

*Internationalization of U.S. Education in the 21st Century:
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The Internationalization of Professional Education: Lessons from Law School and China

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The internationalization of professional education is a vast and varied topic. I will focus here on the segment that I know best and that is exemplary or illustrative of broader issues and that is, on its own, large in scale and important in potential impact: the internationalization of U.S. legal education, especially through engagement with China. Internationalization of education in the United States has occurred on an impressive scale, perhaps most clearly as measured by the number of foreign students studying in the United States and the number of U.S. students studying abroad. Legal education in the U.S. has followed this general trend. It too has “internationalized” greatly in recent years, perhaps belatedly compared to some other fields but along a steeply upward trajectory. The relationship with China has been an especially large and rapidly growing part of the story of the internationalization of U.S. education generally and U.S. legal education specifically.

Trends and Patterns

A few data points suggest the broader patterns. The largest national contingent of foreign students in the United States now is from China, numbering around 200,000. The Obama administration has sought to reduce this aspect of the intractable U.S.-China trade imbalance by setting a goal of having 100,000 U.S. students study in China. At U.S. law schools, LLM programs—one-year graduate degrees in law that attract almost exclusively foreign students who have earned undergraduate (and sometimes graduate) law degrees in their home countries—have expanded dramatically during the last decade or two. Many U.S. law schools have created LLM programs in recent years. At most upper-tier U.S. law schools, such programs have long existed, but at most (although not all) such schools, the programs now typically enroll well over one hundred foreign students per year and in some cases far more than that. At my own institution (the University of Pennsylvania Law School), the LLM program has grown from around forty students less than twenty years ago to more than one hundred now. Students from the People’s Republic of China are often around 15% of the LLM class at my law school. Peer school patterns vary but overall are generally in the same range. With the number of students in the J.D. program—the standard three-year graduate degree in law pursued by U.S. students who wish to become lawyers—having remained relatively unchanged at most of these institutions (at around 230 per class at the University of Pennsylvania), the ratio of foreign students (including Chinese students) to U.S.

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students has increased significantly. This shift is modestly, but importantly, compounded by a rise in the number of students from abroad pursuing the J.D. degree (often after completing an LLM). Such students were very rare ten or twenty years ago, but they now comprise a small minority of J.D. classes and, more importantly, represent a qualitative addition to the “inbound” dimension (that is, foreign students studying U.S. law or studying law in the U.S.) of the internationalization of U.S. legal education.

The “outbound” dimension (that is, U.S. students receiving a more internationalized legal education by studying law abroad, studying foreign law and so on) has evolved more slowly and more complexly. The result is, predictably, a “gap” between the inbound and outbound sides that is likely to be narrowed only by significant efforts to strengthen the components of internationalization of U.S. legal education that are our focus here—the promotion of training of U.S. law students in foreign and international subjects and skills. Before turning to this “supply side” question, a brief diversion into the “demand side” issues is warranted. The case for increasing the supply of “internationalized” U.S. students of law (and, in turn, lawyers) is, of course, convincing only to the extent that there is commensurate demand or need for such training and the skills it produces.

The “Demand” Side

The burgeoning interest among Chinese students in U.S. LLM degrees reflects the great demand, or expected demand, for those who can provide legal services in the context of U.S.-China economic interactions. (The rising wealth in China that has made the tuition charged by U.S. law schools not unthinkable high for a fast-growing number of applicants is part of the story as well.) The context here is widely known. China and the United States are the world’s two top trading nations and each is among the other’s top handful of trading partners. China remains consistently a top-rank recipient of inbound foreign investment, particularly in the relatively complex forms of foreign direct investment or project-based investment. The U.S. continues to be a leading source of foreign investment in China (although capital is often channeled through third jurisdictions). The scope of sectors in the Chinese economy open to U.S. and other foreign investment has expanded breathtakingly, from foreign exchange-generating and export-oriented sectors twenty to thirty years ago, to almost all industrial sectors and a growing range of service sectors, including law, finance, sales and even education. Flush with foreign exchange and determined to build “world class” and internationally competitive industries, the Chinese government has pushed companies to “go out” and invest abroad. Although starting from low baselines and still focused in part on raw materials-producing ventures in the developing world and Australia, Chinese outbound foreign direct investment has become a significant, and controversial, phenomenon in the United States.

