

Transnational Legal Education

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Abstract and Keywords

Transnational legal education is increasingly understood as important to teaching law within the context of a global political economy and global flow of goods, people, services, and legal concepts. Transnational legal education has been driven by the need for primarily elite lawyers, often working in global law firms, to serve expanding capitalist needs. This shift in legal services has accompanied the decentralization of state power and correlative privatization and deregulation of legal norms over the past forty years. However, what is often not explicitly stated by those supporting transnational legal education is that its pedagogy, and the material practices of transnational law, intrinsically involve the concept of legal pluralism. This chapter strives to place the concept of legal pluralism front and center into the conversation on transnational legal education and in so doing highlight that all legal processes (at subnational, national, and transnational levels) are relational, dynamic, and deeply imbricated in culturally contingent contexts and diverse worldviews. The lessons learnt about legal pluralism in the teaching of transnational law are thus relevant and applicable to all kinds of legal education, be it explicitly engaged with legal practices operating beyond national borders or not.

Keywords: transnationalism, globalization, legal pluralism, culture, context, global law firms, jurisdictions, ethnography

I. Introduction

THIS chapter examines the increasing demand for law schools in the United States and around the world to include courses that engage with the rapidly expanding field of transnational law and global legal processes. This demand is not emerging in all law schools, and even in the typically more elite schools where transnational law is taught it does not play a huge role in the curriculum.¹ Despite this lack, more and more educators are aware that law schools need to engage new fields of international law and transnational legal processes in order to better deal with the realities of such things as global finance, trade, and labor, as well as pressing global challenges such as climate change, pollution, cyberwar, and immigration that are beyond any one state's capacities to regulate.

I, as have others, argue that transnational legal education is vital for law schools to remain relevant and applicable to the current complexities of our times, whether the law school is situated in the Global South or Global North. Moreover, I would add, with the global rise of authoritarian regimes promoting narrow state-centered understandings of the world, nurturing the capacities for law students to think globally is perhaps more important today than ever before.

In what follows, I discuss the increasing demand for transnational legal education. I then turn to the concept of legal pluralism that underpins a transnational pedagogical framework. Legal pluralism has been the subject of much recent scholarship, but rarely has it been expressly talked about by legal educators in their promotion of transnational law. By bringing the concept of legal pluralism to the fore, I argue for its relevance to all legal education whether or not a topic of study is substantively “transnational” in scale or scope. More specifically, I argue that all legal systems are informed by specific cultural values and epistemological perspectives, including the modern Western legal system. Legal pluralism forces students to appreciate the cultural biases of their own, often taken-for-granted, legal culture. My conclusion (p. 1154) is that transnational legal education and the promoting of global thinking that takes seriously the concept of legal pluralism is vital for engaging with the pressing legal issues of our times, be these manifesting within domestic or transnational jurisdictional spheres.

II. Transnational Legal Education and Legal Pluralism

In recent years, there has been a growing and insistent call to reform legal education in law schools so as to meet the increasingly complex legal challenges of our current times. As noted by Mike McConville and Wing Hong Chui, one of these challenges is the “increasingly global character of legal life.” This demands, they argue:

that research and scholarship pay attention to alternative perspectives and consider their relevance to the local situation. Additionally, it is now inescapable that trans-jurisdictional instruments, such as Conventions relating to human rights, increasingly penetrate domestic legal systems and stimulate those responsible for operating or interrogating national systems to have regard to wider considerations than was possible when the world was considerably large and less easily navigated.²

The increasingly global character of domestic jurisdictions is now widely acknowledged and is forcing law schools in the United States and elsewhere to reassess their modes of training.³ Among many legal educators there is a growing sense that law schools overemphasize legal specialization and technical expertise, and underemphasize the imperative to connect education with today’s challenges such as global inequality, regional conflict, climate change, and increasing cultural and religious tensions. It is generally accepted that law schools need to adapt to be more attractive to prospective students and to better

prepare those students to meet the demands and needs of rapidly changing societies.⁴ In practical terms, this means training law students to be attentive to cultural contexts and recognizing that law does not necessarily apply the same way across different legal cultures and spheres of action. And it means rethinking law school course offerings that are typically taught as discrete legal fields of positive rules and regulations, such as labor law, corporate law, environmental law, health law, family law, and immigration law. It is now widely recognized that many areas of law are at some level interrelated, involve state and nonstate normative orderings, and to varying degrees are impacted by transnational jurisdictions.⁵

