

**Internationalizing U.S. Legal Education:
A Report on the Education of Transnational Lawyers**

Carole Silver
c-silver@law.northwestern.edu
Northwestern University School of Law
357 E. Chicago Ave.
Chicago, IL 60611
312-503-0765

This article analyses the role of U.S. law schools in educating foreign lawyers and the increasingly competitive global market for graduate legal education. U.S. law schools have been at the forefront of this competition, but little has been reported about their graduate programs. This article presents original research on the programs and their students, drawn from interviews with directors of graduate programs at 35 U.S. law schools, information available on law school web sites about the programs, and interviews with graduates of U.S. graduate programs. Finally, the article considers the responses of U.S. law schools to new competition from foreign universities for the job of educating the world's lawyers.

**Internationalizing U.S. Legal Education:
A Report on the Education of Transnational Lawyers**

Carole Silver*

Introduction

Law is uniquely local – it embodies local customs and legitimizes local moral judgments. Legislators and judges are selected directly or indirectly by the residents they will govern, and the laws they adopt and interpret are intimately tied to the norms and expectations of their local societies. Legal education also reflects this local character of the law, in that students in U.S. law schools spend most of their time studying U.S. federal and state court cases, statutes, regulations and the policies underlying them. Nevertheless, increasing numbers of lawyers originally educated outside of the U.S., whose work is centered outside of the U.S., are enrolling in U.S. law schools for graduate legal education. Most of these lawyers are practitioners, whose interest in U.S. law is pragmatic rather than academic. Given law’s local nature, this interest might be surprising. This paper takes this phenomenon as its starting point in examining U.S. law school graduate programs for foreign lawyers.¹

U.S. graduate programs serve several functions in the development of careers of transnational lawyers. They provide an important link in the professional networks of transnational lawyers; they offer graduates credibility that enables them to connect with

* Senior Lecturer, Northwestern University School of Law. A prior version of this article was presented at the 2004 AALS meeting for the Section of Graduate Legal Education in Atlanta. I am deeply grateful to the graduate directors, faculty and graduates of LL.M. programs who so generously shared their time and experiences with me. Many thanks also to Francisco Javier Aguilar Noble, LL.M. 2003 Northwestern University School of Law, for excellent and thorough research assistance, and to Mary Daly, Nicole De Bruin, John O’Hare and Oscar Stephens for valuable comments on earlier drafts.

¹ Graduate programs include a one-year degree, including the LL.M., whether general or specialized in focus, MCL (masters of comparative law), MCS (masters of comparative studies), and MALS (masters of American legal studies). All of these are included in this study. A doctorate in law (SJD or JSD) is outside the focus of the article.

elite national and international law firms and raise their status in their home country legal professions; and they equip graduates with a legal terminology crucial for participation in the international legal services market.

But what benefit do U.S. law schools gain from offering graduate programs for foreign lawyers? And how did they become leaders in the business of global legal education? Section I of this article considers these issues in the context of the growth of the international market for legal services. Section II presents basic data about the graduate programs for foreign lawyers offered by U.S. law schools. This data previously has not been available, perhaps because the American Bar Association, the traditional repository of information about U.S. legal education, does not directly regulate the graduate programs; rather, it “acquiesces” in the existence of the programs. The absence of regulation corresponds to an absence of data in this instance: schools are not required to disclose details about their graduate programs and in most cases they are reluctant to do so. Section II is based on information about the graduate programs gathered from law school web sites² and supplemented by detailed information provided by the directors of graduate programs at 35 law schools.³ Section III combines this law school data with the perspective of students in U.S. graduate programs, to present a broader account of the role of graduate students and programs in U.S. legal education. Finally, Section IV considers the increasing competition in the graduate legal education market and the challenges facing U.S. law schools.

² The 102 schools listed in Table 1, *infra*, offer 189 graduate programs available to foreign lawyers. The particular programs seem to be quite fluid – what is described on a website may not correspond to the description of programs in a brochure that was printed a year earlier. I have relied on information in web sites as the most likely source of information for foreign lawyers contemplating applying to U.S. law schools – and so the incentive to keep web site program descriptions current is quite high.

³ The detailed information was gathered in late 2003 through conversations and emails.

I. Contextualizing the Growth of the Market for Graduate Legal Education in the U.S.

U.S. law schools long have attracted foreign law graduates pursuing academic careers. Studying in the U.S. was a prerequisite to securing an academic appointment in many countries and U.S. graduate programs were supportive of this academic approach: earlier generations of graduate programs were focused on the production of a thesis. After graduation most scholars returned to their home countries, as they had intended when they initially enrolled. The U.S. law school experience was a credential valued in their home countries and the experience of studying in the U.S. did not sway them from their original career plans.

The global political and economic changes that occurred in the 1980s and 1990s explains much about the shift in the focus of graduate law programs from scholars to practitioners. This was a period of tremendous change on the international scene. The financial markets witnessed the development of an international derivatives market based upon the earlier market for swaps, which brought investment bankers and lawyers together in a contest for innovation.⁴ The fall of the Berlin Wall in 1989 opened new markets, and the reduced role of the state in national economies required private resources to assume increasing significance. By the early 1990s, cross-border investments were supporting the development of international capital markets and transnational investment was booming.⁵ Lawyers helped to finance these political and economic changes. U.S. law firms expanded internationally during this period by opening foreign offices and increasingly representing foreign governments and private

⁴ On the development of the derivatives market, see Schuyler K. Henderson, "Regulation of Swaps and Derivatives: How and Why," 8 *J. Int'l Banking Law* 349 (1993).

⁵ See generally, J. William Hicks, *International Dimensions of U.S. Securities Law*, chapter 3 (2005).

enterprises.⁶ They competed fiercely in European capitals and, where local regulation permitted, in Asia as well. In 1998, when the *American Lawyer* published its first “Global Fifty” list of law firms ranked by size and revenue, U.S. firms occupied 30 slots of the 50 largest firms internationally, and all but seven of the top 50 ranked by revenues.⁷

The prominence of U.S. law firms in the international legal market supported the developing interest of foreign lawyers in U.S. legal education. Equally important, U.S. lawyers increasingly represented foreign corporations and governments in their quest for financing. And U.S. corporations were expanding globally as well, needing local representation in addition to the services offered by their U.S. counsel. In order to represent U.S. businesses and to participate in the growing market for international advice, foreign lawyers perceived that they needed to be able to speak the same language as U.S. lawyers, both literally and conceptually.

II. Graduate Programs for Transnational Lawyers: The Data

The number of transnational lawyers attending U.S. graduate legal education programs has increased over the last decade or so, as has the number of graduate programs offered by U.S. law schools. This part of the article examines the who, what and where of the graduate law phenomenon.

Graduate programs offered by 102 U.S. law schools are open to foreign lawyers. One-third of the schools offering these programs are public institutions; the schools are listed in Table 1. The graduate programs available to foreign lawyers comprise only

⁶ See Carole Silver, “Globalization and the U.S. Market in Legal Services – Shifting Identities,” 31 *J. L. & Pol’y Int’l Bus.* 1093 (2000).

⁷ John E. Morris, “The Global 50,” *Am. Law.* (11/98) at p. 45.

approximately 55% of all law schools offering graduate programs; that is, nearly as many schools offer graduate programs only for U.S. lawyers (JD graduates) as offer such programs for foreign lawyers.⁸

⁸ In addition to the variety of LL.M. programs offered by U.S. law schools, just over 30 schools offer SJD programs. SJD programs typically require between one to three years in residence and completion of a thesis.

Table 1: Schools with LL.M. Programs in which Foreign Lawyers May Enroll

1. Alabama, U of	38. Hawaii, U. of	68. San Diego, U. of
2. Albany Law School	39. Hofstra U.	69. San Francisco, U. of
3. American U.	40. Houston, U. of	70. Santa Clara U.
4. Arizona, U. of	41. Howard U.	71. Seattle U.
5. Arkansas, U. of	42. Illinois, U. of	72. Southern California, U. of
6. Baltimore, U. of	43. Indiana U. (Bloomington)	73. Southern Methodist U.
7. Boston U.	44. Indiana U. (Indianapolis)	74. St. John's U.
8. Brigham Young U.	45. Iowa, U. of	75. St. Mary's U.
9. California Western	46. John Marshall School of Law	76. St. Thomas U.
10. California-Berkeley	47. Lewis and Clark College	77. Stanford U.
11. California-Davis	48. Louisiana State U.	78. Stetson. U.
12. California-Hastings	49. Loyola U. (Chicago)	79. Suffolk U.
13. California-Los Angeles (UCLA)	50. Loyola Marymount University	80. SUNY Buffalo
14. Capital U	51. Miami, U. of	81. Temple U.
15. Cardozo School of Law	52. Michigan State U., Detroit	82. Texas, U. of
16. Case Western Reserve U.	53. Michigan, U. of	83. Touro College
17. Chicago, U. of	54. Minnesota, U. of	84. Tulane U.
18. Chicago-Kent	55. Missouri, U. of (Columbia)	85. Tulsa, U. of
19. Cleveland State	56. Missouri, U. of (Kansas City)	86. Utah, U. of
20. Columbia U.	57. New England School of Law	87. Valparaiso U.
21. Connecticut, U. of	58. New York U.	88. Vanderbilt U.
22. Cornell U.	59. Northwestern U.	89. Vermont Law School
23. Denver, U. of	60. Notre Dame, U. of	90. Villanova U.
24. DePaul University	61. Pace U.	91. Virginia, U. of
25. Duke U.	62. Pacific, U. of (McGeorge)	92. Wake Forest U.
26. Emory U.	63. Pennsylvania State U.	93. Washington and Lee U.
27. Florida State U.	64. Pennsylvania, U. of	94. Washington U. (St. Louis)
28. Florida, U. of	65. Pepperdine U.	95. Washington, U. of
29. Fordham U.	66. Pittsburgh, U. of	96. Wayne State U.
30. Franklin Pierce Law Center	67. Saint Louis U.	97. Whittier Law School
31. George Mason U.		98. Widener U.
32. George Washington		99. Willamette U.
33. Georgetown		100. William and Mary College
34. Georgia, U. of		101. Wisconsin, U. of
35. Golden Gate U.		102. Yale U.
36. Hamline U.		
37. Harvard		