All of this economic activity generates transactional legal work in which the necessary or valuable skills for U.S. lawyers include an understanding of Chinese law, Chinese language, and an ability to work smoothly with Chinese clients, colleagues, counterparts and counter-parties. These business-driven developments (along with China’s World Trade Organization-linked commitments to liberalize foreigners’ access to China’s legal services sector) have led to an exponential increase in U.S. law firms with offices in China. Starting from the handful that had established presences after China began to “open to the outside world” at the end of the 1970s, there are now dozens with offices—often multiple

offices—in China today. (Here too, there has been a later-starting and still-small reciprocal trend, with several of China’s largest and most prominent law firms opening branch offices in the United States.) This demand for legal services extends beyond the work done in law offices in the PRC. Much relevant work is performed in the home offices of U.S. law firms, or by lawyers and legally trained officers and employees of global companies based, or with a substantial presence, in the United States.

The scope of demand for China-related and “China-competent” legal services provided by U.S. or U.S.-trained lawyers reaches wider still, beyond China-focused transactional work. Litigators in U.S. courts increasingly represent Chinese clients or their opponents in cases that involve questions of Chinese law and that more broadly require China-related knowledge and skills. An eclectic sampler gives some sense of how far-reaching this pattern is becoming. Victims of air crashes, oil spills and tainted milk products in China sue U.S. or U.S.-linked defendants for tort damages in U.S. courts, and the U.S.-based defendant seeks dismissal of the case for trial in China. U.S. consumers harmed by drywall and other goods imported from China sue defendants far up the chain of distribution, including manufacturers in China. A victorious party in tort, intellectual property or contract litigation in Chinese court seeks to have the Chinese judgment enforced in U.S. court or given collateral effect in a related judicial or administrative proceeding in the United States. A party to a contract with a Chinese-owned company incorporated abroad seeks to hold responsible the parent company located in China, thereby raising questions of the legal status of corporate entities under Chinese law and their relationships with the Chinese state. A U.S.-based plaintiff seeks to hold a Chinese financial institution liable for acts committed by a client who used accounts at the bank in China to transfer money to fund terrorist acts; this sends the parties down a path of disputing over Chinese banking, tort law and other issues. Chinese nationals are injured while working or travelling in the United States, and U.S. defendants argue that the Chinese law of damages for personal injury should apply to the litigation that proceeds in U.S. courts. In various ways, these types of cases raise issues of Chinese law and require the parties and their lawyers to address the quality of Chinese substantive law, courts, government agencies or legal proceedings, and to understand the Chinese entities, activities or rules to which U.S. legal institutions must seek to apply U.S. law.

The phenomenon extends to U.S. government lawyers across the many substantive fields in which U.S. must cooperate or contend with China over issues that include legal ones. U.S. securities law enforcement authorities seek to require U.S. accounting firms to turn over records from their affiliates’ audits of Chinese firms that face allegations of fraud in connection with their listing on U.S. stock exchanges. More broadly, seeking protection for U.S. rights-holders’ intellectual property rights in China, cooperating with Chinese authorities in combating border-straddling crime, promoting greater respect for human rights in China, challenging China over policies that are alleged to violate WTO rules and China’s WTO commitments, defending the imposition of anti-dumping or countervailing duties as permissible responses to WTO-violating Chinese practices, determining whether a proposed Chinese investment in the U.S. should be subjected to review, or rejected, by the inter-agency Committee on Foreign Investment in the United States because of possible threats to U.S. national security, engaging and rejecting China’s claims to sovereignty and other rights of control over disputed maritime zones near Japan and Southeast Asia—these are all areas that, among others, require U.S. government

policymakers and the lawyers who advise them to understand aspects of Chinese law and Chinese perspectives on international law and to engage in at-least-partly-legal dialogues with their Chinese counterparts. Not to have the relevant China-specific legal skills and training is to be disadvantaged and perhaps disabled in undertaking such tasks. Much the same can be said about transnational-oriented parts of the U.S. NGO community. Attempting to address issues of human rights, environmental degradation, lack of access to justice and so on in China has required—and will continue to require—such NGOs to have an understanding of Chinese law and to be able to engage with Chinese laws and legal and governmental institutions as the targets of their criticisms, as objects of their efforts to promote change, and as the sources of constraints that significantly define their ability to operate in—or on—China.

