

**FROM HUMANITARIAN ASSISTANCE TO
PROFESSIONAL EDUCATION: FIFTY YEARS OF THE
WISCONSIN LAW SCHOOL'S ENGAGEMENT WITH THE
GLOBAL SOUTH**

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It is hard to realize that this journal is already celebrating its thirtieth anniversary. I can remember the day thirty years ago when a group of students advised by Professors Charles Irish and Richard Bilder asked the faculty to support the creation of a journal of international and comparative law. Some wondered if there would be enough interest to sustain such a journal. At that time, few US law students anywhere could look forward to careers with an international dimension and the schools in major cities on the coasts seemed much better placed to service their needs. Here in the heartland, some may have thought, shouldn't we support journals of industrial or agricultural law?

Luckily the doubters did not prevail and the journal got off to a good start. Looking back thirty years later, we can see how wrong the doubters were: the journal has flourished and international legal studies have become a major dimension of the school's activities. This anniversary seemed like a good time to review the law school's experience and ask how the school became a center of excellence in international legal studies.

In this essay, based largely on my personal experience, I reflect on the activities that led up to the period in which the journal was founded and have continued to the present.¹ I also reflect on the current

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¹ I joined the faculty in 1973 and have participated in international studies at the law school since then. From 1990-2001 I served as the University Dean of International Studies directing all campus level international centers & programs. During this period I maintained close ties to the law school, helped law school efforts to expand international programming, and worked with law

situation and look forward into the future with suggestions for ways to continue and enhance a proud fifty year tradition. This is a time of great change in legal education and the world: I hope that some knowledge of where we have come will help us seize the future.

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I. INTRODUCTION

While the journal is only thirty years old, the UW Law School has been engaged with the rest of the world for a much longer time. International legal studies became an important aspect of the school’s activities over fifty years ago. This half-century of global engagement has involved many legal topics, world regions, and activities. Subjects ranging from human rights to international tax and business law have been explored. UW scholars have taught and studied legal developments in Africa, Asia, Latin America, Europe, and the (former) Soviet Union. The school has offered courses at the JD and graduate levels; created opportunities for its students to study in many parts of the world; worked

school faculty on many campus level initiatives. My observations are based on my own recollection but I have been assisted by comments and suggestions from some of the people with whom I have worked over many years including those listed in footnote above.

closely with foreign law schools; and built specialized masters and doctoral programs to train scholars from other countries.

I have been a part of this tradition since I arrived in Madison in 1973. However, my contact with international studies at the UW really goes back before that. Through my work in the field of law and development in the 1960s I became familiar with some of the things that the UW was doing in the “Third World” long before I arrived.

In the half-century that I will cover there has been both continuity and change. While the law school has retained an active engagement with the world for fifty years, the nature of that engagement and the focus of our international legal activities have changed over the years as world conditions, available support, and faculty profiles have changed. I think that the history of change and continuity can best be understood if we divide the half-century into four periods: the “long” 1960s which lasted until about 1975; the period from 1975 until the end of the Cold War in about 1990; the immediate Post-Cold War period from 1990-2006; and the period from 2006 to the present which marks the growing importance of the BRICS “emerging economies” (Brazil, Russia, India, China, South Africa) and the creation of the Global Legal Studies Center.

I will trace dominant themes for each period, stressing what continued, what was new, what grew, and what languished. While I will try to cover as much as I can in each period, I have emphasized activities that relate to the legal systems of the part of the world that has been called, variously, “developing countries,” the Third World, and/or the Global South. In this essay I will refer to these countries, in which I include the Soviet Union and its successor states, as “the Global South.”

I emphasize our engagement with the Global South because this is the area of Wisconsin’s greatest strength and strongest international vocation. One of the abiding continuities over the last fifty years is the continued engagement with Asia, Africa, Russia, and Latin America. Look at all the UW professors who have worked on international subjects over the past fifty years: by far the greatest number worked on the regions of the Global South. The same is true for the people teaching at the law school today. Even those who have also worked and taught on Europe had significant contacts with the Global South, and many who studied international laws and institutions like tax, trade and investment treaties emphasized their impact on the Global South. At the same time, the majority of international students at the law school have come from Asia, Africa, and Latin America.

The reasons for the primacy of work on the Global South are multiple. Campus influences played a role. In the period when the law school began to expand its engagement with the world, the UW-Madison campus was heavily oriented toward the Global South, committed to the study of economic development, and engaged in technical assistance in developing countries. The Ford Foundation gave the UW-Madison a massive grant to build area studies programs in Asia, Africa, and Latin America. The USAID-funded Land Tenure Center (LTC) was active in land reform around the world. And a new, interdisciplinary PhD in Development was created.

Opportunities for law school professors to work overseas also played a role in stimulating law school interest in the Global South. There was a lot of money available to support such work. UW faculty imbibed the campus interest in “development”; participated in some of the campus level activities aimed at the Global South; and secured external funding for law school initiatives including teaching in Africa and Latin America and programs in Madison to train lawyers from these regions.

