6 Legal Education, Globalization, and the New Imperialism¹

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Introduction

Law and legal education are being exposed to tough developments as globalization alters the configuration of world society. This chapter speculates on a number of themes. What, if any, is the role of legal education in globalization? If elements of globalization are imposed by the international governmental organizations (IGOs), and NGOs, such as the World Bank, European Bank of Reconstruction and Development, and the IMF, how will their constituencies respond to the demand for the “rule of law” within their societies? As more economies and societies are brought under the rubric of global trade, what means will be adopted to co-ordinate them? Perhaps an important point is that legal education has only just begun to respond to these pressures and is ill equipped to deal with them. In fact, it is uncertain if there is anything in legal education (or the discipline of the law) itself that will furnish a creative response. Legal education is rather compelled to find other means of joining in the game. I explore this aspect by ascribing a role of engendering trust to law schools. They do it in conjunction with law firms that are often the conduits to employment in IGOs and NGOs and related governmental institutions. The principal idea for the creation of trust is taken from Luhmann, who views it as a means of reducing complexity in the modern era. There is one particular problem with my approach: it is too partial. The story of globalization is not really one that involves law and lawyers very much. Other players have a more significant role; among them are bankers, financiers, traders, and accountants. Lawyers are not in the vanguard of this movement. This might be the result of the conservatism of lawyers and the domestic orientation of most jurisdictions. In a few cases we can locate a juridical field that is not bound in these ways, e.g., *lex mercatoria*. My approach may be summarized as institutional in that I emphasize the roles of organizations and categories of professionals rather than concentrate on issues

of substantive law or the contents of particular law courses and training programmes. I believe that law and lawyers have roles to play in globalization—whatever that may be—but they are unsure as to what they are and they have been, and continue to be, slow in developing them.²

The remaining sections of the chapter include an outline of some of the potential players in globalization and legal education; a mapping out of the economic context; a discussion of elite law schools and the potential for globalization, loosely construed, in their curriculum, and the ways law firms enhance this process; and finally I attempt to bring together these themes. 'You cannot trust chaos. If nothing connects with anything else, or everything with everything else, it becomes impossible to build generalizations. In other words, a single system cannot, by itself, generate higher generalization or trust' (Luhmann 1979: 39).

Globalization, as a set of processes, economic, cultural and economic, has the potential to engender chaos.³ Trust is a necessary condition for global business to work because much business takes place outwith the law. And it is outside because there is hardly any global law for global business to operate within. Until law and regulation catch up with the practices of global business, trust is one of the few means of reducing chaos and complexity and promoting order. One way of creating trust, then, is through engendering and sharing common cultural values with others that accrue from common institutional bases, e.g., college, law school, profession, by creating moral and epistemic communities that transcend national categories. Trust, therefore, has to be learned (Luhmann 1979: 27), even though it is irrational. Trust is always contingent: its proof is in the absence of breach. Tradition and modernity coexist; the process of economic rationalization never totally disempowers tradition and cultural differentiation because the habits of religion and ethics that help generate trust are deeply rooted within many societies (Fukuyama 1995: 352-53).

Global business is prospering, as is the business of attempting to regulate restructure its activities.⁴ The surge in globalization has entailed significant modifications in the ways communities and nations function, the dramatic changes in eastern Europe and the former Soviet Union are cases in point. While business has flourished, social and economic life for many has become impoverished as the mainstays of socialist or state systems of welfare have collapsed or been destroyed (cf. Rhodes and Nabi 1992). Western ideals of

economic development reign supreme, but are they prevailing at the expense of the ideals of justice and community?

Potential Players

In 1996, the Bank for International Settlements (BIS) was able to report that:

The international financial system continues to grow steadily in size, complexity and geographical scope. Cross-border transactions in bonds and equities among the Group of Seven countries (excluding the United Kingdom) rose from 35% of GDP in 1985 to around 140% last year. The survey of derivatives markets carried out by central banks in April 1995 indicated that the outstanding notional value of derivative contracts amounted to over \$40 trillion in over-the-counter markets alone. Moreover, restrictions on cross-border rights of establishment for financial institutions have been virtually eliminated in industrial countries and are being sharply scaled back elsewhere. These developments are to be welcomed. They allow a more efficient allocation of capital both domestically and internationally, lead to lower-cost financial services, and offer new means for hedging risks of all sorts. (BIS 1996: 166)

The ideas promoted by the BIS in this paragraph are saturated in law. To take Llewellyn's conception of law jobs, an international financial system requires appropriate sets of technologies, processes, and ideas to enable the participants to function in rational ways (Twining 1973; 1993). There are issues of regulation, deregulation, comity, supra-national legislation, supervision, and dispute resolution. Halliday (1995: 742-43) argues that, 'We live in a world of growing global structures, or of transnational, but not state-related, structures that escape orthodox control'. Even so, for economic development and the extension of markets the role of law—whatever form it may take and under whose authority it is exercised—is crucial. People need rules to sanction their plays in the marketplace. Now that the marketplace for many is global, there has been a resurgence in the idea of *lex mercatoria* (Teubner 1997). Many of these developments have occurred among the elite players in the field of law (e.g., Flood and Caiger 1993; McBarnet 1994; Dezalay and Garth 1996, Arthurs and Kreklewich 1996; cf. Epp 1992; Santos 1995). The relationship between globalization and the field of law is reflexive: as the economy expands and integrates, its need for regulation also grows; the economy demands particular

kinds of law and law thereby shapes the economy. A number of questions are posed and there are also resonances in this relationship. Is globalization a new name for modernization with its imperialist connotations? Are we seeing domination through a particularly western mode of law discourse, a deterritorialization of law? Does globalization mean that the global and local coexist or are the tensions too great? Can ideas of economy and justice coexist or are they antagonistic to each other? Are the great international organizations promoting economic discourse at the expense of discourses on community, ethics and justice?

The relatively small numbers of players in the global law field, i.e., transnational law practice, means there is a paucity of formal educational skills at large, and so the result is that much of the craft of lawyering for the global order is learned through apprenticeship with elites rather than through academic routes, following Samuel Butler who wrote, 'An art can only be learned in the workshop of those who are winning their bread by it'. Formal educational institutions subsequently came late to these challenges. The first to do so were the major business schools in Europe and the US. Legal education has, however, been slow and inadequate in its response (cf. Flood 1996).