The number of schools with graduate programs available to foreign lawyers increased more than 50% in the five-year period between 2003 and 1998, when 67 schools offered graduate programs in which foreign lawyers could and did enroll.⁹

The schools offering graduate programs in which foreign lawyers may enroll are a diverse group in terms of their ranking in *US News & World Report*. These rankings are unrelated to the qualities of the graduate programs for foreign lawyers; the graduate programs themselves are not ranked (unless they are considered part of another category, such as tax, for example). Rankings are considered here only as one indication of variety of the schools sponsoring the graduate programs. Forty-six percent of the Table 1 schools occupy a spot in the first tier of the *US News* rankings.¹⁰

⁹ 1998 information is based upon comments made by J. Richard Hurt, then–Deputy Consultant on Legal Education for the ABA, as part of his presentation to the Conference on Post-J.D. Education for Foreign Lawyers held at Duke University School of Law (Spring 1999) (on file with author).

¹⁰ Based on 2003 law school rankings, there are 47 schools with programs open to foreign lawyers in Tier 1, 24 schools in Tier 2, 14 schools in Tier 3, and 17 schools in Tier 4.. For current rankings, see http://www.usnews.com/usnews/edu/grad/rankings/law/lawindex_brief.php (visited 2/22/05).

Figure 1: US News Rankings for All Law Schools with LLM Programs Open to Foreign Lawyers

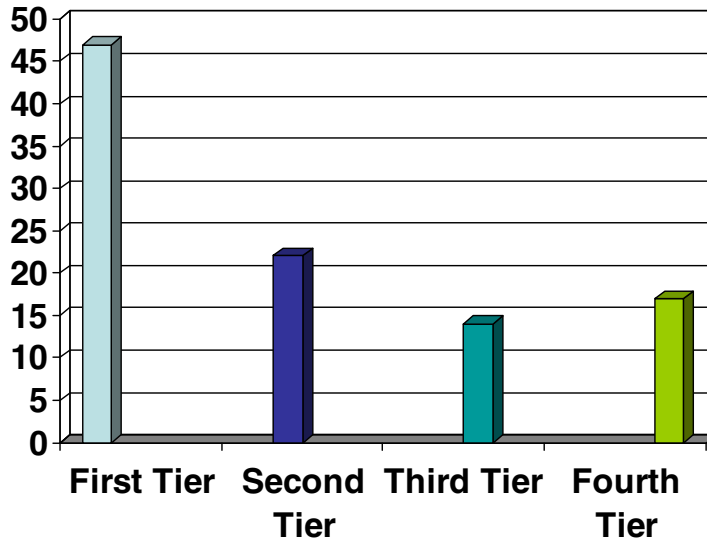
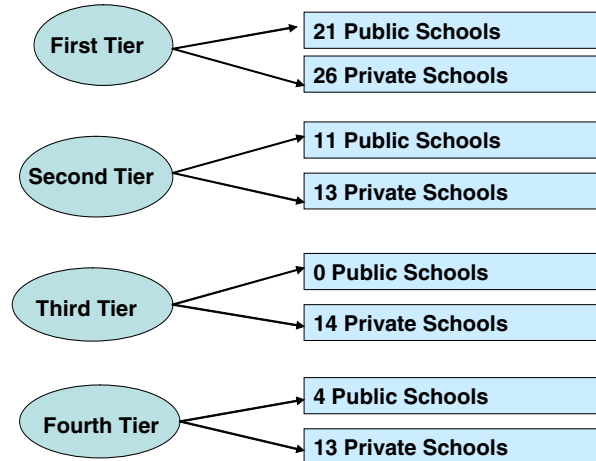


Figure 2 divides the 102 Table 1 schools offering graduate programs for foreign lawyers between public and private institutions for each of the *US News* tiers.¹¹

¹¹ Of the 35 schools that provided detailed information about their graduate programs for foreign lawyers, 23 ranked in the Tier 1 on the US News ranking (for '03); 8 schools ranked in Tier 2; and 1 each in tiers 3 and 4.

Figure 2: Distribution of Schools Offering Graduate Programs for Foreign Lawyers regarding US News & World Report Ranking



The number of lawyers enrolled in U.S. graduate law programs has increased at the same time as has the number of programs. In 1998, the 67 schools with graduate programs open to foreign lawyers enrolled over 2,000 foreign lawyer students – they comprised 44% of the entire post-JD population. According to the ABA, in the five years ending in 2004, enrollment of foreign lawyers in post-JD programs in U.S. law schools has grown by more than 175%.¹² The ABA reported that 96 U.S. law schools enrolled a total of 4469 foreign lawyers in 2004. This rate of growth exceeds the 54% increase in the number of foreign-educated lawyers who sat for the New York bar exam during approximately the same period.¹³

¹² Information on foreign lawyer enrollment in LL.M. programs was provided by the ABA and is on file with the author.

¹³ In 1998, 2047 lawyers who earned their legal education outside of the U.S. sat for the New York bar exam; in 2003, the most recent year for which data is available, this increased to 3151 foreign-educated individuals—an increase of approximately fifty-four percent in five years. *See Total Taking and Passing by Source of Legal Education in 1998*, BAR EXAMINER (Nat'l Conf. of Bar Examiners, Madison, Wis.),

Graduate programs for foreign lawyers generally reported a deliberate increase in size beginning in the late 1990s; this increase occurred at a time when overall applications to JD programs were decreasing and may have been a response to this shift.¹⁴ For example, one school that has had a graduate program available to foreign lawyers for more than 20 years increased from approximately 35 students in 1990-91 to approximately 80 students in 2003. Another program that began in 1970 enrolled 20 students during the 1980s and 1990s, and increased over the 2001-2003 period to approximately 50 students per year. A third program began in 1994 and grew from 11 students to a 2003 enrollment of 40-50 students. And a program created in 2002 enrolled 10 students its first year and 30 in the second year. Although information about the size of graduate programs available to foreign lawyers generally is not disclosed on law school web sites, information about program size for the 35 schools that offered detailed information about their programs is as follows:

May 1999, at 4, *available at* <http://www.ncbex.org/stats/pdf/1998stats.pdf> (last visited Jan. 25, 2005); *Persons Taking and Passing by Source of Legal Education in 2003*, BAR EXAMINER (Nat'l Conf. of Bar Examiners, Madison, WI), May 2004, at 9, *available at* <http://www.ncbex.org/stats/pdf/2003stats.pdf> (last visited May 18, 2004). These numbers almost certainly include lawyers educated in a common law system outside of the U.S. who do not need to complete an LL.M. in order to sit for the bar, pursuant to Rule 520.6 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law, N.Y. Comp. Codes R. & Regs. tit. 22, § 520 (2005), *available at* <http://www.nybarexam.org/court.htm>.

¹⁴ See Law School Admission Council, *Volume Summary Data*, at <http://www.lsac.org/LSAC.asp?url=lsac/LSAC-volume-summary.asp> (last visited Oct. 4, 2005).

**Table 2: Size of One Year Graduate Programs,
for 35 Surveyed Schools**

(M) indicates that the school has multiple one one-year graduate program in which foreign lawyers may enroll, and the number reported is the combined number of students in all such programs

1.	300 students (M)	13.	55 students	25.	20 students
2.	174 students (M)	14.	50 students	26.	15 students
3.	150 students	15.	43 students	27.	15 students
4.	125 students (M)	16.	37 students (M)	28.	12 students
5.	127 students (M)	17.	35 students	29.	11 students
6.	82 students	18.	32 students	30.	7 students
7.	80 students	19.	32 students	31.	5 students
8.	79 students	20.	32 students	32.	5 students
9.	73 students	21.	30 students	33.	5 students
10.	72 students	22.	28 students	34.	0 students
11.	64 students	23.	27 students	35.	0 students
12.	55 students	24.	21 students		

The average number of graduate students at these law schools for the 2003-04 academic year was approximately 54 students.¹⁵

Another factor relating to the variety of graduate law programs available to foreign-educated lawyers is their location in the U.S. The experience of students enrolled in a graduate program located in a major metropolitan area is different than that of students attending a rural school. Figure 3 illustrates the location of U.S. law schools offering LLM programs for foreign lawyers, color coded by the number of schools in each state.