In this sense, the law school’s engagement with the Global South really started as a humanitarian commitment and an extended version of the “Wisconsin Idea” of service. The “Idea” began as a duty to serve the State of Wisconsin. As people began to think more globally, humanitarian projects in developing countries offered a way to expand the Wisconsin Idea to the global community and it made sense that such a globally-oriented service commitment would focus on the poorer countries of the developing world.²

II. THE LONG 1960s

Wisconsin’s interest in the Global South started because of the humanitarian concerns and intellectual interests of the faculty. In the 1960s when our engagement began, many American lawyers were going abroad, spreading US ideas about law and legal education in Latin America and Africa. The idea was to reform the laws and remake the law

² The faculty were influenced by Professor Jacob Beuscher who encouraged his colleagues to engage with developing countries as a part of the expanded “Wisconsin idea” of service. Joseph Thome recalls: “Jacob Beuscher was the law school’s connection because he worked on a lot of water rights and environmental issues. And the point of the Land Tenure Center was to deal with the incredible inequities with land distribution in Latin America. That is how I got involved.” Interview by Paul Borovay with Joseph Thome, Professor of Law Emeritus, Univ. of Wis. Law Sch. (Dec. 5, 2011).

schools of the developing countries around US models. This kind of “legal export,” as some called it, was seen as a humanitarian effort. People who thought this way believed that better law would mean better lives for the poor of the developing world and that US law was better than the law they had—if they had any.

But legal export was also part of America’s Cold War Strategy. Law figured in Cold War strategy in two ways. It served as an ideological foil to communism. We were the society of the “rule of law” in contrast to the authoritarian regimes of the Soviet Bloc. Remember that the United States decided to create “Law Day” on May 1 as a riposte to Soviet celebrations of labor on that date. By promoting legal modernization, the United States was showing the superiority of its culture and political ideals.

There was also a more pragmatic side to the push for legal modernization and for exporting US ideas about law and lawyering. At the heart of US foreign aid policy in that period was the need to show that market-oriented economic systems were superior to the command economies of the Soviet Bloc. This was a time in which the Soviets were making great progress and many in the Global South thought the Soviet System might be superior to ours. To counter these ideas, the United States poured money into supporting and modernizing market-based economies in the Global South.³

The modernization of law was part of this process. Modern law was seen as a necessary tool for the transformation of underdeveloped economies. Public and private aid donors all thought that “modern law” was a necessary component of a successful market-based economic system. So there was a lot of interest in legal “modernization” which included new rules, new institutions, and new forms of lawyering. And it was thought that the export of US legal education would contribute to all of these goals. American legal education would foster more pragmatic and instrumental approaches to law and lead to better approaches to lawyering. This in turn would contribute to modernization by increasing national capacity to create effective laws and ensure that they would be

³ Joseph Thome who was funded by the USAID supported Land Tenure Center in the 1960s observed: “We are now looking at the Alliance of Progress. Kennedy comes in with a very reformist agenda both nationally and internationally. The idea, of course, was to prevent the spreading of communism. The Alliance of Progress provided a lot of money and people to promote economic and social reforms in Latin American and all over the world.” *Id.*

implemented.⁴ Thus, by exporting American legal education, we would promote both economic growth and the cherished “rule of law.”⁵

Modernization theory helped make the export of US legal ideas seem like a humanitarian as well as geo-political enterprise. And Wisconsin faculty took advantage of the funds made available for these purposes. Some who were primarily interested in exporting US legal ideas and pedagogy went abroad to teach in places like East Africa or developed Madison-based programs to train foreign lawyers and professors from countries like Peru. Others worked overseas on technical assistance projects like those sponsored by the USAID-funded Land Tenure Center.

While the focus was on export of ideas and methods, this effort also created a demand for more knowledge about the legal systems of developing countries and for a “legal theory of development.” People recognized that it was necessary to learn more about the existing legal systems in order to figure out how to engineer reforms. And the need to train professors from these regions, and have an overall framework for legal development activities, created a demand for theory.

This interest in going beyond *ad hoc* assistance to “law and development theory” was part of the larger tradition of “law and society” work at Wisconsin. Willard Hurst, the “dean” of Wisconsin’s law and society tradition, had written extensively on the role of law in US economic development. I am sure he influenced members of the faculty like Lawrence Friedman and Robert Seidman both of whom wrote influential articles on the theory of law in less developed countries.

At this time the different activities relating to the Global South were fused. The export of US legal ideas, the research on legal systems of developing countries, and the early efforts at theory building were all part of the same enterprise whose goal was to create “modern” legal systems along US lines in Asia, Africa, and Latin America. The conjunction of these activities at the UW Law School meant that

⁴ Bill Whitford, who taught in Tanzania in 1967, commented: “Law’s role in economic development in East Africa was not, as it became later in many parts of the world, to establish the legal infrastructure for a domestic private economy. . . . The goals for law that others and I advocated were more in the public field, focusing particularly on establishing procedures for making government decisions that took account of all the appropriate interests. Administrative law, broadly conceived, was an important focus.” William C. Whitford, *Changing Ambitions for Law in East Africa*, 25 WIS. INT’L L.J. 261, 262 (2007).

⁵ For a critical assessment of this set of ideas and practices, see David M. Trubek & Marc Galanter, *Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United States*, 1974 WIS. L. REV. 1062 (1974).

Wisconsin began to be recognized internationally as a center of excellence in “law and development.”

There were a number of Law School faculty engaged in these activities during the 1960s and early 1970s. And, towards the end of this period Charles Irish, Marc Galanter, and I joined this group. We had been engaged in various aspects of the “law and modernization” project prior to coming to Madison. We were attracted to Wisconsin because it recognized the importance of this kind of work before most of the US legal academic world saw any need to engage with the Global South. The campus was also a magnet for students from the Global South; recognizing that Wisconsin had a lot to offer students interested in development, they came to Madison for advanced training.

Of course, other things were going on in international legal studies during this period. There were courses on public international and comparative law. But if we count the Soviet Union as part of the Global South, the comparative law courses primarily dealt with that part of the world as did most of the offerings aimed at post-JD students.

