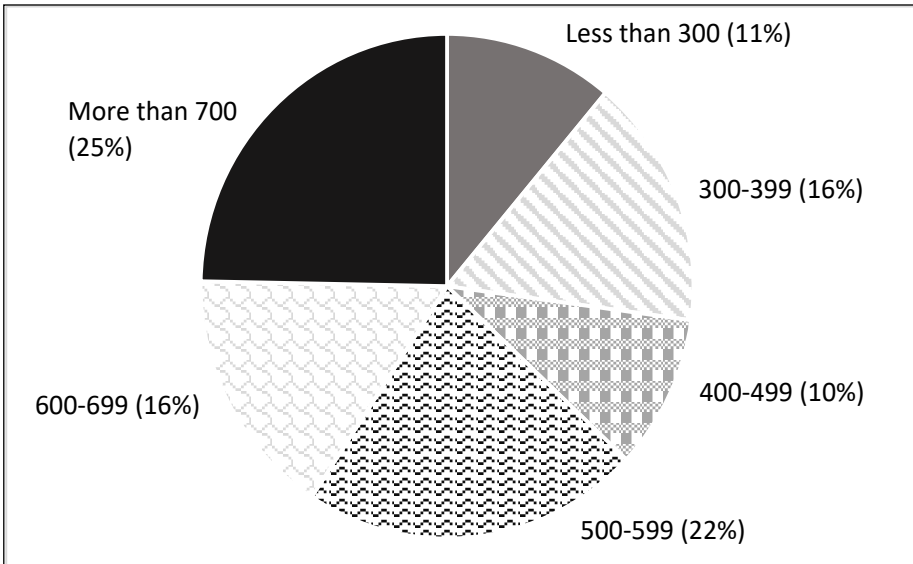
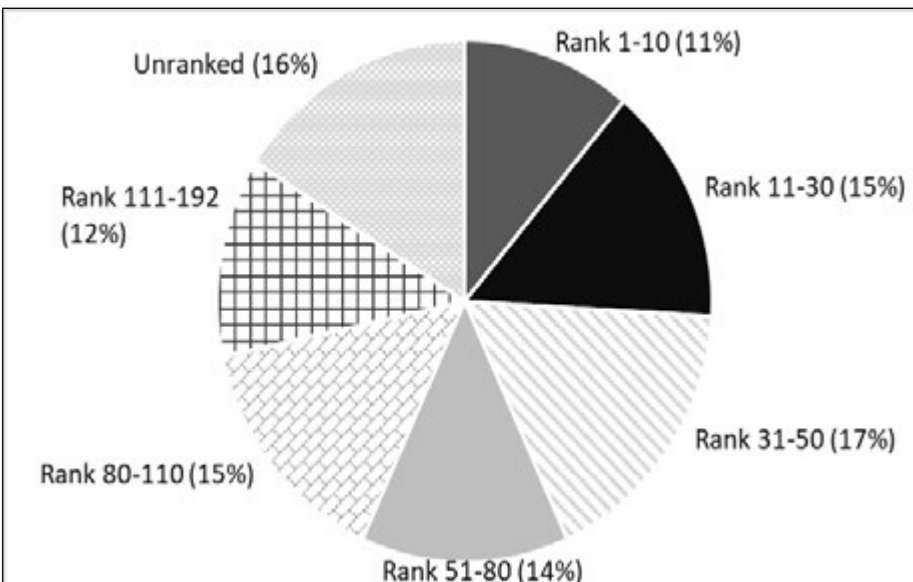


Figure 2: Rank of law schools that participated in the survey



For the most part, the law schools that returned our surveys provided substantive responses to our questions. When they did not, they were more likely to confess that they did not know the answer than to claim that the information was proprietary. We cannot know the reasons for either answer, but a clear pattern emerged as to the first option. As the questions got more specific, the number of “don’t know” responses increased. For example, when we asked if they were aware of any of their foreign students taking a bar exam in the United States, four law schools said they had no knowledge of this. But this number increased to sixteen when we asked the percentage of students who had taken a bar exam. Claims of confidentiality were most often asserted in response to questions about funding. We had feared that schools might entirely opt out of these questions. But there was little consistency. Some schools that declined to tell us the percentage of foreign students who paid tuition were willing to share information about the extent to which these students relied on grants from their home governments or from private sources.¹⁸

II. Law Schools with Programs for Foreign Students

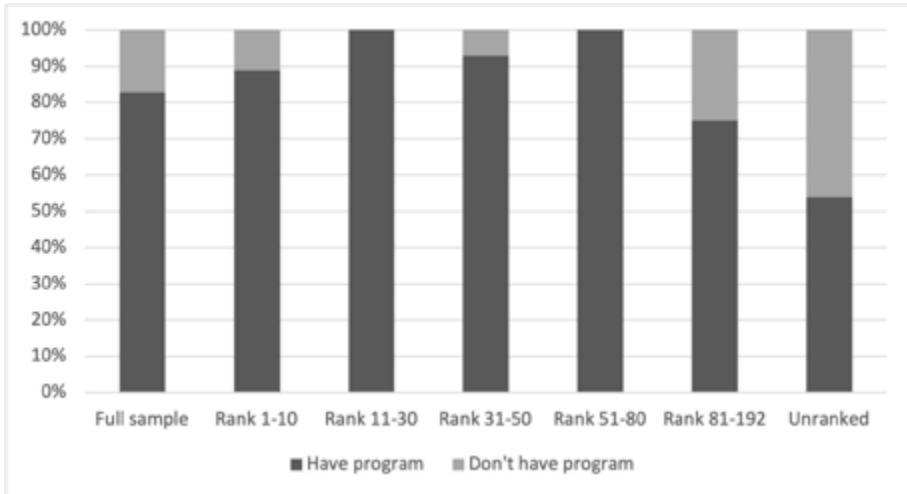
Of the eighty-one law schools that responded to our survey, sixty-seven (83 percent) have programs designed for foreign law students. This speaks to the ubiquity of such programs.¹⁹ As others have argued, providing supplemental training for foreign lawyers has become a profitable venture for law schools, especially as the numbers of young Americans interested in pursuing J.D.s dropped off in the wake of the 2008 financial crisis.²⁰

As Figure 3 suggests, higher-ranked schools are more likely to have such programs, though the relationship is not perfectly linear.²¹ Almost all schools ranked up to eighty are in this group. There are variations among them. Eighty-nine

18. One reviewer of a draft of this article, who has published numerous articles about LL.M. students in the United States, shared their suspicion that claims that information about funding was proprietary were a way to cover up its unavailability. This is, of course, possible, but we were reluctant to recode these responses.
19. Studies based on reviews of law schools’ websites have concluded that LL.M. programs are even more commonplace. Silver & Ballakrishnen, *Sticky Floors*, *supra* note 2, at 142 n.11. We found that some law schools that trumpeted LL.M. programs on their websites told us that, in fact, these programs were more or less defunct. For example, notwithstanding that the website had information about how to earn an LL.M. degree, the dean at Cleveland-Marshall Law School at Cleveland State University, which had been a leader in bringing students from post-Soviet Russia in the 1990s, informed us that it had no foreign students. *LL.M. Program*, CLEV. STATE UNIV., <https://www.law.csuohio.edu/academics/llmprogram>.
20. *Why Are U.S. LL.M. Programs So Popular?*, THE NAT’L JURIST, NOV. 19, 2014, 10:06 AM), <http://www.nationaljurist.com/national-jurist-magazine/why-are-us-llm-programs-so-popular>.
21. Silver found a similarly positive relationship, though her question was slightly different from ours. She counted law schools with LL.M. programs open to foreign law graduates. Of the 102 law schools with such programs, almost half were in the top tier according to *U.S. News & World Report*. Silver, *Internationalizing*, *supra* note 9, at 148. Silver also examined the question from the students’ point of view. She found that rankings affected their choice of program, as did the availability of internships and other opportunities. *Id.* at 159–60.

