

## Book Review

Bryant Garth and Gregory Shaffer eds., *The Globalization of Legal Education: A Critical Perspective*, New York, NY: Oxford University Press, 2022, pp. 537, \$110 (hardback)

Reviewed by Fabio de Sa e Silva

### Introduction

It happened a while ago, though it feels as if it were the other day. The year was 2007, and I had just finished a master's program with a thesis on legal education reforms in Brazil.<sup>1</sup> My thesis documented changes in the curricular guidelines for law degree programs enacted by the Ministry of Education, which, in Brazil, has accreditation and regulatory power over law schools. The new guidelines opened a unique window of opportunity for changes in the reigning law school pedagogy, of which I had been a critic since I was a law student.<sup>2</sup> Graduation requirements were made a lot more flexible, and a previous, crowded list of mandatory *courses* was replaced with a list of mandatory *subjects*—including nonlegal subjects like economics, sociology, philosophy, and political science<sup>3</sup>—which schools were free to cover as they saw fit.<sup>4</sup> Schools were required, further, to integrate theory and practice, including through “extension” activities designed to serve their surrounding communities.<sup>5</sup> My thesis also included an exploratory case study designed to illuminate how these changes could be creatively explored by law school faculty and administrators seeking to improve their teaching practices.

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1. FABIO DE SA E SILVA, *ENSINO JURÍDICO: A DESCOBERTA DE NOVOS SABERES PARA A DEMOCRATIZAÇÃO DO DIREITO E DA SOCIEDADE* (2007).
2. Since I conducted my research, these guidelines have been updated multiple times. For their latest version, see Ministério da Educação, Resolução CNE/CES n. 5, de 17 de dezembro de 2018. The adjustments, however, were minor.
3. Resolução CNE/CES n. 5, *supra* note 2, Art. 5, I.
4. *Id.* at Art. 2, § 1º.
5. *Id.* at Art. 2, § 1º, VI, IX, and X. “Extension” is a pillar of Brazilian higher education as stipulated in the Brazilian Federal Constitution, CONSTITUIÇÃO FEDERAL [C.F.] [CONSTITUTION] art. 207 (Braz.) [hereinafter CONSTITUIÇÃO FEDERAL].

The thesis was well received, and I felt encouraged to pursue a career as both a researcher and a reformer in legal education. Life did its magic and brought me to the United States, where I set off to pursue my plan. I sought admission to graduate school and, in my first research methods course, drafted what I thought was going to be my doctoral project. My research objective was to understand the causes of successful institutionalization of human rights and public interest law education in U.S. law schools—which, to me, was an indisputable fact—and the lessons this could generate for law school reforms in Brazil and beyond. Yet when I shared early drafts with U.S. scholars, they questioned my very premises. “What makes you think that U.S. law schools have successfully implemented human rights and public interest law education?” they repeatedly asked me. “The main clientele of U.S. law schools,” they said, “are large corporate law firms, not NGOs or social movements seeking social reform.”<sup>6</sup> “The first-year curriculum, which promotes the core of student socialization into the profession,” they went on, “is designed primarily to teach ‘how to think like a lawyer,’ not how to make social reform.”<sup>7</sup> “The Socratic method that hallmarks the first-year experience buttresses symbolic hierarchies and marginalizes female students and students of color.”<sup>8</sup> “Law school clinics and pro bono programs exist but are neither mainstream nor mandatory.”<sup>9</sup> “Clinical faculty have a second-class status in many institutions, typically holding untenured positions.”<sup>10</sup> “International human rights law is barely taught and, when it is, it has almost no application to the U.S. context, reinforcing a questionable rhetoric of U.S. exceptionalism and of human rights violations being a matter of the ‘Third World,’ then being recast as the ‘developing world.’”<sup>11</sup> “All of this coexists with a ‘hidden curriculum’ that emphasizes not progressive social change, but status competition.”<sup>12</sup> Not knowing how to process these reactions, I convinced myself that there was no “there” there and abandoned my project for something else.

I recall these events because it feels as if I am still making full sense of them and, in this process, coming across the new book edited by Bryant Garth and

6. ROBERT V. STOVER, *MAKING IT AND BREAKING IT: THE FATE OF PUBLIC INTEREST COMMITMENT DURING LAW SCHOOL* (1989); ROBERT GRANFIELD, *MAKING ELITE LAWYERS: VISIONS OF LAW AT HARVARD AND BEYOND* (1992).
7. ELIZABETH MERTZ, *THE LANGUAGE OF LAW SCHOOL: LEARNING TO “THINK LIKE A LAWYER”* (2007).
8. *Id.*
9. DEBORAH L. RHODE, *PRO BONO IN PRINCIPLE AND IN PRACTICE: PUBLIC SERVICE AND THE PROFESSIONS* (2005).
10. Bryan L. Adamson et al., *The Status of Clinical Faculty in the Legal Academy: Report of the Task Force on the Status of Clinicians and the Legal Academy*, 36 J. LEGAL PROF. 353 (2012); Minna J. Kotkin, *Clinical Legal Education and the Replication of Hierarchy*, 26 CLINICAL L. REV. 287 (2019).
11. Richard B. Lillich, *The Teaching of International Human Rights Law in U.S. Law Schools*, 77 AM. J. INT’L L. 855 (1983); Larry Cata Backer, *Human Rights and Legal Education in the Western Hemisphere: Legal Parochialism and Hollow Universalism*, 21 PENN STATE INT’L L. REV. 115 (2002).
12. DUNCAN KENNEDY, *LEGAL EDUCATION AND THE REPRODUCTION OF HIERARCHY: A POLEMIC AGAINST THE SYSTEM* (2004).

Greg Shaffer titled *The Globalization of Legal Education: A Critical Perspective* (henceforth GLE) was extremely illuminating. Together, the chapters in this book tell the story of people like me in 2007—idealistic scholars, usually from the “Global South,” who want to transform legal education in their countries and look at the United States as a benchmark. These scholars have every reason to reject their surrounding status quo. Although this may be changing, the ruling pedagogy at law schools in their home countries is still extremely formalist. In Brazil, this “core model,”<sup>13</sup> as one scholar once put it, consists of long lectures taught by established legal professionals (judges, prosecutors, attorneys) who keep reciting legal texts and passages from old doctrinal “manuals.” There are clear motives for why this “core model” must be changed. It produces professionals who lack awareness of “law in action,” including “the politics of law in broader policy context” (9) and “the complexity of problem solving in an economically globalized world” (9). This deprives a country of the development of human resources that could be key for political and economic change or even (re)produces a social force that is averse to, and an impediment to, change. Importing pedagogic models from U.S. law schools can be an attractive way for would-be reformers to address these long-standing problems. Since the realist turn, in the 1920s to 1930s, U.S. legal education has been known for its multidisciplinary and problem-solving character, translated in appealing devices such as clinics and Socratic dialogue; U.S. lawyers trained per this tradition are often portrayed, e.g., in the cultural industry, as agents of progressive change. However, emulating U.S. models can also present reformers with challenges they are not always cognizant of—from local elites resisting change to mixed feelings about their potential role in reproducing U.S. power and a globally unjust socio-legal order. Just as in the past, this can lead to anxiety, malaise, and paralysis. GLE helps reformers develop awareness of, and self-reflexivity about, this complex and complicated positionality.

The GLE book also combines three methodological features that make a good example of what twenty-first-century socio-legal research should look like. First, it presents a rare instance of integration between diverse traditions of inquiry, namely the “transnational legal ordering (TLO),” inaugurated and led by Gregory Shaffer,<sup>14</sup> and the “comparative sociology of legal professions (CSLP),” inaugurated and led by Bryant Garth and Yves Dezalay.<sup>15</sup> As a frequent

13. Inês da Fonseca Pôrto, *Ensino Jurídico: Diálogos com a Imaginação, in CONSTRUÇÃO DO PROJETO DIDÁTICO NO ENSINO JURÍDICO* (Sergio Antonio Fabris, ed. 2000).