As these government and NGO sector examples underscore, the U.S.-China relationship is often considered to be the most important bilateral relationship in the world today, and a relationship that is vital to the U.S.'s national interest in matters that extend well beyond economics and business. From economics to security (and cybersecurity), this singularly weighty international relationship for the United States includes crucial legal elements that, in turn, create a need for people with appropriate legal (and other) education. The demand for these multiple, diverse and complex legal services as a practical matter (and sometimes as a matter of U.S. law) cannot be—and as a matter of U.S. interests should not be—met exclusively or disproportionately by “internationally” educated Chinese lawyers, rather than by “internationally” educated U.S. lawyers.

China is a particularly dramatic example of legal internationalization and its implications for U.S. legal education, but the issues are hardly unique to China. Similar patterns and trends can be found across many countries and regions, and not least in the areas of South Asia, the Middle East, Eastern Europe and Africa that have been the foci of Title VI and FLAS programs supported by the U.S. government.

The “Supply” Side

What has been done, and what should be done, in legal education in the United States to meet this China-related demand and, by extension and analogy, other “internationalization” needs? Law schools in the United States have undertaken or contemplated a variety of measures. Although no single law school has undertaken all of them, many are fairly common. I will draw examples primarily from my own institution, which in many respects are typical (at least of relatively resource-rich institutions) or illustrative of what law schools do or can do.

First, an important, if somewhat inadvertent, component of the “internationalization” of education for students at U.S. law schools is the large number of foreign students (with Chinese students being, at some law schools, the largest national group). These foreign students primarily pursue LL.M. degrees and, less commonly, they work toward J.D. degrees or S.J.D. degrees (a Ph.D.-like degree that has a very small enrollment and that is earned almost exclusively by foreign students seeking a degree that is required for law teaching positions in their home countries). These students now comprise a significant minority of the student body at many law schools (and a proportionally

larger share if we do not count the one-third of J.D. students who, as first-year students, take a mostly prescribed set of courses, walled off from the primarily elective courses taken by LLM students and second- and third-year J.D. students). These foreign students almost always have completed a law degree (and sometimes a second or third, graduate law degree) in their home systems. Increasingly, they also have had a few to several years of experience practicing law in their own jurisdictions.

These students are a significant, if informal, resource for American students at U.S. law schools who are interested in—or understand the need to prepare for—careers that are very likely to involve dealing with legal issues or clients or other work related to their foreign classmates’ home countries. Some of this form of internationalization of legal education comes in formal classroom settings, where classes on foreign law typically enroll students from the U.S. and some students from the country that is the focus of the course. (The foreign students’ apparent and expressed motivations for taking such classes vary, ranging from a desire to understand how their country’s law and legal system are perceived abroad, to seeking a context in which to pursue comparative study of the laws of the U.S. and their home jurisdiction, to perhaps seeking a course on familiar topics that will offer a respite from the demands of a program of instruction about U.S. law in English.) Not surprisingly, Chinese students with law degrees from a Chinese university can add a great deal of depth and richness to discussions of Chinese law in a U.S. law school course on Chinese law—and especially in more specialized, upper-level classes. This point, of course, extends to students from, and courses on, the law of other non-U.S. jurisdictions.

Less obviously but potentially of greater impact, LLM students and other foreign law students in the U.S. law school classroom can, and sometimes do, help to internationalize the educational experience of their American classmates in more ordinary or “mainstream” classes. Some faculty at U.S. law schools make a practice of encouraging or welcoming foreign students in courses on many subjects—ranging from corporations to family law to criminal law—to address how the issues covered in the course are handled in their own countries and how their home jurisdictions’ laws differ from U.S. law.

As in universities generally, in law schools as well much education—including “internationalized” education—occurs outside the classroom in peer activities. In recent examples from my own law school, our East Asia Law Review includes LLM students from the region along with primarily U.S.-national law students on its staff of student editors who work closely together to produce a scholarly journal that includes articles on diverse topics of law in the region written by academics, practitioners and students. The East Asia Law Review and other student organizations that include J.D. and LLM students have been among the most energetic organizers of the symposia and conferences (discussed later in this article) that focus exclusively or—often more significantly—partly on foreign-related legal issues.