While certain U.S. law schools may offer no graduate programs for foreign lawyers, others offer multiple such programs.¹⁶ In order to illustrate the number of

¹⁵ Two schools reported on brand new programs and had not yet enrolled students.

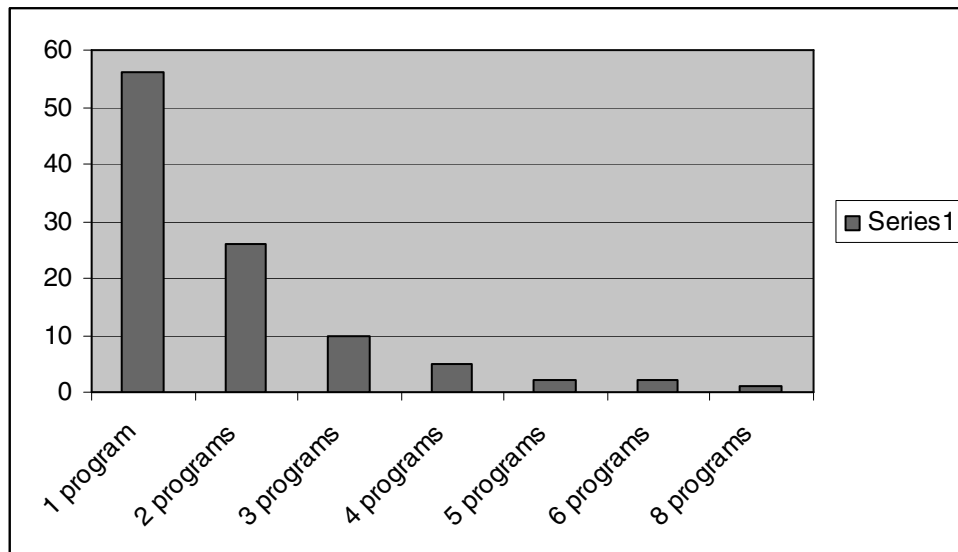
¹⁶ Using Northwestern as an example, albeit not necessarily representative of other schools, the general LLM program existed for decades, and increased in size quite dramatically in the mid-1990s. In 1999, Northwestern began a new joint program in law and business, and in 2002 an LLM tax program- this latter is not aimed at foreign lawyers, but has admitted at least one foreign lawyer. And in 2003, Northwestern began an executive LLM program for Korean lawyers that conducts classes in Seoul and in Chicago.

programs available to foreign lawyers, as opposed to schools with such programs, Figure 4 uses the same color coding system.¹⁷ The concentration of programs and schools in major commercial states is quite clear.

[insert Figures 3 and 4 (currently at pp. 41 -42) here]

The break-down of programs per school is illustrated in Figure 5.¹⁸

Figure 5: Number of Programs Per School



Programs also differ in their student populations. Certain graduate programs are open to foreign and domestic lawyers, while others are available exclusively to foreign lawyers. The distinction may be a matter of marketing the program or may relate to particular course requirements for the degree. It is not entirely clear how applicants weigh the merits of an exclusively foreign-student program. Fifty-eight schools,

¹⁷ Blue indicates one-two programs in the state, green indicates three-five programs, yellow indicates six-eight programs, orange indicates ten-thirteen programs, and red indicates more than twenty.

¹⁸ Of the 102 schools with programs available to foreign lawyers, web sites describe 46 schools with multiple programs: 26 schools have 2 programs, 10 schools have 3 programs, 5 schools have 4 programs, 2 schools have 5 programs and 2 have 6 programs, and 1 school has 8 programs. This information was gathered from web site descriptions. However, certain descriptions were ambiguous, and it is possible that this count confuses different options within one program with different programs. For purposes of consistency, I counted schools as having separate programs when it was ambiguous.

identified in Table 3, offer a total of 66 one-year graduate programs exclusively for foreign lawyers; at least four schools (indicated by *) offer multiple programs open only to foreign lawyers.

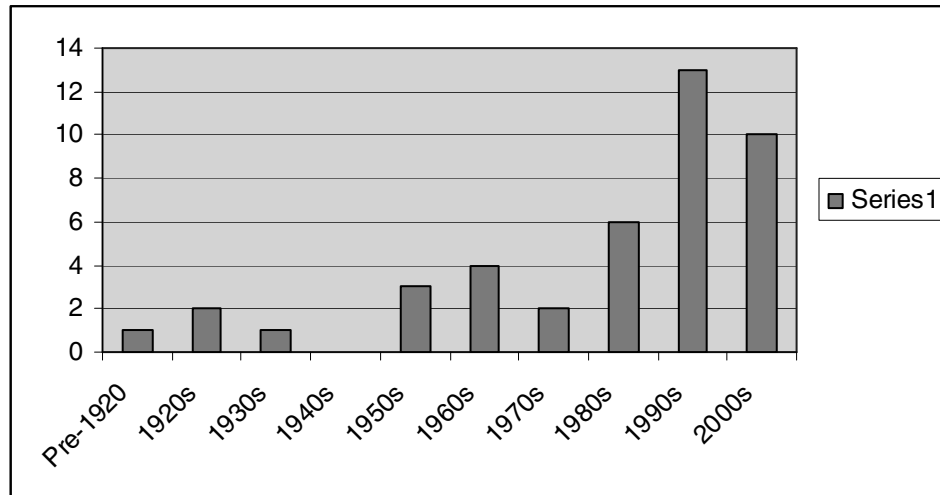
Table 3: Schools Offering Programs Exclusively for Foreign Lawyers

1. University of Alabama	31. New England School of Law
2. Albany Law School	32. New York University
3. University of Baltimore	33. Northwestern University*
4. Boston University	34. Pace University
5. Brigham Young University	35. Pennsylvania State University (Dickinson)
6. California Western University	36. University of Pittsburgh
7. University of California-Hastings	37. St. Louis University
8. UCLA	38. University of San Diego
9. Case Western Reserve University	39. University of San Francisco
10. Chicago-Kent College of Law*	40. University of Santa Clara*
11. University of Connecticut	41. University of Seattle
12. Cornell University	42. University of Southern California
13. University of Denver	43. Southern Methodist University
14. Duke University	44. St. Mary's University
15. Emory University	45. Stanford University*
16. Florida State University	46. Temple University
17. University of Florida	47. University of Texas
18. Georgetown University	48. Touro College
19. Hamline University	49. University of Tulsa
20. University of Hawaii	50. Valparaiso University
21. Hofstra University	51. Vanderbilt University
22. University of Houston	52. University of Virginia
23. Howard University	53. Wake Forest University
24. University of Illinois	54. Washington & Lee University
25. Indiana University- Indianapolis	55. Washington University in St. Louis
26. John Marshall Law School	56. Whittier School of Law
27. University of Miami	57. College of William & Mary
28. Michigan State University	58. University of Wisconsin
29. University of Michigan	
30. University of Minnesota	

It is possible to gain a sense of the development of LLM programs from the 35 schools that shared detailed information. Among these schools, more programs were created in the 1990s than during any other period, followed by the current period from

2000 to the present. Figure 6 illustrates the starting date of LLM programs for foreign lawyers offered by these schools.¹⁹

Figure 6: When Were LLM Programs Created?
(Showing 42 programs of 35 schools)



III. Expectations and Payoffs for the Schools and the Students

The landscape of graduate programs available to foreign-educated lawyers provides a starting point for understanding the development of the international legal education market. But what do U.S. law schools gain from hosting foreign lawyers in their graduate programs? And how do the graduate programs satisfy the needs of international students?

Law schools gain financially and reputationally from their graduate programs for foreign lawyers. These programs internationalize the student bodies of law schools which schools use as evidence of their international and even global characters. While the international character of a law school may stem from its LLM program, the significance of the international label addresses a law school's ability to attract applicants

¹⁹ A number of programs at the 35 schools are not included in Figure 5 because of an absence of information.

for its JD program as well. As one graduate program director explained, the LLM program brings “the global perspective to our students”²⁰ – meaning their JD students. Similarly, the University of Baltimore School of Law describes the goals of its LLM program in its web site as being “. . . to give foreign lawyers a first-rate education in the laws of the U.S. and *to broaden the experience of all law students through more interaction with international students and exposure to diverse populations.*”²¹

Most LLM programs are built around foreign students taking most of their courses with JD students, guaranteeing at least a minimal level of academic interaction between the two groups; occasionally LLM students offer their home country perspective on topics examined in class and bring a comparative substantive insight to JD students, as well. Graduate programs that attract foreign students allow U.S. law schools to legitimize their claims to being international, and this international label is crucial to law schools as they try to compete for JD applicants; it indicates a school’s forward-looking approach and its ability to educate students for the future.

A second benefit of graduate programs for foreign lawyers cited by directors of the programs relates to money: these graduate programs are a significant source of revenue. Graduate programs are not subjected to the same strict oversight by the ABA as JD programs and this may enable law schools to focus more on cost efficiencies than is possible for the JD programs.²² Law schools tend to thinly staff the graduate programs in terms of both faculty and administrative support, so that most of the tuition dollars paid

²⁰ Response of graduate director at school #2 to survey.

