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HOMEWARD BOUND: WHAT DOES A GLOBAL LEGAL EDUCATION OFFER THE INDIAN RETURNEES?

*Swethaa Ballakrishnen**

This Article studies the effects of an international credential for migrants who return to their home country—in this case, students who return to India with a U.S. LL.M degree. Borrowing a framework from social psychology and organizational theory, it argues that international students with American law degrees who return to their countries of origin do not always benefit from the credential. Instead, trends from qualitative interview data suggest that repatriating an international credential—however prestigious—is a fluid process that requires emphasizing or obscuring the credential depending on the interactional context. As a result, this Article presents a contrast to the preceding article by Carole Silver, which traces the experience of similar LL.M. graduates who stay in the United States to pursue a legal career. Together, these findings on the different barriers that shape entry and access into legal markets have important implications for the way we understand international credentialism and the global legal profession.

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Unless otherwise indicated, the interviews cited in this Article were conducted by the author on a confidential basis from January 2008–November 2011. The author has confirmed the accuracy of the interviewees' statements, which have been lightly edited by the Fordham Law Review.

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INTRODUCTION

In the context of the global workforce, a Western education,[1] and especially an American one,[2] is a well-valued commodity.[3] Because of the

1. World Trade Organization data indicates that, "'[b]etween 1999 and 2007, the number of international students doubled from 1.75 million to nearly 3 million,'" with more than one third of these students from Asia. Council for Trade in Services, *Background Note by the Secretariat: Education Services*, S/C/W/313 (Apr. 1, 2010), *available at* http://docsonline.wto.org/DDFDocuments/t/S/C/W313.doc. Of these, "North America and Western Europe are still 'top destinations' for globally mobile students." Laurel Terry, *International Initiatives that Facilitate Global Mobility in Higher Education*, 2011 MICH. ST. L. REV. 305, 309. For a fuller review of the sending and receiving countries in international higher education, see generally *id.*

2. In 2004, Philip Altbach suggested that there were about 2 million students worldwide who studied outside their home countries (potentially increasing to 8 million by 2025). *See* Philip G. Altbach, *Higher Education Crosses Borders*, CHANGE MAG., Mar.–Apr. 2004, at 19. Of these, the United States was the largest host country and home to more than a quarter of the world's foreign students (more than the U.K., Germany, and France combined). *See id.* at 20. More recent figures (for 2009 and 2010) confirm this trend of U.S. dominance in the global education market. *See Open Doors 2011: Fast Facts*, INST. INT'L EDUC. (Nov. 14, 2011), http://www.iie.org/en/Research-and-Publications/~/media/Files/Corporate/Open-Doors/Fast-Facts/Fast%20Facts%202011.ashx.

3. For example, numerous engineers trained and educated in the United States return to their home countries to be transnational entrepreneurs. The traditional way of theorizing about this return migration has been to view it as a mechanism of knowledge transfer and diffusion. *See* AnnaLee Saxenian, *Transnational Communities and the Evolution of Global Production Networks: The Cases of Taiwan, China and India*, 9 INDUSTRY & INNOVATION 183, 186 (2002); Dan Wang, Returnees as Knowledge Brokers (2011) (unpublished Ph.D.

obvious functional gains—prestige, immigration to a developed country, and better labor market returns[4]—the premium attached to accessing higher education, especially for students from developing countries,[5] is understandable. Still, we know that the number of international students who pursue this education are not evenly represented across all educational departments and technical fields. For instance, recent studies of international student enrollment[6] have shown that science and engineering account for the largest share of foreign student enrollment.[7]

The legal profession is a unique case. Seen as a non-transferable and highly jurisdictional training, legal practice has traditionally remained domestic,[8] but this has changed since the mid-1990s.[9] In particular, the

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dissertation, Stanford University) (on file with author). I am indebted to Dan Wang for sharing early drafts of his dissertation research on the subject of skilled return migrants and the knowledge flows they transport to their home countries.

4. For a recent review of these gains in the particular context of Indian enrollment and engagement in global educational and labor markets, see Binod Khadria, *India Amidst a Global Competition for Its Talent: A Critical Perspective on Policy for Higher and University Education*, *in* HIGHER EDUCATION DYNAMICS 395–412 (Simon Marginson et al. eds., 2011).

5. "The large majority of foreign students in the United States come from developing and newly industrializing countries, with 55 percent from Asia (the top five sending countries [to the United States] are India, China, South Korea, Japan, and Taiwan)." Altbach, *supra* note 2, at 20.

6. *See* Karin Fischer, *Foreign-Student Enrollments in U.S. Rise Despite Global Recession*, CHRON. HIGHER EDUC. (July 8, 2010), http://chronicle.com/article/Foreign-Student-Enrollments-in/66214/ (reviewing the 2008–09 rates of international student enrollment). For a full report, see Joan Burrelli, *Foreign Science and Engineering Students in the United States*, NAT'L SCI. FOUND. (July 2010), http://www.nsf.gov/statistics/infbrief/nsf10324/nsf10324.pdf.

7. This concentration on the sciences seems natural for a range of reasons. First, the sophisticated levels of training available in the United States—especially at the tertiary levels of higher education—are relatively scarce in the home countries these students are from. Second, the U.S. training available for technical subjects such as science and engineering is not only sophisticated, but also highly transferable. Because knowledge in the sciences is not limited by jurisdictional applicability, training in one country transfers valued skill sets irrespective of work and life choices made after the completion of the course. Third, because of this sophistication and applicability, international training offers steep labor market benefits for its recipients, both in the host as well as the home country. Thus, not only do these graduate level degrees offer an opening into a Western lifestyle, they also translate to superior labor market benefits should the student decide to return to their home country. *See* B. Lindsay Lowell & Allan Findlay, *Migration of Highly Skilled Persons from Developing Countries: Impact and Policy Responses* 8 (Int'l Labour Office, Int'l Migration Papers No. 44, Dec. 2001), *available at* http://www.ilo.org/public/english/protection/migrant/download/imp/imp44.pdf (reviewing the "feedback effects" of return, remittances, diaspora, and technology transfer); *see also* AnnaLee Saxenian, *From Brain Drain to Brain Circulation: Transnational Communities and Regional Upgrading in India and China*, 40 STUD. COMP. INT'L DEV. 35–61 (2005) (offering another model of how these superior labor market benefits transfer to the home country and describing the process of "brain circulation," by which Chinese and Indian engineers transfer Western technical and institutional know-how to their home countries).

8. While LL.M. programs have been in operation for many decades, prior to the 1990s they were generally seen as credentialing systems for foreign-trained lawyers who wanted an American education before pursuing academic careers in their own country. In contrast, the LL.M. as a degree that has interested practitioners and academics alike is a more recent phenomenon that coincided with the emergence of global legal and business markets. *See*

LL.M. degree (which is the graduate training in law that more than a hundred schools in the United States offer[10]) has transformed the way legal training is perceived by suppliers and consumers of this education.[11] From the U.S. law school's perspective, in addition to the obvious commercial advantage,[12] the inclusion of foreign students signals an internationalization atmosphere and experience.[13] On the other hand, from the perspective of

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Carole Silver & Mayer Freed, *Translating the U.S. LLM Experience: The Need for a Comprehensive Examination*, 101 NW. U. L. REV. COLLOQUY 23, 23 (2006), http://www.law.northwestern.edu/lawreview/colloquy/2006/3/LRColl2006n3Silver-Freed.pdf.

9. My research on the history of South Asian LL.M.s at Harvard Law School (HLS Study), *see infra* note 31 and accompanying text, shows that the numbers of graduate students from South Asia have steadily increased since the mid-1990s in that particular graduate school program, *see* Swethaa Ballakrishnen, Hari and Kumar Go to HLS: The South Asian Graduate Student Experience at Harvard Law School 28 (June 2008) (unpublished LL.M. thesis, Harvard Law School) (on file with author). The only other time these enrollments were of comparable magnitude was in the post-World War II era, when a steady number of government officers and tax professionals were sent to Harvard for a specialized tax LL.M. *See id.* at 9–15.

10. Carole Silver's exhaustive research on LL.M.s in the United States gives us some insight into the number of schools that offer these programs, as well as the number of students enrolled in them. *See generally* Carole Silver, *The Case of the Foreign Lawyer: Internationalizing the U.S. Legal Profession*, 25 FORDHAM INT'L L.J. 1039 (2002). Using her LL.M. data, she notes that "[i]n 1999, at least sixty-eight U.S. law schools offered some sort of graduate degree available to foreign lawyers," and "[m]ore than half of these programs [were] available exclusively to foreign lawyers." *Id.* at 1046. Her later research on legal education lists 102 law schools with graduate programs for foreign lawyers—more than half of which are exclusively for foreign lawyers. *See* Carole Silver, *Internationalizing U.S. Legal Education: A Report on the Education of Transnational Lawyers*, 14 CARDOZO J. INT'L & COMP. L. 143, 147 (2006) [hereinafter Silver, *Internationalizing U.S. Legal Education*].

11. The literature on international LL.M. students in the United States deals mostly with the institutional and individual consequences this has for students. *See, e.g.*, Silver, *Internationalizing U.S. Legal Education*, *supra* note 10, at 144 (reviewing why international students come to the United States for an LL.M.). Silver writes:

> 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 (including important experience in legal and business English) that enables them to connect with 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.

Id. Silver reviews in detail why U.S. law schools and the legal profession generally benefit from this dynamic by responding to this question: "But what benefit do U.S. law schools gain from offering graduate programs for foreign law graduates? And how did they become leaders in the business of global legal education?" *Id.* at 144–46, 155.

12. LL.M. programs are financially important for U.S. law schools because these schools can charge full tuition without worrying about how the foreign students' credentials will affect national rankings (such as the *U.S. News & World Report* rankings). This is true even among schools that take seriously the value of having international students in their graduate programs. *See id.* at 155.

13. Schools have a growing interest in expanding their student population to include international law students. Further, schools have made dedicated efforts to create a community for these students. Schools have begun to seek out and actively assimilate the incoming international graduate student, not only to offer a world-class education to the foreign student, but also to offer a broader experience for American students in the classroom. For a short commentary on the advantages of integrating LL.M.s in American

the incoming students, the changes in the world market for legal services have created a new environment in which an international legal education has practical value.[14]

Naturally, for those who wish to gain access to the U.S. legal services market (an option that was not always open to LL.M.s), getting an LL.M. is a passport of sorts.[15] But with the increasingly globalized demands of the legal services market, the advantage of the LL.M. is no longer limited to those who practice law in the United States.[16] Returning LL.M.s benefit in their home countries both because of the practical advantages the LL.M. offers (training in international law, exposure to new networks, and so forth), as well as its signaling "halo" advantages, which come from being associated with an international law school from a high-status country.[17] In

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classrooms, see generally Lauren K. Robel, *Opening Our Classrooms Effectively to Foreign Graduate Students*, 24 PENN. ST. INT'L L. REV. 797 (2006).

14. This value has not been universal, however. In this Article, I seek to explore one example of this variation. Earlier research has shown that the advantage of global education and credentialing depends on the country in which these lawyers practice. For example, in her recent work on U.S. legal education and the global legal services market, Carole Silver argues that various factors affect the value of an LL.M., including liberalization structures, institutional limitations, and the resulting expectations of local and/or global law knowledge. In countries such as Germany, where international firms have long been present and local legal education is imperative even for transnational practice, the LL.M. is more of a differentiator in the market than a sorter. *See* Carole Silver, *The Variable Value of U.S. Legal Education in the Global Legal Services Market*, 24 GEO. J. LEGAL ETHICS 1, 21–28 (2011). "But with the strength of the state exam score as a guiding signal, the Ph.D. and LL.M. are limited to supporting rather than determinative roles in the German hiring market." *Id.* at 28. On the other hand, in other markets, a U.S. legal education may be more of a necessity than mere icing on the cake. *See id.* at 41.

15. For a broad review of students' expectations and the potential payoffs of this program, see generally Silver, *Internationalizing U.S. Legal Education*, *supra* note 10. Chief among them is the ability to have a "common currency," to be able to communicate with peers in U.S. institutional settings as well as with global clients in their home country. *See id.* at 156. The LL.M., then, is a "'process to get [an American] license.'" *Id.* at 158 (quoting a recent LL.M. graduate from Korea).

16. Silver's early research shows that the LL.M. is commonly a condition for partnership or for access to certain jobs and firms. For instance, students from Japan and Korea use the LL.M. to bypass stricter local requirements by using the credential to signal that they are "foreign lawyers." In this way, the LL.M. is used as a certain kind of "American license" to navigate domestic legal practice. *See id.* at 158. Similarly important is the value of the LL.M. in Latin American countries, where it is seen as a marker of the exposure to American law and culture, both of which are valorized. *See id.* at 156.

17. This signaling does not always have similar benefits for LL.M. candidates who stay. *See* Silver, *supra* note 14, at 9; *see also* Carole Silver, *State Side Story: Career Paths of International LL.M. Students, or "I Like to Be in America,"* 80 FORDHAM L. REV. 2383 (2012). However, many foreign lawyers return to their home countries and gain advantages with their employers and existing networks as a direct result of their LL.M. Similarly, in a preliminary interview for this data, an LL.M. student returning to China after "trying out the bar" (because it would give her "extra points") explained that it was an "unwritten rule" that individuals with LL.M.s, especially those from a "top school," were more likely to have stronger promotion prospects upon return, even though the U.S. degree was not substantially useful in navigating their domestic legal systems. Interestingly, this respondent was not working for an international firm (although she might have attempted to do so at a later stage). *See* Interview with LL.M. student from China, #4 of the Pilot Interviews, in Palo Alto, Cal. (June 2011) (on file with author). The current data focus on the unique case of LL.M.s returning to a home country where this advantage is not explicit. *See infra* Part I.

addition to these core functional factors that affect outcomes in the workplace, returnees can attain numerous parallel advantages that are "functional" at the personal level, such as using the LL.M. to create contacts and networks with a global legal community, and drawing language and cultural capital from this association.