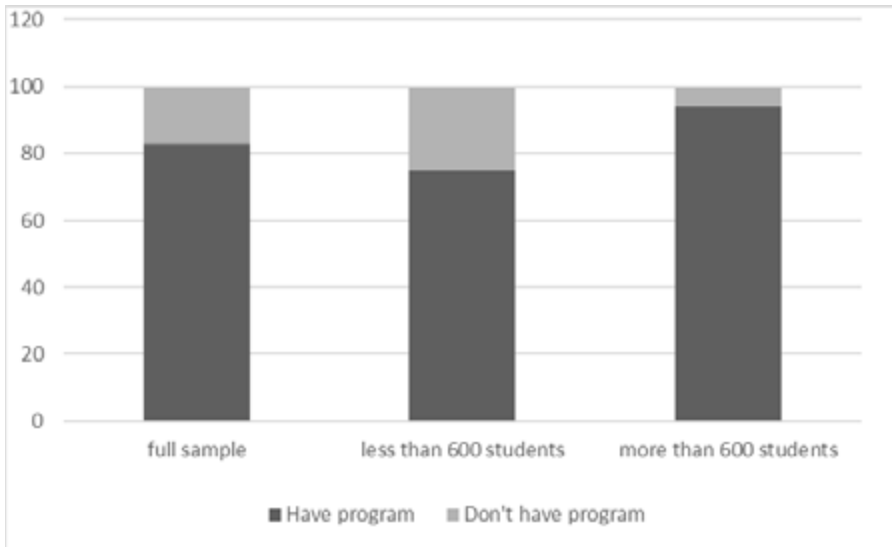
percent of those in the top ten have such programs compared with 100 percent of those ranked 11-30 and 51-80. The drop off is not precipitous. Seventy percent or more of schools ranked 81 to 192 have programs. Unranked law schools, on the other hand, are much less likely to welcome non-J.D. foreign students. Less than 55 percent have programs for them.

Figure 3: Relationship between rank of law school and existence of program for foreign students (chi2=0.018)



The size of the law school is also a robust predictor. The sample divides somewhat evenly into schools with less than 600 students (59 percent) and more than 600 students (41 percent). As Figure 4 documents, larger schools are significantly more likely to have programs for foreign students. Ninety-four percent of them have such programs compared with 75 percent of smaller schools.

Figure 4: Relationship between size of law school and existence of program for foreign students (chi2=0.027)



The relevance of rank and size is hardly surprising. Law schools that are more highly ranked tend to have greater resources, which they use to attract students. Eighty-eight percent of schools ranked in the top thirty sent staff members abroad. Along similar lines, 90 percent of schools with student bodies greater than 600 did so. This is well in excess of the 67 percent of the overall sample that were able to manage this. The combination of outreach and ranking (often the only quasi-objective information foreign students have about U.S. law schools) tends to make these schools more appealing.

Other factors prove less salient.²² The survey participants include a fairly equal number of state and private law schools.²³ Although we had expected programs for foreign law students to be more omnipresent at private schools, given their greater resources, the data tell a different story. Over 88 percent of state schools had programs, compared with 79 percent of private schools. This difference from the overall sample was, however, not statistically significant (chi2=0.29). Our sample includes thirteen law schools located in states that open their bar exams to those with LL.M. degrees.²⁴ We thought these law

22. We also explored whether the law school was located in one of the top five cities for legal practice (New York, Chicago, Washington, DC, Los Angeles, or Boston); whether it was located in an urban or non-urban setting; or whether it was a stand-alone law school or was part of a larger university. We found differences from the overall sample, but these differences were not statistically significant. *Cf.*, Silver, *Internationalizing U.S. Legal Education*, *supra* note 8, at 151-52.

23. State schools made up 44 percent of the sample. Private schools accounted for fifty-six percent.

24. These states are: California, Georgia, New York, Vermont, Washington, and Wisconsin. COMPREHENSIVE GUIDE TO BAR ADMISSION REQUIREMENTS 2020, at 13-17 (2020), <http://www.baradmissionrequirements.com/>

schools might be more appealing to foreign students and that these law schools might have developed programs to meet this demand. To be sure, all but one of these schools had a program for foreign students but, once again, the difference from the full sample was not statistically significant ($\chi^2=0.32$). Undoubtedly, the small number of schools undermines the meaningfulness of the variation.

III. Size of Programs for Foreign Students

We asked respondents to estimate the average annual number of foreign students who were admitted and subsequently enrolled over the previous five years. Most (87 percent) felt comfortable responding. The numbers range from zero to 350, with a mean of fifty-eight and a median of forty-one.²⁵ They are not evenly distributed along this spectrum. Table 1 divides the responsive law schools into quartiles. As it shows, a quarter of these schools had eight or fewer foreign students. Half had forty or fewer. The raw data shows fewer than 15 percent of responsive law schools enrolled a hundred or more foreign students.

Table 1: Average number of foreign students enrolled in a typical year. Survey sample is divided into four quartiles (n=58).

Quartile (percentage of sample)	Range in number of students	Number of schools
1 (24.1%)	0-8	14
2 (25.8%)	9-40	15
3 (25.9%)	41-70	15
4 (24.1%)	71-350	14

Rank and J.D. enrollment emerge as potent predictors of the size of programs for foreign students. As Table 2 shows, law schools ranked in the top thirty typically enroll a hundred or more students. This association is stronger as the number admitted increases. Of the five law schools that had 200 or more students annually, all but one were in the top thirty.²⁶ Law schools that enroll lower numbers of foreign students tend to have less prestigious rankings. Table 3 reveals a similar pattern as to the overall number of students enrolled at these law schools and whether these law schools were public or private. Law schools with more than 600 students are most likely to be in the top two quartiles with

ncbex.org/assets/BarAdmissionGuide/CompGuide2020_021820_Online_Final.pdf; Brittainy Cruz-Ferejan, *5 Easiest States for Foreign-Trained Attorneys To Take the Bar Exam*, THE INT'L JURIST (Feb. 13, 2018, 12:44 PM), <http://www.nationaljurist.com/international-jurist/5-easiest-states-foreign-trained-attorneys-take-bar-exam>. Other states may allow LL.M. students to take the bar exam, but the states already mentioned are the most open to the possibility.

25. Interestingly, the mean number of students has changed little since 2003. Silver surveyed 35 law schools, which had, on average, 54 foreign students. Silver, *Internationalizing*, *supra* note 9, at 150.
26. The exception, a law school that claimed to enroll 300 foreign students each year, was ranked in the range of 31 to 50.

more than forty-one students. Those with fewer than 600 students tend to be in the bottom two quartiles with forty or fewer students. This makes sense, as law schools that already have a large enrollment are better able to absorb additional students. They also tend to have broad curricular offerings that appeal to foreign students. Along similar lines, private law schools tend to be more aggressive in their enrollments of foreign students. Over half fall into the top two quartiles, while over 60 percent of state schools languish in the bottom two quartiles. This makes sense. Logic dictates that less impressive rankings would tend to depress demand among potential students. Alternatively, some law schools may make affirmative choices to limit the number of foreign students admitted on the grounds that they lack the capacity to satisfy hundreds of students. Our survey does not allow us to hazard a guess as to which explanation is more compelling.