Elite status is reinforced by the open recognition of many consumers of law and lawyers that of all the legal regimes in the world only two are of significant consequence in transnational work, namely, English law and New York state law (Flood 1996, Economist 1996a).⁵ The number of potential law schools able to supply graduates capable of doing legal work at this level is small. Other jurisdictions are significant, of course, but they are dominated by this western duopoly. I have shown elsewhere that international business lawyers often define themselves by three attributes: A mastery of the English language, which is the common language of international business and finance, an ability to draft contracts, more in the prolix Anglo-Saxon style rather than in the concise continental way, and an understanding of private dispute resolution systems, such as arbitration. On occasion a fourth requisite is claimed, namely, admission to another jurisdiction, notably the New York Bar (Flood 1996: 190).

The key here is that the prototypical international business lawyer can operate in any system of law provided the conditions above are met. This is reinforced by advertisements for lawyers in the major financial institutions. The European Bank for Reconstruction and Development, for example,

advertised for counsel with the following characteristics:

Education: graduate law degree from a leading university required; post-graduate degree from a leading university in another country desirable; Work Experience: at least four years international lending, investment or project/asset finance experience in a leading international law firm or the legal department of a leading international bank or other financial institution required; Skills: excellent legal drafting in English required; evidence of good negotiating skills desirable; Languages: excellent spoken communication in English required; fluency in a language other than English, preferably a central or eastern European language, desirable.
(Econlis, 25 January 1997, 129)

Although legal education is parochial and prescriptive, it has a residual power. Most of the major institutions—governmental, NGOs, supranational—in the western world (and many elsewhere) are partly staffed by people with legal training (but not necessarily legal education) (cf. Miller 1995). It is one of the ultimate portable skills. There is a paradox, however, in the skills required and those supplied by the academy. Finance and capital are more or less the same anywhere; a unit of labour is a person, and so on, but legal rules are inextricably embedded in jurisdictions that operate largely within national boundaries (EBRD 1995). Despite this inherent parochialism, there has been an explosion in the development of global law firms and some would say global law (e.g., *lex mercatoria*), and in the global roles of professionals who work alongside law. What is happening here? Does it have any impact on legal education or vice versa (cf. Bradney 1995)? Have certain dominant educational institutions become gatekeepers for a global corps of leaders? How do all these developments affect lawyers in developing and emerging countries? How have a few law schools become the major credentialling institutions in the race towards globalization?

A different set of issues is to ask do law schools add value? This question is allied to another, which is what value do lawyers add to transactions? Gilson (1984) argued that lawyers reduced transaction costs by reducing information asymmetries and therefore were not a net cost and necessary liability to business, but rather enhanced the value of transactions.⁶ It is possible to contend that as law becomes increasingly specialized and that mastery of that specialization must occur at an earlier stage in lawyers' careers, the craft mode of learning skills becomes expensive (i.e., through loss of billable time) relative to the tyro developing the skills in graduate school.⁷ This presupposes that the

undergraduate curriculum remains the same in order to establish the infrastructure of skills—but we could ask why it should—which can then be built on by specific graduate programmes. Law schools can also add value in other ways, by instilling and emphasizing notions of the good and the ethical.⁸ This is the idea of the lawyer as good citizen. But law schools have a number of roles (Twining 1995), among which is a growing training element for organizations.⁹ And globalization is a spur to this end.

Not all of these questions can be answered here but some are best examined within the context for the operation of international business law as a function of foreign investment. This framework takes into account the regulatory and normative infrastructures of markets and finance. The condition of international business is predicated on the concept of trust. As Giddens bluntly puts it, “Modernity is inherently prone to crisis, on many levels...Crises in this sense become a ‘normal’ part of life, but by definition they cannot be routinized” (Giddens 1991: 184). Globalization, a key feature of modernity, encapsulates this sense of crisis by inflaming uncertainty: the idea that business ignores borders does not negate the cultural and moral dangers that inhere in dealing with strangers. Another way of putting this has been framed by Luhmann (1979: 8) who postulated that ‘Where there is trust there are increased possibilities for experience and action, there is an increase in the complexity of the social system and also in the number of possibilities which can be reconciled with its structure, because trust constitutes a more effective form of complexity reduction’. And, although globalization appears faceless and technology driven, it nevertheless requires some face-to-face interaction and means of formulating relationships of trust (cf. Boden and Molotch 1994). Among elites this is facilitated by membership of a relatively small number of institutions, such as leading law and business schools and professional service firms. Some of these institutions are examined to explain how they contribute to the cadres of international business.

Four vignettes signify the themes in this chapter. In the first an Eastern European government agency tried to purchase wheat on the world futures market to reduce shortages of bread. The head of the agency was inexperienced in the ways of capitalist markets, so he relied on a well-tried technique for dealing with these things: he asked an expatriate friend living in the west to buy it for him. The wheat was bought and delivered but was useless for making bread as it would not rise more than two centimetres. Moreover, the prices

paid had varied widely. The agency head was at a loss to account for these variations because as he noted the wheat was mostly purchased in Geneva and Vienna and climatological maps clearly showed that there was little difference between the two cities. In fact, he had bought wheat imported from other areas. A UK white-collar crime lawyer was later called into explain how futures markets worked and how fraud was practised.

The second vignette involves the World Bank, which advertised a \$30 million programme for modernizing the Venezuelan judiciary only in the US and UK. Only western expertise was capable of bringing the Latin American judiciary up to the standards necessary to reassure global business. And if this project was successful, the World Bank would fund the modernization of more state judiciaries elsewhere.

The third is a letter to the Economist in 1996 from an Asian correspondent: 'Your article on Asian business empires acknowledges that many successors to family businesses are educated at western business schools. But you fail to point out that many also spent much of their childhood in a western country. The cultural make-up of these successors is therefore quite different from that of their parents. The new generation is more westernised; delegation is more acceptable to them, hence a willingness to restructure the family business.'

Finally, at the 1995 International Bar Conference in Paris during a session on the globalization of the legal profession, an East African delegate remonstrated with the UK and US members who were talking of the dominance of their respective laws and professions in the global marketplace as synonymous with globalization. The delegate made it clear that he resented bodies such as the International Monetary Fund coming to third world countries and issuing edicts on the appropriate measures to modernize their economies. What galled him particularly was the way in which the IMF ignored local professionals, preferring instead to work with UK and US law firms. The delegate warned that if such bodies refused to acknowledge the contributions that local professionals could make, then foreign advisers would find themselves excluded from practising in these countries. They had to learn to work in partnership with locals. This intervention was met with silence.