Even so, the nature of these rewards is not without variation. Past research has shown that different factors at the individual[18] and institutional levels[19] alter the kind of advantages that the LL.M. offers. Further, a key part of this analysis is recognizing the environment in which this credential is being used as capital.[20] The most common example is the distinction between a U.S. LL.M. and a J.D. within the organizational context. While the LL.M. can indeed be a powerful degree in certain circumstances, we know that students and recruiters do not treat it in the same way as they do a J.D.[21]

Similarly, research reveals other ways in which the context of the LL.M.'s use affects its value. Importantly, research has shown that, for foreign lawyers educated in the United States, the same degree carries different signals, depending upon the country to which they return.[22] The most revealing study in this line of research has been Carole Silver's recent work, which illustrates that graduates of U.S.-based LL.M.s experience different appraisals of their credentials depending upon the country to which they return.[23]

Still, most practical extensions of this research are limited in that they only consider the rewards for graduates returning to countries with a strong global presence affecting the legal profession. Thus, in contrast to this very important literature on how LL.M. advantages transfer to countries where

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18. *See* Carole Silver, *Winners and Losers in the Globalization of Legal Services: Situating the Market for Foreign Lawyers*, 45 VA. J. INT'L L. 897, 907–14 (2005) (reviewing how LL.M. students in the U.S. law firm market fare compared with J.D. students).

19. The fact that various organizations within the same country valorize the LL.M. credential differently illustrates one example of this institutional-level advantage. *See infra* note 23 and accompanying text.

20. This conception of the LL.M. as "capital" that can be valorized in specific environments is borrowed, broadly, from Yves Dezalay & Bryant Garth, *Law, Lawyers and Social Capital: 'Rule of Law' Versus Relational Capitalism*, 6 SOC. & LEGAL STUD. 109 (1997). I thank them for useful comments on earlier drafts of this Article, which helped conceptualize this extension of the original argument.

21. *See* Silver, *supra* note 18, at 913.

22. *See generally* Silver, *supra* note 14.

23. *See id.* at 20–54 (explaining how the value of this education is variable depending on the *host country context* (in Silver's article, China and Germany)). In her research, Silver shows that, while the more globally mobile German legal market views the LL.M. as an advantage, it is never seen as the only legitimizing factor for a local lawyer (for example, local credentialing and performance were critical to lawyers in the German market). *See id.* at 25–33. On the other hand, the more nascent Chinese legal service market looks to U.S.-oriented signals more strictly and, in turn, the LL.M. is highly valued. *See id.* at 34–35. Silver argues that in Germany, because of the relatively long tradition of working at an international level, language and U.S. connections are not novel. *See id.* at 54. In fact, since U.S. firms have entered the market by acquiring German firms, part of the strategy has been an adaptation to existing hierarchies. *See id.* Surely, there is an appreciation for lawyers with more than local experience, but it is not seen as something that can replace local knowledge.

there are deep-rooted functional advantages to having a U.S. law degree (either as a requirement for practice or as a key distinctive credential in obtaining legal employment), this Article examines one nation, India, where LL.M. graduates come from (and return to) a country with a "closed"[24] market for international legal services. If country-specific organizational and institutional factors are critical to determining how the LL.M. is mined as a credential, what happens to this American legal degree in countries where the United States does not have a structured legal presence?

This Article attempts to record the experience of students from India, a quasi-protectionist country that has been more restrictive about opening its legal market than its Asian counterparts.[25] India's regulatory resistance[26] to opening its legal market, along with the broadening stratification of its domestic profession, has created institutional and organizational[27] cultures

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24. I refer to the Indian market as "closed" because, while formally restrictive of foreign legal practitioners and organizations, the regulatory mechanisms that control this osmosis have been manipulated in different ways to informally allow the diffusion of international legal practice within the Indian legal market.

25. The Indian economy, like other similarly developing economies, traditionally has been closed. In 1991, liberalization reforms opened some sectors for global commerce, which directly impacted the nature and scope of international transactional work coming into the country. The profession, however, stays securely closed. The statutory restriction against the practice of law by non-Indian lawyers is a fairly blanket restriction, and there has been some debate as to what this means. *See* Lawyers Collective v. Bar Council of India, (Dec. 16, 2009) Writ Petition No. 1526 of 1995 (Bombay H.C.) (India), *available at* http://bombayhighcourt.nic.in/data/judgements/2009/OSWP8152695.pdf. I have argued elsewhere that this lack of clear explanation for what the phrase "practice of law" means—for example, the practice of "any" law, the practice of "any law in India," and/or the "practice of law in India"—is what enables India to be selectively liberal. *See* Swethaa Ballakrishnen, Lawful Entry: A Preliminary Framework for Understanding the Liberalization Prospects of the Indian Legal Market (July 2009) (unpublished manuscript) (on file with author).

26. Not only is the Indian market currently closed to the entry of foreign players, there is no reason to believe it will open anytime soon. *See* Kian Ganz, *India Legal Market to Stay Closed Until 2015, Edwards Angell Partner Says*, BLOOMBERG (Nov. 9, 2010, 12:23 AM), http://www.bloomberg.com/news/2010-11-10/india-legal-market-to-stay-closed-until-2015-edwards-angell-partner-says.html. However, there has recently been some movement on the possibility of U.K.-based law firms entering the Indian legal market. *See* Brian Baxter, *India Leaves Door Ajar for U.K. Firms*, AM. L. DAILY (Sept. 29, 2011, 1:47 PM), http://amlawdaily.typepad.com/amlawdaily/2011/09/india-foreign-firms.html. Still, the pressures against such entry, given the Indian regulatory climate, make the possibility of opening the Indian legal market doubtful. In a recent interview, the president of the Society of Indian Law Firms declared that he was "happy with the existing arrangements" of not having foreign lawyers. *See Conversation with Lalit Bhasin*, B. & BENCH (Nov. 22, 2011), http://barandbench.com/brief/4/1854/conversation-with-lalit-bhasin-managing-partner-bhasin-amp-co.

27. From my interviews, it was clear that most workplaces do not give credit for an LL.M. year, and fewer offer advantages as a reward for the credential. While there are a few firms that offer loans to employees that want to pursue a graduate degree in law, the year is still "written off" when the student returns to the firm. An article in Bar & Bench, India's premiere online forum for the legal profession, explains this risk more generally:

> [T]he assumption that if an LLM candidate did not find a job abroad a top tier law firm in India would hire them unfortunately no longer holds good. Now with the exodus of foreign trained and recently laid off Indian lawyers making their way back home, top tier law firms in India are pickier than ever before. In order to better understand their job prospects . . . LLM aspirants should know that in

in which American legal credentialing is not afforded any uniform favor. In turn, this offers a useful scenario to understand the value of a global legal education in cases where LL.M. graduates return to domestic legal markets that are less likely to exhibit the traditional representations of these credentials' functional benefits[28] than the legal markets that previous case studies have examined. If there are indeed questionable institutional advantages to pursuing an LL.M., what motivates students to pursue this credential when they know that there are only weak payoffs to this investment when they return? Given that so many students continue to enroll in U.S. LL.M. programs,[29] what does this tell us about the accepted functional explanations of the LL.M.?

Based on interviews with Indian graduates of U.S. LL.M. programs who are currently working in India's domestic legal market, this Article seeks to broadly explore the following questions regarding the nature of this international credential for students who use it to navigate domestic markets: (1) What advantages does the U.S. LL.M. offer these LL.M. "returnees"?[30] (2) If the LL.M. is a valued credential, independent of the obvious functional benefits that are clearer in other countries, what explains this advantage? (3) What are the other ways in which country dynamics alter the nature and legitimacy of these signals of global credentialing? In other words, is having an LL.M. always advantageous?

In Part I, I frame the scope of this Article by explaining why the Indian case is an important extension of both the broader literature on LL.M.s, as well as the preceding case studies that have teased out the relevance of country-specific dynamics. In Part II, I set up two important institutional frameworks: the role of formal and informal protectionist regulatory mechanisms, and the recent developments in domestic legal education that have tempered the nature of this global credential. I use these frameworks to flesh out the particular country factors that I think are critical to this

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> addition to where they get their LLM degree, employment history and educational background prior to the LLM also matter a great deal.

Anjum Rosa, *From the Horse's Mouth—The Foreign LLM Story*, B. & BENCH (Feb. 23, 2010), http://barandbench.com/brief/1/538/from-the-horses-mouth-the-foreign-llm-story.

28. I use the term "functional benefits" to refer to both the broader functional gains attached to international education, such as prestige, immigration prospects, and better career opportunities, as well as LL.M.-specific functional gains, such as language training, and LL.M.-specific rewards that are typically available upon return to other countries. These "specific rewards" could be, as in the case of China, a requirement to enter the domestic branch of an international law firm or, as in the case of Germany, direct signaling of distinctive benefits. *See* Silver, *Internationalizing U.S. Legal Education*, *supra* note 10, at 154–58 (discussing LL.M. advantages); *see also* Silver, *supra* note 14, at 20–54 (providing a more detailed explanation of the China–Germany comparison).

29. There is no broader LL.M. data for India, but for an explanation of the rise of interest in the LL.M. in one law school, see *infra* Part II. Unlike the records for J.D. enrollment, there is little general data about the LL.M.s in the United States based on students' country of origin.

30. While "returnees" refers to all LL.M. graduates who return to their home country, much of the data in this Article are restricted to graduates who returned to their home country (here, India) immediately upon getting their degree (or soon after, for those who completed the bar exam in the United States).

Article's analysis. Against this backdrop, I analyze the interview data in Part III to help navigate the advantages that returnees find most valuable in their experience, focusing on both functionalist and "halo" signaling advantages, along with their corresponding limitations. Finally, in Part IV, I offer two concluding suggestions on the broad strains in Part III. First, I use characteristics from the data to suggest that the advantages these returnees enjoy give us new insights into the globalization processes of signaling and association. In particular, I urge—not unlike other researchers—a consideration of the presence of a possible "halo effect" that makes the LL.M. a valuable commodity despite its deficiency in functional advantages. Finally, I suggest that this experience of navigating and signaling a credential is a fluid process that requires an emphasizing and obscuring of the credential, depending on the context.

Rather than being just an individual or institutional variable, the ownership and signaling of a global graduate degree is an *interactional* variable. Thinking of this credential as an interactive process adds a new dimension to the way this educational capital is conceptually conceived. It is this process of what I call "*globalikation*": the process of negotiating hierarchies and interactions into "liking the global," that is of particular relevance in a hostile home country such as India.

I. WHY INDIA? DATA AND NUANCE IN THIS CASE STUDY

Before setting up the institutional frameworks of domestic regulation and education that will help frame Part II's discussion of the LL.M.'s value in the Indian legal market, it is useful to first place the data in context. Accordingly, this part outlines brief findings from two earlier sources of data to explain the motivation of the current study and to extend the existing literature on LL.M. advantages in different countries. The first source is archival and interview data collected on graduate students from South Asia at one elite American law school between 2007 and 2008. The second source is a small pilot interview study of a set of LL.M. students committed to returning to their home countries after graduation. Together, these findings help situate the unique case of Indian LL.M. returnees.

A. The HLS Study

Several years ago, as part of a larger descriptive project about graduate legal education,[31] I researched the history of South Asian LL.M.s who attended Harvard Law School (HLS study). This study was prompted by the noticeable increase in the number of students from that region.[32] While

31. *See generally* Ballakrishnen, *supra* note 9. For a brief description and abstract of the original project, which was presented as part of the Center of South Asia Lecture Series at the University of Wisconsin–Madison, see *Events*, CTR. FOR S. ASIA, U. WIS.–MADISON, http://www.southasia.wisc.edu/events/fall08.htm (last visited Apr. 21, 2012).

32. For instance, in 2007, the year the data were collected, Harvard Law School (HLS) admitted more students to its graduate program from the South Asian subcontinent than it had ever before in a single class There was a total of sixty-three students from the region

the HLS study offered some interesting insights about these students and legal education more generally,[33] it only used data from one school. Also, the nature of this data (archival alumni records[34]) limited the kind of information that was accessible. The data did not shed much light on the nature and extent of career choices that graduates were making after the LL.M.[35]—much less make a distinction between those who used the credential globally versus those who took it home to navigate a domestic market.

These limitations matter because, first, while the alumni data provided an easy way to gauge long-term trends,[36] it did not offer a micro-level explanation for why people chose to go back rather than stay. Further, even if this data did speak to the national work environments that graduates were choosing, the analysis would have been skewed because "staying" has not always been an easy option for international graduate students. However,

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enrolled in LL.M and S.J.D programs at HLS from 2000–08, as compared to thirty-four in the preceding decade. *See* Ballakrishnen, *supra* note 9, at 22 & Annex D.

33. While the main focus of the initial project was to record data, the archival enrollment data has since been useful in exploring the institutional effects and value of international credentialism in the global market for legal services. I am currently working on adding these extensions to the initial data.

34. The primary source of information about these South Asian graduates comes from the resources at the Special Collections reserve section at Langdell Library, HLS. All law students that have attended HLS are listed (both alphabetically and based on geographic origin) in the sets of the *Harvard Law School Alumni Directories*, which HLS publishes periodically. These records were then cross-referenced with the records in the Alumni Directory (1953–2001) and supplemented with information from the Graduate Program Facebooks (records with student profiles). For information regarding students that attended HLS prior to 1953, in addition to the consolidated HLS Alumni directories for the years 1939, 1948, and 1953 (which have listings of all members from 1900–1953 and all recorded living members from the earlier classes), the records at the Harvard University Archives (Pusey Library) were used. The library hosts books (and electronic access) containing information about students from 1636–1930 in the *Quinquennial Catalogue of the Officers and Graduates of Harvard University* (*Catalogue*) for those years. The deficiency in this extended (pre-1930) search was twofold: the *Catalogue* is a Harvard University resource, meaning that graduates from all disciplines are listed, and there is no geographical listing of attending students. As a result, only students with obviously South Asian surnames were considered for analysis. This sampling may have limitations, but given the nature of the data, it was the only choice for coding the entries.