²¹ <http://law.ubalt.edu/academics/concentrations/llm.html> (visited 12/26/03) (emphasis supplied).

²² According to the graduate program director at one U.S. law school, the LLM program allows them to “internationalize our school of law, . . . to raise our law school’s visibility abroad, and to earn revenue . . .” Responses to survey from director of graduate programs for law school #1.

by international students in the LLM programs are supported by costs already incurred in connection with the JD programs.²³ Perhaps equally important, this tuition income comes without any anxiety regarding the impact on a law school's *US News* ranking relating to the credentials of students admitted to the graduate program. Foreign graduate students do not submit LSAT scores and are not included in a law school's statistics for purposes of the *US News* ranking.

The interests of law schools in hosting graduate programs for foreign lawyers are quite different than the interests of the graduate students in these programs. As described in Section I, the typical student in graduate programs today is a practitioner rather than a scholar. Generally, the U.S. law degree serves as a common currency for foreign lawyers. One graduate explained that “for a foreigner to have something as a point of reference for others who can understand, as a degree from a prestigious school is, is a very important asset.”²⁴ Another graduate was more to-the-point; he explained that the “value of law school [in the U.S.] is [the] prestige of [the] law school. It convinces clients of credibility. They say, ‘Oh, you graduated from Harvard, you can have this business.’”²⁵

But what exactly is it about the U.S. law school experience that offers value for foreign lawyers? For many, the importance of U.S. clients in their home countries

²³ According to the detailed information provided by 35 law schools, administrative staffing of LLM programs typically is minimal. The average number of staff supporting the LLM programs at the 35 surveyed schools was 2 persons, excluding faculty, admissions and career placement personnel. Three programs are directed by faculty without support from administrative staff; 8 schools also have all or some of an admissions position allocated to the program and 2 schools have a career placement position allocated to the program.

²⁴ Int. 10.

²⁵ Int. 5.

convinces them of the need to acquire a U.S. law experience and the skills that go along with it. Learning English, particularly legal English, is crucial, as is having some exposure to U.S. culture. Foreign lawyers from diverse countries – including countries in Latin America, Europe and Asia - report that at least half of the work in their home country is performed in English. One recent graduate explained, “doing an LLM guarantees that you know how to speak English, that you’ve been exposed to American culture, legal culture. This makes [the clients] feel more comfortable.”²⁶ Another explained,

One main reason [I’m] here is to practice ... English. ... That’s important because 70% of clients are U.S. based companies. The better deals involve international parties. If you want to be on these deals, you must be able to speak, read, write in English as if it’s your own language; [this is] almost mandatory. Most law firms require knowledge of English before hiring in a job as a lawyer.²⁷

The same lawyer commented, “The law component is an excuse to practice English and to be comfortable with the U.S. culture and in English.”²⁸ Another recent graduate explained the importance of being fluent in legal English:

I work in English half of the time. ... [E]ven if ...both sides are ... lawyers [from my home country], ... you [might] look forward to an IPO which is in the U.S. We try to keep all the documents in English in order to preserve it for the future. So even if both parties are [from my home country], ... the documents are going to be in English There is always someone who doesn’t speak [my language] for some reason. But the documents are in English.²⁹

Another lawyer explained, “Most clients are foreign, and we often have to deal with legal counsel, too. The U.S. is where most foreign investment comes from. I want to become

²⁶ Int. 1.

²⁷ Int. 4.

²⁸ Int. 4.

²⁹ Int. 6.

acquainted with the U.S. legal system, with the way lawyers and clients think and what they think about when deciding to do business in [my home country].”³⁰

If foreign lawyers want to learn English and soak up U.S. culture during the LLM year, graduate programs are equally intent upon their foreign students having sufficient grounding in English to succeed. Assessment of language ability is a crucial part of the admissions decision for law schools. Nearly every school states on its web site that it requires the TOEFL exam, and most schools state a minimum TOEFL score on their web site equal to 600 (for paper-based version) or 250 (for computer-based version).³¹ Schools tend to lower the required score for programs open exclusively to foreign lawyers.³²

A number of the 35 schools that provided detailed information indicated that they supplement TOEFL information with personal conversations to help assess applicants’ English ability. For certain of these schools, the TOEFL requirement as indicated on the school’s web site is lower than 600, presumably because of the supplementary information. In addition to telephone conversations with applicants, most admission officers look for work experience, and one indicated that he specifically is interested in evidence that an applicant has worked in an English-language environment.

³⁰ Int. 9.

³¹ There are some exceptions to this – the range indicated on web sites is between a low of 550 (213 for the computer based exam) and a high of 650.

³² For example, on its website, the University of Wisconsin states that the TOEFL score required for its Masters in Legal Institutions (MLI) program, which is designed exclusively for foreign lawyers, is 580 (237 on the computer-based exam); in contrast, Wisconsin’s LLM program, open to both foreign and U.S. lawyers, is described on the website as requiring a TOEFL score of 625 (263 on the computer-based exam). In addition, six law schools that require a TOEFL score below the 600 average are on the list of law schools attended by foreign lawyers working in NY, from my 2000 study; two law schools that require higher scores also are on the list. See Silver, “The Case of the Foreign Lawyer: Internationalizing the U.S. Legal Profession,” 25 *Fordham Journal of International Law* 1039 (2002).

Another reason that students from particular jurisdictions enroll in U.S. graduate law programs is to bypass restrictions on professional qualification. In Japan and Korea, for example, the very low bar passage rate means that most law graduates do not pass the bar exam. For students from these countries who have not passed their domestic bar exam, coming to the U.S. to study enables them to sit for the bar in certain U.S. jurisdictions –notably, New York. If they pass the New York bar, they can return to their home countries with an important credential – that of the foreign lawyer. Moreover, Japanese and Korean students who have passed the bar in their home countries are no less intent upon passing a bar exam in the U.S.; for them, too, the credential is all-important. According to one recent graduate, “In Korea, [the] LLM value is 1st [the] American license – [the] bar exam. [The] LLM is a process to get [a] license.”³³

Personal experiences also play a role in motivating certain individuals to enroll in U.S. graduate law programs. Certain students had lived in the U.S. previously and want to return, or want time away from home with their new spouse or to break away from the routine of working in law in their home country.³⁴ Personal interests are never far from the professional.

A. The Competition Between U.S. Law Graduate Programs

U.S. law schools compete for foreign graduate students on a variety of criteria. According to graduates of LLM programs interviewed for this article, selection of a particular U.S. law school graduate program is influenced most often by the following factors (in no particular order): the *US News* ranking of the law school, a particular

³³ Int. 5.

³⁴ Int. 17, 13, 20.

characteristic or focus of the graduate program at certain law schools, funding by the law school, and knowledge of someone with a connection to the school or its location.

Graduates of U.S. law programs regularly mention the *US News* ranking of a school as one consideration in applying to a particular school or choosing one school over another. This changes, of course, depending upon whether the foreign lawyer attended a school with a very high *US News* ranking or one with a lower ranking. Graduates of schools with *US News* rankings in approximately the top 20 consistently referred to the ranking of their alma mater as significant in their decision to apply to and enroll in a particular school. For these students, the value of the LLM is linked to the status of the law school; it makes no difference that the *US News* rankings are based upon assessment of JD programs.³⁵

Certain LLM programs have distinctive characteristics that attract applicants. One example is the opportunity to work in an internship during or following the LLM course work;³⁶ this was cited as crucial by a student who wanted the LLM degree but also

³⁵ One ranking of U.S. LLM programs is offered by American Universities Admission Program, at <http://www.auap.com/llm.html> (visited 10/5/05). According to the website, rankings are based on the following criteria: "This classification is based on the program quality, admissions rate, world image of the university, average starting salary and satisfaction index of international students. This classification is global and does not reflect the comparative strength of each program in a specific field of Law (such as International Civil Law, Taxation, Internet, intellectual property etc.)[" Objective data and qualitative methodology related to the production of this ranking are not provided. Graduates interviewed for this article did not mention this ranking in their interviews.

An alternative source of information about LLM programs, including programs offered by non-US law schools, is LLM Guide, available at www.llm-guide.com.

³⁶ See, for example, "2005 LL.M. Graduates Tackle Internships," in 10 University of Pittsburgh Center for International Legal Education Notes (Fall 2005) at 10 ("The members of the 2005 LL.M. class participated in a variety of internships following graduation in May. The internships are one of the unique aspects of the LL.M. Program for Foreign Law Graduates at the School of Law, offering each graduate the opportunity for practical training during the summer following graduation."); Case Western Reserve University's LLM program, described at <http://www.law.case.edu/curriculum/llm/content.asp?id=367>. (visited 3/09/05) ("For interested LL.M. students, the law school arranges internships the summer following the program with law firms, corporations, and courts for students who want to see how law is practiced in the U.S. Cleveland's position as a corporate and legal center provides many internship options."). University of the Pacific, McGeorge School of Law, also offers an LLM with an internship

wanted to spend time putting course work into practice.³⁷ Another way that law schools try to distinguish themselves is by adopting a particular substantive focus to their graduate programs. While certain programs allow students to study nearly any topic addressed in law school,³⁸ others are focused on a particular substantive area of law which may correspond to direction on the courses students must take. If U.S. or American law is considered a substantive specialty, then approximately 75% of the programs in which foreign lawyers may enroll have a substantive focus. On the other hand, eliminating a category for U.S. and American legal studies on the ground that these actually are general programs³⁹ leaves approximately 65% of LLM programs available to foreign lawyers with a special substantive focus.