Table 2: Relationship between law schools' ranking and the average number of foreign students who enroll in a typical year (n=67).

Law school rank (self-reported)	As percentage of all law schools with programs for foreign students	Average number of students
I-10	12	100
11-30	18	107
31-50	19	61
51-80	16	52
81-110	13	21
111-192	10	12
Unranked	10	19

Table 3: Relationship between the average number of foreign students who enroll in a typical year and (a) the total number of students enrolled [n=58] and (b) the law schools' funding source [n=55]. Responses reported as percentages.

Average number of foreign students enrolled by quartile (range)	Total number of law students		Funding source of law school	
	Fewer than 600	More than 600	Private	State
1: (0-8)	44.8	3.5	10	40
2: (9-40)	34.5	17.2	30	24
3: (41-70)	13.8	37.9	26.7	28
4: 24.1 (71-350)	6.9	41.4	33.3	8

Chi2=0

Chi2= 0.025

IV. Nature of Programs for Foreign Students

There are four possible paths for foreign law students.²⁷ Their first option is to apply to the traditional J.D. program. Others have studied this subset of the foreign student population.²⁸ As we noted above, we opted not to include them in our study, given that our concern is with programs aimed specifically at foreign students. Instead, our focus is on the other three options: pursuing an LL.M., pursuing an S.J.D., and enrolling as a special student with no terminal degree in mind. These special students may or may not be part of exchange programs. Our data does not allow us to make this distinction. There is considerable overlap between these categories. A student may start as a special student and later decide to apply to the more formal programs. Or a student may continue on for an S.J.D. after earning an LL.M.

Almost all (86 percent) of law schools with programs for foreign students offer LL.M. degrees.²⁹ It is, without question, the degree that is most familiar to foreign students and, consequently, most marketable.³⁰ LL.M. students dominate the population of foreign students at most respondent law schools. Well over half told us that they accounted for 80 percent or more of their foreign students. The nine schools that do not offer LL.M.s are mostly smaller and lower ranked.³¹ These schools also eschew S.J.D. degrees, which makes sense given that these degrees are more taxing on the law schools. They require intensive and original research and close faculty supervision. We had assumed that these schools were

27. Dual and linked-degree programs, discussed by Devonshire represent a fifth option, which we did not pursue. Devonshire, *supra* note 3, at 277–78.
28. See Silver & Ballakrishnen, *Sticky Floors*, *supra* note 2; Ballakrishnen & Silver, *supra* note 7.
29. The names given to one-year degrees for foreign students can vary. For example, the University of Wisconsin-Madison has an LL.M.-LI degree (Master of Laws—Legal Institutions). *LL.M.-Legal Institutions*, UNIV. WISCONSIN-MADISON, <https://law.wisc.edu/grad/prospective/llm-li/index.html> (last visited June 17, 2020). Our survey asked about programs in which foreign students earned an LL.M. or equivalent degree. LL.M. programs are not the exclusive province of foreign students, though they tend to dominate. Devonshire, *supra* note 3, at 272. Some U.S. law schools offer specialized advanced training aimed at J.D. graduates. For example, Tax LL.M. programs have grown popular. Steven Chung, *How to Choose Where to Get Your Tax LL.M. Degree*, ABOVE THE LAW (Jan. 23, 2019, 11:18 AM), <https://abovethelaw.com/2019/01/how-to-choose-where-to-get-your-tax-ll-m-degree/>; Paul Caron, *2020 U.S. News Tax Rankings*, TAXPROF BLOG (Mar. 13, 2019), https://taxprof.typepad.com/taxprof_blog/2019/03/2020-us-news-tax-rankings.html (last visited June 1, 2020); Silver, *Internationalizing*, *supra* note 9, at 161.
30. The required courses vary. As one commentator noted, “[T]he only feature common to all U.S. LL.M. programs is the consistent requirement of one academic year in residence at a law school.” Julie M. Spanbauer, *Lost in Translation in the Law School Classroom: Assessing Required Coursework in LL.M. Programs for International Students*, 35 INT’L J. LEGAL INFO. 396, 409–10 (2007). Our survey did not delve into curricular requirements.
31. Two-thirds of these law schools have fewer than 600 students. Over three-fourths are ranked outside the top thirty law schools.

admitting foreign students on an *ad hoc* basis, and so expected that they would report having special students. Yet these schools were united in claiming that they had no special students.³²

About half (51 percent) of law schools with programs for foreign students reported having students who were working towards S.J.D.s.³³ These students tend to be concentrated at larger and more highly ranked schools. Over 70 percent of schools with more than 600 students had S.J.D. candidates. The same trend is evident in schools ranked in the top thirty. The differences from the overall sample are statistically significant.³⁴ Students pursuing S.J.D.s are fewer. For the 60 percent of respondent law schools that award S.J.D.s, such students represent 10 percent or fewer of their foreign students. This is not surprising. In contrast to LL.M.s, which typically require a predetermined number of course credits, an S.J.D. is akin to a Ph.D. It requires students to formulate a compelling research question and carry out the necessary research. Given that many foreign students struggle with English, completing a book-length project is not feasible for many. The length of time required for completion varies considerably.

Special students were even rarer among respondents' populations of foreign students. Although a majority (58.5 percent) of schools reported having enrolled such students, two-thirds of this group told us that special students accounted for fewer than 10 percent of all their foreign students.

V. Prerequisites for Enrollment of Foreign Students³⁵

Strong English-language skills are essential to succeed in U.S. law schools.³⁶ Thus, it follows that applicants are generally required to submit their scores on a standardized test. Only one of the surveyed schools does not require this.³⁷ The

32. This finding may be the result of respondents' misunderstanding what we meant by special students. We tried to create an open-ended definition by describing them as students who are enrolled but who are not pursuing any degree. We specifically included exchange students in this category. It is possible that some respondents were confused by our use of the phrase special student.
33. For a thorough analysis of the evolution of S.J.D.s in the United States, see generally Hupper, *Education Ambivalence*, *supra* note 8; see also Gail Hupper, *The Academic Doctorate in Law: A Vehicle for Legal Transplants?* 58 J. LEGAL EDUC. 413 (2008); Hupper, *The Rise of an Academic Doctorate*, *supra* note 8.
34. In cross-tabulations for size and rank, the chi2 scores were 0.002 and 0.039, respectively.
35. Our choice to survey law schools necessarily gives short shrift to the applicants' experiences in navigating the admissions process as well as obtaining a visa. For a thorough analysis, see Lazarus-Black & Globokar, *supra* note 10, at 17-41.
36. Spanbauer notes that U.S. law schools have been slow to appreciate how the writing skills of those who learned English as a second language may be different. She argues that "many law schools may simply assume that because these graduate students demonstrate a high level of English-language proficiency on standardized tests, such as TOEFL, they are not in need of training in written and spoken legal English during their time in residence at U.S. law schools." Spanbauer, *supra* note 30, at 414.
37. This is a large (more than 700 students) and unranked law school. In the five years preceding the survey, it admitted an average of three foreign students per year.

TOEFL (Test of English as a Foreign Language) exam is universally accepted. All but a handful also accept the IELTS (International English Language Testing System).