35. The accessible data on the Indian lawyers in this Article still do not provide an ideal representative sample in any sense, but they do have more detail on a particular population of interest, i.e., lawyers who return to India with an LL.M. and use the credential in a hostile market. A more comprehensive study will collect data on these LL.M.s in a frame similar to the NALP and American Bar Foundation's data that is used to study law graduates in the U.S. *See* Bryant G. Garth et al., *After the JD*, AM. B. FOUND., http://www.americanbarfoundation.org/publications/afterthejd.html (last visited Apr. 21, 2012).

36. In one example, the HLS study was a useful framework for understanding the effects of South Asia's domestic law schools as credentialing institutions, as well as deciphering the role of elite transnational law programs in domestic careers. I was mainly interested in studying the background of students that attended LL.M. programs (i.e., the relevance of their undergraduate education) and their career trajectories after graduation (i.e., the relevance of their graduate degree). I used archival records to track all students who attended HLS from South Asia (defined here to mean India, Pakistan, Bangladesh, Nepal, Bhutan, and Sri Lanka) between the years of 1911 (which is when the first graduate program was established) and 2007.

over the years—and especially following the last few decades of liberalization—the hopes of LL.M. graduates to stay have been more realistic. Even so, in interviews of HLS graduates that followed the archival research,[37] more than half the respondents (nine out of fourteen) admitted that, while the LL.M. was indeed a great opportunity, they did not have any long-term intentions of staying in the United States. Some mentioned family and personal restrictions that required them to return; others sought to leverage their independent professional aspirations with this new international degree.[38] It was this choice of returning to India,[39] even when faced with the possibility of potential U.S. employment, that prompted this Article's research about the repatriated effects of credentialism[40] and the institutional benefits with which it is associated. Who were these students that invested time and effort into an LL.M. degree knowing they would return home afterwards,[41] and what advantages did they in fact leverage upon such return?

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37. In contrast to the archival background used to locate a number of students at HLS, I conducted a survey in January 2008 of sixty-one students (both past and current) from one of the National Law Schools (NALSAR). This was followed by correspondence in further detail (mostly through hour-long, in-person interviews) with fourteen alumni from four national law schools (NLSIU, NALSAR, NUJS, and NLIU). Both the survey and the follow-up interviews were aimed at understanding student expectations and backgrounds, as well as student perceptions of the value advantage that the LL.M. offered. All of this information was useful for measuring the function of these elite schools as legal training institutes, as opposed to just elite schools.

38. For example, one graduate who was returning for "both personal and professional reasons" mentioned that he thought the LL.M. would give him a "fresh start" to "try something out on his own." Filled with the confidence and energy of a year of intensive study, he felt that he could repatriate these advantages to a home market that, in his words, "needed new energy." Interview with LL.M. who was returning to practice law in the Indian Supreme Court, in Cambridge, Mass. (June 2008) [hereinafter Interview H#6] (on file with author). Note that this justification for return (i.e., wanting to infuse the domestic market with "new energy") is not unlike Saxenian's description of the advantages that engineering entrepreneurs returning to India and China believe they can leverage. *See* Saxenian, *supra* note 7, at 35–61.

39. The limitation of this "selection" is the ex post justification, which is inevitable in self-reported interviews. The "choice" to go back could be another way of justifying an inability to compete in the American legal market. Even so, the reasons are irrelevant because the effect itself remains interesting—in both cases, people come here knowing they want or have to go back to a hostile home environment that does not particularly appreciate the credential into which they are investing time and energy. This paradox is the crux of my research question. For a review of the literature on self-selection into return migration in the trained labor market context, see generally Wang, *supra* note 3.

40. Credentialism refers to the emphasis and reliance on educational credentials while evaluating labor market opportunities, especially in modern stratification systems where competition for credentials is a primary determinant for success. *See generally* David K. Brown, *The Social Sources of Educational Credentialism: Status Cultures, Labor Markets, and Organizations*, 74 SOC. EDUC. (EXTRA ISSUE) 19 (2001). For a review of the sociology of credentialism more generally, see RANDALL COLLINS, THE CREDENTIAL SOCIETY: AN HISTORICAL SOCIOLOGY OF EDUCATION AND STRATIFICATION (1979).

41. While these data do not directly speak to it, research both on LL.M.s, *see generally* Silver, *Internationalizing U.S. Legal Education*, *supra* note 10, and return migration more generally, *see* Wang, *supra* note 3, suggest that there are different rewards that transfer back to the home country with education, as opposed to education and training. Especially if the returnee stays a couple of years, one can expect that this credential, along with the

B. The 2011 Pilot LL.M. Study

In an attempt to answer some of these questions, I conducted preliminary interviews in 2011 with nine current LL.M. students from different emerging countries who were studying at three highly ranked[42] U.S. schools, all of whom were committed to going back to their home countries either immediately or soon after graduation.[43] The goal was to gauge the kind of advantages that an LL.M. degree offered these students in general, especially to the extent that these benefits transferred transnationally. The advantages that these students expressed were mostly in line with the known literature: four of the students had come to the United States for personal reasons (i.e., they had a partner or a spouse in the United States); seven students thought it would be advantageous to use the LL.M. degree when they returned to their home countries (either as a matter of promotion within their original firm or to re-enter the job market with more credentials); for seven students, the cultural (especially linguistic) education was highly relevant; and six of the respondents intended to return immediately to their countries of origin without even trying to find a job in the U.S. market, either because they were returning to their existing jobs or because they were confident the credential would transfer professional advantages to their practice upon return.[44]

What stood out, however, were not the interviews that confirmed these traditional understandings of why LL.M. students come to the United States,[45] but the two cases that offered a contrast—the two graduates who indicated that the LL.M. would not benefit them directly or substantially in their home countries. Both of these graduate students disclosed that their degree from an elite school, while exceedingly useful to them personally, made no difference to their employers back home, who considered the

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substantive foreign experience, will be useful. Specifically, lawyers who have spent time in foreign firms and return with international training are seen as prize catches in India, and place at top positions. The recent return of Indian lawyers with international training who return to work in Indian firms is a good indication of this trend. *See, e.g.*, Kian Ganz, *Amarchand's Love Affair with UK Talent—To Be Continued?*, LEGALLY INDIA (Dec. 7, 2009, 9:00 AM), http://www.legallyindia.com/20091207330/Analysis/amarchands-love-affair-with-uk-talent-to-be-continued; *see also* Kian Ganz, *Luthra Gets New Cap Markets Group Head from Shearman*, LEGALLY INDIA (May 27, 2009, 4:07 PM), http://www.legallyindia.com/2009052725/Job-moves/luthra-gets-new-cap-markets-group-head-from-shearman.

42. All three schools are ranked in the top ten of the *U.S. News & World Report* rankings. *See Best Graduate Schools: Schools of Law*, U.S. NEWS & WORLD REP., Apr. 2012, at 70.

43. These pilot interviews were, initially, of three known LL.M. candidates who were still in law programs in the United States and a one-arm snowball of six respondents to which the interviewees referred me.

44. Of the remaining three respondents that were "staying" in the United States, two intended to remain in the United States on a limited contract with a U.S. office of their original law firm, which coincided with other personal reasons; the third planned to return home after sitting for the New York bar.

45. *See, e.g.*, *supra* note 28 and accompanying text.

LL.M. little more than a "break year."[46] Not only were there no promotions waiting for them when they returned, there would be no increased pay either. In fact, the two graduates insisted that they were lucky to be given the time off with the option of resuming the same track when they returned to their firms. Most interesting, both of these respondents were Indian students.

C. Current Data: The Unique Indian Case

These two interviews exposed the particular advantages that the LL.M. has for Indian returnees compared with the LL.M.'s general advantages. Given that English is a common language in Indian higher education and professional spaces, it seemed unlikely that the language practice advantage[47] was a key draw. Furthermore, although it would make sense to use the degree as an entry point into a global legal market, the limited job market for LL.M.s often makes success in the U.S. legal market impossible.

Given this framework, why has there been a constant increase in the number of Indian LL.M. aspirants? Why do Indian lawyers come to the United States for nine months[48] and return to India to work in a domestic legal market that does not consider the LL.M. an important factor in determining promotions, jobs, careers, and contacts? If there are no direct benefits in the domestic legal market, what makes the LL.M. degree worthwhile for students who know they are destined to go back to India after its completion? Surely there are other advantages to being in a U.S. educational space—the interaction with global colleagues, access to world faculty, a high standard of education, and so forth—but are these advantages that people accumulate at the individual level worth it if the domestic workforce does not always recognize these experiences and skills? In particular, is it worth the price of the LL.M.?[49]

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46. *See* Kian Ganz, Op-Ed., *Fascination with LLMs in India*, LAWYER (Jan. 23, 2012), http://www.thelawyer.com/fascination-with-llms-in-india/1011050.article (referring to the LL.M. year as a "gap year"). As a non-U.S. LL.M. from India offered about his EU-funded LL.M. experience: "Even now, those who I talk to want to use the LL.M. mainly to escape from [a large law firm in Mumbai (Bombay)] and its ilk. It's not just me (perhaps my ilk) but the uncertainty of the thereafter is embraced to just escape from law firms." Telephone interview with EU LL.M. graduate who left a law firm job in India to start a career in research (Oct. 2011) (for selection reasons, this interview is not in the sample population).

47. One of the reasons LL.M.s come to the United States is to practice their English, a skill they think is useful in both accessing job opportunities in the West and interacting with their Western clients upon returning to their home countries. *See* Silver, *Internationalizing U.S. Legal Education*, *supra* note 10, at 156–57.

48. While the return migration of LL.M. graduates with U.S. work experience is an important part of the returnee story, with advantages potentially different from the advantages of the respondents here, it is outside the scope of these 2011 interviews. *See supra* note 41. The current data on the unique Indian case consist entirely of respondents who did not work in the United States after the LL.M. Accordingly, I use the term "returnees" to refer only to U.S. LL.M.-educated returnees without any U.S. work experience. *See supra* note 30.

49. Many LL.M. students, especially those in this data sample, have some sort of financial assistance, but costs remain high. *See infra* note 106.

These questions prompted this study. Eager to test these questions on a larger sample than the preliminary subset of interviewees, I applied for a grant to travel to India and interview more LL.M.-qualified Indian lawyers. The preliminary goal was to check if this functional advantage of an increased return was absent from other LL.M. returnees as well. If the obvious functional benefit of a Western international education was missing, I wondered about the nature of this LL.M. degree and what kind of transnational advantages it did repatriate. Using a snowball sample from the respondents in my preliminary pilot study, I conducted nineteen hour-long interviews[50] with respondents, using them as primary sources of information.[51]

In Part III, I draw from both research data and interviews to show that the Indian LL.M. returnee's situation offers a qualification of the traditional insight of functionalist gains and credentialing. To be able to make those connections, it is necessary to flesh out further the institutional parameters that place these individual advantages in context. In particular, it is important to first elaborate on the system of legal education and the regulation of the market for legal services in India.

II. INDIAN INSTITUTIONAL FRAMEWORKS: LEGAL EDUCATION AND REGULATION OF THE LEGAL PROFESSION

Translating the advantage of any international commodity requires a country-specific context and, as previous research has shown, this is no different for the LL.M.[52] Two important institutional changes over the last couple of decades define the Indian context: the evolution of legal education and the regulation of the market for legal services.

First, Indian legal education, which traditionally was not an important sorter for entry into the legal profession, evolved with the establishment of the competitive five-year National Law Schools. In turn, this changed the demographic of lawyer-aspirants and, over time, the stratification within the

50. See Appendix A for descriptive statistics on these returnee respondents.

51. All respondents in the sample reported to have "known" that they would return to their home country either immediately or soon after their LL.M., and none of the respondents had any sort of U.S. legal experience post-LL.M. This limitation was necessary to restrict the sample to those who truly sought to transfer the advantages of their degree, as opposed to those who went to the United States with the intention of accessing U.S. labor market returns and/or transferring U.S. legal training and labor market experience by staying in the country for a few years and then returning. Even so, the data have obvious limitations. For example, while respondents here self-reported to have "always known" that they would return to India after the LL.M., either because of some family restrictions (a partner waiting at home, family obligations) and/or personal disinterest in immigrating to the United States, it is possible that this is a retrospective justification. Further, by not accounting for the experience of returnees who spend time in the United States working and then returning with knowledge of the global workplace, *see supra* note 45, this data does not reflect the experience of an increasingly important demographic of LL.M. graduates. Nevertheless, restricting the research question to those with only the credential but no further experience is independently crucial because it offers insight into the power of global legal education and credential transfer internationally, independent of work experience and relevant training.

52. *See generally* Silver, *supra* note 14.

profession. In the following section, I outline the institutional change and suggest some effects it has had on the value of an international credential.

Next, I target the case of India as a closed legal market preparing for impending globalization. Since the early 1990s, India has been a partially liberalized economy, which has meant an increase in global clients and the internationalization of commercial legal work; but the market for legal services has remained technically "closed." Mapping this liberalization history over the last two decades draws attention to the possible effects this has had on the local appraisal of global credentials. I suggest that these two related changes are integral to analyzing the findings from the current data on LL.M. advantages for Indian returnees.[53]

A. Legal Education in India

Historically, educational institutions have evolved as the most dominant linkage between the household and the public sphere of adulthood.[54] From a functional perspective, this is an effective linkage because schools are seen as best suited to provide the technical training necessary for the workforce.[55] But educational institutions are not merely merit-allocating frameworks; much of the research on the sociology of education has focused on the socialization that schools provide, which prepares students for their larger roles in the "real world."[56] Further, in some cases, even this preparatory linkage is less obvious and schools become incidental to occupational entry and success.[57] It is important to focus on the nature of Indian legal education as a preparatory but incidental institution for India's lawyers, because this sets the stage for understanding the dynamics of entry into the domestic legal market. Changes in legal education over the last

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53. *See infra* Part III.