LLM programs with a substantive law focus are aimed at 23 substantive law specializations, including U.S. law. This includes 28 programs that identify themselves as having a focus on international and comparative law, and 20 with a focus on U.S. law. Other areas of substantive focus are listed below in Table 4, with the number of programs in that area indicated next to the specialization:

component; see http://www.mcgeorge.edu/international/transnational_business/llm_with_internship.htm (visited 10/05/05).

³⁷ Int. 20.

³⁸ The qualification about focus of study relates to curricular requirements that may impede a substantive focus, and the prohibition on first-year courses found at several schools.

³⁹ It is not clear whether it is appropriate to count the U.S.-focused programs as having a substantive focus, since these programs may be general in their approach and use the title U.S. or American law as a way to identify their attraction to foreign lawyers.

Table 4: LLM Programs with Topical Focus

<u>Topic</u>	<u>Number of Programs</u>
International law, Comparative law ⁴⁰	28
Tax, International tax ⁴¹	25 ⁴²
U.S. law, American law	20
Business, Corporate law, Financial services, Banking ⁴³	15
Intellectual property, International IP ⁴⁴	15
Energy, Environmental law ⁴⁵	9
Dispute resolution	4
Health law	4
International trade ⁴⁶	4
Government procurement, International government procurement, Law & government	3
International human rights	3
American Indian/Indigenous peoples law & policy	2
Labor & Employment	2
Admiralty	1
Agricultural law	1
Child & family law	1
Criminal law	1
Employee benefits	1
Insurance law	1
Law & economics	1
Public service law	1
Real property and development	1
Sustainable international development	1

⁴⁰ Includes programs on international transactions and comparative law, American and comparative law.

⁴¹ Includes programs on business & tax, and estate planning.

⁴² Nineteen schools have LLM programs focused on tax or international tax, and 18 of these are at schools with more than 1 program: 4 schools with tax LLM programs have one additional LLM program; 6 schools have 2 additional LLM programs; 4 schools have 3 additional LLM programs; 2 schools have 4 additional LLM programs, 1 school has 5 additional LLM programs, and 1 school has 6 additional LLM programs.

⁴³ Includes programs on corporate governance, securities, financial regulation, and bankruptcy.

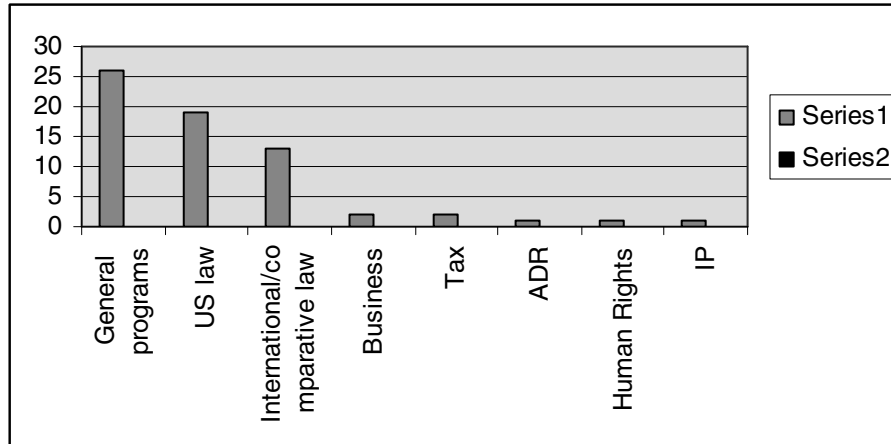
⁴⁴ Includes programs on Law, Science & Technology.

⁴⁵ Includes programs on Natural resources law and water resources.

⁴⁶ Includes programs on international business and trade.

Of the 66 programs exclusively available to foreign lawyers,⁴⁷ 26 are general programs, 19 are focused on U.S. law, 13 on international or comparative law,⁴⁸ 2 each on business and tax, and 1 each on alternative dispute resolution, human rights and intellectual property.

Figure 7: Topical Focus of Programs Exclusively for Foreign Lawyers



The percentage of substantively focused programs in the two groups – those programs open exclusively to foreign lawyers and those open to foreign and domestic students – compare as follows:

Table 5: Percentage of Substantively Focused Programs in Programs Exclusively for Foreign Lawyers and Open to Foreign and Domestic Lawyers

	<u>Exclusively Foreign</u>	<u>Non-exclusive</u>
General Programs	39%	25%
U.S. Law	11%	29%
International/Comparative Law	15%	20%

⁴⁷ For a list of these 66 programs see Table 3 *supra*.

⁴⁸ This includes 1 program offered substantially in one particular foreign country and available only to lawyers in and of that country.

Apart from substantive focus, graduate programs distinguish themselves on the basis of their curricula. There is quite a bit of variation in the substantive requirements of graduate programs available to foreign lawyers. One hundred and six programs impose some course requirement. More than 50 programs require either an introductory course on the U.S. legal system or a course on legal research and writing.⁴⁹ Another forty-five programs require students to take both of these courses. In addition, more than 120 programs impose some sort of writing requirement on students. This might take the form of a thesis requirement,⁵⁰ an independent research project,⁵¹ or a paper in a seminar.⁵²

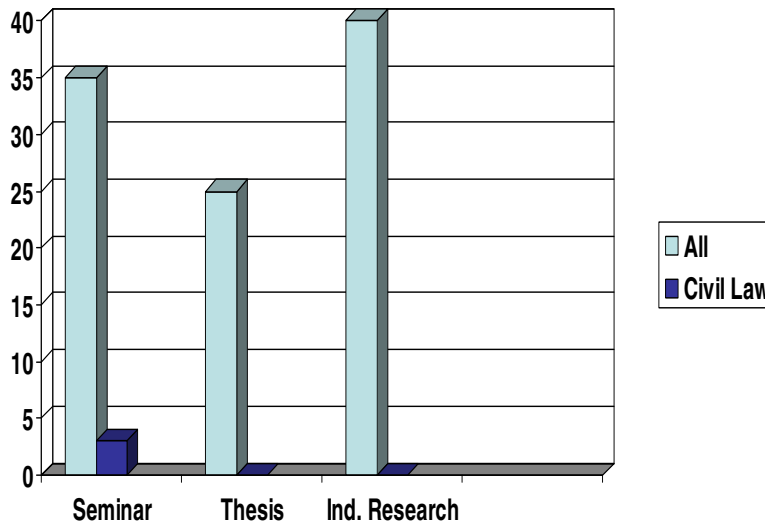
⁴⁹ Several of these programs excuse lawyers trained in common law systems from the requirement.

⁵⁰ See, e.g., University of Georgia's LLM requirements at <http://www.law.uga.edu/> (visited 12/29/03) ("Students must prepare a thesis on the subject described in their admissions application and confirmed at the time of enrollment."); Wake Forest University's program requires "Independent Research and Thesis, which offers two credit hours and should be completed during your year in residence. You can choose your thesis topic according to your own special interests. We will assign a professor who will serve as a mentor/advisor for the selection, research, and writing of your thesis ..." <http://www.law.wfu.edu/> (visited 12/29/03).

⁵¹ See, e.g., the University of Texas LLM program requirements at <http://www.utexas.edu/law/> (visited 12/29/03) ("Students enrolled in the LL.M. program must complete a minimum of 24 credit hours to obtain the LL.M. degree, and must also complete a substantial paper involving independent research and legal analysis").

⁵² See, e.g., the University of Michigan's requirements at <http://www.law.umich.edu/> (visited 12/28/03) ("All master's degree students are required to complete a research paper in a seminar or as a supervised independent research project on a topic of their choice"). Students may choose between various forms of writing in approximately 25 programs. For example, Columbia University requires either two seminar papers or an independent research project ("All LL.M. candidates are required to include in their programs a writing project or projects that involve independent legal writing based on research, totaling four points of academic credit. The writing credits may be earned in conjunction with a seminar or through independent research with a faculty member. Two seminars requiring substantial papers satisfy this requirement, as does a four-credit research project, or any equivalent combination of undertakings.") <http://www.law.columbia.edu/> (visited 12/28/03).

Figure 8: Form of research/written work required by LLM programs open to foreign lawyers



The law school's financial support of its foreign students is another important consideration in selecting a U.S. law school. Twenty-four of the 35 schools that provided detailed information offer some funding for graduate students. There is a wide variety of available resources; schools generally offer only partial funding to any student, and fund as few as 2% to as many as 70% of the foreign student population. Schools use the funding to attract students from particular countries that otherwise would not be represented in the class, or to attract students who otherwise would enroll in graduate programs offered by competing U.S. law schools. Four schools reported that they provide no funding whatsoever to their graduate students.

Students are funded by employers and their home country governments as well. According to graduate directors, employer funding is most common for students from Japan and Korea; employers pay for tuition and a living stipend during the academic year. Graduates from Japan and Korea explained that it also is common for their home

country employers to pay their wages during a U.S. internship at an unrelated organization following graduation from the LLM program.⁵³ Graduate directors report that government funding is more common for students from other countries, including Germany.