As a mode of “internationalization” of U.S. legal education, the LLM / foreign student component has its limitations. A relatively small number of students from abroad (and quite few from any one jurisdiction) can have only a limited impact. Moreover, foreign law students tend to cluster heavily in a fairly narrow range of courses, especially those that focus on business law or those that cover the subjects tested on the New York (or other U.S.) bar exam. This is unremarkable, given that

commercial and business lawyers from abroad are ordinarily best able to afford the \$40,000 or more in tuition charged by U.S. law schools and given that becoming a U.S.-credentialed lawyer is often a principal attraction of the LLM degree for foreign law students. While this does increase the density of foreign students and potential internationalization of education in some fields of law, it means dimmer prospects for this type of internationalization many key areas of law, including, for example, public law fields such as criminal law, constitutional law, human rights, and so on.

Especially in law, where subtleties of language are particularly important, less-than-extraordinary fluency in the other country's language poses a significant impediment to effective student-to-student forms of international education. The expansion of LLM programs in recent years—driven both by demand from foreign students and by U.S. law schools' pursuit of tuition revenue—has had a mixed impact. Although it has increased the pool of foreign students who can contribute to internationalized education at U.S. law schools in the ways described above, it also has had less salutary effects. Although the pool of strong foreign students has grown, it is generally and likely accurately perceived as not having grown as rapidly as the number of spaces in LLM programs at U.S. law schools. (English language proficiency levels have become an especially big concern.) As LLM programs have expanded rapidly, segregation of foreign LLM students from American J.D. students has increased. This has reflected both formal changes (such as the creation of more courses—including some that cover the same subjects as mainstream J.D. classes—that are for LLM students only), and more accidental developments (such as the potential for large numbers of LLM students with a common non-English native language at a single institution to form their own social group, apart from the mostly U.S.-citizen and native-English-speaking J.D. students).

Second, as I have already indicated, U.S. law schools increasingly offer courses on foreign and international law. On U.S. law schools' home campuses, this has been made possible by the hiring of more standing faculty whose research and expertise are in the laws of foreign jurisdictions. At my own institution, in the last twenty years we have gone from having one scholar of Western European law to having full-time standing faculty who are specialists in the laws of countries that have traditionally been within the scope of the mandate of Title VI National Resource Centers and Foreign Language and Area Studies grants—in our case, China, Japan and India. To varying degrees, this trend has been replicated elsewhere. With support from the dean and from the central university, we have supplemented such standing faculty resources with a growing number of shorter term visiting faculty from leading law schools abroad. These visitors both co-teach with permanent faculty and offer independent courses. This, too, is a pattern that can be found, albeit at widely varying levels, across many U.S. law schools.

This form of internationalization of U.S. legal education has significant, if traditional, virtues. Ideally, it provides rigorous and structured instruction in the law—and, no less importantly, the context of law—of other countries. And it does so in a format tailored to the needs, backgrounds and perspectives of U.S. law students. It also has its obvious limits. No U.S. law school offers more than a handful of courses in the law of any particular foreign jurisdiction. And it is extremely rare for a U.S. law school to have more than one faculty member who focuses on the law of any one foreign country (or even a few related ones). Thus, except when he or she teaches a specialized course within his subspecialty, a U.S. law school professor must cover a sprawling legal terrain on which his or her

intellectual footing is insecure, addressing a range of legal topics that are laughably broad from the perspective of his or her counterparts in the relevant foreign country's law schools. Although students with the requisite language skills are encouraged to use original language materials in their studies (and especially in research papers), the language of instruction in these courses remains English, which results, at minimum, in some loss of nuance.