54. For a review of this linkage between schools and the public sphere of adulthood, see ROBERT DREEBEN, ON WHAT IS LEARNED IN SCHOOL 1–6, 63–109 (1968).

55. John Meyer and Francisco Ramirez argue that schools, as a product of their historic evolution, are best suited to, and most valued for, training for industry and cultivating citizenship. *See* John Meyer & Francisco O. Ramirez, *The World Institutionalization of Education*, *in* DISCOURSE FORMATION IN COMPARATIVE EDUCATION 111 (Jurgen Schriewer ed., 2000). On the other hand, other scholars in education have made a stronger case for the technical training role that education provides. *See generally* Randall Collins, *Functional and Conflict Theories of Educational Stratification*, 36 AM. SOC. REV. 1002 (1971).

56. This preparatory socialization includes but is not limited to assimilation into non-familial relationships, *see* DREEBEN, *supra* note 54, at 1–6, 63–109, internalization of professional hierarchy, *see* SAMUEL BOWLES & HERBERT GINTIS, SCHOOLING IN CAPITALIST AMERICA: EDUCATIONAL REFORM AND THE CONTRADICTIONS OF ECONOMIC LIFE 102–48 (1976), and adaptation to work cultures, *see* Henry Giroux, *Theories of Reproduction and Resistance in the New Sociology of Education: A Critical Analysis*, 53 HARV. EDUC. REV. 257, 272 (1983).

57. The literature above does not focus solely on schools being the core training for student success in the job market. *See supra* note 56. In fact, this traditional theory of merit has been undermined by the controversial counter (as Ivan Berg, for example, argues), which posits that, while schools determine occupational entry rather than success, and while educational attainment is a useful sorter, once through the door, school training in itself is not enough for vocational success. For a review of Berg's argument and the limitations to the role of schools as sorters, see generally John W. Meyer, *The Effects of Education as an Institution*, 83 AM. J. SOC. 55 (1977).

two decades have not only revolutionized education,[58] they have also systematically changed the profession's stratification. I focus on these changes in greater detail below.

1. Systemic Context

The Indian legal profession has not traditionally depended on domestic law school training. While lawyers ran many of the pre-independent political movements in the country, they were trained mainly in foreign schools.[59] Similarly, on obtaining independence, the drafters of the Indian Constitution were foreign-trained lawyers.[60] Given the costs involved with gaining a foreign education, access to this elite foreign training was almost entirely dependent on class and wealth.

In the years following India's independence from Britain in 1947, access to this colonial training—even for the rich and well connected—became more difficult. More lawyers enrolled in domestic legal institutions,[61] but it was clear that the "training" itself happened outside the classroom.[62] Riddled with rote learning and limited teaching and research resources,[63]

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58. For a review on the development of legal education and reform in India, see generally Jayanth K. Krishnan, *Professor Kingsfield Goes to Delhi: American Academics, the Ford Foundation, and the Development of Legal Education in India*, 46 AM. J. LEGAL HIST. 447 (2004).

59. For example, "[s]tarting with the pre-independence Indian National Congress (1885), through to the years leading to independence in 1947, the legal profession held prominent leadership positions in political parties, most notably with the return of the young lawyer Mohandas Karamchand Gandhi to the potent political arena in the 1920s." Swethaa Ballakrishnen, *Where Did We Come From? Where Do We Go? An Enquiry into the Students and Systems of Legal Education in India*, 7 J. COMMONWEALTH L. & LEGAL EDUC. 121, 122 (2009). For a review of the historic training and participation of lawyers and legal education, see generally *id.*

60. Almost all of the prominent members of the constituent assembly, with the notable exception of Rajendra Prasad (who was educated at Calcutta University and went on to be the first President of newly independent India), were trained outside the country. *See id.* at 122 n.3. For a review of the development of the Indian legal profession, see Samuel Schmitthener, *A Sketch of the Development of the Legal Profession in India*, 3 LAW & SOC'Y REV. 337, 378 (1968–69).

61. By 1951, there were thirty-one full-time Indian law schools that were affiliated with universities in the country, and twenty liberal arts schools that had law classes. *See* Ballakrishnen, *supra* note 59, at 124.

62. "The history of the first Government Law College at Bombay is a good indication of the quality of early, colonial inspired legal education . . . ." Ballakrishnen, *supra* note 59, at 123. Still, law schools were more of a formality for entry rather than a legitimate training system that prepared students for the profession. *See id.* at 124. This early education was comprised mostly of part-time schools, which hired practicing lawyers as faculty, and liberal arts colleges that happened to teach law. *See id.* at 123.

63. Arthur Taylor von Mehren, a professor at Harvard Law School, was a Ford researcher and spent a lot of time comparing and contrasting the different systems of legal education and organization in India. *See generally* Arthur Taylor von Mehren, *Law and Legal Education in India: Some Observations*, 78 HARV. L. REV. 1180 (1965). In his commentary on this early system, he notes that it was plagued with "the form of rote memory and of verbal analysis." *Id.* at 1182. His argument was that India, given its stable social and economic patterns, did not need a rationally functional system that was dependent on law for social order. *See id.* at 1181–82. The legal system and the science of law, then, inevitably took the form of rote memory and verbal analysis. *Id.* He adds: "To the extent

these domestic schools were unable to be markers of professional hierarchy, unlike their foreign predecessors. With the absence of a credentialing signal, Indian attorneys relied more than ever on existing personal networks and family connections to make inroads within the market. As a result of the increasing reliance on kinship-based ties to access professional rewards, the legal profession became less and less attractive to hardworking "outsiders" who were devoid of these access routes.[64]

2. National Law Schools: A Change in Domestic Credentialing

The most striking challenge to this kinship-based stratification of the legal profession[65] was, in some sense, not meant to be a direct challenge. With the vision of creating a more competitive legal education, the Bar Council of India, with support from the local government, set up the first National Law School in Bangalore in 1986 (with enrollment beginning in 1988) as an elite five-year undergraduate program that accepted students on the basis of a highly competitive entrance exam.[66] This National Law School model[67] encountered its share of success, with highly determined students (both those with and without the networks to enter the legal profession) competing for entry into the program. With competitive entrance exams[68] and rigorous syllabi, these law schools were no longer

India had a legal profession, its men of law were technicians, working within a system whose genius and purpose they never consciously perceived." *Id.* at 1182.

64. *See* Ballakrishnen, *supra* note 59, at 134. In that article, I made the argument that this transformation had two very different effects that ironically had the same end result. First, fewer ambitious students without kinship-based networks were interested in pursuing law as a career. *See id.* at 142. At the same time, law also became the easiest "professional" degree to acquire. *See id.* at 136. Thus more people attended law school (which typically required a lesser investment than other professional degrees such as engineering and medicine), but few people without kinship contacts seriously considered pursuing law as a career. *See id.*

65. For a review of this kinship-based system, see generally J.S. Gandhi, *Past and Present: A Sociological Portrait of the Indian Legal Profession*, *in* LAWYERS IN SOCIETY: THE COMMON LAW WORLD 369 (Richard L. Abel & Philip S.C. Lewis eds., 1988).

66. The idea for the school was a result of collaboration between the State government of Karnataka, Bangalore University, and the Karnataka State Bar Council. After much debate about the organizational and pedagogical structure (length of study, curriculum, faculty make-up) structure of the school, it was established on August 29, 1987 through a Gazette Notification (Karnataka Act 22 of 1986). *See History*, NAT'L L. SCH. INDIA U., http://www.nls.ac.in/resources/about_history.html (last visited Apr. 21, 2012).

67. In the decade that followed, several state bar associations were involved in setting up versions of this model, all with different levels of perceived eliteness and occupational success. For a list of top law schools, see *Choosing a Law School*, LST, http://www.lawentrance.com/rankings.htm (last visited Apr. 21, 2012).

68. Until very recently, each of the national law schools had their own entrance exams to determine admission. In March 2008, seven national law school—NLSIU (Bangalore), NALSAR (Hyderabad), NLIU (Bhopal), NUJS (Calcutta), NLU (Jodhpur), HNLU (Raipur), and GNLU (Gandhinagar)—agreed to accept admissions through the Common Law Admissions Test (CLAT). Currently, fourteen of the national law schools in the country conduct and accept applications based on scores from these entrance tests. *See* COMMON L. ADMISSION TEST, http://clat.ac.in/ (last visited Apr. 21, 2012).

"waiting rooms,"[69] but instead a challenging undergraduate option for talented high school students. Further, graduates from these schools began making inroads to highly selective positions within the legal profession independent of their kinship-based networks.[70] With these changes in legal education, domestic credentialing—which had been irrelevant for access to and success within the profession—began gaining significance.[71]

This development in domestic legal education offers two insights into understanding the choice and effect of international credentials such as the LL.M. First, armed with a marketable credential from these National Law Schools, graduates are better candidates for global legal education. In addition, the lack of personal kinship-based ties to professional rewards means students are more likely to be interested in additional signals to mark their distinction in a market that has historically been closed to people without traditional kinship networks. But while these new schools have been breeding a more liberal workforce inclined to seek global credentialing, the Indian legal profession has had its own protectionist agenda that has resisted global market influences.

B. The Protectionist Market for Legal Services in India

The debate over whether to open India's legal market follows a history of tentative globalization. Despite evidence of globalization's positive

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69. *See* von Mehren, *supra* note 63, at 1187–88 (explaining that most of the students were there because they were "unacceptable or unsuccessful in other departments and [were] using the law school as a 'waiting room,' or because a law degree would be helpful, more in terms of formal qualifications for advancement than substantively, in their work for government and, to a lesser degree, for business").

70. It would, however, be incomplete to say that these new graduates did not use any network advantages; rather, the networks were a product of schooling together. Kinship was thus a product of socialization rather than ascription, because of preexisting class and contacts. For a review of the advantages of these new networks, see Ballakrishnen, *supra* note 59, at 134 (discussing the "Unbreakable 'Old Boy' Network"). As a National Law School alumnus explained in a 2003 interview:

> We just *know* each other. There is an enforced bonding that happens over five years of being isolated from the rest of the world and when we graduate, this bonding and networking carries to the next stage of law firms, corporates, judicial clerkships, graduate schools, etc. and consequently makes it easier for members of this close-knit community to break in than for outsiders.

Id.

71. It would be presumptuous to assume that the movement from a kinship-based ascription system to an education-based achievement system was, in itself, enough to change the stratification within the legal profession. While these new schools certainly broadened professional access to deserving aspirants, it is unclear if the new system of sorting was any less stratified. Students that enrolled (and excelled) in these law schools were typically fluent in English and had certain social and cultural advantages. *See id.* at 151 (describing the English language requirement that created barriers at the level of admission). While the nature of these advantages is not the focus of this Article, (even if it was, there would not be enough data to speak to it), it is fair to say that the move from ascription to achievement did not solve the problem of a stratified legal profession. These graduates may not have had the connections within legal circles that were necessary to "break into" the market under the preceding pre-national law school hierarchy, but they were still emerging from a certain clique of capital benefits. The sorters themselves had changed, but this did not mean there was no sorting.

influence on the economy in many industries,[72] India's reaction to liberalization has been more cautionary than most comparable emerging Asian countries, especially in the context of the legal profession.[73] This debate began in the early 1990s, when White & Case, an American law firm, opened a liaison office in Mumbai.[74] This issue has been heavily contested ever since.[75]

A major source of resistance to the entry of global practitioners has come from local lawyers who feel threatened by the prospect of competition.[76]

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72. *See India Development Policy Review: Inclusive Growth and Service Delivery: Building on India's Success*, WORLD BANK 4–6 (2006), http://siteresources.worldbank.org/SOUTHASIAEXT/Resources/DPR_overview.pdf. *But see* DIPAK MAZUMDAR & SANDIP SARKAR, GLOBALIZATION, LABOR MARKETS AND INEQUALITY IN INDIA (2008) (describing the globalization backlash).

73. *See generally* Jane Kaufman Winn, *The Role of Lawyers in Taiwan's Emerging Democracy*, *in* RAISING THE BAR: THE EMERGING LEGAL PROFESSION OF EAST ASIA 357 (William Alford ed., 2004) (discussing Taiwan's program of economic liberalization in the context of the legal profession). For a list of law firms that have Asian offices, see generally LEGAL 500, www.legal500.com (last visited Apr. 21, 2012), and ASIA L., www.alphk.com (last visited Apr. 21, 2012).

74. With permission from the Reserve Bank of India in 1995, and under the allowed routes of general foreign investment, White & Case started operations with a few qualified Indian lawyers in a small Mumbai (Bombay) office. *See* Lawyers Collective v. Bar Council of India, (Dec. 16, 2009) Writ Petition No. 1526 of 1995 (Bombay H.C.) (India), *available at* http://bombayhighcourt.nic.in/data/judgements/2009/OSWP8152695.pdf. A handful of global firms cautiously followed, only to be sued later that year by a public interest group, Lawyers Collective, on allegations that investment in the "industry" was not the prerogative of the Reserve Bank, but instead that of the Bar Council of India, since the practice of law was governed by that professional body. *See id.* ¶ 4. Because the law that governed lawyers, the Advocates Act, prohibits persons not registered with the Bar from practicing law in India, these firms were practicing law without authorization. *See id.* In October 1995, the Bombay High Court issued an interim order, holding that legal assistance, execution of documents, negotiations, and settlements clearly amount to the "practice of law." *Id.* ¶¶ 5–6, 60. The Bombay High Court ordered the Central Government, which was considering the issue of foreign law firms practicing in India, to "take appropriate action in the matter as expeditiously as possible." *Id.* ¶ 59. Ten years later, the matter remained unresolved. *See* Ballakrishnen, *supra* note 25, at 3–4.