The humanitarian and legal export project, and its ancillary comparative law and theoretical by-products, brought these issues into the law school curriculum as some of the faculty who engaged in these efforts included developing country topics in their teaching. While such courses attracted a handful of law students, few took them because they thought that knowledge of African or Soviet law, or the theory of law and development, would land them great jobs in corporate firms or the State Department. Such jobs were few and far between: the main student motivation for taking courses of this type was intellectual interest and humanitarian concern, not hopes for professional advancement. They may well have enjoyed the classes but few imagined they could translate these interests into legal jobs.

III. THE TWILIGHT OF THE COLD WAR: 1976-1990

By the middle of the 1970s, things were changing in the world and these changes had repercussions in Madison. The protest against the Vietnam War had generated skepticism on campus about American foreign policy: this included criticism of US foreign aid policy and its support for legal exports. At the same time, funding agencies became somewhat disillusioned with the legal export effort. Faculty enthusiasm for some forms of international engagement waned while external support for legal export projects dried up.

These developments did not diminish the UW Law School's engagement with the Global South but they led to significant changes in the way it was done. The initial demand for the export of US ideas had come primarily from US-based development agencies, not from the Global South itself. If the export process was to continue, new support bases would be necessary. The same was true for research on the legal systems of the developing countries. This kind of work started as part of the legal export enterprise and focused on studying the problems to be solved by legal transplants. But if the legal export work was no longer funded, new sources of support would have to be found if we were to continue to study the legal systems of developing countries.

Despite these challenges, Wisconsin found ways to continue its international activities and sustain its engagement with the Global South. The new approach, which began to develop in the late 1970s and early 1980s, rested on three pillars: tuition-funded on-campus education on American law; support for socio-legal research in developing countries; and a modest growth in JD demand for international legal education.

It turned out that while the Ford Foundation and USAID would no longer pay US law professors to teach in the Global South, lawyers from some of these countries wanted to learn more about US legal ideas and institutions and were able to find ways to pay for this knowledge. As a result, there was a market for US-based LL.M.s and similar programs. Wisconsin found ways to tap this market and thus continue the UW's export project which had started with foundation and government support in the 1960s.

To that end, under the leadership of Charles Irish, the school created the East Asian Legal Studies Center in the early 1980s. Initially, this Center focused on training lawyers from Asia principally in business law-related subjects and with an emphasis on learning about US law. The work of East Asian Legal Studies Center (EALSC) was complemented by the summer program in US law that was run for many years by a consortium of UW faculty which included Irish, Zigards Zile, John Kidwell, Larry Church, and Kenneth Davis. This program was largely supported by student fees. It brought lawyers from all over the world for an introductory course on American law that was valuable for those who wanted to go on to Master's level work at UW and elsewhere.

The second pillar for continued engagement in this period was socio-legal work on legal systems in the developing world. In this period, Marc Galanter completed his magisterial study of the law affecting untouchables in India. Boaventura Santos, the Portuguese legal

sociologist, joined the UW community as a regular visitor and used it as one base for empirical research on law in Latin America and Africa. More work was done on international law but, even there, the emphasis on the Global South continued. People began to be concerned about human rights in the Global South.⁶ And some international law work highlighted development issues. I did a project on the role of Social and Economic Rights in economic development policy,⁷ and Richard Bilder did a study of the international laws affecting natural resource development in the Global South.⁸

The third pillar for international legal studies in this period was a growing interest in international study among JD students. This was marked by the founding of the *Wisconsin International Law Journal* in 1982—the anniversary we are celebrating in this issue. The initiative to create an international journal came from the student body, and was supported by Professors Charles Irish and Richard Bilder. The *Journal* has thrived largely due to the energies of the student editors.⁹ Through

⁶ Whitford discussed this shift in legal emphasis: “When I returned in 1975-76, the role for law that I identified with was quite different. It was protection of what we now call “human rights.” . . . the political structures of these countries quickly gravitated towards undemocratic one-party states. . . . This led to an objective for law, advanced by most of my best East African lawyer friends and one with which I identified, to protect human rights: to provide, through law, a space for political opposition to what were increasingly looking and acting like dictatorial regimes.” He further comments: “[T]he efforts to establish legal protections for human rights were very much a legal reform movement. It was also one that expressed faith in the ability of law to achieve important social objectives, albeit very different objectives from the economic development objectives which I originally had emphasized.” Whitford, *supra* note 4, at 265.

⁷ David Trubek, *Economic, Social and Cultural Rights in the Third World: Human Rights Law and Human Needs Programs*, in INTERNATIONAL PROTECTION OF HUMAN RIGHTS 206, 206–270 (T. Meron, ed., Oxford University Press 1984).

⁸ Richard Bilder, *International Law and Natural Resources Policies*, in RESOURCES AND DEVELOPMENT: NATURAL RESOURCES POLICIES AND ECONOMIC DEVELOPMENT IN AN INTERDEPENDENT WORLD c.13 (P. Dorner & M. El-Shafie eds., University of Wisconsin Press 1980).

⁹ Reflecting on this experience Irish noted “Professor Bilder and I were moved by the enthusiasm of the students to support the creation of the Wisconsin International Law Journal (WILJ). After gaining the approval of the full faculty, the journal was formally established and the first issue was published in 1982. From a simple beginning with a single issue of 150 pages in the first year, the journal has grown to four issues and more than 1000 pages, and has become well recognized as an important voice in international legal scholarship. As the journal’s co-advisor (with Professor Richard Bilder) for the first eighteen years of its existence, I can say with certainty that the success of the journal is due to the hard work and enduring commitment of the many Wisconsin students who have served on the journal’s board over the last twenty-five years. Based on my experience, the role of the faculty advisors was quite minimal as the students made certain that their status as a “student-run” journal was not jeopardized by anything other than sporadic faculty intervention”. Charles R. Irish, *Reflections on the Evolution of Law and Legal Education in China and Vietnam*, 25 WIS. INT’L L.J. 243 (2007).

annual symposium issues, it has highlighted many important topics and brought legal experts from all over the world to Madison.