(p. 1155) A growing sensitivity to the importance of law's cultural contextualization has encouraged innovative legal educators to embrace the concept of legal pluralism to better understand contemporary legal issues.⁶ The vast scholarship on legal pluralism seeks to understand law as a site of dynamic cultural exchange involving multiple state and nonstate legal cultures and legal actors. Very simply, legal pluralism "is the recognition of the simultaneous coexistence of multiple normative worlds, with the state being only one among other creators of legal meaning."⁷

Legal pluralism has historically been studied by anthropologists in colonial settings confronting local, often Indigenous, legal systems very different from their own such as in India, Australia, New Zealand, or South Africa. However, contemporary literature on legal pluralism has expanded to include law within a wide range of contemporary settings. Together this literature underscores that giving sufficient attention to nonstate legal practices is essential given that "recent studies of transnational corporations, commercial networks and business transactions seem to provide incontrovertible evidence that 'law without the state' prevails even—perhaps especially—in the most privileged precincts of global business, finance, communications and transport."⁸

According to Ann Griffiths, in today's complex legal world there are many diverse actors involved including transnational corporations, corporate executives, nongovernmental organizations (NGOs), religious organizations and movements, as well as refugees, asylum seekers, and undocumented workers and immigrants.⁹ I would add that we should also include actors such as environmental activists, pan-indigenous networks, as well as mercenaries, corrupt officials, drug cartels, and terrorist organizations.

What this complex picture of actors engaged in hard/soft and legal/illegal practices tells us is that law is not something that hovers abstractly above human activities. Law does not exist as an autonomous and closed system. To the contrary, law is shaped by, and shapes, a diverse network of cultural, political, and economic relations that crisscross local, national, international, regional, and global domains and spatial scales.¹⁰ As scholars of legal pluralism know very well, the process of translating a particular legal meaning or practice across (p. 1156) these domains and scales is always precarious,¹¹ and the implementation of law is always contingent upon a range of social and political factors that may not be obvious and may differ dramatically across particular contexts.¹²

Scholarship on legal pluralism and legal hybridization recognizes the range of legal actors operating across new sites and spaces of legal activity.¹³ This scholarship seeks to problematize conventional state-based conceptualizations of law that are increasingly incapable of dealing with contemporary global challenges. Law, of course, “has always been pluralistic and hybrid,” but in the drive to claim that law has universal application in recent decades “law’s diversity and plurality, as well as its ‘indeterminacy’...have been overlooked, suppressed, and denied.”¹⁴

Against attempts to deny legal pluralism, growing numbers of legal scholars and practitioners are pushing back and arguing that legal pluralism both reflects lived realities and forces us to confront new questions about how law is produced and functions.¹⁵

According to Peer Zumbansen:

transnational law prompts us to investigate the assumptions with which we associate particular legal fields, instruments, and understandings of legitimacy with specific actors or categories of norms...The current interest in “law and globalization” should thus be seen as a welcome and most timely return to insights into the legal pluralist nature of law proposed by legal sociologists and anthropologists long before.¹⁶

III. The Cultural Contexts of Law

Perhaps not surprisingly, some professors in more conventional/conservative law schools are resistant to the concept of legal pluralism and related ethnographic and empirical research. These scholars are keen to perpetuate a “true” understanding of law as a body of autonomous rules not subject to “context, experience, and intuition.”¹⁷ (p. 1157) What is often argued is that law is a closed system of rules distinct from the social and political environments in which it is practiced, and on that basis draws its unique authority and power.¹⁸

The idea that law operates as an autonomous field suggests that law is impervious to the cultural contexts in which it is practiced. In the past, this view was helpful to European nations who from the sixteenth century transferred their law around the world and applied it to the people they colonized.¹⁹ As a strategy of imperial power, it was assumed that European law could be universally applied to all subjects of empire be they African tribal communities, South Asian Indians, or Australian Aborigines. There prevailed a widespread belief that bringing Western law to the “natives” would liberate them from their apparent backwardness and customary rituals. Central to this enterprise was the assumption that law was objective, rational, universal, and indeed necessary as part of the “civilizing” process of non-European peoples throughout the colonial period.²⁰