In the United States, it is taken for granted that students must have completed their undergraduate degrees before beginning their study of law. But the United States is an outlier in this regard. In most other countries, legal education is an undergraduate enterprise. This raises the question of whether U.S. law schools welcome undergraduate students from other countries. To explore this issue, we asked whether it was *possible* for foreign students to enroll at their law school *without* having received an undergraduate degree at a U.S. or foreign institution (emphasis in the original survey). Most (62 percent) said this was not possible. But almost a third were open to the idea.³⁸ Almost all (90 percent) of these schools had enrolled special students in recent years. Unfortunately, our data tell us little about the background of these special students. Some may have been undergraduate exchange students from foreign universities where they were majoring in law. Law schools that permitted undergraduate foreign students to enroll were more likely to be ranked outside the top thirty and large, suggesting that they might have to dig deeper into the applicant pool than more highly ranked schools.³⁹ Even so, the number of foreign undergraduates who succeed in matriculating at U.S. law schools is small. Of the law schools who said doing so was possible, all but one said that 90 percent or more of their foreign students had university degrees in hand upon arrival.

VI. Geographic Origins of Foreign Law Students

One of our goals in fielding the survey was to gain a better understanding of foreign law students' geographic origins. This information has long proved elusive to researchers. The Institute for International Education compiles an annual report about the influx of foreign students (and the outflow of U.S. students in study-abroad programs), but this report does not distinguish between law students and others.⁴⁰ According to its data, 16,894 students came from elsewhere to pursue "Legal Studies and Law Enforcement" in 2019. This might seem like a large number, but it represents only 1.5 percent of all foreign students in the United States⁴¹ Moreover, it almost certainly includes both undergraduates who are taking courses dealing with law in law schools or, more likely, in various social science departments. Silver and Ballakrishnen took a

38. The remaining 6 percent of schools said that they did not know and could not guess.

39. The fact that these more open-minded law schools tend to admit large classes of foreign students buttresses this. Seventy percent of this group regularly have entering classes of forty or more.

40. *2019 Fast Facts, Open Doors*, IIE, <https://www.iie.org/Research-and-Insights/Open-Doors/Fact-Sheets-and-Infographics/Fast-Facts> (last visited June 1, 2020).

41. *Id.*

different tack by studying visa information. They concluded that “[i]n the field of law ... Asia accounted for 50.5% of all students in the combined master’s and doctorate level degree programs.”⁴²

Our survey took a two-step approach. We first asked respondents whether they had enrolled students from various regions at any time over the five academic years preceding the survey. We then asked them to estimate the percentage of students from each of these regions in a typical year. Table 4 reports these results. Regardless of the metric, East Asia emerges as the most common source of foreign law students.⁴³ Over 80 percent of law schools with programs aimed at foreign students had students from this region. These students did not represent a drop in the bucket. Almost two-thirds of schools who had East Asian students reported that they accounted for more than 20 percent of their total population of foreign students. Their raw numbers range from one to 158, far eclipsing all other regional sources. The dominance of East Asia is hardly surprising. On its own, China accounted for a third of all foreign students in the United States in 2019.⁴⁴ When the other countries typically included in East Asia—South Korea, Japan, Taiwan—are added into the mix, the total exceeds 42 percent.⁴⁵

Table 4: Information about the geographic origins of foreign students in law schools.

	Percentage of law schools who enrolled students from these regions in the past 5 years (n=67)	Percentage of law schools where students from this region exceed one-fifth of all foreign students*	Range in number of students enrolled in a typical year from the region
East Asia	82	64	1-158
Europe	82	34	1-63
Africa	76	17	0-30
South America	75	6	0-105
Middle East	75	26	0-24

42. Silver and Ballakrishnen, *Sticky Floors*, *supra* note 2, at 53.

43. Beginning in the 1990s, the popularity of legal education exploded in China, as did the value of U.S. LL.M. degrees. Zhizhou Wang et al., *Internationalizing Chinese Legal Education in the Early Twenty-First Century*, 66 J. LEGAL EDUC. 237, 237 (2017).

44. 2019 *Fast Facts, Open Doors*, IIE, <https://www.iie.org/Research-and-Insights/Open-Doors/Fact-Sheets-and-Infographics/Fast-Facts> (last visited June 1, 2020).

45. *Id.*

Southeast Asia	63	10	0-15
Latin America and South Asia	60	8	1-28
Canada	49	12	0-15
Russia	43	4	0-5
Countries of the former Soviet Union (other than Russia)	42	8	0-5
Australia or New Zealand	37	0	0-12

*The number of law schools who provided this information ranged from 17 to 36.

The parallel to the overall distribution of students does not extend beyond East Asia. The other regions that are popular as sources of foreign law students—Europe, Africa, South and Latin America, and the Middle East—are not significant feeders for the international student population more generally. Yet three-fourths or more of the respondent law schools report having enrolled students from these regions in the past five years. To be sure, their numbers are substantially less than for East Asia but, at the high end, range from twenty-four to 105. As to Europe and the Middle East, 34 percent and 26 percent, respectively, of responding law schools told us that students from these regions exceeded one-fifth of all their foreign students, indicating that they constituted a significant presence.

There are some surprises in the data. South Asia, which is the home base for around 20 percent of all foreign students, does not emerge from our data as a meaningful source of foreign law students. Over 60 percent of our respondents reported having such students, but their numbers were smaller. Likewise Southeast Asia, which once sent many students to U.S. law schools, has faded in importance. Canada, Australia, and New Zealand, whose students' native English would seem to give them an advantage, emerge as afterthoughts. Perhaps these students have opted for the J.D. track, thereby increasing their chances of securing jobs in the United States after graduation.

The unimportance of Russia and the other countries of the former Soviet Union (FSU) as sources of foreign law students is not unexpected. The legal profession was not prestigious under communism.⁴⁶ The status of lawyers has

46. Mishina argues that the very phrase "prestige of the legal profession in Russia" has a "wry or mendacious tone." E.A. Mishina, *Mnogolikiye Rossijskie Iuristy*, in *KAKOGO ETO—BYT' IURISTOM?* 6-23 (E.A. Mishina ed. 2010). Like most European countries, the Soviet Union (and present-day Russia) had a fractured legal profession. Most commentators saw prosecutors (*prokurory*) as enjoying the greatest status. *E.g.*, ROBERT RAND, *COMRADE LAWYER: INSIDE SOVIET JUSTICE IN AN ERA OF REFORM* 3 (1991).

improved in the post-Soviet era,⁴⁷ but there is no tradition of seeking external credentials.⁴⁸ Table 4 confirms this insight. Fewer than 45 percent of responding law schools reported having students from the FSU. Schools that enrolled them did so in small numbers. In no school were there more than five students from either Russia or the other countries of the FSU.

Understanding what sorts of schools tend to have more or fewer students from particular regions is trickier. We focused on the three regions with the greatest variation, namely East Asia, Europe and Latin or South America.⁴⁹ We divided each into quartiles. Upon doing so, what immediately becomes apparent is that, despite the wide variation in numbers of students reflected in Table 4, low enrollments are the rule. Half of the schools that shared this information had no more than six students from any of these regions. Pushing further, several patterns emerged. As would be expected, size matters. Larger schools can more easily accommodate larger influxes of foreign students. All of the law schools that were in the quartile with the most students enrolled from Europe and Latin or South America had student bodies in excess of 600.⁵⁰ As to East Asian students, 75 percent of schools in the top quartile fell into this group. At the other end of the spectrum, smaller schools consistently enrolled fewer students.

Ranking also proved to be a strong predictor. For Europe and East Asia, law schools that were in the bottom two quartiles, which meant that they enrolled fewer than five or six students, respectively, from each region, were uniformly ranked outside the top thirty.⁵¹ For Latin and South America, 69 percent schools in these lower quartiles were also lower ranked. By contrast, all of the schools in the top quartile for this region were ranked in the top thirty. For East Asia and Europe, half of the schools that were in the top quartile for enrolling students from these regions were in the top thirty.