Third, co-curricular and extracurricular activities at law schools provide a degree of internationalization of education. For example, at my law school, China-related activities of this sort within the last two academic years have included: publication of a student-edited journal on East Asian law; a pair of student-organized symposia on Chinese / East Asian law (one on reforms in Chinese criminal procedure, and one on antitrust law, anti-corruption law and national security law as constraining factors in doing business in Asia) that have brought U.S., Chinese and other Asian private lawyers, government lawyers and academics to campus; student-organized conferences that have included a Chinese or Asian Law component (such as a session on laws and developments in China as among the "disruptive forces" facing patents and patent law in the United States); and three faculty-organized conferences on Chinese law (including one on the future of Chinese administrative law reform, one on human rights and public interest lawyering in China, and one—co-organized with a leading Chinese law school—on recent developments in, and empirical studies of, China's legal system) which variously gathered prominent Chinese scholars, practitioners and activists, U.S. experts on Chinese law, and U.S. experts in relevant substantive fields of law; and public talks by more than a dozen Chinese and foreign scholars of Chinese legal issues. Such a dense and rich menu would have been unimaginable at any U.S. law school a generation ago.

Useful as they are, these activities can provide only supplemental education about foreign law or how to engage in foreign-related law practice. They are, inevitably, somewhat disconnected events that collectively can offer only an intermittent and eclectic sampling of a big field. Although student attendance is often quite robust measured by the usual standards for such events, even an extensive program will reach only a limited, self-selected group of students.

Fourth, the university beyond the law school can, and often does, offer additional opportunities for internationalized education at U.S. law schools. Again taking examples from my institution, two university-wide centers—the Title VI National Resource Center-supported Center for East Asian Studies and the Center for the Study of Contemporary China—both include a significant law component in their programming. Legal scholars and legal topics are consistently a significant portion of both centers' speaker series and conferences. Both centers have consistently had law faculty on their executive boards and at times as organizers of speaker series. A law professor is the director of one center and deputy director of the other. Both centers regularly cooperate with the law school in supporting conferences, visiting faculty and, when resources permit, courses on Chinese or broader East Asian law. All of this helps draw law students and, more broadly, students interested in the law to Chinese law-related activities.

Law students also increasingly take courses related to foreign countries and foreign languages outside the law school. They take advantage of increasingly generous cross-registration privileges or, for

those seeking more in-depth exposure, certificate or joint degree opportunities (typically Masters degrees) with regional studies programs or programs in international business.

These outside-the-law-school-but-inside-the-university resources are vital for the internationalization of legal education, in large part because they expand the available relevant resources well beyond what a law school alone can provide, and because they give law students a more interdisciplinary education. While the wisdom and value of interdisciplinary studies has become widely accepted in law schools generally, it is especially crucial for students who seek to understand and engage the law of foreign countries. Simply, law's extralegal context matters a great deal for law and lawyers everywhere, but more extensive formal training about such "context" is needed when a student is grappling with a foreign system.

Although these elements of internationalization of U.S. legal education help fill some of the gaps, they still fall short in some respects. Even when students take relatively full advantage of these options, they remain a relatively small slice of a law student's education. And they do not reach the level of the immersion experience that graduate study in other fields—most clearly a Ph.D. program in an arts and sciences discipline—typically provides through field work and/or foreign study.

Fifth, U.S. legal education increasingly involves periods of study or research abroad for some students (although the Ph.D. field work experience is generally not being imitated). Several Chinese law schools now offer LL.M.s in Chinese law, taught in English. Similar programs exist in other countries, but the growth in Chinese programs has been particularly dramatic in recent years. Some of the students who enroll in these programs are U.S. students who seek to earn a Chinese law degree along with a J.D. degree from a U.S. law school. Some U.S. law schools have established formal relationships with their Chinese counterparts to send a handful of their students each year to study for a semester or, sometimes a year, at a law school in China. My law school, for example, sends two to four students per year to study for one semester at Tsinghua University Law School in its English language Chinese law LL.M. program. We also sometimes send students to similar programs at other Chinese law schools on a more *ad hoc* basis. The semester abroad counts toward the J.D. degree at home. We also have arranged for students who have the requisite level of language proficiency to take one or more courses in the regular, Chinese-language curriculum of the host Chinese law school. Students who stay on for a second semester at Tsinghua can earn a Masters there. We have another program that awards a true dual degree to two of our students each year who spend a full academic year at the University of Hong Kong Law School. Some other U.S. law schools have similar programs.

Many American universities have undertaken to establish substantial presences—even entire campuses—abroad, sometimes in partnership with local universities and sometimes as a branch campus of the U.S. university. China has been by far the most intense hotspot for this type of activity. So far, these undertakings have not included substantial programs that send students from the U.S. institution's law school to study at these overseas programs or branch campuses. But it would not be surprising if that were to occur in the relatively near future.