14. TRANSNATIONAL LEGAL ORDERING AND STATE CHANGE (Gregory Shaffer ed., 2013); TRANSNATIONAL LEGAL ORDERS (Gregory Shaffer & Terence Halliday eds., 2015); Gregory Shaffer, *Theorizing Transnational Legal Ordering*, 12 ANN. REV. L. & SOC. SCI. 231–53 (2016); CONSTITUTION-MAKING AND TRANSNATIONAL LEGAL ORDER (Gregory Shaffer et al. eds., 2019).

15. YVES DEZALAY & BRYANT G. GARTH, THE INTERNATIONALIZATION OF PALACE WARS: LAWYERS, ECONOMISTS, AND THE CONTEST TO TRANSFORM LATIN AMERICAN STATES (2002); GLOBAL PRESCRIPTIONS: THE PRODUCTION, EXPORTATION, AND IMPORTATION OF A NEW LEGAL ORTHODOXY (Yves Dezalay & Bryant G. Garth eds., 2002); YVES DEZALAY & BRYANT G. GARTH, ASIAN LEGAL REVIVALS: LAWYERS IN THE SHADOW OF EMPIRE (2010); BRYANT G. GARTH & YVES DEZALAY, LAW AS REPRODUCTION AND REVOLUTION: AN INTERCONNECTED HISTORY (2021).

attendee of annual meetings of the Law & Society Association, where these authors and their collaborators used to present their works and evolving lines of thinking, I had always thought of TLO and CSLP as two rather different “tracks” or “epistemic communities” in socio-legal research on legal globalization—anchored in different premises, based on different empirical methods, and generative of different debates. TLO is problem oriented—it seeks to understand how complex transactions stemming from a globalizing world can be governed. TLO also grew as a counterpoint to mainstream approaches in international relations and law, which tend to conflate legal norms with norms enacted by nation-states acting both as sovereign entities and through international organizations. TLO thus represents an effort to “decenter the state,” illuminating both the normativity produced by private actors to govern economic affairs (a new *lex mercatoria*) and the recursive interactions between public and private actors that produce normative solutions across the boundaries of nation-states. CSLP, in turn, set off to explain the growing power of law, lawyers, and legal expertise in early twenty-first-century global governance. To this end, Garth and Dezalay drew from Bourdieu’s notion of law as a *field*,<sup>16</sup> whose power derives from its connections to the *field of state power*. Changes in the field of state power create opportunities that lawyers are uniquely positioned to both exploit and legitimate. The fields of law and state power are also globally connected—but the world, as Garth and Dezalay understand it, is not “flat.”<sup>17</sup> Instead, a hierarchy exists between “core” and “peripheral” countries that structures the dynamic of political and legal change CSLP scholars want to scrutinize. This does not lead scholars to posit top-down processes by which the “core” dictates changes in the “periphery.” Changes depend on contextual factors and the “palace wars” fought over economic and political models in both ends of that interconnected world system.<sup>18</sup> The state is, nevertheless, inevitably at the center of these developments.

TLO and CLSP are thus very different and potentially irreconcilable. TLO scholars emphasize actors, processes, and normativity beyond state power; CLSP scholars emphasize state power and hierarchy. Yet in GLE both are productively combined. The benefit to readers is doubled. They learn that not only can dialogue and cross-fertilization happen across academic silos, but also that this can lead to more powerful interpretations of phenomena—similar to using a pair of flashlights together to obtain a resulting light beam with an extended range.

Second, GLE represents a remarkable effort of global collaboration. Most chapters in the book are authored or co-authored by scholars who are either based in or come from the countries or regions in the world they are writing about (the book includes case studies from Latin America, Africa, Asia, and the

16. PIERRE BOURDIEU, *ON THE STATE: LECTURES AT THE COLLÈGE DE FRANCE, 1989–1992* (2014); Pierre Bourdieu, *The Force of Law: Toward a Sociology of the Juridical Field*, 38 *HASTINGS L.J.* 814 (1987).

17. THOMAS FRIEDMAN, *THE WORLD IS FLAT: A BRIEF HISTORY OF THE TWENTY-FIRST CENTURY* (2005).

18. DEZALAY & GARTH, *THE INTERNATIONALIZATION OF PALACE WARS*, *supra* note 15.

United States). This adds incredible depth to accounts and reveals complexities in processes that might otherwise get lost if the research had been conducted, for example, solely by scholars from the core. Working with partners who have strong ties with the foreign contexts studied still raises issues of positionality. These authors are often part of intricate power games in the settings they inhabit and, although they are not imposing a foreign (“global”) perspective upon an unknown reality, they are—at least to some extent—embedded in by or sympathetic to such a (“global”) perspective (more on this later).

Lastly, GLE includes the United States as a comparative case study. Efforts to institutionalize more cosmopolitan projects in U.S. law schools are also examined and subjected to the same critical scrutiny applied to cases from the “Global South.” As such, GLE avoids adopting idealized accounts of U.S. institutions and practices as the backdrop against which non-U.S. experiences are measured, as I almost did in the research project I reported at the opening of this article. Instead, the book portrays U.S. law schools as more contradictory spaces, in which a “modern” pedagogy can be, too, an aspiration or a work in progress (more on this later as well).

This essay provides a partial review of GLE. The book is extremely ambitious, comprising fifteen chapters that cover different regions of the world and adopt three different thematic foci—transnational processes; global law schools; and transnational flows of students, faculty, and judges in the constitution of legal fields. No review of so much material would do justice to its depth. From all that the book offers, I have chosen to focus on an issue that cuts across virtually all chapters but is not always explicitly articulated: the interplay between agency and structure in the processes collectively examined by the book authors and editors—or where twenty-first-century legal education reformers fit amid larger power structures, and how their ability to reform law schools is enabled or constrained by those very structures. Having been so deeply and personally touched by this book, I also decided—or could not help but—add a bit of myself to the review. In my examination of what I believe are key themes in the book, I sometimes rely on examples from my own experience. I hope this chosen genre will help trigger among readers the same sense of self-reflexivity that the book triggered in me.

The essay proceeds in five sections. Section I reviews the social, economic, and political circumstances that both surround and enable the efforts of legal education reform documented in the book. Section II addresses the constraints to reforms which, at least in part, are posed by these same circumstances. Section III looks at the resulting anxiety experienced by reformers amid the opportunities and constraints previously discussed, while tackling the question of whether, facing such anxiety, reformers have any reasons to feel optimistic. Section IV points to knowledge gaps and topics for future research on law school reforms at a time when the circumstances analyzed in Section I may be radically changing. Section V presents concluding notes.

## I. Opportunities

GLE begins with an attempt by its editors to place processes of law school reform in longer-term historical perspective. In this vein, Garth and Shaffer note that, back in the age of empires, law schools in Bologna, Paris, and Oxford rose as new epicenters of power. These stories of institutional success followed a similar script. Bologna, Paris, and Oxford faculty combined significant social capital and expertise in Roman law, which put them in a credible position to “broker solutions . . . to jurisdictional . . . and other conflicts of a rapidly changing era” (10). Their schools were also nested in, and reinforcers of, a hierarchical world order: Located in metropolitan centers, they were used to train a new cadre of “intermediaries” who helped maintain meaningful communication between those centers and their colonial peripheries (11). Many of these “intermediaries” came from the peripheries themselves, serving as true “double agents”<sup>19</sup> who helped weave a transnational fabric of power and order.