Today, albeit in a different form, the idea that law operates as an autonomous field of authority informs much of the development rhetoric which calls for the need to bring the “rule of law” to industrializing societies in the global south.²¹ The concept of the “rule of

law,” at least as it is typically conceived in Western countries, is one of universal application across a broad range of cultures and societies. As Jeffrey Redding argues, “rule of law ideologues have embraced a view of law—and legal institutions—that frowns upon difference, (p. 1158) diversity, and context.”²² The rule of law, or what is in reality a Euro-American understanding of law, is widely considered the solution to the insecurity of developing regions plagued by dictatorships, civil and regional wars, and escalating sectarian violence. Ironically, it should be remembered, these crises are the direct byproducts of former colonial eras and botched processes of decolonization. Calling for the “rule of law” provides moral cover while enabling multinational corporations to take advantage of new markets, development projects, and resource extraction industries in the Global South in a manner echoing previous colonial periods.²³

A common and enduring belief in the superiority of Western law helps explain why some legal scholars in the Global North dismiss the idea that legal pluralism informs all legal practices. Acknowledging legal pluralism—implicitly and explicitly—provides a lens through which to critique law’s practice and status.²⁴ Euro-American law is the basis of public and private international law and is the authoritative legal framework for a vast range of international and global legal contracts and negotiations. These include the legal and regulatory structures that underpin the global political economy that seek to facilitate global commercial practices and limit financial risk. Commercial legal practitioners, company executives, policymakers, and those holding political power cannot afford for law to be seen as ambiguous, unpredictable, contradictory, and open to challenge. In short, elite players in the global political economy and related international governance mechanisms are highly vested in maintaining the narrative of western law’s dominant authority and argue for its universal application.²⁵ And law schools seeking to train future legal practitioners for elite commercial practices with global clientele are typically, and not surprisingly, keen to defend law’s immunity from any form of critical inquiry or scrutiny.

Fortunately, calls for reform in legal education are increasingly sympathetic to empirical and ethnographic approaches that demonstrate the realities of legal pluralism and seek to understand law’s role and function in complex multiethnic contexts, be they national, international, or global in profile.²⁶ Reformers are increasingly aware of the limitations of legal education constrained by old paradigms of legal thinking. These old paradigms are linked to the latter half of the nineteenth century when Euro-American law schools and professional legal education first developed. As a result, older paradigms reflect a modernist state-bound imaginary interested in promoting the “science” of law as a vast array of discrete (p. 1159) legal topics and areas of specialization.²⁷ These topics are typically taught as sets of abstract rules of generalizable and replicable application, disconnected from cultural context and human agency. The “reasonable person” test—which first appeared in the common law in 1837 and is still applied in criminal, tort and contract law—is emblematic of the common law’s claims of standardization and false universalism.

In the twenty-first century, conventional approaches to legal education seem increasingly anachronistic and suggest that law schools should reassess their “conservative, rigid, and relatively unchanging” curricula and methods that have been in place for decades.²⁸ With rising cultural tensions exacerbated by multiethnic and legally pluralist societies, earlier debates about law’s relative autonomy within centralized state jurisdictions appear overwhelmingly inadequate. Moreover, conventional approaches to legal education mask the political and ethical implications of Western legal hegemony and the exploitative dimensions of today’s global political economy. Understanding more fully how legal systems and regulatory practices play a role in managing, exacerbating, abating, moderating, and modifying complex economic and social relations within states and around the world is arguably an important component of a critical legal education.