In this period, the first organized study abroad program was launched when Wisconsin established an exchange program with the Law School at Groningen in the Netherlands. It also saw the beginning of a faculty exchange with the Law School at Geissen in Germany. Geissen professors taught in Madison and Madison faculty did the same at Geissen. This program was later expanded to include student exchange.¹⁰ It is notable that the first exchange programs focused on Europe, not the developing world. But the infrastructure that was created to handle study abroad and faculty exchanges would eventually facilitate this kind of activity with developing countries as well.

Although this period was marked by continued engagements with the Global South, these activities were now divided into separate spheres with some faculty continuing to focus on the export of US legal methods and ideas while others were more concerned with understanding what was going on in the developing countries themselves. There was less integration of these two streams of work in the Global South than there had been in the past. While EALSC used some of its resources to bring visiting faculty from Asia to teach about Asian law and while some of the socio-legal scholars taught courses which were attended by foreign students, the two streams began to diverge.

IV. POST-COLD WAR: 1990-2006

The collapse of the Soviet Union and the end of the Cold War marked the beginning of a new era in international legal studies at Wisconsin. Changes occurred in the profile of the faculty, in the subjects emphasized, and in the types of activities undertaken. But the varied engagements with the Global South continued.

That continuity was clear in faculty hiring. In this period, Wisconsin added four faculty members with deep interests in the Global South. They included Heinz Klug, who had worked for the African National Congress and taught international law in South Africa; Kathryn Hendley, a former corporate lawyer who had done a PhD on Russian law and politics and worked in Russia for several years including a stint as *de*

¹⁰ This program, now directed by Professor Steven Barkan, has continued to this day and includes a student component. The Giessen student exchange is now supported by the Giessen Alumni Association which funds one or two Giessen students to read for an LLM at UW.

facto general counsel for a major Soviet industrial complex; John Ohnesorge who had lived and studied in China, practiced law in Korea, and written a doctoral thesis on Asian law and development; and Greg Shaffer who had practiced in Europe and developed an interest in the role of developing countries in the WTO dispute resolution system.¹¹ Not only were these people experts on key developing countries and/or the impact of international law on these countries; they all were active socio-legal scholars dedicated to empirically grounded research on the legal systems of the Global South and on the international forums and institutions affecting the Global South.¹²

This period saw a significant increase in student interest in international legal studies. New study abroad programs were started in Europe, Africa, and Latin America, and specialized opportunities were created for students to spend time in Asia. The economic success of the “Asian Tigers” and China increased demand for US LLM-type programs and the number of students from Asia affiliated with EALSC grew.

The combination of new faculty interests and growing student attention to international issues led to the creation of many new courses including courses in law and development, human rights, trade law, EU law, and similar issues. Visiting professors from Geissen continued to teach courses on European law. Visitors from Asia who were brought by EALSC taught about law in Asia. Several professors from Latin America came to Madison under the Tinker Visiting Professorship program of the UW Center for Latin American, Caribbean, and Iberian Studies. The Institute for Legal Studies also supported a number of talks and lectures about law in the Global South and other related topics.

Campus support for international studies grew rapidly in this period. Under the leadership of Chancellors Dona Shalala and David Ward, the campus invested heavily in international studies and attracted substantial external funds for area and global studies. The International Institute was created. It brought together all the campus level international studies programs and facilitated a linkage between them and the professional schools.

¹¹ Although Shaffer initially taught EU law and other subjects, he gradually began to specialize in trade, specifically on the impact of the trade regime on development.

¹² Another addition to the faculty in this period was Cliff F. Thompson who came as Dean after serving for many years as Dean in several African and US law schools. Thompson brought decades of experience working with legal education reform in Africa.

Law school faculty participated in this campus-wide expansion, often playing leadership roles in various programs and centers.¹³ These developments increased law school contacts with scholars from other fields who were studying the Global South and they facilitated faculty exchanges with colleagues from these regions. Campus sources also supported research by law school faculty, several of whom received grants from WAGE, the Center for World Affairs and the Global Economy, which was established with support from Chancellor Ward and became part of the International Institute.

In this period, Wisconsin also continued the project of “exporting” US legal skills and ideas. Much of this activity occurred under the auspices of EALSC, which continued to bring students from Asia for US-law focused master’s degrees. But there was also some of the older style externally-funded legal reform work. In a project that showed continuity with the USAID and Ford funded reform projects of the 1960s, several UW faculty participated in a USAID-funded project to improve Indonesian law and train Indonesian law professors. Former Dean Cliff Thompson played a major role in this project, spending most of the period, 2000-2004, in Indonesia. Other UW faculty worked on the project and many Indonesian professors studied in Madison. Thompson recalls:

“In Indonesia, one of our goals was to help forty young law teachers (and a few young government lawyers) to achieve a significant jump in their careers. Once they made the jump, they were more qualified to teach the new generation of students as well as provide a higher national level of legal expertise. The final stage of a long process was for the law teachers to earn a master’s degree in the United States, which they did—twelve of them at the University of Wisconsin. The selection, preparation, and winnowing of the candidates took years, not months. At the same time, we helped to upgrade law books and teaching materials to give the teachers better tools for their new skills. In this work we shared the heat—both literally, given that Indonesia is in the tropics, and in a political sense, because we maneuvered through the university and government intrigues and jealousies. The need for such efforts is routine on long-term assignments.”¹⁴

¹³ For example, in this period I served the campus as Dean of International Studies and was the founding Director of the International Institute. Kathryn Hendley served as Director of the Center for Russia, Eastern Europe, and Central Asia and Greg Shaffer was Co-Director of The Center for World Affairs and the Global Economy (WAGE).