The world order that emerges from the twentieth century, the editors observe, has the United States at the core.<sup>20</sup> But the United States rises as an “anti-imperial empire” that seeks to rule the world not through physical occupation, but through symbolic influence.<sup>21</sup> One of the directions in which the United States wants to influence the rest of the world is legalization of governance and social relationships more generally. The law, as North Americans understand it, is a sophisticated technology to limit government power and structure economic exchanges, which could effectively cement the liberal-democratic and market-based order the United States wants to foster globally. In this context, investment in “legal intermediaries” becomes all the more important. In the 1950s, exporting U.S. legal education models became “both a private and a US governmental priority” (14). Academics added to, and took part in, these processes. The reforms sponsored at that time intertwined with the “law and development movement,” whose scholars assumed that “transplants” of legal norms and practices from the United States to “Third World” countries would cause the latter to evolve into modern industrial economies and perhaps even

19. Yves Dezalay & Bryant G. Garth, ‘*Lords Of The Dance’ As Double Agents: Elite Actors In and Around The Legal Field*, 3 J. PROS. & ORG. 188 (2016).

20. This does not mean that the United States is the only imperial force at play. Throughout history, there has been competition among empires and, currently, scholars and analysts speculate about whether the U.S. Empire is being challenged by China. GLE documents competition between the United States and regional empires. Legal education reforms in Bhutan, for example, have received influence not just from the United States, but also from India. Moreover, former colonial legacies (e.g., by the United Kingdom or France) that remain are shaping socio-legal life on the ground in African countries.

21. This account may have become more questionable after the U.S. occupation of Iraq and Afghanistan, when the United States effectively occupied other territories and engaged in nation-building. As I write this essay, these two events are seen as major failures, but one could never rule out that physical occupation of foreign territories will be discarded as options in the U.S. foreign policy menu. For the purpose of my analysis, anyway, I will adopt the same premise as the book, i.e., that symbolic influence has been the predominant tool of U.S. imperialism.

to liberal democracies.<sup>22</sup> Key reform processes fostered at that time were led by this coalition between the U.S. government (e.g., through USAID), private foundations, and law and development scholars. These reforms did not immediately succeed, leading the scholars to “self-estrangement”<sup>23</sup>—although GLE editors contend, and I agree, that they did not entirely fail, either. A few decades later, a new generation of reformers would write another chapter of law school modernization in countries from Brazil to India, from China to Bhutan, often tapping on the legacies from the law and development years.

A new wave of U.S.-sponsored/inspired legal education reforms came, indeed, in the 1990s, following the end of the Cold War and a putative consensus around free markets and liberal democracy<sup>24</sup>—the two pillars of the U.S. political identity and anti-imperial project. Most chapters in GLE cover these more contemporary processes in detail, even when their authors need to take a few steps back in history to properly contextualize their accounts and draw a clearer *before-and-after* scenario. Two conclusions stand out. First, the Ford Foundation has played a “catalyst” role (29) in the current diffusion of U.S. legal education models into the Global South. This, in part, results from Ford’s pioneer work in the 1950s, 1960s, and 1970s, which are extremely well documented in Chapter 1 of GLE, written by Ron Levi, Ronit Dinovitzer, and Wendy H. Hong (79). Ford then funded several initiatives to reform legal education in the United States and abroad (e.g., in Chile, Brazil, China, India, and South Africa), which sought to align law schools with a progressive, internationalist perspective while positioning lawyers at the center of “good governance” even before this concept was invented and popularized in foreign affairs and development circles. In the 1990s, these initiatives gained formidable traction. The U.S. foreign policy establishment had then become fully invested in creating international organizations and promoting free trade/investment and “human rights,” largely understood as civil and political rights, across the globe—tasks that require support from lawyers with a certain set of skills. Ford was well positioned to support these

22. David M. Trubek, *Max Weber on Law and the Rise of Capitalism*, 1972 WISC. L. REV. 720 (1972); David M. Trubek, *Toward a Social Theory of Law: An Essay on the Study of Law and Development*, 82 YALE L. J. 1 (1972); Fabio de Sa e Silva, *Good Bye, Liberal-Legal Democracy*, 48 LAW & SOC. INQUIRY 292 (2023).

23. David M. Trubek & Marc Galanter, *Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United States* *Law and Society*, 1974 WISC. L. REV. 1103 (1974).

24. On the consensus around liberal democracy as the “end of history,” see FRANCIS FUKUYAMA, *THE END OF HISTORY AND THE LAST MAN* (1992); Juan J. Linz & Alfred C. Stepan, *Toward Consolidated Democracies*, 7 J. DEMOCRACY, no. 2, 1996, at 14.

liberal internationalist<sup>25</sup> or progressive neoliberal<sup>26</sup> goals and “to facilitate the building of global exchanges and markets in legal education” (31).

Yet this “building of global exchanges and markets” now required significantly less effort of promotion than it had in the prior decades. Interest in U.S.-like legal education models around the globe was at an all-time high. This is explained by social, economic, and political changes that brought many countries closer to (even if not fully into) the ideals of the U.S. anti-imperial project. These countries were adopting new constitutions and bills of rights<sup>27</sup> or witnessing the growth of a civil society that was beginning to use courts as an arena in policy disputes.<sup>28</sup> They were also joining a new trade regime (the World Trade Organization)<sup>29</sup> and signing investment treaties to attract private capital from overseas.<sup>30</sup> All this required legal expertise that was not abundantly available and that could not be easily produced within their existing law schools.

Part of this demand came to be met by U.S. law schools themselves, which opened their programs—or developed new ones—to serve foreign students and professionals. As demonstrated in one of the GLE chapters, written by Carole Silver and Swethaa Ballakrishnen (476), there has been an enormous influx of not only LL.M., but also J.D. candidates into U.S. law schools in the past few decades (476).<sup>31</sup> Part of the demand, however, has been dealt with more “locally,” through reforms that draw from the “core” and, in some cases, give rise to entirely new, disruptive law schools (e.g., the FGV Law in School in São

25. Daniel Deudney & G. John Ikenberry, *Democratic Internationalism: An American Grand Strategy for a Post-Exceptionalist Era* (Council on Foreign Relations, Working Paper, Nov. 2012), [https://www.files.ethz.ch/isn/155617/IIGG\\_WorkingPaperII\\_Deudney\\_Ikenberry.pdf](https://www.files.ethz.ch/isn/155617/IIGG_WorkingPaperII_Deudney_Ikenberry.pdf); Beate Jahn, *Liberal Internationalism: Historical Trajectory and Current Prospects*, 94 INT’L AFFS. 43 (Jan. 2018); ELIZABETH BORGWARDT, *A NEW DEAL FOR THE WORLD: AMERICA’S VISION FOR HUMAN RIGHTS* (2005); STEWART PATRICK, *THE BEST LAID PLANS: THE ORIGINS OF AMERICAN MULTILATERALISM AND THE DAWN OF THE COLD WAR* (2009).
26. Nancy Fraser, *From Progressive Neoliberalism to Trump—and Beyond*, 45 AM. AFFS. 1157 (2017).
27. ZACHARY ELKINS, THOMAS GINSBURG & JAMES MELTON, *THE ENDURANCE OF NATIONAL CONSTITUTIONS* (2009); *THE MIGRATION OF CONSTITUTIONAL IDEAS* (Sujit Choudhry ed., 2009); Vlad Perju, *Constitutional Transplants, Borrowing and Migrations*, in *OXFORD HANDBOOK OF COMPARATIVE CONSTITUTIONAL LAW* 1304–26 (M. Rosenfeld & A. Sajó eds., 2012).
28. CHARLES R. EPP, *THE RIGHTS REVOLUTION: LAWYERS, ACTIVISTS, AND SUPREME COURTS IN COMPARATIVE PERSPECTIVE* (1998); TOM GINSBURG, *JUDICIAL REVIEW IN NEW DEMOCRACIES: CONSTITUTIONAL COURTS IN ASIAN CASES* (2003); ALEC STONE SWEET, *GOVERNING WITH JUDGES: CONSTITUTIONAL POLITICS IN EUROPE* (2000); JENNIFER A. WIDNER, *BUILDING THE RULE OF LAW: FRANCIS NYALALI AND THE ROAD TO JUDICIAL INDEPENDENCE IN AFRICA* (2001).
29. GREGORY SHAFFER, *EMERGING POWERS AND THE WORLD TRADING SYSTEM: THE PAST AND FUTURE OF INTERNATIONAL ECONOMIC LAW* (2021).
30. See *LIBERALIZATION IN THE DEVELOPING WORLD: INSTITUTIONAL AND ECONOMIC CHANGES IN LATIN AMERICA, AFRICA AND ASIA* (Alex E. Fernández Jilberto & André Mommen eds., 1996); Zachary Elkins et al., *Competing for Capital: The Diffusion of Bilateral Investment Treaties, 1960–2000*, 60 INT’L ORG. 811 (2006).
31. Readers should bear in mind that these travelers are not always seeking knowledge. Just as important in their journeys is their ability to join close-knit networks and to accumulate elite credentials that they can reconvert in their local professional and political fields.