Study abroad programs have faced understandable skepticism and criticism in the world of U.S. legal education. Whether at foreign partner schools or at branch campuses or other outposts of U.S. institutions, classes in study abroad programs are not often taught by members of the faculty at the degree-granting U.S. institutions. In most programs, reliance on English as the language of instruction excludes many host-institution faculty and limits the effectiveness of others. The Chinese law programs taught in English at Chinese universities often fold J.D. students from U.S. law schools into larger programs with students from third countries who sometimes have limited English skills and very different prior educational backgrounds. When the branch campuses and similar programs by U.S. universities in China make long-term and full-time faculty appointments, they typically hire on a different track and from a different pool than they do when adding members to the standing faculty at home. These patterns are not limited to China. Courses taught abroad are, almost inevitably, less monitored by the sponsoring U.S. educational institution or the American Association of Law Schools or the American Bar Association than are the (lightly) monitored programs of instruction on U.S. law schools' home campuses. In this context, concerns about quality—and, at the very least, comparability—inevitably arise and are a commonly offered rationale for the rule limiting U.S. J.D. students to one semester of credit for study abroad at any program that has not been subjected to the costly and cumbersome AALS/ABA accreditation process (which very few have).

Sixth, more deeply collaborative teaching may add a new and especially valuable mode for internationalizing U.S. legal education. Again, I will use examples from my law school that illustrate the possibilities and some of the emerging patterns. We have an evolving program called the “global research seminar.” Although the details vary from course to course, the elements have included the following: an intensive series of seminar sessions at the law school focusing on a specific area of law in a foreign country (such as Brazil, India, Malaysia, China, Italy or Germany); co-teaching of several of those seminar sessions by a distinguished visiting faculty member from a peer law school in the target country; a one week to ten day trip to the target country to meet with faculty, government officials, practicing lawyers, business people, NGO staff or others with expertise and engagement in the legal issues that are the focus of the seminar. Plans for an upcoming iteration of the course include collaboration with a parallel course taught to students at a partner law school abroad, with students in the two classes interacting through video link-up for some joint sessions, smaller group or individual emails, a joint session of the course during the U.S. class's visit to the target country, and, possibly, joint research outputs.

This model and other broadly similar undertakings hold the promise of transcending some of the limitations and avoiding some of the shortcomings of other, more established mechanisms of internationalizing U.S. legal education. But they are still only beginning to develop. And they are sufficiently costly, in terms of money and faculty and staff time, that they are unlikely to reach a large scale in the foreseeable future.

Seventh, and finally, law schools are professional schools that have—as the term implies—a mandate to train and position their students for employment in their chosen profession. One key way in which law schools do this is by helping their students with pre-graduation (typically summer) or post-graduation employment. Career services / placement offices at law schools increasingly focus on the

international or internationalized market. Again, drawing on examples from my institution and the Chinese case, we have placed some of our students in summer positions with firms in China or Greater China, including the regional branch offices of U.S.-based or other multinational law firms and, more intriguingly, Chinese law firms in China. Although political impediments make some placements difficult in the Chinese context, we have pursued summer public interest law internships and similar arrangements with NGOs and similar entities in China. In other national contexts, such opportunities have been more easily arranged. (Such international public interest work by students is partially supported by law school resources in order to ameliorate the difficulties for students of low pay—compared to summer law firm jobs—and the financial pressures of paying law school tuition.)

Policy Responses

What can and should be done to sustain and enhance U.S. legal education to meet the demands of an increasingly internationalized market—in the private, public, NGO and other sectors—for the services provided by lawyers and, more broadly, people trained in law?

More resources to support the types of activities and programs that already have made contributions would help. That is so commonplace a recommendation as to be banal. But it is no less true for being so obvious. Several more fine-grained and/or reform-oriented prescriptions may be of more interest. Some involve steps that law schools can take entirely on their own while others require or would benefit from outside support. They include the following:

- Encourage law students to take more area studies courses, including especially foreign language courses.

Without these fundamental building blocks, other efforts to train adequately “internationalized” law school graduates risk being built on shaky foundations.