Inherent in these vignettes is a poignancy that laissez-faire capitalism has ignored: the expansion of 'free markets' does not necessarily enable local communities to participate fully in the world market and polity. Indeed, the

new imperialism of the supranational bodies is deficient in the benign paternalism of the old-style colonialism which at least pretended to have the welfare of communities at heart. The present emphasis of bodies such as the IMF and the World Bank is, at a basic level, on technical restructuring leading to a hope that markets will, as a spillover effect, generate new social structures. If these fail to come about, the restructuring cannot be blamed because technical restructuring is value-neutral, non-repressive and therefore not the cause. The cause will most likely lie in some cultural and social peculiarities of the particular societies.

Economic Context

In order to understand lawyers and legal education in the processes of globalization, the following context is adumbrated. Economic reasons have driven the expansion of finance and commerce throughout the world, but it is worth examining where the bulk of the investment takes place. The major form of investment in global business is foreign direct investment (FDI) (Thomsen and Nicolaides 1990), which has been defined by the International Monetary Fund (IMF) as

...investment that is made to acquire a lasting interest in an enterprise operating in an economy other than that of the investor, the purpose being to have an effective voice in the management of the enterprise.
(IMF 1977a)¹⁰

The development of FDI therefore gives a proxy for the growth in and scale of global business. Since the 1970s there has been a high rate of growth in FDI as Table 1 below illustrates (see also Economics Focus 1996).

Table 1 Stock of foreign direct investment in selected countries

Country	Assets				Liabilities			
	1975	1980	1985	1989	1975	1980	1985	1989
USA	124	215	230	373	28	83	185	401
Japan	17	20	44	154	3	3	5	9
Germany	15	31	43	104	19	25	23	40
France	14	28	73		17	37	61	

Italy	3	7	18	47	9	9	19	51
UK	38	79	107	224	24	63	63	138
Canada	10	23	39	64	40	60	62	103
Netherlands	20	42	50	63	20	11	15	30
Australia	1	5	7	27	9	25	27	57
Total	228	436	566	1129	152	296	436	890

Note: Figures in billion US dollars. *Source:* Allison, 1993, p.115.

The USA has the largest rate of FDI, but Japan, Germany and the UK have grown considerably over the period shown in Table 1.¹¹ Although Bank for International Settlements' figures show FDI still increasing overall (BIS 1995: Table III.8), indicators provided by UNCTAD demonstrate that the rate of growth of FDI is not directed uniformly upwards (UNCTAD 1994: Table 1).

The direction of FDI also indicates how economies are opening up in the global marketplace. Primarily FDI flows among "Triad" members, i.e., the United States, the European Union, and Japan (Ohmae 1991). Figure 1 shows the flows in billions of dollars.

The largest FDI flows are within the European Union and between the US and the EU. Developing countries receive relatively little, with one exception, namely, China, which received inflows of \$34 billion (BIS 1995: 67). Latin America's inflows of FDI, however, are less than those of Asia, and generally there is a greater reliance on portfolio investment rather than direct investment flows (BIS 1995: 68).

In addition to FDI the evolution of capital markets may well reduce the options available to governments (Eichengreen 1994). The Mexican financial crisis "...highlighted the volatility of many forms of capital movement, drawing attention in particular to the risks that can arise when capital inflows cause exchange rate overvaluation and unsustainably large current account deficits" (BIS 1995: 141). Both sound financial and regulatory systems have to be in place to encourage, enable and empower development while preventing the kinds of crises of which Mexico was one. The general manager of the BIS, Andrew Crockett, outlined what might be happening and what needed to be done:

The deepening of global integration at all levels of economic activity implies a continuing need for policy-makers to exchange views regularly and to

seek a consensus where possible on issues that bear on their countries' joint well-being. Such cooperation works in the main through country representatives agreeing on what needs to be done, relying on the moral force of such agreements to encourage any needed changes to national policies, legislation and regulation. Such a cooperative approach may at times seem slow and laborious but experience has shown that it can succeed and that the benefits warrant the effort invested.

(BIS 1995: 212)

World Inward FDI stock: \$2,080

Figure 1 FDI Stock among Triad members and their clusters, 1993 (billions of US dollars)

Source: UNCTAD, Division on Transnational Corporations and Investment, *World Investment Report 1995: Transnational Corporations and Competitiveness* (United Nations publications, Sales No. E.95.II.A.9).

a. Canada and Mexico.

b. United States outward FDI stock.

- c. United States inward FDI stock.
- d. Data from inward FDI stock of Austria, Finland, France, Germany, Italy, Netherlands, Sweden and the United Kingdom. Data for Austria are for 1991 and data for France and the Netherlands are for 1992.
- e. Outward FDI stock of Austria, Finland, France, Germany, Italy, Netherlands and the United Kingdom. Data for Austria and France are for 1991 and data for Italy and the Netherlands are for 1992.
- f. For Sweden, the data reflect FDI to and from all European countries, Intra-European Union FDI, based on inward stocks, is \$225 billion.
- g. Data are based on approvals/notifications and represent those from countries other than those in North America and Europe.
- h. Estimated by multiplying the values of cumulative flows to the region according to FDI approvals by the ratio of disbursed to approved/notified FDI in developing countries.

The integration of developed and developing economies necessitates a levelling of institutional understanding and operation. For example, central bankers must be able to cooperate with each other or risk disrupting the fragile international financial system,¹² but achieving a level field is difficult.¹³ In countries which have just begun to emerge from centrally planned economies or authoritarian regimes, banks may not appear to have the expertise and autonomy to act within international rules. This is especially so in Eastern Europe. Indeed, the general counsel for the European Bank of Reconstruction and Development (EBRD) said

The EBRD's mandate is to foster the transition towards market economies in the countries of the Former Soviet Union and Central and Eastern Europe, and to promote private and entrepreneurial initiative...Recognising fully the importance to sustainable economic development of stable "rules of the game" and the establishment and continued strengthening of law administration and enforcement institutions, the EBRD has embarked on the provision of legal technical assistance to its countries of operation that will foster the transition process.