Paulo, Brazil (253); the Jindal Law School in India (258); the JSW Law School in Bhutan (276); and the Peking University's School of Transnational Law in Shenzhen, China) (308). Similar reforms have taken place even in the United States, where a handful of law school programs with a "global" profile have also emerged, e.g., at NYU (333), Georgetown (366), and Yale (238)). GLE does not systematically catalog the features of these reforms, but one could find some convergence, across the chapters, around items such as an interdisciplinary and policy-oriented approach to law; greater awareness of the transnational nature of relevant legal phenomena; and efforts to link theory and practice through pedagogical tools ranging from clinics and simulations to study/internships abroad. The changes at hand have also affected hiring practices, with faculty positions becoming full time in markets hitherto dominated by part-time faculty and more value being given to candidates who have international credentials and multidisciplinary backgrounds. Some involved in these reform processes, e.g., in Brazil and India, had ties with older Ford projects, which proves the point that these projects did not completely fail—their impacts were just delayed because of unfavorable local conditions that have changed over time. In other cases, namely China, the state itself took the lead as an importer when, at the dusk of the Cultural Revolution, the Chinese Communist Party (CCP) decided to (re)build a legal infrastructure in an effort to modernize the country. China has ever since then (re)built anything from courts to the bar association to corporate law firms to law schools. In doing so, China often drew from U.S. templates, although it also adapted these templates to its unique "rule by law" system, to the frustration of many exporters.

GLE's emphasis on Ford's "catalyst" role has a deep echo in my own story with law school reforms. Having attended a "traditional" law school, I found no space to discuss innovative approaches to legal education and law practice. We thus had to create our own spaces for pedagogic critique and imagination. We did this largely through our student association, holding reading groups and promoting seminars that, directly or indirectly, questioned the status quo.<sup>32</sup> Frequent contributors in these activities were lawyers trained in international human rights law in elite U.S. law schools in projects funded by Ford. Back to Brazil, they took a lead role in promoting new approaches to legal training and practice, including law school clinics, public interest litigation, and pro bono lawyering. (One of them, Oscar Vilhena Vieira, writes a chapter in GLE and has become the dean of FGV law school, recognized in the book as a Brazilian

32. An exception was the courses taught by one of my mentors, Professor Jose Eduardo Faria. Faria's trajectory and role, in turn, also owe to his exchanges with U.S. sources. In the 1980s, when the global mobility of Brazilian students and faculty was nonexistent, he spent one semester at Wisconsin Law School supervised by David Trubek. Upon his return, he wrote a short book proposing legal education reforms that became very influential to those in my generation (JOSE EDUARDO FARIA, *A REFORMA DO ENSINO JURÍDICO* (1987)). He also became a somewhat lonely advocate for interdisciplinarity in legal studies at the school and supervised undergraduate and graduate works addressing the crisis and reform of legal education in Brazil.

“global law school.”) It was through those activities and the Ford alumni they featured that I became first attracted to U.S. legal education models.

Yet, as the book also emphasizes, the exportation/importation of U.S. models now owed less to attempts by the U.S. State Department and organizations like Ford to actively sell U.S.-like legal education abroad (the *supply* side) and more to the desire, shared among peripheral actors themselves, to interact with and emulate some of the features of U.S. legal education (the *demand* side). Having once traveled across the hemisphere hoping to learn lessons from the “successful implementation” of human rights and public interest law education in U.S. law schools and work as a legal education reformer back in Brazil, I have a hard time denying this.

The degree of change enabled by this new context must not be overlooked, especially when compared with the legacy from the law and development years. As just noted, the reforms under law and development resulted from an active promotion by the U.S. foreign policy establishment (so much so that they were seen, perhaps incorrectly, as an instance of U.S. imperialism); now, they result from an active demand from countries and entities outside of the United States. Law and development reforms usually took place as pilot projects that were eventually terminated; now, the reforms are considerably institutionalized and self-sustainable.

This, however, is just about one-third of the story. Virtually all chapters in the book report on larger, structural forces that place constraints on the reformist experiments authors are studying or partaking in. I map these forces and their effects next.

## II. Constraints

Central to the larger, structural forces constraining the reform processes reported in GLE are professional elites whose position is being challenged by the reforms (hence, editors rightfully call these elites “reactionary”). India, analyzed by Yves Dezalay and Bryant Garth (185), and Brazil, analyzed by Oscar Vilhena Vieira and José Garcez Ghirardi (253), provide illustrative examples. In India, a movement to “modernize” legal education drawing from U.S. templates led to the creation of national law schools. This movement dates back to the years of law and development and was initially supported by Ford. Adding to this reformist tide is the rise, more recently, of a private institution, the Jindal Global Law School, which is even more Americanized. But the national law schools had to compromise with the establishment or grand advocates who dominate the Indian bar. These grand advocates came to control the national law schools and successfully resisted further changes while ensuring that the hierarchy within the bar continues to be reproduced according to older standards, which emphasize family capital and postgraduate apprenticeship.

In Brazil, the FGV Law School in São Paulo emerged, in the early 2000s, with a “bold” (261-73) and disruptive agenda. The school carried out innovations in the curriculum and teaching methodologies—taking full advantage, I

must say, of the changes in federal guidelines I had examined in my master's thesis. The FGV approach to law is interdisciplinary and student-centered, as represented by unorthodox course titles such as Crime and Society or Regulation and Development and the pioneer adoption of participatory teaching methods such as clinics and simulations (261-62). In addition, the school emphasizes socio-legal research and global connections. FGV faculty are frequently met at international conferences and partake in global research consortia and projects.<sup>33</sup> Yet for the school to find a place in Brazil's crowded market has not been an easy task. FGV, for example, is often criticized by its rivals as a "neoliberal" cell, set up to train large-firm corporate lawyers and to serve as a conduit for U.S. domination (267). This does not preclude the school from innovating, but it may help contain its sphere of influence.

Additional examples come from the chapter on Asia, written by Veronica L. Taylor (213). The author looks at attempts to introduce and foment "policy engagement" in law schools in various Asian countries—China, the Philippines, Indonesia, and Japan. Her account reads much like the "failures" from law and development. Consider the stories from China and Japan. China, supported by the Ford Foundation, took a surprising regional leadership in implementing clinical legal education in 2000 (223). The Chinese clinical movement lasted, however, just until the "empowerment" it generated began to represent a threat to the CCP's "rule by law," reinforced after Xi Jinping's rise in the party ranks. In 2016, this culminated in the famous "disappearance" of one of the most high-profile clinics in the country, the Center for Women's Law Studies & Legal Services at Peking University, shut down by government decree (224). Similarly, Japan was a pioneer in the creation of graduate programs in law modeled after U.S. J.D. programs (229). However, a protectionist alliance between the Japanese bar, the Supreme Court, and the Ministry of Justice made bar exams absurdly restrictive and essentially killed those J.D.-like programs. For students, it made little sense to attend and pay for these programs knowing that their chances of pursuing a legal career were scant. Faculty at these programs, in turn, became so obsessed with teaching students how to pass the bar exam that they ended up reproducing the same old teaching methodologies they were recruited to replace (231-32).