75. The *India Business Law Journal* published a report on the opening of the legal market in India, featuring perspectives of practitioners, stakeholders, and potential foreign market entrants. *See* Ben Frumin, *Lowering the Bar*, INDIA BUS. L.J., Nov. 2007, at 13, *available at* www.indilaw.com/pdfs/Is%20India%20ready%20for%20foreign%20lawyers.pdf. For a review of the debate and the players involved, see generally Jayanth Krishnan, *Globetrotting Law Firms*, 23 GEO. J. LEGAL ETHICS 57 (2009). In addition to the views of traditional stakeholders (Indian law firms, foreign law firms, SILF, Bar Council, and the Law Ministry), the Bar & Bench News Network proposes to invite and analyze the views of more "silent stakeholders" such as young lawyers and law students. *See Entry of Foreign Law Firms Debate: Silent Stakeholders*, B. & BENCH (Mar. 15, 2012), http://barandbench.com/brief/2/2154/entry-of-foreign-law-firms-debate-silent-stakeholders-.

76. For an example of domestic lawyers' resistance to the impending liberalization of the profession, see B. Bhattacharya, Op-Ed., *Allow Foreign Firms in India?*, ECON. TIMES (Nov. 21, 2007), http://economictimes.indiatimes.com/opinion/allow-foreign-law-firms-in-india/articleshow/2557251.cms. In his article on legal outsourcing firms in India, Jayanth Krishnan argues that even global organizational invasions via outsourcing (which technically is not considered "practice of law" under the Advocates Act) are incongruent because they contrast sharply against the backdrop of the Indian legal system. *See* Jayanth Krishnan, *Outsourcing and the Globalizing Legal Profession*, 48 WM. & MARY L. REV. 2189, 2194–95 (2007) ("For those who are fortunate to benefit from legal outsourcing, the pay-offs are

This is not to say that India has been immune to the dynamics of global legal practice.[77] With an expanding international clientele, Indian desks in offshore firms, "best-friend" arrangements,[78] and advances in alternative legal solutions such as process outsourcing,[79] law organizations (global and Indian alike) have found new ways to negotiate these restrictive market regulations.[80] Nevertheless, oppositional lobbying by Indian lawyers and the Bar Council has stayed strong.[81] Thus, while it would be misleading to say that India is a "closed" market for international legal services from a technical standpoint, it remains formally closed to "foreign practice."[82]

Naturally, the threat that entry of foreign firms poses affects practitioners' perspectives. The threat is especially critical for firms that are well situated to gain professional rewards under existing market conditions.[83] Even as Indian firms are differently situating themselves for

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indeed rewarding. But most Indians, of course, are not participants in—or beneficiaries of—this practice.").

77. Since foreign lawyers are not permitted to set up offices in India, global law firms have found alternate ways of engaging with the legal market in India, with both practical and regulatory success. In response to this alleged circumvention of the Advocates Act (that categorically restricts entry to foreign players), in 2010, the Association of Indian Lawyers filed a writ petition in the Chennai High Court against 31 foreign law firms and one of India's largest legal processing outsourcers (LPO) challenging the modus operandi adopted by these firms to provide legal services in India. *See* Writ Petition Filed Against 31 Law Firms and an LPO—Immigration Violations also Alleged, B. & BENCH (Mar. 22, 2010), http://barandbench.com/brief/2/597/writ-petition-filed-against-31-foreign-law-firms-and-an-lpo-immigration-law-violations-also-alleged. In February 2012, the High Court ruled that while foreign lawyers could not practice law in the country under the current provisions of the Advocates Act, they could continue to advise clients on a "fly in, fly out" basis. *See* Foreign Law Firms Case: Post Match Conference, B. & BENCH (Feb. 24, 2012), http://barandbench.com/brief/2/2099/foreign-law-firms-case-post-match-conference-.

78. *See* Chris Vena, *More than Best Friends: Expansion of Global Law Firms into the Indian Legal Market*, 31 NW. J. INT'L L. & BUS. 195, 210–14 (2011) (reviewing the strategies that Indian law firms use to participate in the global market for legal services).

79. *See generally* Arin Greenwood, *Manhattan Work at Mumbai Prices*, 93 A.B.A. J. 36 (2007) (providing a brief illustration of the transnational implications of this practice using the example of LPOs in India). For a discussion of the implications of transnational practice, see generally Laurel Terry et al., *Transnational Legal Practice*, 42 INT'L LAW. 833 (2008).

80. For instance, Dezan Shira & Associates has interpreted the Advocates Act as allowing foreign law firms to register and provide "consultancy" services in India. *See* Mitch Kowalski, *India—Now Open to Foreign Law Firms*, WORLD L. DIRECT (Feb. 19, 2009), http://www.worldlawdirect.com/forum/indian-law/21550-foreign-law-firms-allowed-register-offer-consultation-services-india-print.html.

81. The Indian Bar, however, does not weigh in on this debate on the same side as the Indian government, which has been keener to open legal markets. In 2000, the Indian Law Commission produced a draft proposal to consider the limited opening of the market. *See* Press Release, Press Info. Bureau, Gov. of India, Legal Community Should Prepare Itself for Future Challenges (Jan. 5, 2000), http://pib.nic.in/archieve/lreleng/lyr2000/rjan2000/r05012000.html (summarizing the Law Commission's working paper, which reviews the Advocates Act with respect to the liberalization of legal services). In 2007, the Bar Council of India issued a press release stating its strong opposition to the entry of foreign lawyers and firms, but there is not yet a conclusive resolution of the situation. *See* Malathi Nayak, *Bar Council of India Resolution Opposes Entry of Foreign Firms*, MINT (Nov. 19, 2007), http://www.livemint.com/2007/11/19225307/Bar-Council-of-India-resolutio.html.

82. See *supra* note 24 for the definition of "closed" for the purposes of this Article.

83. Practitioners' perspectives have been heavily tilted by the fact that entry of these foreign law firms will be particularly compromising without a level playing field for their

the impending entry of global firms[84]—and despite the functional reasons that law firm managing partners offer for resisting this new global marketplace[85]—it cannot be ignored that globalization of these services is poised to challenge the current stratification of the legal services market. As one managing partner of a top law firm commented, "'Outside India, legal services are a business . . . . Here it is a profession—we still have archaic rules. . . . I can't compete with a Clifford Chance. I don't have 6,000 lawyers.'"[86]

This institutional resistance to the entry of foreign players is an important piece in the transliterating process of international credentialism. It sets the framework for why the LL.M. might not always be viewed as an advantage in India. On the one hand, progressive employers could see the LL.M. as a necessary step in preparing their employees to face a global clientele. At the same time, the credential could also act as a potential threat to the status quo by discriminating against non-LL.M. lawyers who currently hold professional hegemony in a relatively closed system. While Indian firms have evolved structurally in response to global clients and competition,[87]

Indian counterparts. *See* C. Jayanthi & Prachi Karnick Pradhan, *Create a Level Playing Field*, FIN. EXPRESS (Oct. 15, 2007, 10:30 AM), http://www.financialexpress.com/news/create-a-levelplaying-legal-field/228363/0.

84. Not all firms are vocally resistant to globalization of the market in the same way. For instance, Zia Mody, managing partner of AZB & Partners, seems more neutral to the prospect of market liberalization, but continues to question the scope of its influence on a better judiciary. *See Foreign Law Firms Are Not Going to Help Us Get Better Judges*, HALSBURY'S L. MONTHLY (Sept. 2008), http://www.halsburys.in/foreign-law-firms.html. Others, such as Som Mandal, a partner at Fox Mandal Little, remain positive about the impending liberalization and have begun to embrace the opportunity. *See* Som Mandal, *You Just Cannot Stop the Entry of Foreign Law Firms*, FIN. EXPRESS (Oct. 25, 2006), http://www.financialexpress.com/news/You-just-cannot-stop-the-entry-of-foreign-law-firms/181568/.

85. *See, e.g.*, Cyril Shroff, *Deregulating India's Legal Market*, BUS. STANDARD, Nov. 1, 2007, *available at* http://www.business-standard.com/india/storypage.php?autono=302899 (Shroff, managing partner of Amarchand Mandaldas, detailing issues of practitioners' resistance to the opening of the market and the reasons for cautious liberalization).

86. *See Legally Barred: Will India Open Up to Foreign Lawyers?*, ECONOMIST (Apr. 24, 2008), https://www.economist.com/node/11090513 (quoting Rajiv Luthra, managing partner, Luthra & Luthra).

87. Large Indian law firms have, over the years, structurally moved away from family-owned models of ownership and organization to more egalitarian, achievement-based models. For example, Amarchand Mangaldas & Suresh A. Shroff & Co. (Amarchand), India's largest family-run firm, has responded to the increasing pressures and threats of global competition. *See* Shloka Nath, *India's Biggest in Law, Amarchand Mangaldas*, FORBES INDIA (July 30, 2010), http://forbesindia.com/article/boardroom/indias-biggest-in-law-amarchand-mangaldas/15382/1?id=15382; *see also* Kian Ganz, *Amarchand Opens Equity and Anoints Practice Heads to Kick off Five-Year Plan*, LAWYER (Oct. 17, 2011), http://www.thelawyer.com/amarchand-opens-equity-and-anoints-practice-heads-to-kick-off-five-year-plan/1009833.article (reviewing another step away from a kinship-based system: Amarchand's decision to open equity within the firm); Samar Srivastava, *A Look Back: India's Biggest in Law, Amarchand & Mangaldas*, FORBES INDIA, May 23, 2011, at 46 (detailing Amarchand's decisions to review management policies). For a general comment on the current tendency of Indian law firms to be family-dominated and the unsustainable nature of this organization, see Shloka Nath, *Elite Indian Firms Unlikely to Be Family Dominated in the Future*, FORBES INDIA (July 26, 2010), http://forbesindia.com/interview/magazine-extra/elite-indian-law-firms-unlikely-to-be-

the more general resistance to foreign entry holds important lessons for dissecting the value and import of the domestic resistance to global credentials. Together, this structurally protectionist institutional environment, in juxtaposition with the global, liberal aspirations of its individual occupants,[88] helps map much of the framework for understanding the LL.M. returnee experience.

III. THE CASE OF THE INDIAN LL.M. RETURNEE: THE FUNCTIONAL AND HALO ADVANTAGES OF AN INTERNATIONAL CREDENTIAL

While institutional frameworks at the organizational and national level are certainly pertinent to dissecting the LL.M. experience, it is clear that at its core, pursuing an LL.M. is an individual choice. Given that the lawyers who participated in this study return home without technical training or relevant experience, this choice is not so much about a more textured experience. Rather, it is about the value of a global legal education.[89] In a country such as India, where the LL.M. is a blurry marker, the choice to pursue this credential is a personal one.

family-dominated-in-the-future/15642/1 (interview with Reena SenGupta, founder, RSG Consulting).

88. Defining the limits and challenges faced by these individual occupants is crucial. Recall that the changes in legal education have fostered a new set of "outsiders," i.e., a cohort of middle class Indian students, who are now in a position to access global legal education. *See generally* Ballakrishnen, *supra* note 59; *see also* Swethaa Ballakrishnen, *The Curious Cycle of Non-lawyers at 17*, RES. FOUND. FOR GOVERNANCE INDIA (Jan. 27, 2010), http://rfgindia.org/blog/?m=201001 (discussing credentialism in Indian law schools). This offers different sorts of challenges to different employers. To those employers who did not train abroad, the LL.M. may signal a crude, unnecessary credential that threatens the years of experience that they are more likely to valorize. *See infra* note 104 and accompanying text. To the extent that these employers were trained abroad, they are likely to distinguish between U.K. and U.S. training (and valorize the former since they are more likely to have been trained in the U.K.). *See* Appendix A. Of the eleven employees who reported working for superiors with any foreign legal training, only four reported working for someone who had an LL.M. from a U.S. law school. *See* Appendix A (listing three employers, who employed a total of four interviewees). Of these respondents, two worked for the same employer. To the extent that employers themselves have U.S. LL.M.s, having someone with an LL.M. work for them can be a point of comfort and conversation (and in some cases, status), but only to the extent that the employee does not expect too much credit for this credential. For instance, as "T," who works in a firm where the managing partner has an U.S. LL.M., explains, "they are too smart for it." Skype interview with T, returnee lawyer who is currently practicing law in Chennai, India (Sept. 2012) [hereinafter Interview #19] (on file with author). Thus, differences in country of education, type of credential, and, to some extent, the lack of membership in the old elite lawyering class, are all variables that are used to signal closure by the domestic lawyers currently in power. In addition, the kind of organization also matters in this appraisal. *See, e.g.*, *infra* notes 115–16 (discussing returnees who choose to join academia). To the extent that there is a generational divide (given the number of returnees and their ascending position in these law firms), this might just be a temporary state until the current LL.M. returnees gain more control. Of course, it is only natural that this "new elite" will use their similar variables to signal control and closure to other "outsiders."

89. *See supra* note 17.

For many of the respondents, it was not a "choice" so much as it was an "obvious next step" from their LL.B. degree.[90] "T" recalled the timeline that led to his decision to pursue an LL.M.:

> I always knew I wanted to do an LL.M. . . . I come from a family of engineers—so an M.S. (Masters in Science) is a normal state of affairs. You assume for a law degree, the LL.M. is what you need to get. There was no past practice that gave me insight to what an LL.M. would actually give me. But I thought it would be good to have or to do. I figured it would be something that will expand my horizons and understandings. So in some sense, it was not just "scene building." I did not have many people who had done law in the family—there was a lot of walking in the dark and you just assume that a Masters is something you should do. But I did think it would give [me] a better perspective.[91]

"N," another respondent for whom the LL.M. was an obvious extension of the primary degree in law, responded with similar rhetoric about the decision to attend an American LL.M. program:

> We belong to a society where higher education is a big thing.[92] I always wanted to study . . . it was always in the background. For various reasons,

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90. Of the nineteen respondents interviewed, fifteen knew that they wanted to puruse an LL.M. within the first two years of their five-year law school program. Responses regarding timing varied (right after college, a few years after college), but respondents were certain that they would pursue an LL.M. at some point. Respondents in Interviews #6, #9, and #11 were the ones who did not specifically note that this path was obvious to them.