Specific policies and reforms that could advance this goal include:

- Expand cross-registration privileges for JD students, especially for advanced foreign language courses;
- Encourage pursuit of joint degree or certificate programs in area studies or related fields (for example through “double counting” of courses or offering tuition waivers or financial support—commensurate with that offered to arts and sciences graduate students—for the portion of the non-law part of a joint-degree that extends a student’s education beyond the ordinary three-year J.D. course, or that occupies a summer that otherwise would involve remunerative employment. (Financial support could be made contingent on characteristics of early post-graduation employment, such as salary level or degree of connection between the recipient’s work and the region studied); and
- Strengthen imperatives in FLAS and other programs to support law students (and professional school students more generally), on the condition that demanding standards for relevant course work and training or use of foreign languages in study and research are met.

- Promote (through suasion and incentives targeting faculty) the integration of comparative / foreign law elements in mainstream law courses
 - Foreign or comparative law courses rarely will constitute more than a small percentage of the education of a student at a U.S. law school. And much of the content of such courses will not address the fields of law in which a particular student is likely to specialize in practice.
 - Integration of discussion of how other legal systems approach the same or similar questions in subject matter-specialized U.S. law courses can provide deeper and more relevant exposure to foreign law, and can enrich learning about U.S. law as well.

- Support the development of innovative approaches that have shown promise or appear to be promising, and that track apparent trends in academic and scholarly developments. Examples include:
 - Interdisciplinary approaches (primarily, but not exclusively, “law and the social sciences”) and inter-professional approaches—such as law and business, or law and public policy, or law and public health, or law and engineering/design (in the context, for example, of finding solutions to energy and environmental challenges in China); and
 - Deeply collaborative transnational teaching and research (such as the types of joint courses described near the end of the preceding section).

- Maintain, create or rebuild a commitment to high-quality, limited-scale, and well-integrated LLM programs.
 - Trends toward larger LLM programs with limited or declining interaction between LLM cohorts and J.D. students risks eroding what has been a pillar of internationalization in U.S. legal education.
 - Revenue pressures on law schools have increased the danger that LLM programs can be, in effect, cash cows, with unbridled growth and slackened standards.

- Make the case to U.S. law students (where possible, reinforced with material incentives) that training in the law, languages, and context of law in one or more foreign jurisdictions is an important and valuable aspect of their education.
 - There is a strong, if only anecdotal, sense that law student enrollment and interest in foreign law courses and other non-“core” or non-traditional law school classes has declined amid the downturn in the market for law graduates during the last several years—notwithstanding what most observers expect to be a rising demand for lawyers with international / foreign law-related capabilities.
 - This pattern apparently reflects a sense among students that, in an environment where jobs are scarce, taking the most immediately practice-related courses will enhance their chances of finding employment. Whether or not that is true, such a mindset does discourage the pursuit of a more internationalized legal education that, done right, will provide marketable and useful professional skills.

- Allocate scarce external resources to U.S. institutions on the basis of reasonably expected returns on investment—which means a skew toward some relatively elite and well-funded institutions.

This prescription is more controversial and provocative than the others (not least because it may appear to be self-serving or self-justificatory), but it is, I believe, defensible and even convincing. Several features of U.S. legal education—some of them distinctive—support it:

- The legal profession remains relatively stratified in the United States (and elsewhere), including especially in much of its “international” dimension. Aside from important exceptions such as immigration and asylum law and legal services to recent arrivals in the United States, international / foreign-related legal work in the United States remains disproportionately the province of elite law firms, elite federal government agencies, the general counsel’s offices of large corporations, and certain segments of the non-profit / NGO community. These entities hire disproportionately those educated at relatively elite law schools.
- Unlike Ph.D. programs or regional studies Masters programs that can and do focus heavily or exclusively on educating students about a single region or country, foreign / international training in U.S. law schools will remain peripheral to a core education in general skills of legal analysis and in the laws of the United States. In that context, much of the internationalized content of U.S. legal education will come from outside law schools: from a wider university that provides ample education in relevant fields and that has the capacity and willingness to open such training to law students; through costly law study abroad or collaborative transnational legal educational programs; and with partial support from law school resources that are unlikely to be forthcoming from severely resource-constrained law schools that are asked to contribute to programs that they have not traditionally seen as part of their core missions.