These Asian examples involve an interesting mix of professional and political elites, which acted in concert to stop or slow down reforms. This is consistent with the premise central to CSLP. The (re)production of legal hierarchies takes place in close connection with state power; hence, revolutions in law schools may well require revolutions in national politics. The chapter on Asia notes that, unlike Japan, South Korea succeeded in implementing a J.D.-like program. In GLE's introduction, Garth and Shaffer help explain this discrepancy. As they remind, South Korean reformers joined forces with a "democracy movement"

33. A recent example is the Project on Autocratic Legalism (PAL), which I help coordinate. PAL studies how autocrats are using law to consolidate power or how law can be used to resist autocratization efforts. The FGV law school is the basis for PAL studies in Brazil, which are coordinated by Raquel Pimenta. For more information, see THE PAL PROJECT, [www.autocratic-legalism.net](http://www.autocratic-legalism.net) (last visited May 17, 2023).

challenging authoritarian government, the chaebols, and the complicity of the legal system in protecting that reactionary alliance” (42).

These “reactionary elites,” however, do not operate just locally, as exemplified by Peking University’s School of Transnational Law (STL), analyzed by Philip J. McConaughay and Colleen B. Toomey (308). STL was born with an ambitious goal; it wanted to be a Chinese school offering a North American J.D. program accredited by the ABA. STL attracted elite Chinese students and “visiting scholars . . . from the very best U.S. law schools . . . together with U.S. practitioners . . . among the profession’s most esteemed” (313). Accordingly, there was high support for STL’s accreditation plans within the ABA. But these plans also encountered heated opposition. The ABA received letters from U.S. lawyers and law deans who were concerned with market saturation and the perceived value of the J.D. in case institutions overseas were to receive accreditation to offer such a degree. Eventually, the ABA voted fifteen to zero to not authorize accreditation of law schools beyond the United States and Puerto Rico, causing STL to “pivot to China” (316).

For those who are schooled in the rise and fall of the law and development movement and the reforms it attempted to carry out, the presence of these “reactionary” elites does not come as a surprise. GLE, in this respect, seems to essentially document the “recursive”<sup>34</sup> character of interactions between challengers and defenders of the status quo (mediated by state power), which happen generation after generation, making law school reforms a more iterative process. Challengers may “fail” (as in attempts to introduce clinical legal education in China, J.D.-like programs in Japan, and a North American J.D. in China) or “succeed,” but full success requires a convergence of global and local forces that is rare. Hence, “success” is more likely to mean producing “cracks” in the establishment, as the FGV authors claim they have done in the Brazilian context. Challengers and the status quo can also feasibly reach compromises. Writing about FGV, the editors posit, for example, that it could technically make peace with the grand old “jurists,” hiring part-time faculty with prosperous careers in the legal profession to bolster the school’s reputation in a market that remains dominated by more traditional institutions and teaching methods (48). The Indian case can also be understood as one in which compromise was reached between the bar and the national law schools, which has slowed down reforms, but not fully blocked them—as evidenced by Jindal’s rise.

The book’s main point, however, is that the winds have been more favorable to reforms and that we have seen more and more cracks in the establishment. Accordingly, it also documents forces absent from the accounts from law and development. To the extent that reformers have “succeeded” more than their law and development predecessors did, they have also come across new constraints. Perhaps in an oversimplification, I would say all these constraints

34. Terence C. Halliday & Bruce G. Carruthers, *The Recursivity of Law: Global Norm Making and National Lawmaking in the Globalization of Corporate Insolvency Regimes*, 112 AM. J. SOCIO. 1135 (2007); Terence C. Halliday, *Recursivity of Global Normmaking: A Sociolegal Agenda*, 5 ANN. REV. L. & SOC. SCI. 263 (2009).

relate to inequality. Inequality generally does not impede reforms, but it “tilts” (26) these reforms in ways that cause visible discomfort to their analysts and participants. Inequality starts *within countries*, where the disruptive programs that reformers work so hard to put together have proved more exclusive than inclusive. Their costs and requirements (e.g., one must have decent English skills and an excellent performance in standardized tests) can be met only by the sons and daughters of the elites. A friend of mine who teaches at one of those disruptive school always jokes that his least favorite part of the job comes when he is getting ready to drive back home. This is not because he loves his office; it is because when looks at the cars in the university’s parking lot he realizes his students have a lot more money than he may ever have.

The critique of how inequality within countries intersects with globalization-driven law school reforms is best, or at least more dramatically, articulated in the chapter on South Africa, written by Ralph Madlalate (157). The author demonstrates that a few South African law schools, particularly those with English roots, have achieved high status in the global market for legal education. The main example is the University of Cape Town Law School, which, until recently, was headed by a legal scholar who made her career in the United States, Penny Andrews. These schools attract faculty with elite credentials (Rhodes scholars and Humboldt fellows), who produce high-quality research published in internationally recognized scholarly venues. They also hold “strong and varied international ties” (178). Their student bodies come from all African countries, making them truly regional “hubs” (176); their LL.M. candidates come from all over the world. This system, however, fails to deliver a key promise from South Africa’s democratization process, in 1994: the dismantling of a two-tier structure, with more equal opportunities being provided to Black South Africans. Historically Black schools (which are not research-intensive) are crumbling, while Black faculty are underrepresented in all but one institution. These equity challenges are aggravated by persisting gaps in education before law school, which prepares students for university life differently based on their race, class, and place of upbringing (urban/rural).

As it is obvious, and recognized by GLE, inequality *within countries* also affects the ability of those at the “periphery” to study at, and interact with, the “core.” The market for global legal education in the United States or the United Kingdom features exciting opportunities for foreigners. Full degree programs (the LL.M.s richly analyzed by Carole Silver and Swethaa S. Ballakrishnen) are among the numerous options available. There are also vibrant spaces for exchange and learning, such as the Yale-based transnational scholarly network SELA, analyzed in a chapter written by Javier Couso (238); or Georgetown’s Center for Transnational Legal Studies, which offers a unique “certificate” in “transnational legal studies” and is analyzed in a chapter written by Carrie Menkel-Meadow (366). To take advantage of these opportunities, however, one must have money and/or elite credentials. By merely seeking admission to an LL.M. program, candidates must already spend a significant amount with standardized tests and application fees. If accepted, they will be charged high

tuition and fees and offered virtually no scholarships (one reason I decided to go to graduate school and pursue a Ph.D. rather than postgraduate degrees in law [an LL.M. followed by a J.S.D.] was precisely the lack of funding for the latter). The SELA network is by invitation only (248), and the students and foreign faculty involved in Georgetown's certificate program all come from elite institutions in their countries (372).

Inequality also operates *between countries*. Several chapters in GLE demonstrate how the evolving "field" of global legal education is structurally "tilted" toward the core. This is, of course, experienced differently, depending on where countries fit into the world order. Anglophone African countries, examined by Michelle Burgis-Kasthala, remain embedded in neoliberalism and neocolonial relationships and deprived of meaningful "epistemic and material autonomy" (123, 148). In South Africa, Africa's "regional hub," there have been attempts "to forge a unique 'African' curriculum, particularly for those students seeking to ride the wave of profitable international corporate and commercial practice [yet] time and again, 'global' models trump their indigenous counterparts" (147). In contrast, China, which is growing as an economic power and a potential competitor to the U.S. anti-imperial empire, has demonstrated a greater capability to select and retool legal imports, subjecting these to national interests (308).