(Taylor 1996: 98)

The EBRD has carried out two surveys on progress in legal reform in its constituency countries, both of which show reform is directly proportional to inward investment flows (Law in Transition 1996: 4). As investment increases, reform speeds up to accommodate it; where investment is slow, reform remains low on the political agenda. The EBRD's Transition Report 1995 (EBRD 1995), shows how various countries are dealing with the implementation of investment. The figures demonstrate that development throughout regions is uneven and irregular, that western modes of doing

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business will not suffice in other cultures, and that the residual effects of previous social and economic systems linger long after they have been usurped. But whereas markets can flourish, the state is often inadequate to the task of providing regulatory and legal frameworks for their successful and uncorrupted functioning. The figures contained in the Report illustrate the different levels of development in respect of investment regulation and support. Differences occur in the ability of foreigners to own businesses and land, whether investment laws are drafted by legally trained personnel or not, how easy or difficult it is to gain access to laws, what kinds of administration exist to protect interests, and the expertise and status of the judiciary involved in investment disputes. Implicit in this survey is a goal of certain targets that each constituent country should meet. Failure to do so is deemed a matter of inadequacy more than a taste for local norms and customs that are at odds with western ways. The terms 'emerging', 'transitional', and 'developing' carry within them a connotation of the primitive, the precursor to the maturity of the modern.

Even though legislative change may occur, and it is clearly necessary for economic development, it is not sufficient unless there is institutional change to match it. Taylor argued that:

The EBRD has also recognised that there is very little point in having well drafted laws on the statute books of its countries of operations unless such laws are properly enforced by trained lawyers and judiciary in a consistent, effective and non-discriminatory manner. The area of institutional development and legal training, there, is another important element of the EBRD's legal transition efforts.

(Taylor 1996: 99)

Part of the task of world institutions as demonstrated by the activities of the World Bank and the EBRD is to enable a diverse group of nations to participate in global markets and enhance the skills of the local professionals in that endeavour. Some commentators see institution-building as the third wave of development economics, after the initial phase of subsidizing economies followed by market-based development (Economist 1997a: 93). In addition to building credible legal systems and freeing central banks, political reform is necessary.

Sustaining and implementing reforms is not simply a matter of ticking off a checklist, but a question of strategy and priorities. Governments not

only need to do the right reforms in the right order; they also need to make them stick. This means building a consensus for reform. It sometimes means compensating losers, even government elites themselves. The difficulty is how to create the kinds of incentives that will ensure these elites want to continue reform (Economist 1997: 94).

Since the Mexican crisis the IMF has suggested that:

...investors have become more sensitive to economic fundamentals in host countries— the size of current account deficits in relation to foreign exchange reserves, external debt, and domestic saving; growth potential; and the soundness of the banking system. Furthermore, those segments of the international investment community—mostly institutional investors—that invested heavily in the emerging markets appear to have become more knowledgeable... .

(IMF Research Dept Staff 1996a: 5)

The results of these moves are illustrated, for example, by comparing the levels of FDI into the Baltics, CIS and Eastern Europe, with a population of 400 million, with that of Malaysia with a population of 19 million: they are the same (World Bank 1995).

From one perspective, then, the emerging integration and restructuring of the world economy calls for a reshaping of the normative frameworks that have customarily been used, at both macro and micro levels. The major institutions operate at the macro-economic level dealing with bank regulation, investment laws, and budget laws, for example. While at the micro level we see organizations, such as the Association of Chartered Certified Accountants, training accountants in developing countries in how to interpret the UK 'true and fair view', with the aid of the British Government's 'Know How' fund.

Most FDI then is still directed at the developed world rather than emerging markets, which are still eyed with suspicion. Moreover, some emerging markets lack the moral, social and cultural infrastructure that encourages reciprocity of behaviour. The reactions of users to courts' actions when such a state is a party are telling (e.g., Armenia, Kazakstan, and Turkmenistan; see EBRD 1995). Although, to an extent, action is predictable—albeit the wrong way—the ability to rely on common values in business is absent. This absence is a strong barrier to investment. And this is where education and training can assist, because they begin to create those shareable values, values which are worth sharing in the eyes of western, developed

countries. If western values are to prevail, then many problems that now exist will grow over time as orientalism (Said 1995) or the 'Confucian challenge' (Fukuyama 1995), broadly defined, emerges as a powerful force in the global economy.¹⁴

Law Schools and Globalization

In an attempt to discern law schools' responses to globalization I analyzed the prospectuses of a set of the top law schools in the US and the UK. I was interested in the kind and quantity of international courses offered and, more importantly, whether there was an explicit embrace of globalization within courses or elsewhere. As long ago as 1991 one American commentator was arguing that law schools should not just introduce courses with international dimensions, but should in fact internationalize the entire curriculum because internationalization/globalization had begun to infuse all aspects of life (Khan 1991).¹⁵ I adopted these indices as proxies for the law school response to a perceived need for legal development in the way that the EBRD general counsel was mentioning above. In comparing legal education in the US and UK it is essential to bear in mind that in the former law is a graduate degree whereas in the latter first degrees are part of the undergraduate curriculum. To compensate for that I have mainly examined graduate prospectuses in the UK and ordinary American law school catalogues.¹⁶ Both American and British universities actively market their degrees to overseas students who bring in lucrative amounts of tuition fees.

One important point must be made here. What follows is largely speculative and needs considerable amounts of further research.¹⁷ I have not delved into the history of these courses, nor have I computed student numbers, so I cannot say what the student demand is for these courses. I have glossed over the distinction between international, transnational and global. They are distinct terms, but to some degree I have made them fungible.

In the UK the top law schools are clustered in the 'golden triangle' of Oxford, Cambridge and London.¹⁸ Each offers a taught one- year, self-contained, graduate degree, usually the LL.M. Of the three London is unusual in that six separate law schools combine their efforts to produce a London-wide programme of graduate study with many more courses than either Oxford or Cambridge.¹⁹ Table 2 shows the proportions of international (i.e., non-domestic) course.

Table 2 International graduate courses at top UK law schools

Name and Degree	Total Graduate Courses	International Courses
Cambridge LL.M.	28	8 (28%)
London LL.M.	142	60 (42%)
Oxford B.C.L.	24	6 (25%)

Source: Derived from law school prospectuses.

Oxford and Cambridge have not capitalized on the international/global market in a substantive way, although their names are recognized everywhere.²⁰ International courses comprise about one quarter of their law courses. London, however, has close to a half of its LL.M. courses focussed on international themes.²¹

The American situation is quite different. For purposes of comparison I selected the four top national law schools, namely, Harvard, Yale, Columbia, and Chicago, which offer the J.D. degree and separated out the proportions of their international courses. See Table 3.

Table 3 International courses at top US law schools

Name and Degree	Total Courses	International Courses
Harvard J.D.	249	48 (19%)
Yale J.D.	10	11 (10%)
Columbia J.D.	265	37 (14%)
Chicago J.D.	155	22 (14%)

Source: Derived from law school prospectuses.