47. V. VOLKOV, A. DMITRIEVA, M. POZDNIKOV & K. TITAEV, ROSSIISKIE SUD'I: SOTSIOLOGICHESKOE ISSLEDOVANIE PROFESSII (2016). The popularity of studying law increased dramatically in the post-Soviet era. Kathryn Hendley, *Mapping the Career Preferences of Russian Law Graduates*, 25 INT'L J. LEGAL PROF. 261, 261 (2018).
48. Interviews conducted by one of the authors with partners at the Moscow offices of several large multinational law firms indicate that foreign legal education is not expected or required. On the other hand, in a 2014 interview, an American who was a partner at the Moscow office of Cleary Gottlieb Steen & Hamilton LLP revealed that most of the firm's Russian lawyers held LL.M.s from the United States. Ian Piskunov, *Any Lawyer Should Be More Than a Specialist—He Should Strive To Have the Benefits of Being a Generalist*, ZAKON, no. 4, 2014, at 30.
49. Our data is mostly consistent with what Silver and Freed found in their 2006 study. They argued that, while Europeans dominated LL.M. programs in the 1990s, they had been supplanted by students from Latin America and the Asia-Pacific region. Silver & Freed, *Translating*, *supra* note 4, at 24. At our respondent law schools, Europeans have reemerged as a potent force, second only to East Asians.
50. This top quartile for Europe, Latin and South America, and East Asia encompasses schools that enrolled more than nine, ten, or nineteen students, respectively.
51. The percentage of the schools that responded to this question that were ranked in the top was twenty-three.

Other potential explanatory variables were less helpful. Location (urban versus nonurban or in a state where LL.M. graduates can take the bar) was immaterial. But whether the law school was state or private did play a marginal, if inconsistent, role. Schools that admitted comparatively large numbers of students from East Asia and Latin and South America were more likely to be state funded. Sixty-three and 88 percent in this top quartile were state law schools. But the story was different for law schools that had larger-than-typical numbers of students from Europe. Three-quarters of them were private. There would seem to be no rationale for why Europeans prefer private schools and students from East Asia and Latin and South America favor state schools. It is possible that some U.S. law schools have established pipelines to certain foreign law schools, perhaps cemented through exchange programs or aggressive recruiting efforts. The snapshot nature of the survey did not allow us to establish whether these are longstanding patterns or whether they shift over time.

VII. Funding for Foreign Law Students

Before addressing the possible sources available to foreign law students to fund their studies in the United States, a quick look at the extent to which they paid tuition is in order.⁵² We asked law schools what percentage of their foreign students pay full tuition in a typical year. We recoded the results to ease the analysis, dividing the schools into those at which none of their students pay full tuition, up to 49 percent of their students pay full tuition, 50-99 percent of their students pay full tuition, and all of their students pay full tuition. We also noted schools that were nonresponsive, telling us either that they did not know the answer and could not provide an educated guess or that the information was considered proprietary. These results are set forth in Table 5. A plurality of respondent law schools (twenty-eight of sixty-five law schools or 43 percent) fell into that last category, meaning that they declined to provide substantive information. This is disappointing but not entirely surprising. As we noted earlier, as the questions got more detailed, more schools opted out.⁵³ Table 5 reveals that relatively few law schools (less than 5 percent) require that all their foreign students pay full tuition. Yet providing a full ride is not the norm either. Over a quarter of law schools report that, on average, 5 to 49 percent of their foreign students pay full tuition. Around 10 percent of the surveyed schools received full tuition from over half of their foreign students.

52. We use the word “tuition” to cover the costs of attending law school. In the survey, we clarified that these include the actual tuition as well as living expenses and other relevant costs of attendance.

53. Of the twenty-eight schools in this category, twenty (over 70 percent) said that they did not know. Only 8 claimed that the information was proprietary.

Table 5: Extent to which foreign students pay tuition when enrolled at U.S. law schools. Results reported as percentages (n=65).

	No students pay full tuition	Up to 49% of students pay full tuition	50-99% of students pay full tuition	All students pay full tuition	Don't know or information viewed as proprietary
Full sample	13.9	26.1	12.3	4.6	43.1

To analyze what affects the likelihood of paying full tuition, we dropped the nonresponses and focused on the thirty seven law schools that provided substantive answers to the question. At first glance, the results in Table 6 seem incongruous. Over 40 percent of state schools report that none of their foreign students pay full tuition, compared with fewer than around 10 percent of private schools. This is a finding that deserves further investigation. Given that private schools generally have more resources, we had expected just the opposite. Of course, it is important to bear in mind that the cost of tuition at private schools tends to be substantially higher than at state schools, resulting in a higher price tag for a full ride at a private school.⁵⁴ Private schools seem to expect students to contribute. Almost two-thirds told us that their foreign students paid somewhere between 5 and 49 percent of their total tuition bill. None of them required their foreign students to pay the full tab. The story is somewhat similar for large law schools and those ranked in the top thirty—a majority looked to students to pay up to half of their tuition and none required them to pay full tuition. It is the smaller and lower-ranked schools, as well as some state schools, that press their foreign students for full tuition. As Table 6 reveals, around 11 percent of law schools ranked outside the top thirty require their foreign students to pay full freight. The same is true for slightly more than 15 percent of state law schools.

54. According to *U.S. News and World Report*, the average annual cost for attending a private law school was \$49,548, whereas the annual cost for attending a public law school was \$28,264 if in-state and \$41,726 if out-of-state. *Find the Best Law Schools*, U.S. NEWS & WORLD REP. (2023), <https://www.usnews.com/best-graduate-schools/top-law-schools>.

Table 6: Reexamination of extent to which foreign students pay tuition when enrolled at U.S. law schools—leaving out respondents that did not know the answer and could not guess and those who viewed the information as proprietary. Results reported as percentages (n=37).

	No students pay full tuition	Up to 49% of students pay full tuition	50-99% of students pay full tuition	All students pay full tuition
Full sample	24.3	46	21.6	8.11
Size of school: (chi2=0.143)				
Fewer than 600 students	29.4	41.2	11.8	17.6
More than 600 students	20	50	30	0
Rank of school: (chi2=0.069)				
1-30	20	30	50	0
Greater than 31 or unranked	26	51.8	11.1	11.1
Funding: (chi2=0.02)				
Private	10.5	63.2	10.5	0
State	41.2	29.4	29.4	15.8

As these data indicate, most foreign law students do not cover the full cost of their tuition themselves. We identified and queried our respondents about four potential sources of supplemental financial support: the law school itself, the student's home government, private sources, and the U.S. government (see Table 7).⁵⁵ As a general rule, most law schools (94 percent) are open to providing funding for foreign students. The other sources are beyond the control of our respondents and many told us that they lacked sufficient information to respond. About 40 percent were unable to answer as to funding from students' home governments and private sources. Again, it is tempting to interpret this obfuscation as a polite way of responding in the negative, but we cannot be sure. The trends in terms of availability of these funding sources are mirrored, albeit imperfectly, in the extent to which foreign students were actually able to benefit from them. As to the latter, we asked schools to estimate the average percentage of students who received each type of funding. Almost two-thirds of

55. For an overview of possible funding sources, see Desiree Jaeger-Fine, *Possibilities to Finance Your LL.M.*, THE INT'L JURIST (JUNE 11, 2018 1:14 PM), <http://www.nationaljurist.com/international-jurist/possibilities-finance-your-llm>.

foreign students received some sort of financial support from the law schools. The likelihood for students to benefit from the other sources lagged far behind. Around 20 percent of students received funding from their home governments, while slightly less than a third benefitted from grants from private sources and only a handful (5.8 percent) had financial support from the U.S. government.