China, however, seems to be an outlier. In general, the global "field" of legal education in the book is structured more hierarchically, with the United States or the West on top. For example, and as noted above, the global mobility of law students has increased significantly; however, as documented in a chapter written by Anthea Roberts, the flow goes disproportionately from the "periphery" to the "core" (428). Traveling north—for those who can afford it—is key for graduates to attain elite positions in their countries, regions, and even more globally. SELA members have become lead commentators in public law, argues Javier Couso (249); while Mikael Rask Madsen demonstrates that international courts are dominated by those who have attended elite institutions outside of their countries, namely in the United Kingdom and the United States (403). Traveling south does not have the same appeal. As reported by Kevin E. Davis and Xinyi Zhang (333), the NYU law school has started a groundbreaking program to nurture "global lawyers" in the United States. A key component in this program is study abroad, by which students are expected to develop deeper knowledge of other legal systems and markets. But students, and even NYU administrators, do not seem to find these experiences very meaningful to career development. The school discourages third-year students without job offers from leaving the United States, while "having fun" is one of the main reasons students decide to enroll in courses abroad (358). Global aspirations at the core must bow to local market concerns, which are a lot more parochial than one might hope.

Although peripheral countries are now the drivers of reforms and have established their own innovative schools, this does not break with global hierarchies—it can reinforce them, instead. These schools are training students with distinctive skills, but their primary (and in many ways natural) destina-

tions have been the branches of U.S./U.K. corporate law firms or human rights NGOs. Similarly, the research produced by their full-time faculty is of higher quality and sophistication than the previously dominant “doctrinal” work, but it caters to the debates and journals with prestige at the core, which may not always have local resonance. Vieira and Ghirardi write that this puts scholars at risk of “academic solipsism” (269), i.e., of getting so embedded in and driven by standards emanating from the core that they lose touch with local context. A recent analysis from Chile, written by Javier Wilenmann, Diego Gil, and Samuel Tschorne, supports this concern.<sup>35</sup> The authors address the success of legal reforms in Chile, where a grant competition policy established by the Pinochet regime led to a substantial increase in full-time, research-oriented law faculty. These faculty grew in prestige, but they resent that their success does not come with relevance in national legal debates. Their papers are in English and published in journals that are neither read nor recognized as authoritative in their field of state power; hence their scholarship is neither consumed nor cited in legal opinions or influential doctrinal works. As one of their interviewees caustically observes:

We bought the narrative that we were going to be Germans. But this is bullshit. Our local operators cannot follow our language and they have a very deficient legal formation. By now it is very clear that this model serves no one.<sup>36</sup>

This pull from the core can alienate peripheral faculty and schools partaking in global legal education from important developmental challenges faced by their countries and communities. For example, Madlalate, cited above, writes that recent evaluations of law school education in South Africa show a desperate need to align legal training with “transformative” and “decolonial” goals, which have been “largely unmet” (177).

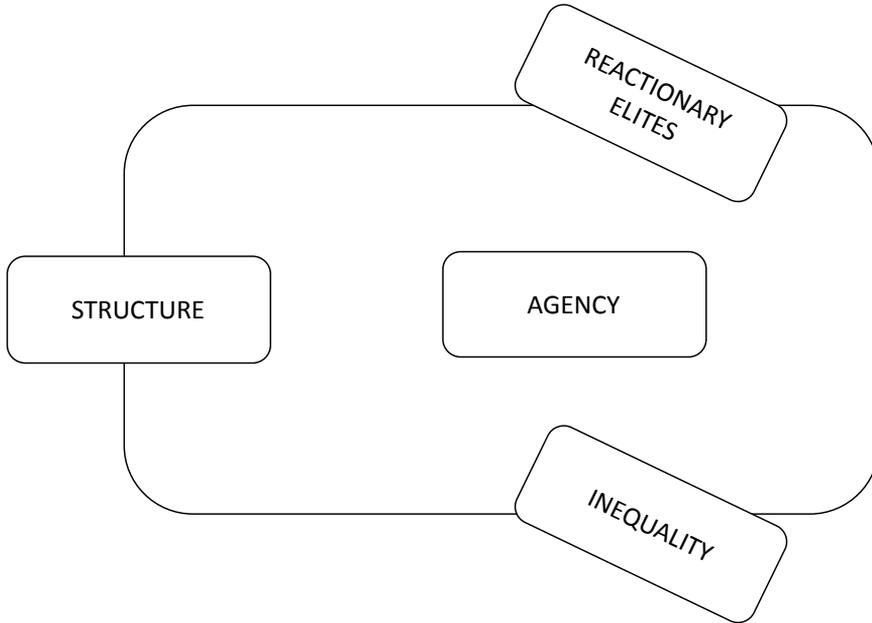
The book chapter on Bhutan, written by David S. Law (276), shows that it is possible—although not easy—to navigate between foreign influence and local concerns. The Bhutanese “global” law school STW offers an interesting set of courses on, for example, Law & Gross National Happiness; Law, Religion, & Culture; Penal Code & Restorative Justice (instead of Criminal Law); and Human Dignity; in addition to Dzongkha courses (290-91). This, however, leads to another issue: To what extent has the knowledge produced in the South been able to influence the North? The book does not leave much room for hope. International law, for instance, represents a tiny curricular subset in U.S. law schools; however, as Anthea Roberts (428), already cited, also demonstrates, U.S. scholars are overrepresented in this “field” globally. U.S. law schools occasionally hire foreign scholars, although this happens mostly in a “visiting” capacity. Then again, the criteria for these hires prioritize scholars whose career is consistent with the hierarchies that structure the U.S. market

35. Javier Wilenmann, Diego Gil & Samuel Tschorne, “*It Now Exists*”: *The Birth of the Chilean Professional Legal Academia in the Wake of Neoliberalism*, 48 *LAW & SOC. INQUIRY* 971 (2023).

36. *Id.* at 990.

for legal expertise. Candidates must have a J.D. from an elite U.S. law school even to be considered for these scarce jobs.

### Structure and Agency in Twenty-First-Century Legal Education Reforms



By mapping the opportunities and constraints for global legal education projects in the twenty-first century, GLE authors and editors offer an important contribution to scholarship. They reveal structural forces that both enable and constrain innovation in law schools (agency), as depicted in the figure above. Then again, this is just about another “third” of the story being told in the book. Recognition of constraints cause twenty-first-century reformers at both the core and the periphery to experience a fair amount of anxiety. I turn to this issue next.

### III. Anxiety and Prospects for Optimism

Anxiety is not a new issue in legal education reforms, as we learned from law and development scholars. These scholars idealistically believed they could radically transform countries by transplanting legal rules and law training models. When they encountered “reactionary elites” who resisted the models being transplanted or who retooled these models to meet their own goals, they felt they had “failed” and went on “self-estrangement.”<sup>37</sup>

The anxiety experienced by twenty-first-century reformers, however, is driven less by their failures than by their successes. The question becomes whether their relative ability to establish new law schools and programs or to

37. Trubek & Galanter, *supra* note 34.

adopt improved teaching methodologies may be feeding into local and global inequality. Locally, these reforms seem to have disproportionately benefited the wealthy and privileged; globally, they seem to have reinforced a hierarchical order by which symbolic influence generally flows from the core to the periphery, which relegates Southern scholars and professionals to marginal positions in scholarship and global governance. In this context, are reformers challenging or reinforcing the status quo?

GLE editors recognize this anxiety but suggest that it is not inconsistent with some “transnational optimism.” They borrow this expression from the chapter by Carrie Menkel-Meadow, already cited (366). Menkel-Meadow does not ignore the hierarchies and “hegemonic projects” (393) in which global legal education is embedded, but she argues that global legal programs can, in some ways, transcend those and create space for horizontal, cross-cultural conversations and learning. The sympathy of GLE editors for this attitude comes not from idealism but from “structural sociology,” according to which “legal hierarchies reproduce themselves and serve to moderate reform”; but acting within and against these hierarchies can be “consequential” (27). We can alter the rules of a game while playing the game.