In absolute terms the numbers of courses provided are greater than in the UK, with the exception of London. Despite the greater numbers, in percentage terms American schools offer fewer courses than their British counterparts. The real difference lies in the approach of the schools. Oxford and Cambridge offer a traditional array of courses along the lines of private and public international law, with perhaps alternative courses on international dispute resolution. London has internationalized a bigger range of courses, e.g., labour law, environmental law, energy law, investment law. The addition of SOAS to the London law schools also provides courses on topics such as

Chinese and Japanese law, African and Islamic law. While it is possible to concentrate on particular areas of study in the London LL.M., the courses are distributed quite widely through the London law schools. In this respect the delivery of international courses in the US law schools is probably more highly developed, especially at Harvard and Columbia. For example, Columbia organizes its courses under various rubrics e.g., corporate and securities law, human rights, international, foreign and comparative law. Within the latter group there are courses on international economic law (GATT and WTO), Russia and the CIS, cross-border legal transactions, and specialist courses on aspects of Japanese, Korean, Latin-American and East European law. This is bolstered by centres that specialize in some of these areas, such as the Parker School of Foreign and Comparative Law, the Center for Japanese Legal Studies, and the Center for Chinese Legal Studies. Finally, the intellectual stature of these schools is underpinned by journals that produce and disseminate knowledge. Columbia, for example, has at least four journals concerned with non-domestic matters, namely, the American Journal of International Arbitration, the Columbia Journal of Transnational Law, the Journal of Chinese Law, and the Journal of East European Law.²²

Reasons for the differences are not difficult to find. UK universities usually have highly bureaucratized systems of course delivery. Introducing a new course is a long-term project, often involving validation by others than the instructor. American law schools are largely autonomous units within the university structure and have a much more flexible response to the organization of law courses. There is considerable room for experiment. For example, at Harvard the ongoing O.J. Simpson criminal trial became the basis for a criminal evidence course.²³

American law schools are primary institutions, although their J.D. degrees are considered terminal. That is the award of the J.D. degree permits the holder to sit the bar examination and begin practice.²⁴ In the UK a law degree enables one to apply for a vocational law course, not to practise. Furthermore, American law professors are generally paid more than other professors in the university, which has the effect of enhancing their status.²⁵ They also retain stronger links with key practitioners, often giving them adjunct faculty status. For example, in the international, foreign and comparative law curriculum at Columbia four courses are taught by adjunct faculty: three by attorneys with major New York law firms; one is jointly taught between a law

firm partner and a senior counsel to the Chase Manhattan Bank; and one by the chief counsel to the World Bank.

If law schools tackle the problems of globalization, they make a pass at it by running courses or graduate degrees specializing in the area. Only one law school has attempted to mark itself as a global law school. New York University Law School has created a 'global law school program' which has been supported by \$75 million in donations (Deal 1994: 1; Myers 1994: 2). It has three main aims: to create a global faculty of 20 law professors from around the world who will teach in conjunction with NYU faculty; to endow 20 full scholarships for overseas graduate students; and to support research through a centre on property and innovation in a global economy (NYU: The Law School Magazine 1995: 5-6). The visiting faculty are predominantly UK, German, and Japanese, representing the more powerful interests in the world. There is one from Egypt, representing both the Arab and African interests, although he teaches in Switzerland. This is the most explicit form of merchandising yet by a law school, and one with imperial ambitions, when it says,

As the processes of transformation and globalization unfold, law is playing and increasingly will play a critical role; indeed, the success of the emerging global community will depend in large part upon the integration and accommodation of disparate traditions through law. American law and its lawyers are playing a pivotal role: the United States has developed the world's most elaborate legal system; our Constitution is an obvious model for compacts governing the relationship of governments to their citizens; and American commercial law is providing the reference point as others develop their own legal regimes.

(NYU: The Law School Magazine 1995: 5)

Although this single instance cannot be taken as a general trend in legal education, it is, I believe, indicative of a burgeoning commercialization of legal education. NYU has developed a 'super-niche' through co-opting globalization as its motif (in contrast to its well-known niche tax LL.M. programme). Most others, whether British or American, have relied on the adjective international rather than global. It is a transition that business schools have already undergone.

The role of the global law school as presented here is one that will export American legal ideas and concepts throughout the world, especially among the emerging markets. In some ways it is a backward step from what

is already being done by law firms and other international institutions. For example, Gordon et al. (1996) argue that a significant role of international institutions like the IMF is to offer 'technical assistance' by transplanting basic, so-called 'neutral' laws, e.g., tax and budget laws, to countries that either do not have them or possess inferior versions of them. These are evidently not value-neutral exercises in legal technical assistance. Amongst other things, tax and budget laws exercise a considerable impact on social welfare programmes, which might have far-reaching consequences for a developing country. This is evident in the IMF's own words when it writes:

Much [technical legal] assistance was to members with economies in transition from central planning that are seeking advice to establish an appropriate legal framework for a sound fiscal structure, modern financial sector institutions, and market-oriented financial transactions. Often the assistance to these countries involved revision of legislation passed early in the transition period that has since proved inadequate...The department helped to build capacity among local officials both through the discussions involved in giving advice and by conducting courses and seminars... .
(IMF 1997b: 150)²⁶

This kind of development is being taken further as the United Nations attempts to establish a global accounting qualification through the intergovernmental working group on International Standards of Accounting and Reporting (ISAR); 'ISAR hopes a global qualification will provide a "benchmark" which will be used by developing countries to reduce the "education gap" with the developed world'.

The stated purpose is to enhance local professionals and place them in fair competition with western accountants. It is also a means of imposing a western view on the manner in which accounts should be done.
(The Accountant 1996)

Perhaps the last point to be made here, although not insignificant, is that the elite law schools are key credentialling institutions that feed candidates to the major law firms, international NGOs and big corporations.

The Role of Law Firms

Law firms are becoming central players in globalization, in both interpreting

norms and creating them for states and individuals.²⁷ But what is their role in training lawyers for globalization? The top 20 law firms in the US and the UK were asked whether they had an internship programme for foreign lawyers.²⁸ Most have no formal scheme, but many run informal internships. In the US a typical example of the ad hoc approach is Weil Gotshal and Manges which takes on interns through contacts made by partners: for 1996 the firm had two interns from Japan and one from Hungary. An example of the formal programme is Shearman and Stirling which runs a Foreign Associate Program out of its New York office for 10 to 12 non-US lawyers a year, who are hired for one year. The countries represented by the programme include Argentina, Australia, Brazil, Chile, Colombia, England, France, Germany, Greece, Hungary, Japan, Korea, Mexico, Peru, Philippines, Russia, Switzerland and Venezuela. In the UK the situation is highly variable, with some firms running internship programmes and others not. For example, Slaughter and May runs a programme that takes about 12 lawyers per year for six months from firms that it has associations with. The most developed programme is that of Simmons and Simmons. It runs eight schemes. See Figure 2 below.