¹⁴ Cliff F. Thompson, *Sharing the Heat*, 25 WIS. INT’L L.J. 255, 258 (2007).

While interest in international legal studies among JD students increased in this period, the motivation of most students taking these courses remained more humanitarian and intellectual than professional. There may have been a few who began to see professional opportunities in the international field and took these courses for professional reasons, but I doubt that many who enrolled in courses that dealt with the Global South thought it would pay off in the job market.

V. GLOBALIZATION AND EMERGING ECONOMIES: 2006 TO THE PRESENT

The most recent period was marked by developments in the world and on campus. Trends that had started earlier accelerated and new institutions were created. The period saw major changes in activities in the law school, in the school's relationship to the rest of the campus, and to the world.

A. THE POWER SHIFT TO EMERGING ECONOMIES

This period saw the growing importance of emerging economies. Tracing what it called a "power shift," *The Economist* magazine noted that the emerging world will soon constitute over 50 percent of world GDP. Using market exchange rates, *The Economist* estimated that the emerging world's share of global GDP grew from about 20 percent in 1990 to 38 percent in 2010 and is projected to reach 50 percent by 2017. More dramatically, if GDP is measured using purchasing power parity, the emerging world had surpassed the developed world by 2008 and had reach 54 percent of world GDP by 2010.¹⁵

Leading this "power shift" were the BRICS nations of Brazil, Russia, India, China, and South Africa. These countries, and other large and fast growing economies like Indonesia and Turkey, are growing at rates far above those in the developed world. To one degree or another, they have opened their economies, privatized state owned companies, attracted large amounts of foreign investment, and created major national corporations that have become global actors.

¹⁵ *Power Shift: The emerging world begins to seize the lion's share of global markets*, ECONOMIST ONLINE (Aug. 4, 2011, 5:34 PM), <http://www.economist.com/blogs/dailychart/2011/08/emerging-vs-developed-economies>.

These changes have had a major impact on their legal systems and legal professions. Several waves of legal reform have occurred. Some were needed to deal with liberalization and privatization, some to comply with WTO and similar international requirements. The new environments have attracted foreign law firms which have sought to enter these markets and, in the process, have created challenges for domestic firms. The result has been a major restructuring of legal professions in most of the emerging economies.¹⁶

Let's look at what happened in Brazil.¹⁷ Starting in the early 1990s Brazil embarked on a major program of liberalization and privatization. Tariffs were lowered, limits on foreign direct investment reduced, and many state-owned enterprises (SOEs) privatized. Foreign investment increased, and Brazilian firms were able to raise money in the international capital market. SOEs in steel, mining, and aircraft production were sold to private groups. At the same time, independent regulatory agencies were created to monitor and regulate the newly privatized sectors. Antitrust law was updated and enforcement strengthened. A vibrant capital market began to develop and securities law updated.

These changes created new areas of law and generated new demands for corporate legal services. Many of the new laws were complex and lawyers had to deal with new clients and unfamiliar transactions. More and more Brazilian companies found themselves working with foreign corporations. Transactions rarely seen in Brazil, such as transnational mergers and acquisitions and overseas bond and stock issues, were introduced. Moreover, some of the new legal rules were derived from international sources like the WTO, requiring Brazilian lawyers to master international texts and understand international institutions.

Companies and governmental entities found themselves operating in a new, complex, transnationalized regulatory matrix. This

¹⁶ For a discussion on China, see Irish, *supra* note 9, at 251 (2007); for a discussion on India see Mihaela Papa and David B. Wilkins, *Globalization, Lawyers, and India: Toward a Theoretical Synthesis of Globalization Studies and the Sociology of the Legal Profession*, INT'L J.L. PROF. (forthcoming).

¹⁷ See David Trubek, *Reforming Legal Education in Brazil: From the Ceped Experiment to the Law Schools at the Getulio Vargas Foundation*, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1970244 (the discussion of developments in Brazil is drawn from this article).

created a huge demand for corporate legal services.¹⁸ The surge in demand sparked the phenomenal growth of the corporate law sector. By 2010 there were over one hundred law firms in Brazil with fifty or more lawyers, the largest of which employed 515 attorneys.

But the changes were much deeper: the firms not only had to grow, but they also had to develop new styles of lawyering and new forms of organization. The market for legal services was strongly influenced by global companies, whether Brazilian or foreign-based. And global clients demanded “global law” and lawyering. Foreign law firms already in Brazil expanded their offices and others sought to enter the market. Brazilian lawyers had to adopt international lawyering styles and Brazilian firms began to create organizational forms similar to the global law firms they worked with and competed against.¹⁹ These rapidly growing firms needed lawyers who could understand the needs of business clients; master complex regulations; and deal with foreign firms and foreign legal materials. Legal education became more important and a premium was placed on overseas study and experience. More and more, Brazilian lawyers looked to the United States as the place to acquire these skills.

B. THE CHANGING DEMAND FOR INTERNATIONAL LEGAL SKILLS

What has happened in Brazil has also occurred in places like China and India, Vietnam and Indonesia, thus affecting the overall demand for international legal education in the United States. More lawyers in emerging markets need to master international legal norms and develop the skills to operate in global markets. This has led to increasing demand for US legal training. The number of foreign lawyers enrolled in US LLM and similar programs has grown significantly: the

¹⁸ For example, as foreign firms sought to acquire Brazilian entities and Brazilian firms began to make acquisitions abroad, a major M&A market developed. Total Brazilian M&A volume in 2010 reached \$30.9 billion. Of this, \$10.2 billion represented acquisitions abroad by Brazilian firms. One Brazilian source estimated that this market could represent as much as a billion dollars in legal fees.