As a Brazilian educator who grew up reading Paulo Freire, I have difficulty disagreeing with them. If I did not believe that education can be a “practice of freedom”<sup>38</sup> or a means to “liberate”<sup>39</sup> us from oppression, I would not be in academia. But as a social scientist of law and an academic administrator, I take their encouraging words with a grain of salt. This is for two key reasons. First, the conditions for “transnational optimism” are not equally distributed, varying across space and time. Menkel-Meadow teaches at an elite school, to an audience of elite students, and in a program that seems very well resourced. As she recounts, students in the Georgetown program take core courses on varied “theoretical, jurisprudential, and philosophical treatments to comparative law study of discrete legal problems” (373), as well as on “sociolegal approaches to cultural variations in law” (373). In addition, students and their faculty watch and discuss films on legal matters. A varied group of students participates in a week-long “practice exercise” (373) in which they are called to jointly address a “global legal problem” (373). Students and faculty also do field trips in which they attend, and reflect upon, court sessions and public hearings overseas. Running through these *formal* activities are, too, important *informal* dynamics by which students and faculty spend quality time together, sometimes leading to long-lasting professional cross-national and cross-cultural bonds. This description made me jealous, not because I wish I could teach in such a program—which I am not sure I even qualify for—but because I wish I had the chance to participate in it as a student.

To be sure, there is no need to be at the “core of the core” to remain a “transnational optimist.” I, for example, currently work as an “area studies”

38. PAULO FREIRE, *EDUCATION: THE PRACTICE OF FREEDOM* (1976).

39. PAULO FREIRE, *PEDAGOGY OF THE OPPRESSED* (2018).

faculty at a state university in mid-North America, where I also co-direct an “area studies” center. My university does not have the glamour of Ivy League institutions; however, this is exactly what has freed me and my Brazilian colleagues on campus to build some disruptive programs linking the United States and Brazil. We bring undergraduate and graduate students from the United States to Brazil, where we teach them about the complexities of that country. To most of these students, this is their first travel outside of their home state (!). We also bring scholars, students, and professionals from Brazil to the United States in exchange programs, enabling them to spend a semester or even an entire academic year in a U.S. university. Most of these visitors are women or Afro-Brazilians who are also having their first academic experience in an Anglo-American institution. We, further, work with these visitors to get their work published in English, so that knowledge about Brazil produced by Brazilians can be disseminated to a broader audience. Lastly, we bring together U.S. and Brazilian scholars from all disciplines to jointly pursue large-scale research projects. We face constraints similar to those identified in GLE. But we have learned how to navigate these constraints and bring about change, and we feel very positive about our accomplishments.

All of this has been possible because there was, at my university, a concern with promoting “global engagement” of our students and faculty, and investments were made to hire and retain faculty and to fund “international” programs. It remains unclear, however, for how long the momentum will last. In 2018 (one year after I was hired), a physical study center maintained by the university in Brazil was shut down and study-abroad scholarships were drastically cut. Funding sources have disappeared in Brazil as well amid the contempt for science and higher education that characterized Jair Bolsonaro’s term, although there is hope they will return under current president Luis Inacio Lula da Silva. COVID-19 had a mixed effect on global higher education: On one hand, it taught us how to work and connect remotely across borders; on the other hand, it resulted in budgetary cuts and impeded transnational fieldwork.

But the SARS-CoV-2 has not been the only “virus” around, and this is the second reason we may lack enough reasons to sustain a “transnational optimism.” GLE comes out at a time when the liberal internationalist or progressive neoliberal order that the United States has sought to promote seems to be falling apart. Paradoxical as this may sound, the book offers an account of the “globalization of legal education” to readers who are dealing, one way or another, with a process of “deglobalization.”<sup>40</sup> The United States itself is deeply implicated in this process. After decades pushing developing countries to liberalize their economies and engage in free trade/investment, the United States has turned to protectionist measures amid its economic war with China.<sup>41</sup> The United States has also lost its moral authority in the promotion of liberal democracy and

40. Harold James, *Deglobalization: The Rise of Disembedded Unilateralism*, 10 ANN. REV. FIN. ECON. 219 (2018).

41. Pablo D. Fajgelbaum & Amit K. Khandelwal, *The Economic Impacts of the US-China Trade War*, 14 ANN. REV. ECON. 205 (2022).

basic human rights, given how domestic politics became engulfed by “culture wars” and asymmetric polarization.<sup>42</sup> It becomes harder for North Americans to advocate for women’s rights in Iran or free speech in China when the U.S. Supreme Court overturns *Roe v. Wade* and Republican states pass a host of “anti-woke” laws forbidding teachers to discuss “divisive issues.”<sup>43</sup>

The prospects of a deglobalized world are not inherently bad but are not inherently good either. Deglobalization could result in a more “democratic” world order in which the power asymmetries between the core and the periphery would be reduced and the diverse social, political, and legal/institutional “experiences”<sup>44</sup> that constitute the world would be more fully recognized/recognizable. But it could also degenerate in new forms of tyranny and division, which could make the twentieth century look like a bucolic idyll. In this context, the future of global legal education looks highly uncertain. Will global law schools and programs resist deglobalization at all? Or will they die as legal education becomes even more rooted in parochial concerns? If schools and programs do survive deglobalization, what role will they play in a deglobalized context? Will they serve as an enclave of liberal internationalism or progressive neoliberalism, similar to what happened to universities in the Middle Ages, which became guardians of Roman legal materials? Or will they serve as global mediators, promoting greater understanding across different social, economic, political, and cultural forms—which, ironically, would be more fully consistent with Menkel-Meadow’s “transnationalism”?

The book, of course, does not offer a response to these questions, but it does not neglect them either. Editors and authors are aware that empires are contingent and that things can change in the event that the United States is displaced or replaced as a hegemon. We are the ones who must take up the baton and expand and update their seminal research effort. I turn to this issue next.

#### **IV. Gaps and Agenda Items for Further Research on ‘the Globalization of Legal Education’**

In this section, I briefly highlight what, while reading the book, I understood should be items on the research agenda on the “globalization of legal education” going forward.

42. Jacob S. Hacker & Paul Pierson, *Confronting Asymmetric Polarization*, in *SOLUTIONS TO POLITICAL POLARIZATION IN AMERICA* 59–70 (Nathaniel Persily ed., 2015).
43. Robert Kim, *Under the Law: ‘Anti-Critical Race Theory’ Laws and the Assault on Pedagogy*, 103 *PHI DELTA KAPPAN*, no. 1, 2021, at 64; Katheryn Russell-Brown, *‘The Stop WOKE Act’: HB 7, Race, and Florida’s 21<sup>st</sup> Century Anti-Literacy Campaign.*, *NEW YORK UNIV. REV. L. & SOC. CHANGE* (forthcoming 2023); Tess Bissell, *Teaching in the Upside Down: What Anti-Critical Race Theory Laws Tell Us About the First Amendment*, 75 *STANFORD L. REV.* 205 (2023).
44. Philipp Dann, Michael Riegner & Maxim Bönnemann, *The Southern Turn in Comparative Constitutional Law*, in *THE GLOBAL SOUTH AND COMPARATIVE CONSTITUTIONAL LAW* (Philipp Dann, et. al., eds. 2020) (arguing that constitutionalism in the Global South encompasses unique “experiences”).