As I have discussed elsewhere, an ethnographic approach to law helps scholars and practitioners gain a more holistic and grounded understanding of legal engagement.²⁹ An ethnographic approach is one that takes seriously the voices, behaviors, and practices of many actors engaged in legal processes and seeks to understand how different people engage law in culturally specific and diverse ways. Ethnographic studies highlight the degree to which legality/illegality, state/nonstate law, legal/black markets, and security/insecurity are interconnected in ways often unforeseen and overlooked. For instance, James Ferguson shows us that the functions of legitimate governments in Africa cannot be disentangled from the dysfunctionality of illegitimate governments, or what he calls “shadow states,” and their widespread use of private armies to protect political and economic interests. Many of these armies are supplied with weapons by multinational corporations anxious to secure profits from extractive mining and mineral industries.³⁰ Similarly, Anna Tsing shows us that wherever legal markets are allowed, for example, logging hardwood in Indonesian rainforests, illegal markets will follow.³¹ A recent example of such linked legal/illegal market processes is seen in the global garment industry. As Rebecca Prentice notes, in this “footloose global industry” multinational companies contract for goods within a network of under-the-table negotiations that include bribery and exploitative labor conditions leading to horrifying disasters such as the Rana Plaza garment factory collapse in Bangladesh in 2013.³² (p. 1160) Ethnographic studies can also show us how the structural adjustment policies of the World Bank, imposed on former colonies such as Jamaica (and now Greece and Spain), do not work effectively in promoting local economic development despite that being their ostensible purpose.³³ That austerity measures are not good for business is becoming evident even within the United States as evidenced by the rising critique by both Democrats and Republicans of the Tea Party’s austerity platform.

Ethnographers such as Ferguson, Tsing, and Prentice show us the need for a holistic interpretation of legal practices by suggesting that what are typically labeled as dysfunctional problems such as crimes, dictatorships, financial crises, failed states, strikes, and unregulated labor conditions are not really dysfunctional at all but are in fact functioning parts of a twenty-first-century global political economic system. They underscore that legality and illegality often go hand in hand, fueled by global trading networks, expanding markets, unstable governments, and the obvious limitations of corporate self-regulation.

These scholars show us the dark underbelly of neoliberal policies as enabled through the authority and dominance of universalized Euro-American law and economic institutions such as the World Bank, International Monetary Fund, and World Trade Organization. They highlight that in today's global political economy extreme wealth and devastating poverty are intimately linked, in turn producing "dispensable populations" and exposing people to "precarity" in both the Global North and the Global South.³⁴ Above all, ethnographic studies show us that without a critical examination of the globally interlinked social, political, and economic contexts in which domestic, international, and transnational law operates we shall not be able to see the whole picture and understand local responses to legal processes. That these interrelated global/local contexts are typically ignored in much legal education is precisely why the alarm is being raised by an increasing number of legal educators.

IV. Conclusion

In our globalizing world, the words of Todd Rakoff and Martha Minow, both at Harvard Law School with Minow being the former Dean and a trailblazer for the reform of the law school's first-year program, seem pertinent. They argue that law students currently lack sufficient "legal imagination" and ability to "generate the multiple characterizations, multiple versions, multiple pathways, and multiple solutions" needed to deal effectively with today's complex global challenges.³⁵ Harry Arthurs adds that it is vital that we help students "get used to the fact that they are embarking on a course of study, and ultimately on a career, that will require them to live at ease with multiple truths, irresolvable conflicts, abundant (p. 1161) ambiguities and ironies galore."³⁶ Appreciating the importance of legal pluralism is essential in this pedagogical endeavor because it highlights the plurality of legal meanings and legal histories involved in any cultural context.³⁷ It also underscores alternative legal epistemologies and ways of legal imagining that inform different conceptualizations of terms we often assume are universal such as justice, democracy, human rights, equality, and freedom.³⁸ Thinking through the prism of legal pluralism helps us to challenge taken-for-granted assumptions about what legal terms mean, how they are applied, and how they are constituted and reproduced over time. By presenting an open-ended exploration of legal practice that seeks to describe and understand how law operates in various societies, an ethnographic approach offers a unique opportunity to ground legal studies in the dynamic experiences of people without having to take as a given the "state" as the unit of analysis and "state law" as the only legal system in play.³⁹ In this way, legal pluralism embodies the multiple ways in which transnational, international, regional, national, and local domains "intersect with one another in a whole variety of ways that undermine any grand narrative of globalization and attendant vision of law."⁴⁰

Emerging out of this chapter's discussion about the value of the concept of legal pluralism, I would like to make a few modest recommendations that I think would enhance all law school curricula.