Table 7: Overview of funding sources for foreign students in U.S. law schools.

Source of funding	Percentage of law schools (n=65)				Among schools where this funding is available, the average percentage of students who receive this funding
	Yes	No	Don't know	Information considered proprietary	
Are foreign students eligible for funding from the law school?	94	1.5	3	1.5	67.7*
Did foreign students receive funding from their home government?	73.9	6.2	16.9	3	20.7**
Did foreign students receive funding from private sources?	58.5	1.5	38.5	1.5	31.35***
Did foreign students receive funding from the U.S. government?	60	0	21.5	18.5	5.8****

*n=33 **n=25 ***n=20 ****n=23

The likelihood of receiving support from their law school is affected by the size of the foreign student cohort. As the size increases, the chance of getting this funding decreases. Returning to our quartiles (see Table 3), 78 percent of foreign students at schools in the first quartile, with 1 to 8 students, receive this funding. The percentage decreases to 71 percent for schools in the second quartile, with nine to forty students, and to 65 percent for schools in the third quartile, with forty-one to seventy students, and to 48 percent for schools in the fourth quartile with more than seventy-one students. The likely explana-

tion is simply that there are more worthy students among whom to spread the available resources.

Knowing that most foreign students receive funding from the law school they are attending is a first step. The next step is to figure out the size of these contributions. To that end, we asked law schools to tell us approximately how much of their students' tuition bill they typically cover. More specifically, we asked them what portion of their students received the following percentage of their tuition bill from the law school: (a) 1-25 percent, (b) 26-50, (c) 51-75 percent, and (d) 76-100 percent. Unsurprisingly, the extent to which schools responded in the positive decreased as their potential financial obligations increased (see Table 8). While two-thirds reported having covered up to 25 percent and over 60 percent said they had covered between 26 and 50 percent, only 41 percent said they had paid between 51 and 75 percent and even fewer, 22 percent, said they had paid between 76 and 100 percent. If we look at how many law schools reported that at least half of their students fell into these categories, then this financial reticence comes into sharper focus. Only one school falls into each of the more magnanimous categories.⁵⁶ By contrast, over 40 percent of law schools told us that 50 percent or more of their students had up to a quarter of their tuition and 25 percent said that up to half of their tuition covered by the law school. When we isolated these law schools, we found that those in the first category were more likely to be smaller schools, with fewer than 600 students, whereas those in the second category were more likely to be larger schools, with student bodies in excess of 600.⁵⁷

56. These two schools are similar in only in that they are both ranked between eighty-one and 110. Otherwise they are quite different. The school that provides the most generous funding—covering 76 to 100 percent of tuition for half of its foreign students—is a public school with fewer than 600 students. As a rule, it enrolls eight or less foreign students each year, meaning that funding half of these students is a less significant commitment than if they had larger cohorts. The school that covers 51 to 75 percent of the costs of half of its foreign students is a private school with more than 600 students. It typically enrolls forty-one to seventy foreign students each year.
57. While 44 percent of the sample told us that they paid up to a quarter of half of their foreign students' tuition bill, this percentage increases to 54 percent for smaller law schools. The results are flipped for the group of law schools that reported paying between 26 and 40 percent of the tuition bill for half of their foreign students. This percentage was 25 for the sample and 32 for larger law schools. Neither the rank of the law schools nor their funding source (public or private), which have elsewhere proven to be potent predictors, were helpful.

Table 8: Information on the funding available from U.S. law schools for their foreign students (n=32).

Percentage of tuition covered by law school	Percentage of law schools that reported providing this level of funding	Mean percentage of students receiving this level of funding	Number (%) of law schools where 50 percent or more students received this level of funding
1-25%	65.6	41.7	14 (44%)
26-50%	62.5	25.9	8 (25%)
51-75%	40.6	8.9	1 (3.1%)
76-100%	21.9	3.1	1 (3.1%)

Parsing the data on the other sources of funding proved more challenging. We were unable to determine whether there was any correlation between students' origins and the type of funding they received. This is a disadvantage of treating the law schools (rather than individual students) as our unit of analysis. As a result, we cannot assess the common wisdom that students from East Asia and Southeast Asia are more likely to be sponsored (in whole or in part) by their home governments.⁵⁸ What is clear is that having a substantial presence of students from a particular region can make a difference. At schools where more than 20 percent of all foreign students came from East Asia, two-thirds of students were funded by their home governments (see Table 9). Given their predominance, it is fair to conclude that this included many East Asians. On the other hand, when we look at law schools where students from Europe or Latin or South America made up 20 percent or more of the foreign student cohort, we find the opposite trend. Only 33 and 43 percent, respectively, of students at these schools were funded by their home governments. Instead, the majority of students who were funded by their home governments went to law schools with a more disparate population. This surely redounds to the disadvantage of students from Europe and Latin and South America.

58. The extent to which individual governments support their citizens studying in U.S. law schools is beyond the scope of this article.

Table 9: Information about distribution of funding at law schools with significant cohorts of students from East Asia, Europe, and Latin America or South America. Results reported as percentages of schools that reported students having received this type of assistance.

Type of funding	East Asia		Europe		Latin America or South America	
	A	B	A	B	A	B
Students' home government*	33	67	67	33	57	43
Private sources**	30	70	79	21	69	31

A: The average percentage of students who receive this funding at law school where less than 20 percent of students come from this region.

B: The average percentage of students who receive this funding at law school where 20 percent or more of students come from this region.

* The n was 32 for East Asia and Europe, and 28 for Latin America or South America.

** The n for East Asia, Europe, and Latin America or South America was 20, 19, and 16, respectively.

The same pattern is present as to funding from private sources. Such sources can be quite varied. They do not entirely overlap with the private-sector opportunities available to U.S. citizens, who often rely on bank loans. For the most part, U.S. banks do not provide loans to foreign students unless there is a reputable U.S. citizen who will cosign on their behalf. Students from some regions, notably East Asia, can often rely on their employers to subsidize them. Such support typically comes with strings; employers require students to return and work for a specified period.⁵⁹ In other regions, employers are less willing to help their employees further their education. Instead, foreign students have to look to multinational foundations and other nongovernmental organizations for assistance. These include Rotary Clubs, which regularly offer scholarships to graduate students, as well as international foundations, such as Ford or MacArthur, that occasionally run competitions from which foreign law students can benefit. They also include a plethora of wealthy individuals and/or less well-known foundations that may operate on a regional basis. Accessing this sort of funding typically requires tremendous initiative on the part of students and/or experienced advisors. The latter may explain why it seems that East Asian students are better at attracting this sort of funding. As Table 9 shows, at schools where East Asians constitute a substantial presence, 70 percent of foreign students receive funding from private sources. At schools where students from Europe or Latin or South America are similarly represented, the likelihood of obtaining grants from private sources is much less. Only 21 and 31 percent, respectively, of foreign students were successful in this regard.