Figure 2 Internship schemes run by Simmons and Simmons

1. *Overseas Associated Offices*: lawyers come from associated offices in other jurisdictions.
2. *Blanche Lucas Scheme*: in connection with the British Hungarian Law Association one Hungarian lawyer visits the firm for one month.
3. *BELLA Scheme*: in connection with the British Estonian, Lithuanian and Latvian Association one lawyer visits the firm for one month.
4. *Chinese lawyers*: in association with the British Council one Chinese lawyer per year visits the firm for a two-month period.
5. *Pilot Scheme*: in association with the British Council and the College of Law Indian lawyers follow a six-week course at the College and a six-week internship with the firm.
6. *EFB Scheme*: in association with the Ecole de Formation des Barreaux, Paris, two students spend between two and three months at the London office.
7. *Practice Development Scheme*: involves taking on foreign lawyers for substantial periods of time to facilitate practice development. Interns have come from *inter alia* China, Germany, Luxembourg, Mongolia, Spain and Sweden.
8. *Other Schemes*: The firm has established links with a number of law firms overseas whereby lawyers are exchanged, e.g.:
 - *with a Japanese firm; interns may be in post for up to three years

- *with an association of lawyers in South America, Club d'Abogados
- *in a joint practice in Italy with Grippo & Associati
- *in a joint venture with other law firms in Lisbon: the participants are called Groupe O'Legal Portugese, with firms from Spain, Brazil and Portugal.

The law firms outside the top ten usually run informal internships, e.g., Cameron McKennas takes in a variable number each year from usually Poland or Russia.

If globalization is taken seriously then, like the law schools above, law firms have to calculate how they can deliver uniformly high-quality services from lawyers who come from and practise in a range of cultures. The question is: can organizations impose uniform standards throughout their domestic and offshore offices? Most likely not. Horner (1997) argues that large, multi-regional law firms must train on a regional basis, taking into account the peculiar characteristics of local jurisdictions. Yet this type of training can be cross-cut by holding 'practice group-based' training that takes lawyers from different jurisdictions and immersing them in topics, such as international securities.

Law firms are important because they supply the key officers of the international NGOs, major domestic financial institutions, and central government offices. For example, both chief counsel of the Asian Development Bank and the EBRD were partners in large law firms. Also within the US they are becoming ad hoc educators in the elite law schools, as illustrated above.

Discussion

One way of interpreting globalization is to see it as a means for international elites to congregate in larger and denser patterns than hitherto. The processes of regulation are becoming more formalized and less 'mesocorporatist' (Moran 1991). These moves have been necessary as a greater number of 'strangers' interact with each other in the global markets. It is increasingly difficult, yet still necessary, to rely on the old system of ties that bind them - e.g., 'my word is my bond' - even though some cultural values might be shared across borders. To develop trust in these circumstances indicates that the institutions that contain the potential to create systems of trust must be seen to function globally and enhance the possibility of global understanding among elites. Trust in

these systems is necessary because arm's-length relationships mediated through private governance schemes, i.e., contract or franchising, are not self-sustaining. They depend on external means of enforcement and regulation. As the figures in the Transition Report show (EBRD 1995), enforcement might not always be available, especially in situations of uncertainty where the opposing party is the state which expects to triumph regardless of the merits. Trust acts as a broker between rationality and tradition - neither subjective or objective; it assists in dividing up complexity into manageable bits and raising one's tolerance of ambiguity and uncertainty (Luhmann 1979).

In law some institutions already satisfy this condition, namely, the large law firms. They provide systems of patronage that transcend the professional boundaries since all commercial, non- governmental and international organizations require legal counsel, and they also export lawyers into mainstream management positions. The sources of such counsel are often the law firms who provide personnel and knowledge.²⁹ Although large law firms are havens of expertise (e.g., Powell 1993), they rely on traditions of apprenticeship and craft to instil skills in novices. They do not possess the theoretical knowledge and its means of dissemination found in the academy.³⁰ In order to improve the means by which globalization could progress, the academy was co-opted into the globalization game. The example of New York University's Global Law School programme is one such recent instance. Nevertheless, other law schools have made efforts in these directions, with an increasing number of courses aimed at transnational topics, e.g., London, Harvard, Columbia. Others now try to build niche markets, whether geographically (e.g., Pacific Rim) or substantively (e.g., international human rights). There is now intense competition for students from overseas among law schools in the UK and US, much of which, although not all, is based on offering international business courses.

Still, the export of expert knowledge to 'developing or transitional' countries is not a clear, unilinear course. In a way it demands a paradigm shift in conceptualizing society and economy (cf. Kuhn 1970). The clearest example of this move has been the guiding philosophy behind George Soros' thinking in establishing the Central European University (CEU). Soros, a committed Popperian, believes that the former Communist countries of Eastern Europe can benefit from the ideas of Popper's *The Open Society and Its Enemies* after 40 years of totalitarian rule. The intellectual agenda is a grand one: it

contains more than merely grafting laissez-faire market philosophies on top of proto-democratic modes of authority. It entails the creation of a new politics, which is not easy or quick. But following the honeymoon of the revolutionary late 1980s and early 1990s, there has been a backlash against the domination of Western expertise. The Times Higher Education Supplement (Opinion 1996) reported a Polish speaker at a CEU seminar saying of Western experts, 'They treat us as if we were ignorant, as if these were third-world countries. They know nothing about the history and make-up of the countries they are advising'. The article goes on to say that the CEU is 'much less interested in providing what emerging companies in the region are eager to buy - training in law, business studies, information technology' (Opinion 1996).³¹ And by this is meant low-level technical training rather than the exalted educational philosophies of the CEU. Indeed, the private educational sector in the Czech Republic has begun to adapt itself to meeting these immediate practical needs.