I begin with what I saw as an empirical gap in GLE, despite its comprehensiveness. Authors in the book investigate varied global law schools/programs but do not include informal/in-service training activities. There are, indeed, several programs maintained by international organizations to train lawyers to work within global governance institutions, from human rights commissions and courts<sup>45</sup> to the WTO.<sup>46</sup> There are also programs carried out by corporate law firms<sup>47</sup> and human rights NGOs to leverage knowledge and promote exchange across the core-periphery.<sup>48</sup> Last but not least, there are interesting programs at the domestic level, oftentimes anchored in public-private partnerships, that seek to train lawyers to operate on the global stage in defense of the national interest. Shaffer himself once came to research some of these “homegrown” programs in the South, by which countries like Brazil, India, and China developed “legal capacity” to litigate before the WTO and influence the international trade regime.<sup>49</sup> These programs do not lead to formal degrees, but they play an important role in socializing lawyers in the periphery in global norms while potentially creating space for a more authentic Southern voice to emerge and influence the core in a “legal globalization from below.”<sup>50</sup> How does the structure of opportunities and constraints identified in GLE play out in these other arenas? What similarities and differences do they bear, vis-à-vis programs housed at law schools? These are some questions that could be productively explored by future researchers.

45. See, e.g., the programs offered by the Council of Europe (<https://www.coe.int/en/web/help/courses>) and the Inter-American Commission on Human Rights (<https://www.oas.org/en/iachr/activities/courses.asp>).
46. See Cherise Valles, *The ACWL's Mandate to Provide Training on WTO Law: The ACWL's Annual Training Course*, 16 GLOBAL TRADE & CUSTOMS J. 515 (2020).
47. Luciana Gross Cunha & José Garcez Ghirardi, *Legal Education in Brazil: The Challenges and Opportunities of a Changing Context*, in THE BRAZILIAN LEGAL PROFESSION IN THE AGE OF GLOBALIZATION: THE RISE OF THE CORPORATE LEGAL SECTOR AND ITS IMPACT ON LAWYERS AND SOCIETY 247, 259 (Luciana Gross Cunha et al. eds., 2018).
48. On the role of NGOs in providing human rights training programs, Jackie Smith et al., *Globalizing Human Rights: The Work of Transnational Human Rights NGOs in the 1990s*, 20 HUM. RTS. Q. 379 (1998). For an example of an international NGO specialized in training judges, see International Law Institute/International Judicial Academy (<https://www.ili.org/centers-of-expertise/international-judicial-academy.html>). According to Anne-Marie Slaughter, “A flood of foundation and government funding for judicial seminars, training programs, and educational materials under the banner of ‘rule of law’ programs helped provide personal contacts and intellectual opportunities for these new judges.” Anne-Marie Slaughter, *A Global Community of Courts*, 44 HARV. INT’L L.J. 191 (2003).
49. SHAFFER, *supra* note 29. See also Vitor Martins Dias, *International Trade v. Intellectual Property Lawyers: Globalization and the Brazilian Legal Profession*, 9 J. CIV. L. STUD. (2016).
50. LAW AND GLOBALIZATION FROM BELOW: TOWARDS A COSMOPOLITAN LEGALITY, CAMBRIDGE STUDIES IN LAW AND SOCIETY (Boaventura de Sousa Santos & Cesar Rodriguez-Garavito eds., 2005).

In addition, and given my foot in the social sciences, I have hopes that the next wave of research on global legal education will be more data-intensive and data-driven. For example, scholars could work together to build large datasets with syllabi and CVs and to run multisited surveys with individuals and institutions. This would provide us with a clearer picture of some of the issues brought up by the GLE analyses (the direction of flows, the role of credentials, inequality trends over time, among others). A dataset with syllabi could also be useful to accelerate some reforms via isomorphism<sup>51</sup> and foster the kind of horizontal exchange between the core and the periphery that “transnational optimists” would like to see in place.

Lastly, future research on global legal education could give more space to dissenting voices. In making this point, I have at least two groups in mind. One includes the “reactionary elites” who have resisted reforms. This group is central to GLE accounts, and there are multiple suggestions about the ways in which it relates to the reformist initiatives investigated in the book: They can try to block or coopt reforms, but they can also learn from and participate in change. Ghirardi and Vieira write that the FGV law school has hosted teaching methods workshops attended by faculty from traditional schools and that the very presence of FGV in the Brazilian scene has forced those other schools to better justify their pedagogic choices, even when they denounce FGV’s neoliberalism (270). For this very reason, it would be instructive to hear what these “reactionary” voices have to say. This could be done either by inviting them to contribute to future studies or by taking them seriously as objects of study and sources of data.

Another group that is missing includes the periphery in the periphery. As I noted at the opening of this article, discontent with law school pedagogy is widespread in the Global South. GLE documents a wave of reforms that take place against this backdrop while drawing from transnational connections linked to the reproduction of U.S. hegemony. Then again, this is not the full story. There have been efforts to “modernize” schools that owe less to those transnational connections, but that have disrupted the status quo in interesting ways.

One example is the National Program for Education in Areas of Agrarian Reform (PRONERA), created in 1998 in Brazil.<sup>52</sup> PRONERA involves a partnership among the federal government, federal universities, and the landless movement MST. In 2007, the first law degree program under PRONERA was created, housed at the Federal University of Goiás. PRONERA law students have a special curriculum: They spend part of the time attending regular classes

51. WALTER W. POWELL & PAUL DiMAGGIO, *THE NEW INSTITUTIONALISM IN ORGANIZATIONAL ANALYSIS* (2010).

52. REBECCA TARLAU, *OCCUPYING SCHOOLS, OCCUPYING LAND: HOW THE LANDLESS WORKERS’ MOVEMENT TRANSFORMED BRAZILIAN EDUCATION* (2019); Mariana Prandini Assis, *Strategic Litigation in Brazil: Exploring the Translocalisation of a Legal Practice*, 12 *TRANSNAT’L LEGAL THEORY* 360 (2021).

and part in the fields, with their landless-peasant comrades. They develop strong bonds as a group and an understanding of the power and limits of the law rooted in their unique positionality as both law students and movement activists.<sup>53</sup> From this standpoint, they also bring questions and concerns to the classroom that cannot be dealt with through reigning formalism—and that may require, further, that law faculty and schools consider and confront law’s role in reproducing or challenging socioeconomic (in)equality and (un)sustainable livelihoods.

The reason the experience and epistemology of initiatives like PRONERA remain invisible to us and in the networks that we are part of is pretty obvious. Their faculty and students do not generally appear in U.S. conferences, nor do they write primarily in English. They thus fall off the radar of us, global socio-legal scholars, even when we recognize and denounce the structural inequality in our field. However, this is a gap that we should be tirelessly working to narrow, especially if we want “transnational optimism” to be part of this field.

### V. Concluding Notes

This essay brought together some reflections, self-reflections, and items for a research agenda based on my reading and partial review of GLE. GLE documents and explains the popularity of legal education reforms intended to “modernize” law schools and to train “global lawyers” both at the center and the periphery. These reforms are inspired by U.S. models, but their popularity owes little to promotion of such models by U.S. agencies and the U.S. foreign policy establishment. Peripheral countries have actively sought to emulate U.S. models and pedagogy, driven by the hegemony of “free markets” and “liberal democracy”—the two pillars of the U.S. political identity and imperial ambitions—that took root since the 1970s.

With this underlying zeitgeist, these reforms have thus been significantly more successful than those from the “law and development” days. However, they continue to cause some polemic and malaise on the ground. For one, they remain contested by (old and new) “reactionary forces”—groups that fear they will lose the power and influence they derive from hitherto predominant law school models. For another, the reforms have been questioned for their role in the reproduction of inequality. Nevertheless, they continue to generate enthusiasm and to feed the optimism of their participants.

The story central to GLE faces instability, as the United States faces competition and “free markets” and “liberal democracy” have become contested even in the United States’ backyard. But the book presents more than a story. It presents a valuable analytical framework for those interested in engaging with or researching “global legal education;” a framework I wish I had available when I began charting this “field” and was troubled by its apparent inconsistencies. My loss back then, the gain of all of us now, who have better tools to write both the next and the missing chapters in GLE.

53. It has also been found that, in their training process, some of these students may defect and use their law degree to climb up the socioeconomic ladder on their own.