1. Law schools should offer a general first-year law school course that requires thinking about and engaging with law in a globalizing world. This course would highlight the existence of various legal cultures, legal systems, legal epistemologies, and legal concepts pertaining to increasingly multiethnic and multireligious societies, and the problems and tensions that this may bring to our conventional and rather static way of approaching legal knowledge and legal practice.
2. Every legal subject taught in the law school curriculum should engage with the concept of legal "context" at various geopolitical scales and across various legal jurisdictions.
3. Every legal subject taught in the law school curriculum should deliberately include a comparative component so that students can see differences between legal systems.
4. Every legal subject taught in the law school curriculum should engage with the concept of power, and ask students to think about whose political and economic interests are best served in any legal engagement.

(p. 1162) I suggest that following these four general recommendations would help to shape new kinds of law students who are not afraid to ask pertinent and applicable questions, be their future client a multinational corporation, city council member, local restaurant owner, undocumented worker, parent in a child custody dispute, or victim of sexual violence. The recommendations could open up the imaginations of law students and provide a platform from which they could envision new legal strategies and approaches applicable to plural legal contexts. Perhaps most importantly, the recommendations could help nurture within the law school curriculum a sense of ethics and exploration of how law works for some and not so well for others.

As argued in this chapter, among law school deans and professors, particularly in the United States, the case is being made that legal education should include curriculum on transnational law and global legal processes that may help create global citizens and leaders able to deal with the complex interrelated legal challenges of the new century. The world is moving at a fast pace, often in directions unforeseen and unplanned. Educational reformers rightly suggest that we need to think differently if we are to imagine alternative futures and make legal training responsive and relevant to those futures.

Stressing the concept of legal pluralism in all forms of legal education—be it domestic law or global law—highlights the cultural and social dimensions of all legal practice and so contributes to students' skills in terms of implementing the law, and contributes to students' values in terms of being better able to assess how law works for different sectors of society. Legal pluralism underscores the need for a holistic interpretation of legal practice by suggesting that what are typically labeled as dysfunctional problems such as financial crises, labor strikes, and environmental degradation are not really dysfunctional

at all but are in fact functioning parts of our contemporary global capitalist system. Finding solutions means critiquing the ways late capitalism is facilitated by laws that prioritize corporations over people and benefit an elite few. Moreover, the concept of legal pluralism grants students exciting opportunities to rethink and reframe their fundamental assumptions and modes of legal practice, in turn helping them to prepare for an increasingly unpredictable multiethnic and multireligious future. Above all, a shift in law school curriculum is vital for helping law students engage with and take seriously plural understandings of law and justice within any given society that inform many of the legal practices of the twenty-first century.

In sum, the insights provided by taking legal pluralism seriously provides a lens to think about sustainable regulatory systems at home and abroad, as well as help shape national and global governance systems of greater balance, accessibility, accountability, and legitimacy. These are enormously significant potentialities. At stake is the future of liberal democratic aspirations and institutions that will depend upon embracing—rather than denying—the value and relevance of plural legal systems and perspectives wherever they occur. Stressing the importance of legal pluralism as a concept running through all legal education provides simple, practical first steps in opening up students' capacities to imagine more inclusive modes of legal engagement and forge new forms of local, national, regional, and global citizenship.

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Notes:

⁽¹⁾ Some notable exceptions are Jindal Global Law School (India) and McGill Faculty of Law (Canada), which both belong to the Law Schools Global League, <https://lawschoolsgloballeague.com/>.

⁽²⁾ Mike McConville and Wing Hong Chui eds., "Introduction and Overview," in *Research Methods for Law* (Edinburgh University Press, 2007), 1, 1.

⁽³⁾ See, for instance, US Supreme Court Justice Stephen Breyer's book, *The Court and the World: American Law and the New Global Realities* (Vintage, 2015). See also Elaine Mak, *Judicial Decision-Making in a Globalised World: A Comparative Analysis of the Changing Practices of Western Highest Courts* (Hart Publishing, 2013).

⁽⁴⁾ See Eve Darian-Smith, "The Crisis in Legal Education: Embracing Ethnographic Approaches to Law," *Transnational Legal Theory* 7, no. 2 (2016): 1–26.

⁽⁵⁾ See William Twining, "Globalization and Legal Scholarship" *Tilburg Law Lecture Series* 4 (2009), Montesquieu Seminars; John Flood, "Legal Education in the Global Context: Challenges from Globalization, Technology and Changes in the Government Regulation," *Report for the Legal Services Board. University of Westminster School of Law*, no. 11–16 (2011).