Perhaps the epitome of this move is the rise of the 'corporate university'. The Association of Business Schools in evidence to the Dearing inquiry into higher education said, '...the Corporate University poses an outside threat to higher education and brings attendant risks and large unknowns...The ingress of major world corporations into the education sector is already under way with Disney 'edutainment' centres...' (Baty 1997: 2). All training takes place in 'mono-functional' ways in 'mono-cultural' institutions. It is an explicit rejection of the values of education in favour of short-term mechanical skills that enhance pragmatics at the expense of ideals. The nearest analogue in law is the move by some large law firms in the City of London to establish their own Legal Practice Courses.

A similar theme is emerging in other countries as governments and local professionals tackle the invasion of foreign experts. A growing number of countries have restrictive provisions on the establishment of foreign lawyers, e.g. Poland, India and Vietnam. In India the Lawyer's Collective is suing Ashurst Morris Crisp, a UK City law firm (and two US firms), for illegally practising law, as it failed to obtain recognition from the Indian Bar Council (Watching Brief 1995; Page 1997). Vietnam regulates the activities of foreign lawyers by licensing branches and compelling them to pay tax (Inside 1996). The effect of the regulation was expressed by a Western lawyer this way, 'The problem is not that we can't practise Vietnamese law but that we cannot hire Vietnamese lawyers. This means that Vietnamese lawyers aren't going to

get trained. They need it and want it and so do we' (Inside 1996: 3).

The export of expertise and knowledge from the West to emerging countries is contentious. It is based on a perception by Western institutions - whether law schools, international organisations or law firms - that Western skills are needed and that their lack will be deleterious to the economies (and politics?) of developing countries. Caufield (1997) argues that the World Bank, for example, has basically responded to its own failures to effect economic change among its constituency countries. Its programmes have induced environmental damage, especially its promotion of hydroelectric dams,³² or its loans have resulted in the creation of huge debts to the Bank. Moreover, Wade (1996) describes Japan's efforts to alter the World Bank's negative approach to the role of the state in development. Ultimately, Japan failed to shift the development paradigm from a predominantly American one to another that would incorporate Asian values.

Can we accept the notion of disinterested need-fulfilment at face value? I doubt it. Some years ago, the West itself faced the question of needs in relation to social welfare law. It was believed by policy makers and lawyers that needs had an objective reality and therefore could be fulfilled. Scholars who deconstructed this theory showed that needs referred more to lawyers' own ideas of needs and satisfaction of those needs rather than to the needs perceived by potential clients (Morris et al. 1973; Hosticka 1979, cf. Auerbach 1978). We are facing similar problems now, only this time it is on the global scale: entire populations are perceived to have problems in common with each other that diminish their own cultural values. If this diminution continues, there is bound to be a backlash. We see it emerging in the arguments for an Asian conception of morality and community, which emphasizes the group over the individual thereby reproving the west for its constant, if muted, criticisms of human rights abuse. Referring back to the programmes being offered by Western law schools, however, the stress there is on trade and it is kept distinct from issues of human rights. Even the international organizations, such as the IMF, reduce changes in legal systems to one of 'technical assistance' which assist economic change without particularly paying heed to the social effects of these policies. Indeed, one argument asserts that

In order to justify, or discount, the divisive consequences of restructuring— notably the social concentration of resources and the fragmentation of

previously coherent social systems (e.g., economic arrangements, social protections, communities)—globalization advocates appeal to a higher good, namely, efficiency, and stress the importance of discipline in the global economy....In short, as the rationale for recent restructuring of states and economies, “globalization” is an historically specific project of global economic (financial) management. Prosecuted by a powerful global elite of financiers, international and national bureaucrats, and corporate leaders, the globalist project grows out of the dissolution of the development project. (McMichael 1996: 28)

Globalization transforms states into corporate enterprises to which the same rules apply: they can be restructured or go bankrupt; technologies can be transferred; labour forces can be downsized, all being done independently of the cultural milieu of the ‘exporters’ and ‘importers’ (cf. Bob 1996).³³ The globalization project supplies a *modus operandi* that isolates the processes of change from the larger questions about society. It is not too remote from the types of analysis used in law: the ability to think of two things, ineluctably connected, as separate. Law and legal education are in a struggle where they may become the handmaidens (Santos 1995), or maybe the consiglieri, of economic efficiency and the juridification of daily life,³⁴ in the pursuit of global hegemony and as a result are devoid of a sense of justice and community (Gordon 1988: 52; cf. Epp 1992 and Magee 1992).

Notes

1. Earlier versions of this paper were presented at the Socio-Legal Studies Conference, Southampton, 1996 and the Working Group on the Legal Profession of the Research Committee on the Sociology of Law, International Sociology Association, Peyresq, 1996. I am grateful to Harry Arthurs, Andy Boon, Yves Dezalay, Gerard Hanlon, Philip Lewis and Eleni Skordaki for comments. One person especially deserves my thanks: William Twining commented in detail and gave me a number of his reprints which galvanised a series of rethinks. Avis White and Alicia Ash provided valuable research assistance.
2. It would be misleading if the reader were to be left with the impression that lawyers were newcomers to the international stage; they are not. The City of London Solicitors’ Company’s evidence to the Royal Commission on Legal Services in 1977 stresses how English solicitors conceived of themselves as in competition with other jurisdictions because they were marketing a commodity called law.

3. For some recent interesting texts on globalisation see Robertson (1992), Santos (1995), Appadurai (1996) and Latouche (1996).
4. In this chapter I focus on business rather than on other aspects of globalisation, such as the media and the arts.
5. One example of the power of these systems is the question of what happens to ecu bonds if they are converted into euro bonds with the inception of the single currency. If their value declines, then there could be litigation. Ince (1997) reports that "the City of London euro working party has...taken fright. It wants the state of New York to pass laws to prevent such action being taken..."
6. Ramsay (1993: 359-363) adumbrates further roles for lawyers, namely efficient resource allocators, property rights' enforcers, lawyers as gatekeepers, lawyers as relationship orderers, and lawyers as producers of social goods.
7. In this respect the income foregone is that of the novice lawyer, not the law firm's, assuming that tyros are not complete profit centres.
8. For an extensive analysis of the various aspects of legal ethics see Kupfer (1996). For a treatment of the law schools' role in "adding value" see Boon (1996).
9. In the UK when the solicitors' and barristers' professions introduced vocational courses, there was a race among higher educational institutions to provide these courses. That they required expensive facilities and expensive faculty to run them was no deterrent, convinced as the institutions were that full-cost vocational courses would be 'cash cows'. They haven't. In the academic year, 1996-97, some institutions found their enrolments down by 50%, so that they are losing money. These courses are fundamentally skills-based, borrowing their pedagogical models from North America, and they have virtually no theoretical input, however see the trenchant comments of Webb (1996) and Boon (1996). A more cynical view might be that these are expensive, winnowing credentialling institutions.