Finally, graduates rely on personal acquaintances for information about the particular U.S. law schools and their locations. Knowing someone who has a connection to the location of the law school gives some comfort to foreign applicants. It is not necessary for the foreign lawyer to have a close personal connection to the person with experience in the U.S., and often graduates report that they knew of someone who had studied at a particular law school although they did not speak with that person before accepting an offer of admission.⁵⁴

Of course, there are other reasons students apply to particular schools; weather is mentioned regularly, as is the relation of a school's location to the international economy. And for some students the availability of interesting opportunities for a spouse is important. In addition, there appears to be some correlation between the number of applications and the tenure of the graduate director of a law school.⁵⁵

B. The Bar Exam

⁵³ Int. 5 and 7. See text at n. , *infra*, regarding the use of home country relationships in securing jobs after graduation; funding by the home country employer would be a strong incentive for a U.S. employer to take on a graduate for a limited period of time.

⁵⁴ Int. 8.

⁵⁵ For the 35 law schools who responded to the survey, the relationship of applications to enrolled students ranges from 4% to 63%. For schools with more than 20 enrolled students, the average school enrolled 23% of the number of applications they received for the 2003-04 school year. Schools in California attract significant numbers of applicants. Outside of California, the tenure of the program director appears to have some correlation to the rate of applications to the program. For the schools with programs of more than 20 students, seven schools outside of California enroll fewer than 20% of their applicants. Program directors at six of the seven schools have been in their positions for more than five years.

One reason that foreign lawyers attend U.S. graduate law programs is that it qualifies them to sit for the bar exam in certain U.S. jurisdictions.⁵⁶ Table 6 reveals the variety of perceptions among the graduate directors of the 35 schools that reported detailed information regarding the number of foreign graduate students taking a U.S. bar examination.⁵⁷

Table 6: Percentage of 2003 graduates who took a bar examination in a U.S. jurisdiction, as estimated by Directors of Graduate Programs

Number of Schools	Percentage
1	70%
2	50%
4	40-45%
8	30-35%
4	20-25%
4	10-15%
3	0

Graduate directors indicated that most of those graduates who plan to take a U.S. bar exam intend to take the exam in New York. Thirty of the 35 schools reported that 2003

⁵⁶ Notwithstanding this goal of LLM students, U.S. law schools typically are reluctant to guarantee that the LLM will satisfy the conditions for sitting for a bar examination. See, e.g., Yale University School of Law LLM program at <http://www.law.yale.edu/outside/html/Admissions/admis-llmfaq.htm> (visited 03/14/05) (“The LL.M. degree from Yale Law School makes one eligible to take the bar exam in some states, but it does not prepare you for it.”) But see NYU School of Law, at <http://www.law.nyu.edu/depts/admissions/info/graduate/index.html> (visited 10/05/05) (“Successful completion of an LL.M. degree qualifies foreign attorneys to take the New York Bar examination.”).

⁵⁷ Schools interpret bar requirements differently. Compare the approach of Washington & Lee University School of Law at <http://law.wlu.edu/admissions/FAQs.asp> (visited 03/14/05) (“consistent with the approach taken by other United States law schools, our policy is not to certify that our students who have completed only the one-year LL.M. program are qualified to seek admission to the bar of any state. For this reason, in most cases, a person holding an LL.M. in United States Law will not be eligible to receive a license to practice law in most United States jurisdictions. An exception applies in the case of admission to the bar of the state of New York, which allows applicants to take the New York bar examination upon verification of successful completion of the LL.M. degree; in other words, New York does not require the school to certify that the applicant is qualified to seek admission to the bar.”) and Indiana University School of Law –Indianapolis at <http://indy.law.indiana.edu/llm/faq.htm> (visited 03/14/05) (“There are 10 states that permit international LL.M. graduates to take their bar examination. Many of these states have additional requirements that may preclude an LL.M. graduate from taking the bar. ... The 10 states that allow foreign LL.M. graduates to take their bar examination are: Arizona, California, Connecticut, Michigan, New Hampshire, New York, North Carolina, Rhode Island, Tennessee, and Virginia.”).

graduates took the bar in New York. New York has a liberal approach to foreign lawyers taking its bar exam; its rules are straight-forward in their requirements and it is possible for most foreign lawyers to qualify to sit for the bar examination after completion of a one-year graduate degree program.⁵⁸ Nineteen of the 35 schools reported that certain graduates also took the California bar, and twelve schools reported that certain of their graduates also sat for the bar in one or two additional U.S. jurisdictions which either were the jurisdictions in which the law schools were located or jurisdictions in the same region where the law school was located.⁵⁹

While many foreign lawyers want to take a U.S. bar exam, restrictive bar rules frustrate their intentions in certain U.S. jurisdictions even though these same jurisdictions are home to law schools with programs for foreign lawyers.⁶⁰ Inability to sit for the bar exam in a particular jurisdiction is an enormous road block. According to one LLM graduate, the issue of the bar exam

... keeps coming up again, again and again. You know it's a huge issue because the U.S. is extremely attractive for people to work in. The labor market is very, very fluid in everything but law, it seems. It's very difficult actually getting here and getting practicing and then actually get a job. Because a lot of the big law firms won't look at you unless you're going to get qualified, understandably so. And so, I find a lot of the states are really kind of difficult still.⁶¹

⁵⁸ For analysis of the bar rules in U.S. jurisdictions as applied to foreign lawyers, see Silver, "Regulatory Mismatch in the International Market for Legal Services," *supra* n. 2. See generally, ABA Section of Legal Education and Admission to the Bar and National Conference of Bar Examiners, Comprehensive Guide to Bar Admission Requirements 2005, available at <http://www.abanet.org/legaled/publications/compguide2005/compguide2005.html> (visited 10/05/05).

⁵⁹ These jurisdictions are not identified because doing so may reveal the identity of the schools that responded to the survey.

⁶⁰ See Carole Silver, "Regulatory Mismatch in the International Market for Legal Services," 23 *J. Int'l Law & Bus.* 487 (2003) for a discussion of the regulation of bar admission for foreign lawyers.

⁶¹ Int. 15. Another lawyer working in the U.S., a 1990 graduate of a U.S. LLM program who practiced in California for several years before moving to Illinois, also described his frustration at the restrictive bar rules in Illinois: "I had to work intensely with another person in the firm, because I was not admitted to the bar. I had to have everything reviewed by an admitted attorney. It was ridiculous." Int. 20.

In the competition among U.S. law schools for transnational graduate students, it appears that location as it relates to bar admission rules matters. Schools located in New York are disproportionately successful in placing their graduates in jobs in New York,⁶² and New York's international role as a financial center likely leads to more jobs for transnational lawyers than elsewhere in the U.S. Thus, bar admission rules matter at least indirectly in the competition for transnational lawyer students.

C. Experiences in U.S. Law Programs

The experience of foreign lawyers in graduate programs may be substantially different depending upon the U.S. law school they attend, and differences in experiences may translate into differences in the programs' value. In large part, this goes to the issue of how alumni use the networks they develop during their year in a U.S. graduate law program; do students at the more prestigious schools have more valuable connections because of their law school classmates, and does this increase in value correspond to greater career opportunities? Perhaps the more prestigious law schools attract students who have better social and professional networks to begin with. Alternatively, a small graduate program may result in closer connections among students that may offset the advantages of the larger and more prestigious programs.

(i) Academic Experiences

In order to gain insight into the academic interests of graduate students, I asked the graduate directors at the 35 surveyed schools about students' course selections. Aside from particular required courses, graduate students at the 35 schools focused primarily on

⁶² See Carole Silver, "The Case of the Foreign Lawyer: Internationalizing the U.S. Legal Profession," 25 *Fordham J. Int'l Law* 1039-1084 (2002)(discussing the unusually high proportion of Fordham foreign lawyer graduate alumni working in New York).

courses in U.S. law related to business issues, including corporations, securities, and mergers & acquisitions. Other important areas of study mentioned by the graduate directors at these schools were international law, intellectual property, and negotiations or alternative dispute resolution, although they stressed that these areas are secondary to the business-related courses. Finally, half of the 35 schools reported that their graduate students may participate in a journal, either by publishing in the journal or through a board position, or both.

(ii) Interaction with Other Students

Many graduate students expressed frustration with the difficulty of developing strong ties to their JD classmates. One graduate commented that “It’s hard to get into the American JD group. Because they ... don’t have a lot of interaction among themselves either, ... in the sense of social events, they stay very superficial among each other ...”⁶³ Another lawyer explained that her JD friends were “transfer students who also felt excluded.”⁶⁴ Other students attribute their lack of friendships with JD students to their own challenges. For example, one student explained, “I wish I knew JDs better. My English is not good, and I worry about disturbing others in speaking ...”⁶⁵

The relationship between graduate and JD students is an issue to which directors of graduate programs are attuned and they attempt to integrate foreign and U.S. law students in various ways. Many schools match JD and foreign graduate students in an advisor, mentoring or buddy relationship. JD advisors might be asked to review the resumes of their graduate advisees, advise on course selection and other school-related

⁶³ Int. 3.