¹⁹ Domestic firms created specialized departments, career ladders, new compensation systems, and hierarchical management arrangements. They changed recruiting practices in ways that made legal education more important for hiring decisions.

number of foreign LLM students in the United States doubled between 1996 and 2005.²⁰

At the same time, as US firms become more active in emerging markets and multinational companies from places like China, India and Brazil started investing in the United States, American law students began to see that there could be job opportunities working in these countries and at home on legal issues that affect them. US law student interest in the Global South began to shift from primarily humanitarian and intellectual interests to professional opportunities. It became possible to think of such knowledge as part of their core professional interests and identities.

Let me give you an example of a student now in the second year of this law school. We will call him "Paul B." Paul B majored in Latin American studies in college, studied in Spain, became fluent in Spanish, and spent two years in the Peace Corps in Latin America. Until recently, students like Paul B who arrived at the law school with a humanitarian background like the Peace Corps might have taken a course or two on international law or law and development; few, if any, would imagine they could translate knowledge and interest in the Global South into professional careers. But with the power shift, this is changing. Once in law school, Paul B developed an interest in intellectual property law and especially the impact of global IP norms in emerging economies like Brazil. He learned that Brazil is a leading force in efforts to integrate IP law and development policies so knowledge of Brazilian developments is of great interest to IP lawyers everywhere. He now can envision a professional career working on international IP issues in either government or the private sector and is studying Portuguese, learning about Brazilian development policy and IP law, and plans to take courses on international trade law next year.

Paul B is not alone: while I have no statistics, I think we are seeing an increase in the number of JD students like him. This shift in core student interest has been helped by the increasing number of foreign students who are enrolling in the US JD program after completing their legal education at home.

²⁰ Carole Silver, Mayer Freed, *Translating the U.S. LLM Experience: The Need for A Comprehensive Examination*, 101 NW. U. L. REV. COLLOQUY 23 (2006), <http://www.law.northwestern.edu/lawreview/Colloquy/2006/3/>.

C. ADDITIONAL HIRING OF INTERNATIONAL LEGAL SCHOLARS

In this period, the law school made significant additions to its faculty, continuing the tradition of socio-legal study of institutions in the Global South and expanding the range of available expertise. Jason Yackee brought expertise in international investment treaties and commercial arbitration: his work on bilateral investment treaties focused primarily on issues affecting the Global South. Allison Christians added expertise on international tax and continued the tradition started by Charles Irish of paying special attention to tax issues affecting the Global South. Alexandra Huneus, a recent graduate of Berkeley's JSP program and a law and society stalwart, took up the baton in the study of Latin American law pioneered by Joe Thome as well as adding expertise in human rights and comparative sociology of law.

D. THE RISE OF "GLOBAL LEGAL STUDIES"

The fourth development took place at the campus level. By 2005, the campus context had changed significantly and the opportunities for collaboration with the law school increased. Between 1990 and 2005, the campus had witnessed a major expansion in international studies. Area studies programs, supported by major grants from the US Department of Education, expanded. New centers focusing on global issues were added. These included programs on global studies, global cultures, and the world economy. Especially significant for the Law School were the creation of WAGE, the Center for World Affairs and the Global Economy, and the research circle program of the International Institute.

WAGE was designed to support the development of interdisciplinary research on globalization. It brought faculty from around the campus together in research "collaboratives" to study issues like the rise of the new developmental state in emerging economies, the need for a global system for food safety, global regulation of energy sources, and the emergence of new approaches to global governance. Many members of the law school faculty received support from WAGE and participated in WAGE's interdisciplinary collaborations. The International Institute supported a parallel research support program that also provided support for law school faculty interested in international issues and increased linkages between the law school and the rest of the campus.

A third campus-level development was the growing interest in internationalization of the professional schools. Although there were very rich interdisciplinary international programs operating at the campus level, it was felt that more was needed to internationalize the professional schools. This became a major objective of the campus Division of International Studies (DIS) which encouraged the development of international centers operating in the professional schools but linked to the campus as a whole. This initiative was also supported by WAGE.

The law school responded to this initiative by creating the Global Legal Studies Center (GLS). Funded by an allocation of funds from the Dean's office with matching awards from WAGE and DIS, GLS quickly became the center for international studies in the law school and for linking law school faculty to other parts of campus. The Center supported faculty research, hosted visiting scholars from around the world, and organized numerous interdisciplinary research circles and "collaboratives" with support from WAGE and the International Institute.

GLS also took over administration of the law school's study abroad programs, thus providing more centralized and professional support for these efforts. It supported the South Asia Legal Studies Working Group which organizes an annual workshop on South Asian Legal Studies, the only one of its kind in the United States.²¹ And it ran outreach programs on global legal issues that were well attended by members of the Wisconsin bar and people from State Government.²²

In recent years, GLS has managed research projects in several areas including the Research Circle on the Role of Law in Developing and Transitional Societies; the Research Collaborative on Remaking the Developmental State; the project on Law and the New Developmental State (LANDS) and three projects focusing on law in emerging economies: Globalization and Lawyering in Emerging Economies (GLEE); Sustainable Ethanol Production in Brazil and EU renewal

²¹ *South Asia Legal Studies Working Group*, UNIV. OF WIS. LAW SCH., http://law.wisc.edu/gls/sa_legal_studies_working_group.html (last visited Mar. 21, 2012).