91. Interview #19, *supra* note 88.

92. Interview with N, fourth-year associate, in Bangalore, India (Aug. 2012) [hereinafter Interview #3] (on file with author). The "society" that N mentions in the quote (and provides context to in a later part of the interview) is the "Indian middle class," and "within that crop, the south Indian Brahmin community . . . my family." *Id.* This is important because it provides two independent contexts for why higher education might be treated as a natural additional step in domestic legal education in the Indian case: class (middle-class), and caste (Brahmin). Similar to T, *see* Interview #19, *supra* note 88, the informant here is responding to a larger social expectation that a tertiary degree will be pursued without "calculated effort." Interview #3, *supra*. For a study on how caste-based (dalit vs. non-dalit) expectations affect labor market expectations and outcomes in India, see generally Ashwini Deshpande & Katherine Newman, *Where the Path Leads: The Role of Caste in Post-university Employment Expectations*, 42 ECON. & POL. WKLY. 4133 (2007). For a more general explanation of cultural expectations of Hindu higher class, and especially the expectations associated with migration, see Gauri Bhattacharya & Susan L. Schoppelrey, *Preimmigration Beliefs of Life Success, Postimmigration Experiences, and Acculturative Stress: South Asian Immigrants in the United States*, 6 J. IMMIGRANT & MINORITY HEALTH, Apr. 2004, at 83, 85. For example, the Hindu high caste, the Brahmins, "are associated with knowledge, education, and societal respect. Despite the fact that these [caste] distinctions no longer carry the force of law, the ancient caste system is deeply ingrained in Indian culture and persists as a cultural force." *Id.* The dissection of the term "Indian middle class" is more complicated because "class" is more likely to be a variable independent (although not always) of economic status. Some prominent authors, such as Partha Chatterjee, argue that the new middle class is a product of English education. *See generally* Partha Chatterjee *A Religion of Urban Domesticity: Sri Ramakrishna and the Calcutta Middle Class in* 7 SUBALTERN STUDIES: WRITINGS ON SOUTH ASIAN HISTORY AND SOCIETY 40 (Partha Chatterjee & Gyanendra Pandey eds., 1992); Leela Fernandes, *Restructuring the New Middle Class in Liberalizing India*, 20 COMP. STUD. S. ASIA, AFR. & MIDDLE E. 88 (2000) (drawing upon Chatterjee's scholarship). As a consequence, the expectations and aspirations for this English-educated class expanded in the post liberalization era, as did the opportunities. *See generally id.* (reviewing the literature on this emerging intellectual class).

> including funding and the presence of real world experience, I waited a few years before I applied. And I am really glad I applied. If you think about it, the LL.M. is fairly certain for a lawyer—it is anything after[93] that requires a calculated effort.[94]

It is possible that the entrenched social expectations to which these graduates feel the need to respond are related to broader cultural status markers.[95] But while others were less clear about characterizing the LL.M. as an "obvious" next step, the sentiment of wanting to pursue an LL.M. manifesting relatively early was consistent across the sample.[96] For example, "S," a returnee who attended a specialized LL.M. program in the United States immediately after receiving her law degree in India, asserted, "I knew by my third year [of law school] that I would apply for an LL.M.—but I was not sure if I wanted to apply directly or work for a few years and apply after."[97] In addition, "Y" recalled that she was certain because she felt "restricted academically in the Indian law school" and wanted to "explore an international educational environment."[98] Thus, job market advantages aside, pursuing the LL.M. had rewards at a more personal level for these applicants. In this part, I offer an outline of the individual

93. Interview #3, *supra* note 92. "Anything after" refers to further education (for example, the S.J.D. or a Ph.D.). The reference this returnee makes is to the increasing trend of LL.M. graduates who pursue doctoral degrees after graduation. The careers of these returnees are outside the scope of this project but remain an important trend to follow. Many of these graduates pursue doctoral degrees to appease academic career trajectories that are global. This has also become increasingly common among graduates who wish to return and join the Indian legal teaching market because the value of the LL.M. varies from one school to the next. *See infra* note 148.

94. Interview #3, *supra* note 92. The data here do not speak to how class tempers these decisions, but it is not too much of a stretch to expect that there is a caste and/or class effect. The actual nature of this effect is particularly difficult to tease out due to interplays between class and caste in India. To the extent that class is a socioeconomic, caste-dependent variable, there seem to be some cultural expectations attached to it, but it is uncertain how empirically sound this assumption is. In fact, in his early work on Indian lawyers and political modernization, Peter Rowe observed no empirical evidence for such a caste-based generalization, despite noting that "[i]t is widely believed that Brahmin and other upper castes are predominant in India's legal profession today." Peter Rowe, *Indian Lawyers and Political Modernization: Observations in Four District Towns*, 3 LAW & SOC'Y REV. 219, 223 (1969).

95. For a review of how cultural markers and capital affect and influence interactions, aspirations, and achievement in education, see Paul DiMaggio, *Cultural Capital and School Success: The Impact of Status Culture Participation on the Grades of U.S. High School Students*, 47 AM. SOC. REV. 189, 189–90 (1982). While DiMaggio's research is on U.S. students, the theoretical union he weaves between Bourdiue's cultural capital and Weberian status groups has a useful application in this case.

96. A recent article citing results from an LL.M. survey of twenty-five Indian law students between 2009 and 2011 offers a similar vein: "40% (of students) said they felt their legal education would be incomplete without an LL.M." Ganz, *supra* note 46 (quoting from Rohan Kaul's LL.M. survey). *See* Kian Ganz, *Opportunities Sparse for US LLM Degree Holders*, MINT (Nov. 19, 2007, 1:23 PM), http://www.livemint.com/2012/01/19213914/Opportunities-sparse-for-US-LL.html?h=B.

97. Interview with S, third-year associate, in Delhi, India (Aug. 2012) [hereinafter Interview #5] (on file with author).

98. Telephone interview with Y, fourth-year associate, in Bangalore, India (Oct. 2011) [hereinafter Interview #10] (on file with author).

functional and halo advantages that this credential offers for the Indian returnee.

A. Functional Benefits

At the outset, it could be easy to assume that it is a clear case of information asymmetry—without clear understandings of the way the market treats the credential, one could argue that law graduates seek international degrees in the hope that when they return, this additional advantage will be beneficial to them in their home markets.[99] But this was often not the case. Most respondents were well aware that their training at the graduate level would not directly benefit their career prospects when they returned home.[100] Domestic employers, especially those who did not personally have a similar credential, were unlikely to give the degree too much credit.[101] Pursuing an LL.M. was a personal choice for validation and achievement—independent of the possible labor market gains it could offer. As "V," an attorney who was returning to a big-city law firm explained:

> This year [away] makes no difference to [my employer]. As far as they are concerned, I am taking a year off from work—you know, an American holiday of sorts. I am doing this for me. But I am lucky, because when I go back, I get to start at the same level where I was when I left.[102]

V further remarked, "[O]thers have to re-apply for the same jobs and many are not lucky."[103]

Similarly, another respondent who returned to work for a law firm spoke of the advantage of the credential: "Monetarily or in terms of position, it makes no difference. Work experience trumps an LL.M. If you think you are going to get a job because of your LL.M., you can forget it."[104] Interestingly, this was not knowledge that these returnees acquired after the LL.M. As another returnee put it:

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99. *Cf.* Silver, *Internationalizing U.S. Legal Education*, *supra* note 10, at 158 ("[C]oming 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."); *see also* Silver, *supra* note 14, at 24. *See generally* Silver, *supra* note 17 (discussing reasons why graduates stay in the United States).

100. The exception to this was the group of people trying to reinvent themselves by changing fields (usually, from litigation to academia or from firm to solo practice). *See infra* note 114 (discussing one possibility of innovative job extensions that the LL.M. offers).

101. The reception that these returnees have received is not the same in all countries. For example, in Korea and Latin America, LL.M. returnees are seen as particularly poised for spearheading international practice. *See* Silver & Freed, *supra* note 8, at 25.

102. Skype interview with V, fifth-year associate at large law firm, in Mumbai (Bombay), India (Sept. 2011) [hereinafter Interview #16] (on file with author).

103. *Id.* This view is consistent among the nine respondents in the sample who returned to law firms.

104. Interview with X, litigator, in Delhi, India (Sept. 2011) [hereinafter Interview #13] (on file with author).

> I was told before I went, by both my peers and my seniors, that the LL.M. would not help me get a job when I c[a]me back—but I knew I would not lose a job because of it either. I was just starting out—what difference was one year going to make? I knew I always had my law degree to fall back on. I might start a year later than everyone else in my class on the law firm track, but that was okay for me.[105]

In addition to these disadvantages at the institutional level, there are also monetary hurdles to pursuing an LL.M. Although all respondents had some financial aid from the schools they attended,[106] an LL.M. was still an expensive endeavor because of the steep costs of living in, and traveling to, the United States.[107] Given these seemingly steep hurdles and respondents' imminent return to a market that was likely to exacerbate them, what prompted these students to pursue the U.S. LL.M.?

At the outset, many of the advantages that have traditionally been associated with the LL.M. continue to persist in India. Students are aware that an American graduate degree holds limited substantive relevance for practice in their home jurisdiction,[108] but find that the overall experience is

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105. Interview #10, *supra* note 98.

106. Thirteen respondents had partial tuition waivers, four received full waivers; and the remaining two had some sort of financial support either from the school or a supporting institution. *See* Appendix A. Still, there remained costs of travel, boarding, lodging, and incidental fees that required all respondents to either support their education or take out loans. Of those interviewed, seventeen had taken out student loans to support these expenses, *see* Appendix A, and were conscious of the monetary burden. For example, a returnee who enjoyed the LL.M. experience but was nervous about the financial burden it placed on his/her family, commented:

> I got a 50 percent waiver. I knew I wanted to come back to India and work in the non-corporate circuit. So, in some ways it seems so crazy that I decided to go. And in fact, truth be told, I had no intention of doing this at all. For all I know, if my mother had not taken out a loan on my behalf and forced me to go, I would not have gone. So, in some sense, I guess I can say this would not have happened if not for my mother. I was not on a "foreign LL.M. trip" by any means. It was a great experience and it transformed me—but it came at a price.

Telephone interview with P, legal academic and lecturer, in Delhi, India (Sept. 2011) [hereinafter Interview #11] (on file with author). This returnee left after years of practice in both the corporate and non-corporate sector and came back immediately after the LL.M. to join academia.

107. LL.M. programs range in cost depending on the school and location, among other factors. In some estimation of the range, Syracuse University College of Law, a private school in a relatively small city, estimates $49,500 in tuition fees and an additional $18,300 for housing and other expenses for the 2012–13 academic year. *See 2012–2013 Estimated Cost of Attendance for the LLM Program*, SYRACUSE U. COLL. L., http://www.law.syr.edu/admissions-and-financial-aid/admissions/llm-program/llm-estimated-cost.aspx (last visited Apr. 21, 2012). Public schools with LL.M. programs are also expensive. For example, the University of North Carolina at Chapel Hill estimates a total program cost of $55,081. *See Program Costs*, U. N.C. SCH. L., http://www.law.unc.edu/admissions/llm/costs/default.aspx (last visited Apr. 21, 2012). In contrast, Harvard Law School estimates at least $72,800 in tuition, fees, and expenses. *See Financing LL.M. Study at Harvard Law School*, HARV. L. SCH., http://www.law.harvard.edu/prospective/gradprogram/llm/financial-aid/index.html (last visited Apr. 21, 2012).

108. The exception is when students apply and are accepted to a specialized LL.M. program. Tax and Intellectual Property specializations, in particular, are seen as highly transferable even if the actual laws are different. *See infra* note 125.

worthwhile to them because of personal value.[109] For some, this value is the access to international resources and contacts, even if they have not yet begun to use these networks.[110] For instance, one respondent said, "I like being part of an international community. I still keep in touch with my friends and I don't think of them as 'useful' but who knows? It is just friendship now, but perhaps there will be other advantages in the future."[111] For others, it was just the experience of living in a new country that offered this personal satisfaction.[112] In addition to these more personal rewards, two functional, individual rewards were more common across the interviews: (1) the access to an intellectual environment that offered educational rewards beyond substantive technical knowledge; and (2) the ability to (or the possibility of) personalizing career trajectories.

Most, if not all, respondents characterized the LL.M. experience as a ripe intellectual environment that, even if not substantively similar to India's domestic law, offered other lessons that translated to practice in India (an advantage that the other LL.M. studies have shown[113]). As one respondent pointed out with respect to the experience at a law school in the top ten of the *U.S. News* rankings:

> [I]t was a stellar academic experience. I don't think it got me to *change* my thinking about corporate law. It got me to *start* thinking about these subjects more than I did before. I think through them, and don't just go through them mechanically, which is what happens when you study corporate law in India. I had no deep interest in corporate law when I started working, so going to [a top ten U.S. law school] made the field

109. There are many ways in which "personal value" is determined and, as the name suggests, the import is subjective. Take for example, respondent N, who returned to a law firm but wanted to preserve her ability to do non-corporate work. *See* Interview #3, *supra* note 92.