⁶⁴ Int. 11. During law school, this individual had a JD mentor who was a transfer student.

⁶⁵ Int. 5.

issues, help students with English, and participate in social events for the graduate students. At one school, JDs are paid to edit the theses of international students.

While relationships between graduate and JD students may be frustrating, graduate students described strong and rewarding relationships with their graduate program classmates. One graduate called as many of his LLM colleagues as he could find when he wanted to move from his job in his home country to a position in New York. He “just called everybody to get every tidbit of information that could be useful.”⁶⁶ This same individual recently organized a ten-year reunion for his LLM class, attended by approximately 60 alumni. Another graduate explained that “The LLM students played a big role in the experience being worthwhile A large percentage of ... what ... was useful and enjoyable, was my classmates. I made friends [and] potential partners”.⁶⁷

The efforts of graduate directors to involve foreign students in the life of their law schools and the legal communities offer myriad opportunities for LLM students to establish strong bonds. Graduate students offer lectures on their fields of interest at one school, and on their home country legal professions at several schools. One school hosts a regular colloquium on legal practice for graduate students; several have their faculty speak to graduate students about their areas of expertise or substantive areas of law in which they teach. At another school, graduate students with teaching experience teach courses in their native language in the context of legal studies; students at this school also organize and participate in language tables. One school holds weekly meetings for small

⁶⁶ Int. 17.

⁶⁷ Int. 9.

groups of invited international students (LLMs and exchange students) to allow students to get to know each other and to consult about problems or concerns. Activities run the gamut from holiday parties to tours of local points of interest, athletic activities, country-theme dinners; visits to courts and other legal organizations are common as well. One school even runs a winter driving seminar for their graduate students, and another offers an LLM film series that is open to the law school community. While these activities offer ample opportunities for graduate students to establish strong relationships with one another, they do not necessarily succeed in drawing graduate students closer to JD students. Graduate students understand the importance of networking with their JD classmates, but it is not clear that JD students have a similar understanding. The message for JD students may need to come from elsewhere in the law school.

(iii) *Working in the U.S. and Beyond*

Many foreign lawyers who enroll in U.S. graduate programs would like to work in the U.S. after graduation. Of the 35 schools providing detailed information, 25 graduate directors estimated the number of their graduates who looked for work in the U.S. Nearly 50% of these directors estimated that between 75 and 80% of their students would like to stay in the U.S. to work for some period following their graduation, 12% estimated that 90% of their graduates wanted to work in the U.S., and 16% reported that 50% of their graduates wanted to work in the U.S. following graduation.

LLM graduates want a U.S. law firm experience to enhance their U.S. legal education, to earn the high salaries paid in the U.S. to lawyers, and to see how U.S. law is practiced. Some look for work in the U.S. for personal reasons – as one LLM graduate

explained, “I met a girl.”⁶⁸ Still others find themselves caught up in the competition and momentum of their peers in looking for jobs. A 1999 graduate described his decision to look for work in the U.S. as related to his sense of competition with his classmates.

“[A]ll these people, ... all the LLM[s] ... were getting jobs and I didn't, so it was kind of challenging *myself*, saying why didn't I get a job? ... all of these guys were talking all the time ... about how important it was to continue your education in a law firm here.”⁶⁹

Another graduate described her interest in finding a job in the U.S. as being sparked by the workshops sponsored by the Career Center: “...[S]ince we got here, we didn't think we would stay here; ... it was just something that evolved from all these meetings with Career Center. And ... all the other LLMs were looking for a job. So, eventually you start looking.”⁷⁰ Another shared this sentiment, describing his U.S. law school as

very employment oriented; ... without even expecting it I got involved in things with the placement office and interviewing, and I thought it was a pleasant experience, and I started thinking, well, why not get even more exposure, a few more months, and things like that. And for some reason, I just started getting into the goal of employment, without even knowing why and how; it just sounded more and more interesting.⁷¹

How do foreign lawyers find work in the U.S.? They do everything that JD students do and more. Over 40% of the 35 schools responding with detailed information do not permit their graduate students to participate in on-campus interviews. The justification offered for this difference in treatment of students is that U.S. law firms generally are less interested in hiring LLM graduates than JD graduates, and schools are reluctant to allow LLMs the precious interview slots if there is little likelihood that

⁶⁸ Int. 15.

⁶⁹ Int. 8.

⁷⁰ Int. 6.

⁷¹ Int. 10.

interviewers will be interested. This attitude is shared even at schools where students do participate in on-campus interviews. At one such school, the graduate director commented that graduate students “don’t get hired through on-campus interviews.”

Directors of graduate programs emphasize the importance of home-country contacts when discussing how graduates find jobs in the U.S. Most graduate directors consider those home country contacts crucial. Several schools write to admitted students before they arrive in the U.S., asking them to begin thinking about who might help them find opportunities in the U.S. According to one graduate director, “Grades are not important at all for finding work in the U.S. Timing is off regarding looking for a job in the U.S. They’d be hired because of what they bring to the table with foreign contacts and language skills. Firms look at grades, but no big deal if the grades are not stellar.”⁷²

Another director reported,

Grades matter some, but usually other factors weigh in. The identity of the home country matters, language ability and which languages the student speaks matters. If the student does really great in grades, this helps. ... How they do academically in the LLM program is important, but not determinative. ... They are looking at background, what they’ve done in the past, and they take their admission into [this law school] as evidence of their academic ability.⁷³

An experienced graduate program director commented that what “... matters in securing jobs is first, whether a firm has business operations in a particular country; second, whether a student is from a common law country; third, whether the student has had prior practicing experience with a major law firm; and finally, the personal characteristics of the student.”⁷⁴ Yet another graduate director advised that “[t]o get hired as a permanent

⁷² Int/survey A.

⁷³ Int/survey B.

associate in the U.S., the student generally must come from a common law country. Occasionally, a German student also will find a permanent position as an associate.”⁷⁵ The explanation offered for the success of German students is their high level of ability in English.

LLM graduates’ stories about finding work do not necessarily support the perceptions of the graduate directors. While personal connections helped some graduates find work, others secured positions without such connections, either through one of the job fairs for foreign lawyers, letter-writing campaigns or even Internet postings. More representative data and analysis is needed.⁷⁶

IV: Conclusion

In the market for graduate legal education, challenges are being waged to the leading position of U.S. law schools. Changes brought by the economic downturn of the early 2000s combined with post-9/11 attitudes towards immigration are negatively affecting the ability of U.S. law schools to attract increasing applicant pools to their graduate programs. In addition, the high tuition charged by U.S. law schools is now being met by less expensive alternatives offered by European and Australian universities. The inability of many U.S. law school graduate program alumni to secure employment in the U.S. also impacts the competitiveness of the programs, since applicants may be wary of incurring significant debt for tuition without the hope of obtaining a job in the U.S. that would help pay for that investment. Moreover, the growth in the size and number of

⁷⁴ Int/survey C.

⁷⁵ Int/survey D. See Silver, “The Case of the Foreign Lawyer: Internationalizing the U.S. Legal Profession,” 25 *Fordham Journal of International Law* 1039, 1045 (2002) for a discussion of the apparent advantage of foreign lawyers from common law countries compared to lawyers from civil law countries.

⁷⁶ The subject deserves analytical study and I have obtained funding from the Law School Admission Council to undertake such a study.

U.S. graduate programs has rendered the graduate experience more common, which in turn reduces the value of the degree as a distinguishing credential.

The stakes are raised, then, to capture distinction beyond the LL.M. For some, passing a U.S. bar exam is sufficient; for others, the experience of working in a U.S. law office offers additional capital. But these credentials are ancillary to the offerings typical of U.S. graduate programs for foreign lawyers. Indeed, the schools have not uniformly endorsed efforts by their foreign lawyer graduate students to accomplish these goals. The ambivalence expressed by U.S. law schools toward bar passage and employment in the U.S. is understandable from the schools' perspective, because the most significant sector for the law schools is comprised of JD students, who outnumber LL.M.s, are the most important pool for alumni donations and are the basis of the ranking information that has assumed such importance in law school recruiting. The bar issue raises concerns that the ABA Section of Legal Education and Admission to the Bar or state bar regulators might take steps to regulate the graduate programs or tighten regulations against rights of practice of foreign lawyers, or both. At the same time, law schools are conflicted by the prospect of their foreign graduate students' employment in the U.S. because the focus of their placement efforts is on JD graduates, the primary product of U.S. law schools. Schools may fear that an endorsement of foreign graduate students would impinge on the market for JD graduates.

Of course, as long as U.S. business and law remains internationally significant, there will be a draw to U.S. law schools. Nevertheless, the challenges discussed above will impact certain U.S. law schools more than others. Elite U.S. law schools most likely will not suffer much from increased competition for foreign lawyer graduate students. A

Harvard degree may not afford greater opportunities for passing a U.S. bar exam but it continues to open doors around the world. For the vast majority of U.S. law schools that do not occupy an equally elite status, however, there may be more pressure to change in response to the challenges discussed above. Change might come in the form of adapting to the new immigration restrictive-environment by relocating foreign graduate programs offshore, for example. Several schools recently have created graduate programs based primarily or entirely in another country in order to attract increasing numbers of students and avoid at least some of the immigration restrictions.⁷⁷ Foreign-based graduate programs generally are aimed at students who might not otherwise enroll in a U.S.-based program, either because of limited resources or because job-commitments prevent them from a year-long leave. Certain schools have discovered that their JD population is internationalizing, both as a result of more foreign applicants who may or may not have legal training in their home countries and at certain schools because of a willingness to grant one year's credit towards the JD degree for foreign legal education. Still other schools might support the efforts of their foreign graduate students to further distinguish themselves by passing the bar or finding work in the U.S., or both.