Compare, for example, the operation of the London Approach, a non-statutory form of corporate rescue where the Bank of England acts as a peacemaker, sometimes in conjunction with foreign bank regulators (Flood et al. 1995).

10. Allison notes that all other forms of investment are classed as portfolio investment (Allison 1993: 109).
11. Note that variation in accounting practices means that the US and UK figures are overstated (BIS 1995: 66).
12. Compare, for example, the operation of the London Approach, a non-statutory form of corporate rescue where the Bank of England acts as a peacemaker, sometimes in con-

junction with foreign bank regulators (Flood et al. 1995).

13. For instance, India, while wanting to increase its share of FDI from 2 billion US dollars a year to 10 billion, still puts obstacles in the way of joint ventures, e.g. Tata Industries and Singapore Airlines had many problems, and other investment projects, e.g. the Enron Dabhol power plant was scrapped when Maharashtra state elected a right-wing government (Page 1997: 47).
14. Two examples will illustrate: the Islamic bar on usury and its effect on banking practice; and the Asian ambivalence, if not detestation, of rugged individualism versus group values, exemplified by their repugnance of Nick Leeson and Yosuo Hamanaka, the rogue traders in Baring's Singapore office and the Tokyo offices of Sumitomo Corporation respectively (cf. Tickell, 1996; Economist, 1996b). Nick Leeson engaged in misjudged, and sometimes fraudulent, derivatives trading without the knowledge of the bank's management which resulted in losses exceeding £900 million (Tickell, 1996, 9-10; Fay, 1996). Yosuo Hamanaka was head of copper trading at Sumitomo Corporation and traded fraudulently for 10 years resulting in losses of £1.6 billion (Parry, Rogers and Treanor, 1997: 17).
15. Business schools have already faced this. For example, Duke University's Fuqua School of Business offers an MBA via the internet and short residential classes in places as far apart as Salzburg, Shanghai and Sao Paulo.
16. I believe this can be justified by the fact that most international institutions, e.g., World Bank and EBRD, demand a graduate degree as the minimum qualification for entry. Many American law schools also offer the LL.M. degree, partly as a way of upgrading J.D. degrees from lower-rank schools for US students, and partly as a way of inducting foreign students into US law.
17. William Twining has pointed out the gaps here, and I hope at a later stage to study them more closely.
18. Many other law schools in the UK offer taught graduate programmes - e.g., Warwick, Leicester, Manchester - and they market themselves vigorously to overseas markets, but I would argue they do not have the same 'brand' recognition as these three schools.
19. The six law schools in London University are University College London, King's College London, the School of Oriental and African Studies, Birkbeck College, London School of Economics, and Queen Mary and Westfield College.
20. There are possible reasons for this state of affairs. American lawyers who came to Oxford and Cambridge, e.g., Bill Clinton, came as undergraduates before returning to law school in the US. They rarely read law in the UK. Others who came from Common-

wealth countries came to acquire expertise in law that closely approximated their own.

21. In the UK there is the Legal Practice Course which is designed to prepare students for actual practice, and while they contain business-related courses, the international content is virtually zero. Most City law firms fill the lacuna themselves. Notably, Queen Mary and Westfield College contains the Centre for Commercial Studies which provides many of the business-related courses on the London LL.M.
22. In total, Columbia Law School has 11 in-house law journals, including the Columbia Law Review.
23. Perhaps this was encouraged by Harvard Law Professor Alan Dershowitz being part of the defence 'dream' team (see Schiller and Willwerth 1996).
24. In some instances diploma privilege exists, e.g., Wisconsin, where merely holding the J.D. from a law school in that state allows a person to practise without passing a bar examination.
25. Many college and university presidents are former law school professors. And law professors can be appointed as judges. For example, the University of Chicago Law School has at least three former faculty on the bench of the United States Court of Appeals for the Seventh Circuit - Frank Easterbrook, Richard Posner and Diane Wood.
26. See also Vries (1986) and Armstrong (1982) for further details on the IMF and international organisations.
27. However, see Chapter 5, "US Litigators, Continental Academics, Petrodollar Construction Projects, and the *Lex Mercatoria*: A Case Study" in Dezalay and Garth (1996: 100-113) for an example of the minimalist role law firms can play.
28. The lists were derived from American Lawyer and Legal Business Magazine, both of which publish lists of the top 100 law firms in the US and UK. Moreover, I excluded normal training programmes for domestic lawyers, even though some of these include rotations through foreign offices.
29. To work as legal counsel in some organizations, such as the United Nations, it is almost a prerequisite to have worked in a Wall Street law firm (personal communication, Dr Luke Harris, Vassar College).
30. In some respects this is a static picture. Large law firms have hired directors of education from the legal academy to remedy these deficiencies and they may become repositories of theoretical knowledge. Such moves will be influenced by the introduction of multidisciplinary practice and other organizational innovations.
31. In some respects the CEU has realised this. The acting rector of the CEU said in an interview, "Until now, the university was a kind of cathedral in the desert which did not

really have any connection with other higher educational institutions in the region. We would like to achieve more active cooperation with other universities, to invite scholars, to implement different scholarship programs. We would like to send out our professors to give lectures at other institutions. CEU will be unique in the sense that it will be the first regional university in the world participating in the transformation of higher education in the countries from which the majority of CEU students come" (CEU Gazette 1996/97).

32. "The Sardar Sarovar dam on the Narmada river, in India, is a stark example of how the World Bank's conditions on resettlement and environmental damage - which were attached to its loan in 1985 - could fail. An independent report found that, among other things, the benefits were over-estimated, environmental impact assessments were not carried out and resettlement conditions were not met. The Bank's own India department altered a study criticising the resettlement, to hide the problems from the Bank's directors. The loan was cancelled in 1993 and India's Supreme Court suspended construction in 1995. The angry protests against Sardar Sarovar became a model for others and focused attention on how bad dams could be" (Economist 1997b: 114).
33. There are, of course, limits to this. When governments decide to sell off sensitive state assets, they sometimes prefer not to sell to foreigners. France wanted a French buyer for its defence group, Thomson; Germany wants a defence contractor, STN Atlas, also to remain in German hands; and Austria wants to keep the Creditanstalt Austrian (Economist 1996c: 97).
34. Weber (1978: 669) saw the proliferation of legal transactions, contracts, as characteristic of modernity.

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