59. Silver & Freed, *Translating*, *supra* note 4, at 22-23.

The availability of U.S. government funding for foreign law students has waxed and waned over the years. Global and domestic politics gave rise to periodic opportunities aimed at particular regions. For example, in the wake of the fall of the Berlin Wall and the disintegration of the Soviet Union, the U.S. government created programs designed to bring law graduates from the relevant countries to the United States for training in how law functions in market settings. As the Pickers documented, 158 Russian law students participated in these programs between 1992 and 2000.⁶⁰ As these Cold War-inspired opportunities were cycled out of use, they were eventually replaced by programs aimed at scholars from Afghanistan, Egypt, and Pakistan, none of which are aimed specifically at law students. These programs act to supplement the basic funnel for all foreign students interested in studying in the United States, namely the Fulbright Program, which has existed since 1946.⁶¹ In 2017, 4,337 foreign students studied in the United States as Fulbright Scholars. The bulk of the funding to support these scholars comes from the U.S. government, though some foreign governments and foreign private sources top off the basic grants.⁶²

Unfortunately, the publicly available data do not sort Fulbright participants by their specialties, rendering our effort to determine the number who study at U.S. law schools futile. One of us has served on the committee that selects Russians to come to the United States for the past decade and can report that only a handful of applications from law students are received in any given year. For the 2020-2021 academic year, forty-four of 500 applications received were law-related. Not all sought to participate in LL.M. programs; some applied to do independent research. Though hosting Fulbright scholars is generally considered an honor, it can also be a burden. Host institutions are expected to help these visitors with logistics and not all law schools are equipped to handle this. Our data support this sense that the number of Fulbright scholars at U.S. law schools is minimal. While 60 percent of our respondents had foreign students supported by grants from the U.S. government at some point over the past five years, the number of such students was small. On average, fewer than

60. Picker & Picker, *supra* note 12, at 67. They had difficulty getting law schools to reveal how Russian students supported themselves. They noted that “[t]he sources of aid awarded, when specifically mentioned, pointed overwhelmingly to U.S. Government grant programs.” *Id.* at 68.
61. *Fulbright Top Producing Institutions*, FULBRIGHT PROGRAM, <https://topproducing.fulbrightonline.org/> (last visited June 9, 2020). For information about the years when various countries began to participate, see *2020 Annual Report. J. William Fulbright Foreign Scholarship Board* 10-11 (2020), <https://app.box.com/s/kbiigub7g3pimqyleqjavfgysifchjkt>. The number of Fulbrighters brought to the United States has remained fairly constant. In the 2007-08 academic year, they numbered 4,289. *J. William Fulbright Foreign Scholarship Board, Annual Report 2007-2008*, at 68, BUREAU EDUC. & CULTURAL AFFS. (2008), <https://eca.state.gov/files/bureau/fsb-07-08-report.pdf>.
62. The available data is aggregate, making it impossible to segregate the amounts allocated to foreign scholars brought to the U.S. from the amounts allocated to U.S. scholars sent abroad. Sixty-three percent of the total cost is born by the U.S. government, compared to only 20 percent covered by foreign governments. *2020 Annual Report. J. William Fulbright Foreign Scholarship Board* 35 (2017), https://eca.state.gov/files/bureau/fulbrightar_2020_web.pdf.

6 percent of foreign students benefit from U.S. government funding. Unsurprisingly, the percentage tends to increase as the number of foreign students enrolled decreases. The school that reported having the highest percentage of students enjoying support from the U.S. government, namely 20 percent, reported enrolling five foreign students. This equates to one Fulbright scholar. By contrast, 63 percent of schools that reported that no more than 5 percent of their foreign student cohort received U.S. government funding enrolled 41 or more such students annually.

VIII. Propensity of Foreign Students Taking Bar Exams

Some foreign law students are interested in becoming licensed to practice law in the United States.⁶³ This, of course, requires them to take a bar exam. Only a few states—California, Georgia, New York, Vermont, Washington, and Wisconsin—routinely allow LL.M. graduates to do so.⁶⁴ Recognizing foreign students' desire in this regard, some law schools include detailed instructions about how to register (and the common pitfalls) on their websites.⁶⁵ Passing a bar exam does not necessarily evidence a desire to practice in that jurisdiction.⁶⁶ Interview-based research with foreign law students consistently reveals that obtaining a job with a U.S.-based law firm as an LL.M. graduate is an uphill battle.⁶⁷ Having the dual credential—both the LL.M. degree and bar passage—can

63. In 2019, 12 percent of those who took bar exams in the U.S. (constituting 8,165 individuals) graduated from foreign law schools. Only a third of them passed the exam. 2019 Statistics Snapshot, THE BAR EXAMINER (2019), <https://thebarexaminer.org/2019-statistics/2019-statistics-snapshot/>.
64. Cruz-Ferejan, *supra* note 24; BAR ADMISSION REQUIREMENTS, *supra* note 24, at 13–17. LL.M. graduates may be eligible to sit for bar exams in other jurisdictions if they satisfy certain curricular prerequisites.
65. *E.g.*, *A U.S. Bar Examination*, UNIV. CHICAGO L. SCH., <https://www.law.uchicago.edu/llm/bar> (last visited June 11, 2020); *Bar Exam Information for LL.M. Students*, VANDERBILT L. SCH., <https://law.vanderbilt.edu/prospective-students/llm-program/-ny-bar.php>; *Bar Examination for Foreign Trained Lawyers*, ANTONIN SCALIA L. SCH., GEORGE MASON UNIV., https://www.law.gmu.edu/admissions/llm/bar_foreign_trained (last visited June 11, 2020).
66. We did not query law schools about the employment track records for their foreign students. Though the ABA requires law schools to report such information about its J.D. graduates, there is no analogous requirement reasoning for foreign students. Surveys of LL.M. students, conducted between 1996 and 2002 reveal that 29 percent pursued an LL.M. as a path to a job in the United States. The more common motivation, shared by 82 percent of those questioned, was the expansion of professional opportunities in their home countries. Silver & Ballakrishnen, *Sticky Floors*, *supra* note 2, at 48. In their interview-based study, Lazarus-Black & Globokar found a wide range of rationales for enrolling in LL.M. programs. Lazarus-Black & Globokar, *supra* note 10, at 45–50. For insight into why some LL.M. graduates are interested in finding jobs in the U.S., see Silver, *States Side Story*, *supra* note 2.
67. Silver & Ballakrishnen, *Sticky Floors*, *supra* note 2, at 47–49. Desiree Jaeger-Fine, *Why U.S. Law Firms Are Hesitant to Hire Foreign LL.M. Grads*, THE INT'L JURIST (Aug. 9, 2018, 3:20 PM), <http://www.nationaljurist.com/international-jurist/why-us-law-firms-are-hesitant-hire-foreign-llm-grads>. Silver and Ballakrishnen argue that the lack of interest of U.S. law firms in LL.M. graduates has played a role in the dramatic increase in the number of foreign students pursuing J.D.'s, especially at top-ranked law schools. Silver & Ballakrishnen, *Language, Culture, and the Culture of Language*, *supra* note 7, at 4.

be of value in non-U.S. settings, both for those who practice at multinational law firms⁶⁸ and for those who return home to work in a domestically-oriented law firm.⁶⁹

Almost all (86 percent) of the surveyed law schools told us that some of their foreign students took U.S. bar exams.⁷⁰ Unsurprisingly, ten of eleven (91 percent) law schools located in states where LL.M. graduates can take the bar told us that some of their students took a bar exam.⁷¹ Size and rank of the law school matter. All schools ranked in the top thirty report having had students who sat for bar exams. The story was the same for schools with more than 600 students. The size of the foreign student cohort is also a good predictor. All schools that regularly admit more than forty-one foreign students told us that some of these students took the bar. By contrast, less than three-quarters of schools with less than eight foreign students responded positively to this question. This suggests a kind of herd mentality; that students' behavior may be affected by what their fellow students do. Over time, expectations of taking a bar exam may evolve.

