

Globalization and the Rise of Transnational Lawyers

How does legal globalization occur? Who are the main actors of legal globalization? These questions have drawn the interest of socio-legal scholars over the past few decades and various answers have been given. Some scholars have argued that the process of legal globalization is firmly grounded in, and limited by, national legal cultures.¹ Others have claimed that this process can be broadly understood as a competition between legal elites who vie for power and legitimacy in the global arena, which they attempt to frame in the image of their own legal system.² Still others have focused on the transformation of national legal systems through globalization and the impact of international politics on national laws.³ All of these approaches typically place the emphasis on national legal systems in the globalization process.

A look through the past issues of the *Law & Society Review* since 2003 reveals an interesting line of argument that has developed over the past few years, shifting the focus of the debate from the local/national level to the global/transnational one.

A survey of the recent issues of the *Law & Society Review* suggests that studies of legal globalization have progressively re-focused from the *center* to the *margins* of national legal systems.

The most influential scholarship on the subject has traditionally placed the emphasis on “lawyer leaders”, “legal elites” and the “contested” nature of globalization (Ginsburg 2012), stressing the importance of national legal systems (and their elites) in framing legal globalization. By contrast, more recent scholarship seems to concentrate more on figures who operate at the margins: the “wards of international law” (Holzer 2013), “secant marginals” (Grisel 2017) and “interpretive mediators” (Pavone 2019).

These new figures are sometimes lawyers “from below” or even laypeople who mobilize international legal rights in the pursuit of social justice. For instance, recent scholarship highlights the role played by refugees (Holzer 2013) or forced migrants (Grisel 2017) in the creation and diffusion of transnational law.

When they enjoy a position of relative power within a national legal system, these figures rise up to become leaders of transnational law not because of their grounding within a specific legal system, but because of their ability to create bridges and work at the interface between the local and the global. For instance, Shaffer, Nedumpara and Sinha highlight the role of “transnationally connected lawyers” in the engagement of India with WTO law (Shaffer et al. 2015: 611). While some of these lawyers belong to the “older elites”, others are part of “an expansion of the Indian professional classes in light of new economic opportunities” (Shaffer et al. 2015: 611).

Similarly, Liu explores the hybridization process between global law firms and local ones in the “formative years of the Chinese corporate law market” (Liu 2008: 801). He highlights

¹ See, e.g. Pierre Legrand, “On the Singularity of Law” (2006) 47/2 *Harvard International Law Journal* 517.

² See, e.g. Yves Dezalay & Bryant G. Garth, *Dealing in Virtue: International Commercial Arbitration and the Construction of a Transnational Legal Order*, University of Chicago Press, 1996.

³ See, e.g. David M. Engel, “Landscapes of the Law: Injury, Remedy, and Social Change in Thailand” (2009) 43/1 *Law & Society Review* 61; Elizabeth Heger Boyle & Sharon E. Preves, “National Politics as International Process: The Case of Anti-Female Genital Cutting Laws” (2000) 34/3 *Law & Society Review* 709.

the process of “boundary blurring” that has occurred in the Chinese legal profession in the past few years, and its role in the globalization of the Chinese legal system.

Pavone explores the role played by local lawyers who mobilized instruments of EU law in order to prompt a remarkable evolution in Genoa (Pavone 2019). He rightly points out that the role of local lawyers as “interpretive mediators” has not been “sufficiently explored” (Pavone 2019: 883).

All of these studies converge in producing an alternative account of legal globalization. They highlight the role played by individuals who operate at the intersection of the local and the global, rather than members of a local elite who project the strengths of their own legal system at the global level. These studies place less emphasis on the role played by national legal systems than the older scholarship did. They seem more interested in the role played by the periphery, rather than the core of national legal systems, in the process of legal globalization.

This line of analysis is reminiscent of scholarship in economic sociology that has explored the key role played by brokers in linking different social networks and creating new areas of “social capital.”⁴

This approach is still relatively new in the field of law & society, and my review will seek to highlight potential areas for future development.

⁴ For a useful summary, see Mark Granovetter, *Society and Economy: Framework and Principles*, Harvard University Press, 2017, pp. 106-126.