110. There was a common thread of holding out for the possibility of using these networks, in the event circumstances at the institutional and regulatory levels were more relevant and useful. For example, some returnees, such as V, mentioned the imminent increase in foreign clients at transaction tables, *see* Interview #16, *supra* note 102; *see also* Interview #19, *supra* note 88, while others mentioned the possibility of someday opening their own practice, *see* Skype interview with B, seventh-year associate, in Hyderabad, India (Oct. 2011) [hereinafter Interview #18] (on file with author), and using these global networks to attract and retain clients. More generally, most returnees speculated about the increasing liberalization of the markets and the corresponding work and collaboration opportunities, which the possible entry of foreign law firms into the domestic market could multiply. The investment, then, was in the possibility of what these networks could reap in the future, rather than what they afforded their members at the time.

111. Telephone interview with C, litigating attorney with his own law practice, in Hyderabad, India (Sept. 2011) [hereinafter Interview #7] (on file with author).

112. For almost all respondents, this was the first time they were living on their own in a foreign country, which was a novel experience. As one respondent recollected, it exposed them to a "different paradigm" because it involved "starting from scratch" in a city where they knew nobody. Telephone interview with D, litigator in state high court, in Bangalore, India (Aug. 2011) [hereinafter Interview #15] (on file with author). Another recounted: "I did not have a phone for ten days when I first got to D.C. and I knew nobody in the city—it was awesome trying to figure out how to make it work on my own for the first time in my life." Interview #10, *supra* note 98 (this respondent enrolled in an LL.M. program immediately after graduating college and was living alone in a new city for the first time).

113. *See, e.g.*, Silver, *supra* note 14.

> interesting for me . . . . But there are still bits of this life that I have brought back into my work now, so this training will always be helpful.[114]

Similarly, another returnee, who left a conflicted career of teaching and practice to enroll in a U.S. LL.M. program and subsequently returned to academia with certainty,[115] described the "tools"[116] that were most useful from the American law school experience:

> [T]he discourse on law and the depth of knowledge as well as the introduction to jurisprudence were all obvious advantages. I remember this seminar that I was in at [a top twenty-five U.S. law school]—it was such an interesting way to analyze law—just being in that class gave me tools that another class would not have given me . . . . What we need is this intellectual tool, not actual hard law. So even when it does not meet substantial training goals, access to these intellectual tools was just such an "American law school thing."[117]

The wealth of this experience, in turn, helped crystallize career choices. In fact, the conceptualization of the LL.M. as a commodity that helped direct career trajectories was a powerful and common theme among the returnees. Some found the LL.M. to be the sort of catalyst for reinventing their entire careers, while others saw the experience as a way to add variety to their existing careers in slight ways. Take, for example, "P,"[118] who worked for four years in both corporate and non-corporate law jobs before the LL.M. and returned full-time to academia. P's experience with the job search process was affected by the LL.M.:

> I interviewed for a position on gender and law in [a non-corporate firm][119] and I was the only male applicant they seemed to have called for the interview—but I think they could not refuse to interview me because I had an [elite school] LL.M. I think the fact that I have an [elite school] LL.M. has made people more comfortable paying salaries that they would

114. Interview #3, *supra* note 92.

115. Telephone interview with R, legal academic, in Delhi, India (Oct. 2011) [hereinafter Interview #9] (on file with author). This returnee practiced law and taught law on and off for five years before coming to the United States for an LL.M. While initially unsure whether research and academia was the career path that made most sense personally, R returned to academia, encouraged in large part by the positive (and fully funded) intellectual experience during the LL.M. year.

116. All three respondents who returned to research and/or academic careers mentioned this intellectual advantage in some form. This is not to say that the intellectual, transferable advantage of the LL.M. was limited to only those who returned to careers in research and academia.

117. Interview #9, *supra* note 115.

118. Interview #11, *supra* note 106.

119. This institutional preference was commonly reported. Alternative law practices (such as research firms and law-based NGOs), which allow and encourage different applications of legal knowledge and research, seem to give weight to an LL.M.—especially one from an elite school—that was earned pursuing research and theoretical training scarcely available in India; this is because they see it as signaling an applicant who enjoys research. Corporate law firms and litigation practices, on the other hand, seem more indifferent because they do not think of this as a skill necessary for training and producing effective firm lawyers.

> have otherwise not paid me—it has opened doors to what I can do with my degree, which I would not have had before—at least not to the same extent.[120]

In all, P described the decision to go to the United States for an LL.M. as a "wise one," despite the debt owed. This was because of the range of options the LL.M. offered upon return: "[E]ven if I could have done the exact same work before, my capability would have not been as legitimated without the LL.M."[121] P continued:

> [I]t is not that the LL.M. has catapulted me into a different league of teachers. But the LL.M. gave me a year off work that helped me read a lot. A similar year off in India would not have given me that opportunity to go through texts with these great people. So it broadened my horizon but I am hesitant to say it was all the LL.M. I thought I had a really strong legal education in India and the LL.M. helped accentuate it but the LL.M. was not where I got that legal thinking. But the LL.M. has given me a wider repertoire of things, and a greater legitimation to navigate more courses with greater confidence than before. Before that, I was pretty much just hacking away at text. But to be in [this sort of a global] class[room] . . . [gives you the chance of] conversing with the people [who wrote the very books] you are reading . . . it lets you believe that the theories you have are not wildly improbable . . . .[122]

While in P's case, the LL.M. offered legitimacy to a new career trajectory (full-time teaching), there are other instances where the LL.M. is equally useful in offering innovative extensions to traditional job descriptions. Take for instance, N,[123] who returned from an LL.M. program to work in a law firm (which was not at the top of N's career choices before the LL.M.), but wanted to preserve the ability to do non-corporate work:

> For a personality like mine, I like doing non-law firm work as well as research and having a connection to a law school outside the country helps you make that linkage. For example, my professor in comparative law, every time he needs something on Indian law, will reach out to me . . . and it's nice to stay involved in research. Now something I wrote for him, a small bit of research, is appearing in a book that he is publishing. I am really looking forward to the book coming out. And these sort[s] of opportunities from the LL.M. are what really make[] me happy—the ability to retain the connection to academia—it is the biggest benefit—it is not quantifiable because it's not monetary: it's just personal satisfaction.[124]

Thus, the LL.M. was an intellectual getaway both for those looking for training as well as those wishing for a break to reevaluate their existing

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120. Interview #11, *supra* note 106.
121. *Id.*
122. *Id.*
123. Interview #3, *supra* note 92.
124. *Id.*

knowledge. Upon return, the experience transferred in ways that a direct analysis of "advantage" in the Indian case might not have relayed.[125]

B. Interactional "Halo" Advantages

While there are certainly personal rewards associated with the LL.M, it would be incomplete to say that the LL.M. is purely an individual variable. On the one hand, there are intellectual awakenings and career refurbishment opportunities for these returnees, but against the backdrop of the Indian professional and organizational landscape, surely the interactional currency of this credential must matter. Given the time and financial commitment invested by these returnees,[126] it seems only natural that there is some expectation (and accumulation) of outside recognition to owning this credential, even if it is not directly rewarded through labor market benefits such as pay increases and promotions.

For instance, earlier this year, I met "Q," a 1999 returnee and a practicing litigator in the Supreme Court of India, whose business card had the LL.M. credentials in bold. As someone who has been in practice for over a

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125. What was interesting, however, was the way in which this advantage was dissected by returnees. For instance, the returnees who had a specialized LL.M. were skeptical of those who had a "general LL.M." *See, e.g.*, Interview with R, independent high court litigator, in Chennai, India (Sept. 2011) [hereinafter Interview #2] (on file with author). Those who were returning to academia were unsure of "why people who want to stay in law firms would want to do this." *See, e.g.*, Interview #9, *supra* note 115. And all returnees were dismissive of people who paid for an LL.M. (arguably a large proportion of the LL.M. population) as people who could "afford an American joy ride." *See, e.g.*, Skype interview with E, legal researcher, in Delhi, India (Oct. 2011) [hereinafter Interview #8] (on file with author). This shows that while the experience was personally validating, returnees were still skeptical about the advantages it bore for "others." Take this particularly telling example of a returnee who went to the United States for a specialized LL.M. with partial funding:

> You know how some people go to the U.S. for a "General LL.M. experience"? Well, people tend to do things . . . and there is nothing wrong with it . . . you know, for some people to take a few corporate type courses, other courses they won't have a chance to take elsewhere, it becomes an intellectual vacation of sorts. I don't mean to make it sound contentious for it is a much nicer way to spend a year than doing nothing . . . and I don't mean to make it sound like it is a bad thing—but I wonder if they get anything out of it. Especially since the market is so difficult and jobs are hard to come by and especially given that they can be in front of their recruiter, it seems like the general LL.M. experience has so little advantage. If you don't know what you want to do, doing an LL.M. is pointless.

Interview #2, *supra*.

126. This is in contrast to other students from the Asia-Pacific region, who are well poised to receive financial support from their employers. *See* Silver, *Internationalizing U.S. Legal Education*, *supra* note 10, at 164 ("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 LL.M. program."); *see also* Silver & Freed, *supra* note 8, at 24–25. In Silver and Freed's data, more than 25 percent of LL.M.s from the Asia-Pacific region were financed by their employers, a larger percentage than any other group in their study. *Id.* Their study did not contain data on Indian LL.M.s, however. *Id.* In the data this Article uses, none of the returnees' LL.M.s were financed (or had the option of being financed) by their employers, nor was this mentioned as a common practice in the profession.

decade, Q acknowledged that the LL.M. does not feed actual day-to-day practice in any way.[127] But having the LL.M. "does not hurt," especially with clients and other colleagues who have similar credentialing.[128] Thus, the credentialing of the degree, irrespective of its technical consequence and input, is valuable because of the elite membership it signals—especially to clients and other members of the legal community with similar credentials.

P, a more recent returnee,[129] spoke similarly about how the prestige of the LL.M. matters a great deal to the people evaluating the credential:

> Having this LL.M. is like having a name that is not easy to shake off . . . it has given me cultural capital that has been useful, especially among circles that have similar experiences and have been there themselves. I won't lie—before going [for an LL.M.] I would have pooh-poohed [the experience] but after coming back, I can see how it works.[130]

P's confession—that he would have dismissed the LL.M. if it was not something he had attained himself—is telling because it speaks to how the value of the credential fluctuates depending on the receiver of the information. In some sense, the "LL.M. tag" continues to be useful in validating competency, but only so long as it is being used in networks that receive it in a favorable capacity. As one litigator returnee offered:

> It signals different things to different people. I am not going to get clients just because I have an LL.M.—I need to be good at what I do. But if a client thinks I am a graduate from [a top ten school], of course that helps. Then he can say, "My lawyer went to [said school]" . . . there is definitely potential for that name-dropping. It might not help if it is from a school that the client doesn't know . . . . Although, there might be cases where the client, depending on the client, might feel like having someone who has a foreign education is prestigious. It is not the degree. It is what it says about you and their reasons for choosing you.[131]

Thus, two factors can offer these halo advantages. First, the LL.M. credential can be valorized by others who own similar credentials.[132] In this case, the halo advantage is the advantage of membership in a known circle of experiences that these like-minded clients and colleagues value (as in the case of P). Second, audiences plagued with certain information

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127. When asked, Q shrugged away the possible advantages of the LL.M. in practice: "[Y]ou have to be here [in the Supreme Court] to learn how it works, no theoretical knowledge is enough if you have not actually been here." Interview with Q, Supreme Court Advocate, in Delhi, India (July 2011) [hereinafter Interview with Q] (on file with author). Note that Q was not in the sample because we did not have a full-length interview.

128. Q added, "[B]ut that year away was an amazing experience . . . . It does not directly help me, but it does not hurt." *Id.* Q, who is active in the alumni association of his alma mater, mentioned that the LL.M. education provided a useful networking opportunity, especially for someone in litigation. *See id.*

129. Interview #11, *supra* note 106.

130. *Id.*

131. Interview with F, independent high court litigator, in Chennai, India (Aug. 2011) [hereinafter Interview #12] (on file with author) (litigator in a state high court who returned immediately after completing a U.S. LL.M. at a top twenty-five school).

132. *See supra* note 88 (discussing how these dynamics work in employer–returnee interactions).

asymmetry (for example, clients in the case above[133]) can extend a halo appreciation for the LL.M. because it reflects their choice of a generic "superior" lawyer.

This signaling function of the LL.M. is not limited to litigation practices. Returnees who join firms often comment on the advantages of "knowing the landscape" of American life because of the year of living there and how this point of conversation has helped forge new relationships with clients. Yet, here too, there is a negotiation for how the same credential can work differently with different clients and how this impacts the advantages one can leverage with an employer.[134] "T," a returnee who works in a law firm,[135] offers a good example of how this credential works in different circumstances[136]:

> In certain networks and among certain clients, the LL.M. issue always helps—a little "oh, you studied abroad" can make some difference in how you are seen among people who have similar degrees or clients who like having a foreign-trained lawyer. In [my law firm], since we have so much international work, there is the additional advantage . . . of the connection you can make with a client or of counsel in a boardroom or negotiation table. It can help start a new conversation: "Oh, you went to this school? So did I." . . . Of course, they are usually J.D.s, but it still helps make a connection.[137] On the other hand, the average Indian client likes that you have gone to the U.S. It is simple . . . .[138]

This interactional advantage that the LL.M. offers with the client is a useful contrast to the kind of message it offers to the firm management that employs the returnee. As T elaborated:

> But it [the LL.M] does not always matter [to the employer]. In some sense, it matters to the extent that it can get clients—but that seldom is the case because the LL.M. is useful to add value to an existing relationship,

133. *See* Interview #12, *supra* note 131. This refers broadly to the potential effects that an LL.M. from an unknown law school might have on a client audience with limited information. The limitation in this Article's data is that there is not enough variation to tease out if this signaling is just for "any" foreign LL.M. or if names matter (especially within certain networks). Teasing this distinction apart is important to understand what justifies the investment of going to schools that are not well known in general and not well known in India. Unfortunately, given the specificity of the sample, the data do not speak to this distinction.