⁽⁶⁾ June Starr and Mark Goodale, *Practicing Ethnography in Law: New Dialogues, Enduring Methods* (Palgrave Macmillan, 2002); Harry Arthurs, "Law and Learning in an Age of Globalization," *German Law Journal* 10, no. 7 (2009): 629; Peer Zumbansen, "Defining the Space of Transnational Law: Legal Theory, Global Governance and Legal Pluralism," in

Beyond Territoriality: Transnational Legal Authority in an Age of Globalization, eds. Gunther Handl, Joachim Zekoll, and Peer Zumbansen (Martinus Nijhoff Publishers, 2012), 53–87.

⁽⁷⁾ Pooja Parmar, *Indigeneity and Legal Pluralism in India: Claims, Histories, Meanings* (Cambridge: Cambridge University Press, 2015), 9. See also Eve Darian-Smith, *Laws and Societies in Global Contexts: Contemporary Approaches* (Cambridge: Cambridge University Press, 2013); *The Oxford Handbook of Law & Anthropology*, eds. Marie-Claire Foblets et al. (Oxford University Press, 2019); Paul Schiff Berman, *The Oxford Research Handbook on Global Legal Pluralism* (Oxford University Press, 2019).

⁽⁸⁾ Harry Arthurs, “Law and Learning in an Age of Globalization,” *German Law Journal* 10, no. 7 (2009): 629, 635.

⁽⁹⁾ Anne Griffiths, “Reviewing Legal Pluralism,” in *An Introduction to Law and Social Theory*, eds. Reza Banakar and Max Travers (Hart Publishing, 2013), 269.

⁽¹⁰⁾ Eve Darian-Smith, “Locating a Global Perspective,” *Transnational Legal Theory* 4, no. 4 (2013): 524.

⁽¹¹⁾ Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (University of Chicago Press, 2006).

⁽¹²⁾ Sally Falk Moore, “When International Authority is Contingent: The African Instances,” in *Authority in Transnational Legal Theory*, eds. Roger Cotterrell and Maks Del Mar (Edward Elgar, 2015).

⁽¹³⁾ Prakash Shah, *Legal Pluralism in Conflict: Coping with Cultural Diversity in Law* (Glasshouse, 2005); Sally Engle Merry, “International Law and Sociolegal Scholarship: Toward a Spatial Global Legal Pluralism,” *Special Issue: Law and Society Reconsidered, Studies in Law, Politics and Society* 41, (2008): 149; Ralf Michaels, “Global Legal Pluralism,” *Annual Review of Law and Social Science* 5, (2009): 243; Paul Schiff Berman, *Global Legal Pluralism: A Jurisprudence of Law Beyond Borders* (Cambridge University Press, 2012).

⁽¹⁴⁾ See Griffiths, “Reviewing Legal Pluralism,” *supra* note 9, at 268.

⁽¹⁵⁾ See Zenon Bańkowski and Maksymilian Del Mar eds., *The Moral Imagination and the Legal Life: Beyond Text in Legal Education* (Ashgate, 2013), 85–109. See also Brian Z. Tamanaha, Caroline Sage, and Michael Woolcock eds., *Legal Pluralism and Development* (Cambridge University Press, 2012).

⁽¹⁶⁾ Peer Zumbansen, “Law and Legal Pluralism: Hybridity in Transnational Governance,” in *Regulatory Hybridization in the Transnational Sphere*, eds. Paulis Jurcys, Pul F. Kjaer, and Ren Yatsunami (Martinus Nijhoff Publishers, 2013).

⁽¹⁷⁾ Bent Flyvbjerg, *Making Social Science Matter: Why Social Inquiry Fails and How It Can Succeed Again* (Cambridge University Press, 2001), 24.