²² *See Outreach Workshops on Global Legal Issues*, UNIV. OF WIS. LAW SCH., <http://law.wisc.edu/gls/outreachworkshops.html> (last visited Mar. 21, 2012).

energy regulation; and BRICSLAW, the study of legal developments in Brazil, Russia, India, and China.²³

The GLEE project is of special interest because it focuses on the changing role of the legal profession in three key emerging economies: Brazil, India, and China. GLEE is a consortium led by Harvard Law School and the UW, with partnerships at Jiao Tong University in Shanghai, *Direito GV* (the FGV Law School) in São Paulo, and the Jindal Global Law School and other institutions in India. GLEE studies the rise of corporate law in these countries and its effect on their overall legal systems. The project continues the Wisconsin tradition of socio-legal research on law and society in the Global South while focusing on areas that are directly relevant to legal practitioners in the United States. I serve as Co-Director of GLEE with Professor David Wilkins of Harvard Law School. Four other UW faculty members including Sida Liu, John Ohnesorge, Marc Galanter, and Louise Trubek participate in a fifty person international and interdisciplinary team. EALSC has provided substantial support for the UW's participation in GLEE.

E. THE EXPANDING ROLE OF EALSC

EALSC has continued to play a major role in the law school. In addition to continuing to attract students from Asia for LLM programs, EALSC has increased its academic programming and research support; conducted specialized training programs for Chinese judges and officials; supported internships for students wishing to learn more about practice in Asia; and launched a new program of Executive LL.Ms. On the academic side, EALSC has supported courses on Chinese Law and other subjects related to Asia; taken the lead for the UW on the GLEE project; and is supporting a study of public interest law in Asia in conjunction with the Law and Society Association.²⁴ It has also expanded its support for students doing doctorates; this program continues the "legal export" tradition by focusing on studies of specific areas of US law and their applicability to the needs of law reformers in Asia.²⁵ EALSC has also

²³ For further information, see *About the Global Legal Studies Center (GLS)*, GLOBAL LEGAL STUDIES CTR., UNIV. OF WIS. LAW SCH., <http://www.law.wisc.edu/gls/> (last visited Mar. 21, 2012).

²⁴ For more information on EALSC, see *East Asian Legal Studies Center*, UNIV. OF WIS. LAW SCH., <http://www.law.wisc.edu/ealsc/> (last visited Mar. 21, 2012).

²⁵ In her study entitled *The Academic Doctorate in Law: A Vehicle for Legal Transplants*, Gail Hupper described what she called Wisconsin's "doctrinal" model for the doctorate noting that under EALSC auspices the UW has produced "...a regular stream of dissertations that represent

developed a close relationship with the municipal government in Shanghai. Madison has hosted several groups of judges and officials from Shanghai who come for short training courses. The center also pioneered the creation of Executive LLM programs under which students can do part of the course work for the LLM in their home countries taught by UW and local faculty, thus reducing the time spent in the United States and the costs of the degree. Such LLM programs are now operating at the East China University of Political Science in Shanghai; the Doshisha University in Kyoto, and Thammasat University in Bangkok.

F. PROGRAMS FOR STUDENTS: CURRICULUM CHANGES, STUDY ABROAD

In this period a number of changes were made in the JD curriculum. One of the most important was the decision to include an introductory course in transnational law among the options available to first year students. Currently about 25 percent of the first year class takes this course which provides a general introduction to the role of law in a globalized world. The school has also created a concentration in International and Comparative Law²⁶ and is adding more international courses. In addition to the growth of the LLM program, we have seen a growing number of students from emerging economies enroll as JD students.

New study abroad programs were also created in this period. The school now has study abroad programs in ten countries: in the Global South there are programs in Brazil, India, South Africa, Chile, and Peru, and in Europe programs exist in Italy at the EU's European University Institute, the Netherlands, Germany, and France. In addition to the internships in East Asia offered by EALSC, Global Studies has created internships in India.

an effort to understand U.S. or international legal models in relation to the student's home environment...They take the foreign or international model ...as given, then compare it to their own system and needs. The implication is that the foreign model may be imported into the students' own system..." 58 J. LEGAL EDUC. 442, 442-3 (2008).

²⁶ See *International and Comparative Law Concentration*, UNIV. OF WIS. LAW SCH., <http://law.wisc.edu/academics/courses/concentrations/international.html> (last visited Mar. 21, 2012).

VI. LOOKING AHEAD: OPPORTUNITIES AND CHALLENGES

As we begin the second decade of the Twenty-first Century, the Law School seems well positioned to advance in the international legal field. It has a long tradition of internationally-oriented teaching, research, and service. It has built two strong international centers – GLS and EALSC – and developed close ties with law schools all around the world. The range of international options for JD students is increasing and there are well-developed graduate programs for both lawyers and scholars. The school also is well placed to play a leadership role on campus: law school faculty have occupied major roles in the governance of international and area studies campus-wide.

The school has continued its emphasis on work in the Global South. It has a global reputation as a center of excellence on issues affecting emerging economies and can boast that it has on its faculty experts on all five of the BRICS nations: Heinz Klug on South Africa, Kathryn Hendley on Russia, Mark Sidel, John Ohnesorge and Charles Irish on China, Mark Sidel, Shubha Ghosh, Mitra Sharafi and Marc Galanter on India, and myself on Brazil.²⁷ In addition, law school faculty work on other parts of Asia, Africa, and Latin America, as well on issues like tax and international investment law that affect the Global South.

As interest in the Global South shifts from one primarily of humanitarian and intellectual concern to one that also includes training for professional careers in the public and private sector, the school should be able to leverage these strengths to create new and dynamic programs and revenue sources. The school's strengths include substantial faculty expertise on law in emerging markets and numerous institutional contacts in all the BRICS as well as other key emerging economies. With US student interest in professional careers relating to the Global South and demand for US legal training by lawyers from these countries growing, it should be possible to develop specialized programs on law in emerging economies at the JD and graduate level that would attract students from the US and overseas.