The response of U.S. law schools to increasing competition for educating international lawyers continues to unfold. The tuition dollars at stake are significant, but equally important is the need to internationalize the student bodies of U.S. law schools so that JD students have an opportunity to become acquainted with foreign legal systems

⁷⁷ Temple University Beasley School of Law offers graduate programs in China and Japan; see http://www.law.temple.edu/servlet/RetrievePage?site=TempleLaw&page=International_Students (visited 10/12/05). The University of Minnesota Law School is planning to begin a new LL.M. program housed at and in partnership with China University of Political Science and Law; see http://www1.umn.edu/umnnews/Feature_Stories/Carlson_School_program_rated_number_one_in_China.html (visited 10/12/05). Northwestern University School of Law offers an LLM program in Seoul and is in discussions regarding additional programs; see <http://www.law.northwestern.edu/graduate/llmexec/> (visited 10/12/05).

and lawyers through their daily interaction with graduate students in and out of class. If the schools cannot effectively compete with foreign schools, U.S. JD students will lose the opportunity to join the global legal community while still in law school.

Globalization tends to increase existing divisions within markets as it intensifies competition. The market for legal education is no exception. In order to attract international lawyers to their graduate programs, U.S. law schools must vie for position both domestically and internationally. In these efforts, they are restricted and supported by regulation and market conditions unique to the U.S. and even to their state jurisdictions, including the international-ness of their locations, regulation of foreign lawyers' rights of practice, and the size and breadth of the legal market in their jurisdiction. Law schools may attempt to position themselves as national rather than tied to one particular U.S. location in hopes of attracting the attention of foreign lawyers who may not understand the nuances of the U.S. legal market. Just as law firms have re-created themselves in order to signify their international characters, so U.S. law schools may well follow suit in the pursuit of international students and reputation.

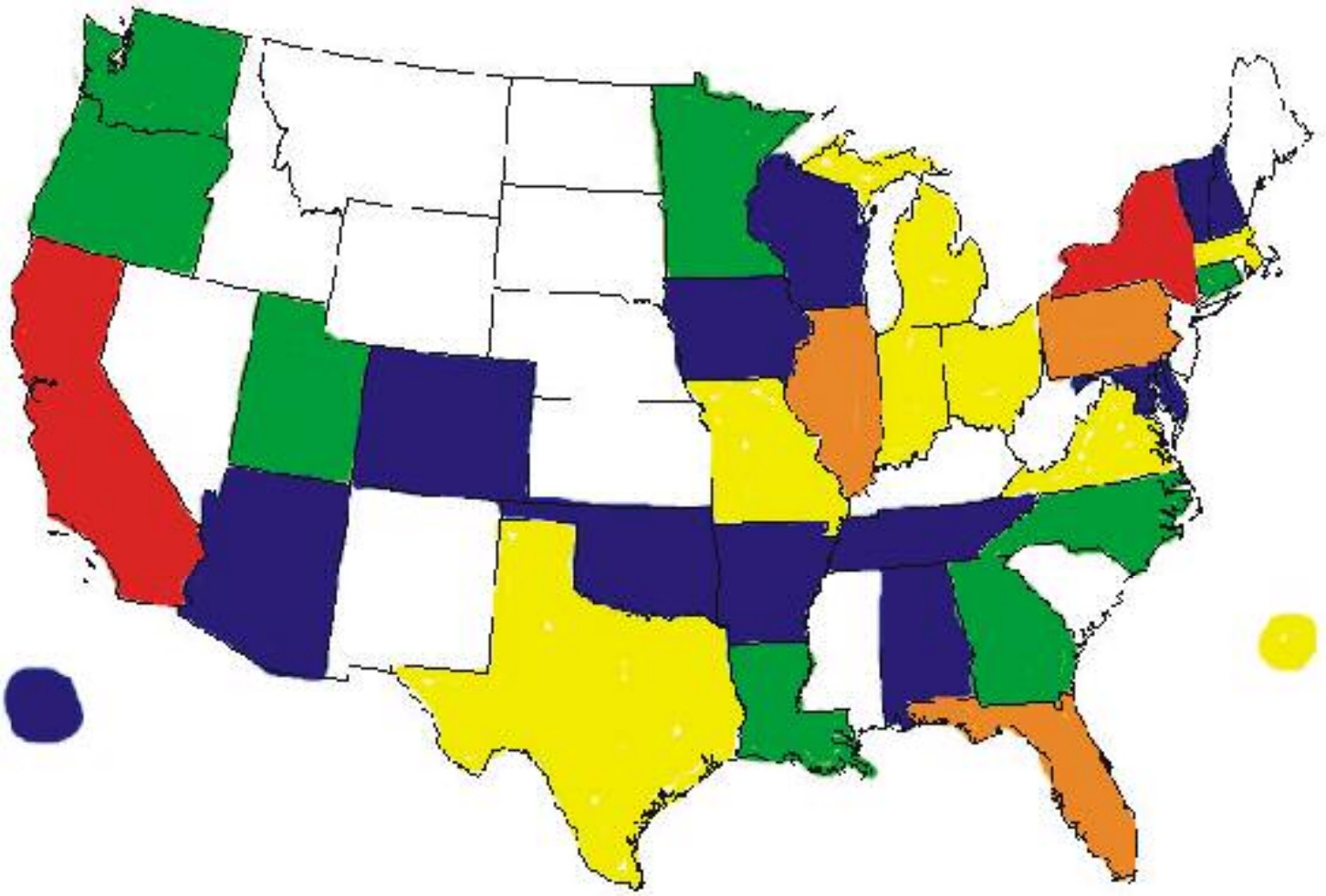


Figure 3: Locations of Schools with Graduate Programs open to Foreign Lawyers

Legend:

Blue	1 school
Green	2 schools
Yellow	3-4 schools
Orange	5-7 schools
Red	10+ schools

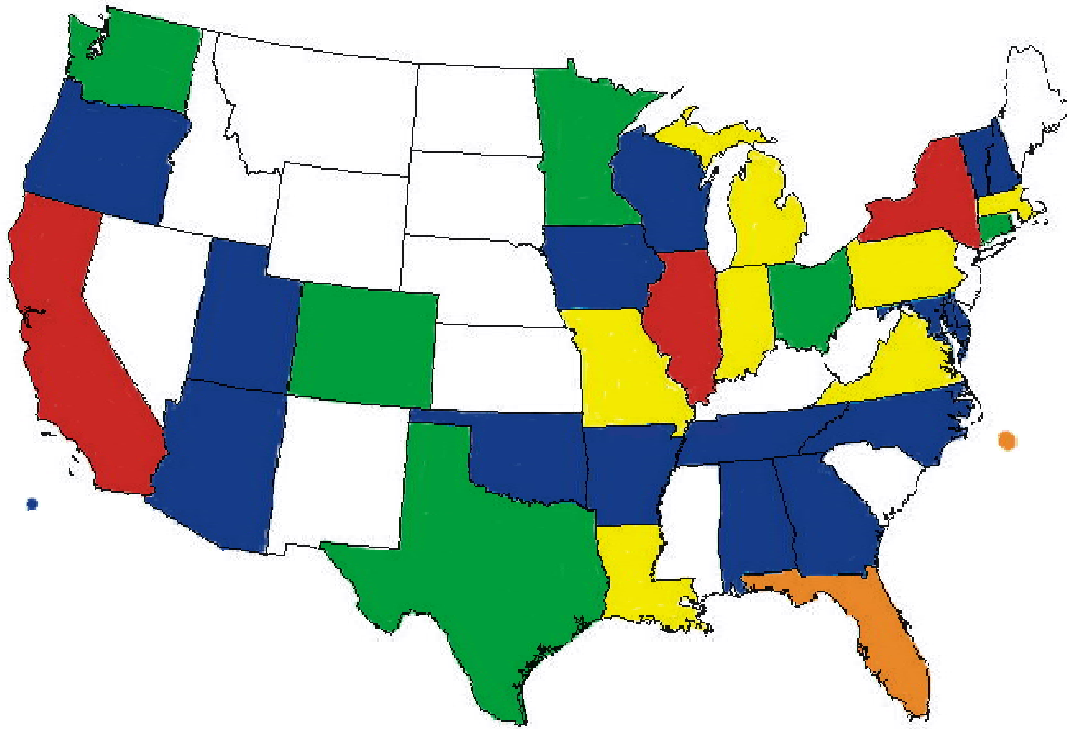


Figure 4: **Locations of Graduate Programs Open to Foreign Lawyers**

Legend

Blue	1-2 programs
Green	3-5 programs
Yellow	6-8 programs
Orange	10-13 programs
Red	20+ programs