⁽¹⁸⁾ In continental Europe in particular, debates on the relative autonomy of law as a closed system have been ongoing for decades. Disagreement among theorists focus on the distinction between doctrinal approaches to law that present an “internal” point of view, and sociological and ethnographic approaches that present an “external” understanding of law as constituted through social relations (see F. Ewald, “The Law of Law,” in *Autopoietic Law: A New Approach to Law and Society*, ed. Gunther Teubner (Walter de Gruyter, 1988), 36–50). Scholars such as Niklas Luhmann and Gunther Teubner have to varying degrees tried to move the conversation beyond this false dichotomy by arguing that legal systems are not entirely “closed” but rather informed by their environments (see Niklas Luhmann, “Closure and Openness: On Reality in the World of Law,” in *Autopoietic Law: A New Approach to Law and Society*, ed. Gunther Teubner (Walter de Gruyter, 1988), 335); Gunther Teubner, *Law as an Autopoietic System* (Cambridge University Press, 1993). The degree to which Teubner’s self-regulating autopoiesis theory is convincing to twenty-first-century sociolegal scholars dealing with escalating legally and culturally pluralistic environments is not clear. A more accessible theoretical approach is presented in Sally Falk Moore’s seminal article, “The Semi-Autonomous Social Field,” in which she underscores the interconnections between formal state-based legal rules and a wide range of “looser” social fields with normative rulemaking and rule-enforcing capacities (see Sally Falk Moore, “Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Field of Study,” *Law & Society Review* 7, no. 4 (1973): 719).

⁽¹⁹⁾ Anthony Anghie, “The Evolution of International Law: colonial and postcolonial realities,” *Third World Quarterly* 27, no. 5 (2009): 739; Jean Comaroff and John Comaroff eds., *Law and Disorder in the Postcolony* (University of Chicago Press, 2006); Renisa Mawani, *Colonial Proximities: Crossracial Encounters and Juridical Truths in British Columbia, 1871–1921* (UBC Press, 2009); Teemu Ruskola, *Legal Orientalism: China, the United States, and Modern Law* (Harvard University Press, 2013); Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empire 1400–1900* (Cambridge University Press, 2010).

⁽²⁰⁾ Peter Fitzpatrick, *Modernism and the Grounds of Law* (Cambridge University Press, 2001).

⁽²¹⁾ Balakrishnan Rajagopal, “Invoking the Rule of Law in Post-Conflict Rebuilding: A Critical Examination,” *William and Mary Law Review* 49 (2008): 1347; Nick Cheesman, *Opposing the Rule of Law: How Myanmar’s Courts Make Law and Order* (Cambridge University Press, 2015).

⁽²²⁾ Jeffrey A. Redding, “The Case of Ayesha, Muslim ‘Courts’, and the Rule of Law: Some ethnographic lessons for legal theory,” *Modern Asian Studies* 48, no. 4 (2014): 940.

⁽²³⁾ Jothie Rajah, “Sinister Translations: Law’s Authority in a Post-9/11 World,” *Indiana Journal of Global Legal Studies* 21, no. 1 (2014): 107; Boaventura de Sousa Santos, *Epistemologies of the South: Justice Against Epistemicide* (Routledge, 2014).

(²⁴) Eve Darian-Smith, "Ethnographies of Law," in *Blackwell Companion to Law and Society*, ed. Austin Sarat (Blackwell, 2004), 545.

(²⁵) In addition to the claim that Western law is universally applicable, it is also argued that Western law is secular, rational, and value-free in contrast to people who are seen to believe in local "customs," "rituals," and religious-based rules and on that basis deemed less sophisticated and culturally inferior (Ruskola 2013).

(²⁶) Carrie Menkel-Meadow, "Taking Law and — Really Seriously: Before, During and After 'The Law,'" *Vanderbilt Law Review* 60, no. 2 (2007): 555; June Starr and Mark Goodale eds., *Practicing Ethnography in Law: New Dialogues, Enduring Methods* (Palgrave Macmillan, 2002).

(²⁷) Robert W. Gordon, "The Geological Strata of the Law School Curriculum," *Vanderbilt Law Review* 60, no. 2 (2007): 339.

(²⁸) See Menkel-Meadow, *supra* note 26; Edward L. Rubin, "What's Wrong with Langdell's Method, and What to Do About It," *Vanderbilt Law Review* 60, no. 2 (2007): 609.

(²⁹) Eve Darian-Smith, "Ethnographies of Law," in *Blackwell Companion to Law and Society*, ed. Austin Sarat (Blackwell, 2004), 545.

(³⁰) James Ferguson, *Global Shadows: Africa in the Neoliberal World Order* (Duke University Press, 2006).

(³¹) Anna Lownhaupt Tsing, *Friction: An Ethnography of Global Connection* (Princeton University Press, 2004).

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