We followed up the question about whether they were aware of foreign students who had taken a bar exam with a more targeted question about the percentage of students who do so in a typical year. The ability (and/or willingness) of the surveyed law schools to respond dropped off. Of the fifty-five that answered the first question, thirty-five answered the second.⁷² The responses ranged from 1 to 100 percent with a mean of 34.3 percent. Law schools' ranking, size, funding stream (public versus private), or location (urban versus nonurban or in a state where LL.M. graduates can take the bar) does not significantly affect the mean percentage of their students who sit for a bar exam. Likewise, we explored whether students from schools that had concentrations of students from particular regions were more or less likely to take a bar. This made a difference only for students from Europe. At schools where 20 percent or more of the foreign student population was composed of Europeans, students were significantly

68. Silver & Ballakrishnen, *Sticky Floors*, *supra* note 2, at 46-49.

69. Ballakrishnen argues that LL.M. graduates who return home to practice gain both "practical advantages . . . training in international law, exposure to new networks . . . [and] "signaling 'halo' advantages, which come from being associated with an international law school from a high-status country." Swethaa Ballakrishnen, *Homeward Bound: What Does a Global Legal Education Offer the Indian Returnees*, 80 *FORDHAM L. REV.* 2441, 2445 (2012). For a comparative analysis of the value of an LL.M. to German and Chinese students who return home, see Silver, *The Variable Value*, *supra* note 10.

70. We did not inquire into LL.M. graduates' passage rate. Silver reveals that over 60 percent are unsuccessful. She argues that the bar exam is a poor measure of what foreign students have learned and suggests the introduction of an alternative comprehensive exam that would focus on topics of most interest to international lawyers. Silver & Freed, *Translating*, *supra* note 4, at 23. To date, her appeal has fallen on deaf ears.

71. It is tempting to assume that the outlier had few foreign students, but the law school in question did not provide information about the number of foreign students typically admitted.

72. Of the twenty that did not provide a substantive answer, sixteen said they did not know, and four told us that their law school considered this information proprietary.

more likely to take a bar.⁷³ On the other hand, the size of the foreign student cohort matters. At schools that admit seventy-one or more foreign students in any given year, 42 percent take a bar exam, while at schools that admit eight or fewer, 28 percent do so. These results are a bit surprising but support the herd mentality thesis.

IX. Participation by Foreign Students in Alumni Activities

Our final question focused on the extent of involvement of foreign students in law schools' alumni activities. We gave them five choices: (1) Very active: many are regular contributors; (2) Somewhat active: we send them alumni information and occasionally we hear from them; (3) Not very active: we have lost track of many of them; (4) I do not know; and (5) My law school considers this information proprietary, and I cannot respond. Interestingly, none of our respondents took the last option, though it would seem from the outside that alumni data would be closely held. Almost a quarter claimed a lack of knowledge (see Table 10). Schools that did so tended to be smaller and lower ranked. It is possible that their alumni office is likewise smaller and is less capable of keeping track of their far-flung alumni than are larger law schools. Our survey did not pry into respondents' overall alumni operations.

Table 10: Information about foreign students' engagement as alumni. Results presented as percentages (n=64).

How active are foreign students in alumni affairs?	Full sample	Size		Rank	
		Fewer than 600 students	More than 600 students	1-30	Higher than 30 or unranked
Very active	17.2	6.1	29	31.6	11.1
Somewhat active	46.9	42.4	51.6	57.9	42.2
Not very active	10.9	15.1	6.5	0	15.6
Don't know	25	36.4	12.9	10.5	31.1
Chi2=0.02				Chi2=0.027	

More interesting are the characteristics of law schools whose foreign students are either very active or somewhat active in alumni affairs. They constitute 17 and 64 percent, respectively, of the full sample. These percentages increase to 29 and 51 percent, respectively, for law schools with more than 600 students, and to 32 and 58 percent, respectively, for law schools ranked in the top thirty.⁷⁴

73. While 42 percent of foreign students at law schools where a fifth or more of all foreign students were Europeans took a bar exam, this percentage dropped to 28 percent for other schools.

74. These differences are statistically significant.

A number of inter-related factors can drive the greater willingness of foreign student graduates of larger and more prestigious law schools to participate in alumni activities. These schools may have richer course offerings and/or more engaged faculty, resulting in better experiences for foreign students. LL.M.s from these may be more valuable in the marketplace. This may, in turn, contribute to greater loyalty as alumni. Or perhaps these schools have larger and more aggressive alumni offices that are loath to lose track of any student, whether domestic or foreign. Indeed, our data hint that staff members of the office that handles the admissions process for foreign students may be pressed into service with graduates. All of the law schools that characterized their foreign students as very active alumni fall into the subset of schools that send their staff members abroad to recruit students. But sending recruiters is not a guarantee of committed alumni. Over 85 percent of the schools that told us their foreign students were not very active had sent staff abroad. Having alumni clubs could be correlated with higher levels of activism. Reasoning that these clubs could be organized by the alumni themselves as well as by the law schools, we did not ask about them.

X. Preliminary Conclusions

The analysis of our survey provides some of the missing puzzle pieces to the overall picture of foreign students' role at U.S. law schools. We provide finer-grain information about how these students are funded than has previously been available. Though foreign students are often viewed as proverbial "cash cows" for law schools, our data suggests that few pay full freight and that scholarships from the law schools themselves represent the most commonly received type of support. Though the actual amounts awarded to foreign students by law schools rarely covers all their expenses, it is an important gesture that signals the importance of these students. The availability of support from private sources and students' home governments varied, with East Asian students having more success with the latter and students who hail from Europe and Latin or South America benefiting more from the former. We also document that Fulbright awards and other U.S. government funding represent relatively small and unreliable contributions to the support of foreign students.

Our analysis confirms the critical role of ranking and size. Not only are larger and more highly ranked law schools more likely to have established programs for foreign students, but these factors also play a role in predicting the geographic origins of, and funding opportunities for, these students. Along similar lines, foreign students who enroll at law schools ranked in the top thirty are more likely to have students who sit for a U.S. bar exam. Size and rank likewise are robust predictors of enthusiasm as alumni.

Even with the prodigious results from our survey, the picture of foreign students remains stubbornly incomplete. We join in solidarity with other scholars of this group in encouraging the American Bar Association (ABA) and the Institute for International Education (IIE) to collect information about foreign law students more systematically and to publish it on a regular basis. This seems long overdue

given that, as Silver noted in 2012, “[i]nternational students increasingly are an important part of the law school population in the United States.”⁷⁵ Law schools already provide the ABA with a remarkably wide range of data on J.D. students, beginning with their matriculation and continuing through their first jobs upon graduation. The added inconvenience of requesting information about students pursuing LL.M. and S.J.D. degrees would seem manageable, as would requiring the ABA to publish what it learns on its website. The likely ABA questions would mirror many of our survey questions, but would have the advantage of full participation, thereby allowing for greater reliability. For the IIE, law students are clearly an afterthought. Indeed, the fact that they focus more on the percentage of students who emanate from various regions than on what they study once in the United States tells us that they are not being pushed by their funders to dig into their data in a way that would facilitate a sharper picture of who is studying law. Without this sort of commitment from institutions like the ABA and the IIE, the study of foreign law students is likely to remain the province of scholars like us who field surveys as well as those who undertake ethnographic studies of subsets of the population. While both streams of scholarship are helpful, both suffer from being regrettably incomplete.

75. Silver, *States Sides Story*, *supra* note 3, at 2387.