But will the school be able to take advantage of this opportunity? There are real obstacles that will have to be overcome if Wisconsin is to continue to be one of the major centers of work on law and society in the Global South. Some are external; others internal.

²⁷ Irish, Galanter and I are now emeritus but all of us continue to do research and lecture in BRICS countries and work on BRICS-related law school based projects.

A. THE CHANGING CAMPUS SCENE

From the beginning, the Law School's success in international studies has been bolstered by support from the campus and from external sources. Some of these sources are now at risk. In the past, support from campus level area and global studies centers and specialized centers like the LTC have been very important for the law school. Much of this campus support came ultimately from outside sources including USAID, the US Department of Education (DEd), Ford, Tinker, and other foundations, and some foreign governments. The Law School has also received external support directly from both public and private sources. But all of this money is now at risk: there have been major cutbacks in DEd support and further cuts are predicted. The cuts in support from DEd have created a major crisis on campus and could lead to severe cuts in campus programming. And foundations have not shown as much interest in law-related international work as they did in the past.

B. THE CHANGING US LEGAL JOB MARKET

Currently, we are experiencing a major crisis in the legal job market. The legal sector is not growing, and new jobs are harder to find. Students are worried about employability. Some of the causes of this crisis are temporary. But some may be long-lasting and lead to major changes in the legal profession. Because of corporate pressures to cut legal costs and the growing use of technology and outsourcing the number of legal jobs may decline and salaries decrease. It may not seem like an auspicious time to try to attract students for new programs especially those like legal work in emerging economies that may seem to some to be exotic and risky.

C. COMPETITION FOR THE FOREIGN STUDENT MARKET

Under the leadership of Charles Irish and John Ohnesorge, the EALSC has been very successful in attracting fee-paying students from Asia and securing training contracts from US and Chinese sources. We were early entrants into the Asian market for LLM's and this has stood us in good stead. But many other schools have entered this market aggressively and it will take a lot of hard work and imagination to maintain this source of support in this fast moving and highly competitive environment.

D. MEETING THE CHALLENGES THAT LIE AHEAD

Certainly there are challenges. But maybe this is just the reason why it makes sense for the law school to move ahead with new and highly visible programs aimed to develop professional expertise on law in emerging economies, as well as for the University to support such an effort. There has always been a partnership between the Law School and the campus level international programs.²⁸ Maybe it is time to “reset” this partnership with both partners investing in new programming aimed at emerging economies.

From the law school’s point of view, such a move would cement its leadership position as a center of excellence on law in the Global South while opening new sources of revenue from fee-paying students and creating new programs that might attract gifts from alumni and law firms. It would offer new options for JD students worried about a shrinking job market while giving the UW a way to maintain its competitive edge in the market for foreign students.

From the University’s point of view, expansion of international legal studies in law and other professional schools may be a way to help preserve the campus’ major area and international studies assets and language programs in a time in which federal and foundation support is declining. Because the professional schools have ways to tap revenue streams not available to the College of Letters and Science and the Division of International Studies, such a move could lead to new ways to support programs threatened by the cut-back of federal support. The Division of International Studies has already started such an initiative with its support for professional school-based centers like GLS and its “Emerging Powers” program that has brought visiting professors from Brazil, India and China to teach in the Business School.

VII. CONCLUSION: WHAT IS TO BE DONE?

I hope I have shown that through fifty years of engagement the law school has become a major center of international legal studies with special strength in the Global South. I have suggested that in a time of crisis these strengths could be a great asset to the school and the

²⁸ Most of these programs are located in the International Institute and supported by the College of Letters and Science and the Division of International Studies. There are also separate international centers in some of the other professional schools.

university. The question is whether they can be leveraged to help meet the crisis.

Can the school and the campus take advantage of the school's strengths in emerging economies? Can the law school build specialized programs at the JD and graduate level aimed at preparing students to work both in the United States and overseas on legal issues affecting developing countries and their relations with the US economy? Can it integrate programs aimed at US JD students with programs that will attract foreign students from the Global South and elsewhere?

The demand for such programs seems to be there. And the law school already has many of the building blocks needed to succeed in such an initiative. We have most of the faculty resources, although there are gaps that would need to be filled. We have administrative units that could support such programs. We have extensive contacts in all five BRICS countries as well as many other developing nations including formal relationships with many universities in the Global South.

There are, however, many things that would need to be done to achieve these goals. Of course, such an effort will require vision and leadership as well as a faculty consensus that this is a strategic goal for the school. But even if these exist, there are real challenges to developing new programs on law in emerging economies. The first is intellectual: the new era calls for us to bring together the law school's export and research missions and integrate professional training and socio-legal research. This does not mean returning to the fused approaches of the 1960s, but rather creating a new matrix that encompasses all these dimensions while maintaining the integrity of each of them.

The second is organizational: while most of the elements needed to build programs like this are already there, they have not been brought together. Scholars working on different regions do not regularly communicate and the support base is divided among several institutions. People need to come together and institutions need to cooperate.

The third is financial: while new programs should bring in increased revenues in the long run, someone has to lay out the start-up money needed to develop and launch new initiatives. To meet this challenge it may be necessary to create a tri-partite partnership between the law school, the campus, and the private sector including internationally oriented law firms in the region and interested alumni.

In times of crisis, institutions either move backwards or forward. Wisconsin has an opportunity to move forward on a trajectory it has

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developed over fifty years. I hope this essay will make it a little easier for the school to meet the challenges and seize the future.