134. In a more independent litigation relationship, *see, e.g.*, Interview #7, *supra* note 111, this relationship with the client is more stand-alone.

135. *See* Interview #19, *supra* note 88.

136. Other research has been similarly cognizant of how the same credential can be valorized differently in various circumstances. For instance, the LL.M. is regarded differently by national and international firms even within the same country. *See generally* Carole Silver et al., *Between Diffusion and Distinctiveness in Globalization: U.S. Law Firms Go Glocal*, 22 GEO. J. LEGAL ETHICS 1431 (2009).

137. The interview did not offer any evidence of this, and other data do not pick up on it directly either—but one cannot help but wonder if the LL.M. vs. J.D. status distinction that Silver finds in her early work is part of the negotiation process that these returnee credentials have to work through. Do J.D.s value having an LL.M.-trained Indian lawyer in the boardroom? This question is, of course, outside the scope of this data, but it is an important question nonetheless.

138. Interview #19, *supra* note 88.

> but not enough [to make one] . . . but to the extent you are trying to get an advantage out of it, it is not going to fly. [The employers] are too smart for it . . . . Unless I have done something really specialized over and above the LL.M. which I can leverage, I can forget about it. But, it is hard to get something that specialized . . . . The LL.M. is a great foundational course and it helps you with having a working knowledge . . . and that is great but that is all—you cannot stretch it too much more than that. [The employer] won't let you.[139]

In all, while there are certain signaling effects of the LL.M., they come with restrictions. Most obvious of these is that the LL.M. is not always celebrated. Employers, especially those without similar credentials or signaling advantages, are unlikely to bestow added value for "just having an LL.M."[140] As a result, returnees are conscious of the fine line they must toe,[141] while at the same time trying to leverage their credential to the extent they can. This negotiation by the U.S. LL.M. returnee, in which she attempts to navigate her surroundings, is a core interactional process with tensions. On the one hand, the emerging local educational systems are reproducing graduates intent on chasing global credentials both for their own enhancement as well as the opportunity to capitalize on preparing for an open, more global market. On the other hand, the kinship-reliant old elite, who still maintain core hegemony over the profession, often resist over-valuing this credential. The LL.M., then, is not valorized in an entirely meaningful way because the returnee seeks recognition among a breed of lawyers, currently in power, who utilize a different currency (i.e., kinship and connections) while simultaneously being threatened by this new, emerging counter-currency (i.e., global exposure and credentialing). Over-championing the LL.M. might be detrimental to their power status within the already-fragile stratification. Another returnee, who works in a big-city law firm,[142] offered commentary about the international LL.M. experience and this over-championing:

> Sure, I know a few things about international law and when a [foreign] client brings it up, I can use this knowledge in the boardroom. And when E [the employer/partner] sees me using this, E is happy that I can communicate with the client in this new technical language that the client understands. But E also knows not to let me take too much advantage from that exchange . . . . Besides, it won't take any time for E to catch

139. *Id.*

140. *Id.* One can expect that, subject to conditions in the future, there might be a transformation of these signaling advantages. When these returnees are in evaluative positions, the interactions with subsequent returnee-employees might be different. *See, e.g.*, *id.* (detailing some instances of this differential valorization process depending on the employer's own perception and ownership of the credential).

141. This is, of course, not a binary tension. *See supra* note 137 and accompanying text; *see also* Interview #19, *supra* note 88 (explaining that employers are "too smart" to take the LL.M. at face value).

142. Telephone interview with "L," sixth-year associate, in Mumbai (Bombay), India (Oct. 2011) [hereinafter Interview #14] (on file with author).

> on . . . . At the end of the day, [the knowledge from the LL.M.] is useful but it is still just a starting advantage, not a distinction.[143]

In some sense, between the employer and the returnee, there seems to be some tension in trying to persuade the employer into appreciating or "liking" this global credential. This process of negotiation is not strictly an employer–returnee dynamic either. It sometimes spills over to interactions with coworkers and colleagues in the profession too. Returnees, especially those like P, who recognize that the credential might be "pooh-poohed," are careful not to seek an advantage because of their LL.M. in certain circumstances. As one returnee commented on this potential faux pas, "You don't want to be that person who drops the LL.M. tag"[144]—and especially not in front of someone who can "call you out on it."[145] It is this process of persuading various actors (employers, peers), who own different resources (old network ties, domestic non-elite legal education), to value and appreciate the LL.M. credential that emerges as the crucial interactional component in the returnee story.

IV. CONCLUDING THOUGHTS: THE TRANSNATIONAL EXCHANGE OF THE CREDENTIAL AS A PROCESS OF "GLOBALIKATION"

In some sense, this is a story of how people make choices and how these choices shape their identities. Even among returnees for whom the LL.M. was an "obvious next step," it is clear that making the commitment to pursue an international credential, while cognizant of a particular home environment, is a choice.[146] Similarly, having gained the credential, returnees' use of the LL.M. in a potentially apathetic or even hostile home country hinges on context because different people return to different work and life environments.

There is some evidence that the LL.M. offers the choice to be creative with one's career upon returning home, but it is safe to say that at least some of this choice is circumscribed by institutional restrictions on where and how the LL.M. is valued. At the outset, organizationally rigid structures such as firms and companies seem more resistant to valorizing

143. *Id.*

144. Interview with "H," high court advocate, in Chennai, India (Sept. 2011) [hereinafter Interview #17] (on file with author) (returnee is a litigator who works for a firm). The comment was made while talking about the ways in which friends and colleagues who did not have an LL.M. perceived the credential; many felt that it was a "waste of resources." *Id.* Trying to return to a firm hierarchy where many people do not have LL.M.s is difficult, and returnees find that trying to leverage the degree as applicable training that deserves acclaim is a "tricky process" because of how objectively inapplicable it seems. *Id.* H also made a comment about how "it is not like a degree from Oxford or somewhere in the U.K." *Id.* Firms might not give credit for a year off for a U.K. degree, but perhaps there is a distinction in the way the U.K. credential is perceived because it has historically been seen as "more applicable."

145. *Id.*

146. Even returnees who stated that the LL.M. was an "obvious path," *see, e.g.*, *supra* note 90, admitted that this "given" was subject to certain conditions (getting into their choice of school, and subject to being able to afford the expense).

the LL.M,[147] while academic institutions[148] and nonprofit[149] firms are more likely to value it. Yet, individual appraisals of the credential, even in institutions that valorize it, suggest that this value is constantly in flux and shaped by a range of factors, both direct and assumed. As Part III demonstrates, the same credential that is seen as valuable in one context can be perceived differently in another. Take, for example, this returnee's experience[150] of "shopping the LL.M." in the otherwise LL.M.-receptive Indian academic market:

> [I]n academia, the names do matter, but not so much in practice. To some extent, it is the leverage you can get—but you have to use it in a right place to really capitalize on the advantage of the LL.M. I don't know if it is a good or bad thing but in the academic field, having an LL.M. does not always help. [School 1] is hyper-sensitive to foreign LL.M.s but most schools do not care particularly. Schools with global tags are more likely to see it as an international marker and standard, but in other situations it does not mean anything anymore. In some . . . [private] schools it may matter more for the tag it comes with . . . but it is not like that in [public] Government law schools. There they don't reward [the LL.M.] just for the sake of it—it is what you do at these schools, not just where you went. . . . Just going abroad won't help you.[151]

The account above is one more example that speaks to the contextual significance in understanding the advantage of the LL.M. and the identity of the returnee. While the data suggest that there are certainly various advantages (both functional and halo) that accrue at the individual level,[152] placing the data in the institutional context offers us ripe insights into the globalization process of signaling and association. But these levels of analysis alone may not be enough. It is obvious that in any transnational process, negotiating global boundaries and hierarchies is a necessary hurdle—and it is no different in the case of the U.S. LL.M. This process, however, has traditionally been viewed at the level of the *individual* (such

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147. There is some evidence that newer firms are appreciative of the creative ability that students with LL.M.s bring to the practice. There continue to be no additional pay or promotional benefits to having an LL.M., but its conceptual value is nevertheless appreciated. *See* Interview #3, *supra* note 92; Interview #10, *supra* note 98.

148. *See* Interview #9, *supra* note 115. Speaking about the particular advantage of the LL.M. in academia (especially in the context of some schools being "hyper sensitive" to LL.M.s), this returnee stated:

> I teach in a school which is a mafia of all foreign LL.M.s because they are trying to globalize the law school experience. Surely, it matters if I have an LL.M. . . . The more I teach here, I realize that the foreign education helps but the real goal is to be able to reform the pedagogy for students here . . . and I don't think just [an] LL.M. is enough—nine months and two semesters does not really help you write enough to make a difference to crack the academic market.

Id.

149. *See, e.g.*, Interview #11, *supra* note 106.

150. Interview #9, *supra* note 115.

151. *Id.* Here, the returnee is contrasting private schools, which are usually administered by globally trained academics, with government and state schools that are more resistant to afford "halo" privileges to LL.M. returnees. Given the disproportionately low number of private schools to public schools, this resistance is significant.

152. *See supra* Part III.

as studies of advantages accrued as a result of the LL.M. to the individual) and the level of the *institution* (such as studies of contrasting country environments where the LL.M. is transported). I suggest that perhaps we also need to think of it as a process that has a locus at the *interactional* level.

Thinking of a credential as either a commodity that is owned, or as a set of advantages that accrue to the returnee, limits our analysis to the individual level. Similarly, thinking of this credential as something that is accepted and valorized differently depending on the country blurs the importance of interactions that happen between these two levels. Part III's examples of returnees using the credential differently in interactions within the same organization suggest that there are ways in which returnees signal the credential to different individual actors (clients, employers, recruiters, and peers) and institutional actors (firms, global academic institutions, public academic institutions, and nonprofit organizations) in different interactional environments. Further, even within large institutional and individual arcs, there are multiple meanings and values associated with this commodity that depend on the interactions that surround it (for example, the returnee whose LL.M. is openly valued by the boss because it helps communicate with foreign clients at the boardroom, but still remains very cognizant that it will not matter in any other meaningful way). The process of navigating and signaling the LL.M. credential, then, is a fluid one that requires an emphasizing or obscuring of the credential, depending on context. And it is with the addition of this component that the true advantage of the LL.M. returnee emerges.

Thinking of this credential as an interactive process adds a new dimension to the way this educational capital is conceived. In some ways, this process of playing the LL.M. up and down can be thought of as a cautious negotiation to get the interactional dynamic to reflect positively on the LL.M. Thus, this is a process of *globalikation*: a process of negotiating institutional hierarchies and interactional dynamics into "liking the global." And in a context that is resistant to foreign entry, this process of *globalikation* is a contested but crucial one.[153]

It is important to be cognizant of this process of *globalikation* because it gives us insight into the ways in which the entry of global commodities is negotiated in developing countries. This is not to say that the individual levels of analysis have to be ignored. At the basic level, this process of *globalikation* is conceived of at the individual level; that is, to the extent

153. What might aid the *globalikation* process is the advantageous network position that these returnees will hold in a liberal market. Given the increasingly liberalized position of the Indian economy, even if the Indian legal market does not open, returnees are poised to hold key brokerage positions as bearers of information that can be integral in transferring knowledge between two otherwise disconnected networks. *See, e.g.*, HERBERT M. KRITZER, THE JUSTICE BROKER: LAWYERS AND ORDINARY LITIGATION (1990) (characterizing litigators as owners of informal expertise that is a powerful intermediary between clients and professionals); Sida Liu, *Client Influence and the Contingency of Professionalism: The Work of Elite Corporate Lawyers in China*, 40 LAW & SOC'Y REV. 751 (2006) (describing Chinese elite law firms in a manner consistent with this paradigm).

that the LL.M. is thought of as personal journey with ensuing rewards, there is appreciation (or "like") for this global credential. It is the transformation of this personal value into a professional advantage that becomes the challenge.

It is here that interactions become relevant. Analyzing this at the interactional level allows us to appreciate it as a resisted process. This resistance and boundary formation are integral to a consideration of transnational practice and training in the legal profession. In this way, the research that my colleague, Carole Silver, and I present here, about the ways in which LL.M.s are received in global legal markets both within and outside the United States, holds important lessons for how we think of the global legal profession.

Of course, there are obvious limitations to the extent to which this explanation of *globalikation* can be extrapolated from the current data. Without broader and more representative variation in the data, one cannot speak to the more subtle effects of class, reputation, and networks. Even the effects of gender in the workplace (an important and crucial research agenda to pursue),[154] and the advantages that women returnees have in comparison to men, were not evident in this data because there was so much homogeneity in the schools they attended both in the United States and in India.[155]

Further, while the interview data partially illuminate the potential direction of this process, *globalikation* as an interactional variable necessitates participant observation or ethnographic data. While useful as a point of first instance to suggest these different processes, these data do not have enough variation to offer an explanation for how returnees with starkly different levels of domestic experience in the Indian legal market use the LL.M. With more people accessing this credential, the process of *globalikation* for people who return with this newly minted credential today might be different from their successors in two decades. For one, *globalikation* might be a less contested process because more people might know about it (and be reaching for it themselves). At the same time, *globalikation* might become irrelevant because the market might demand this international credential from its participants regardless of whether it is "liked" interactionally or not. To this extent, too, the "liking" itself might be as relevant at the individual level as it is at the interactional level—people with access to different capital within the legal system (the old elite capital of networks and kinship versus newer signals of capital such as international credentials) are prone to be situated differently in relation to

154. This is the focus of my current research project—the advantages and labor market challenges for women in emerging global legal professional spaces.

155. There is a selection bias in this, however. Most respondents attended private schools and went to either one of the National Law Schools or a well-known local school in their area. *See* Appendix A. While there is no large-scale data to speak to this, it is not too much of an extension to assume that these were the students who were most likely to gain admission to the U.S. LL.M. schools, or for whom this was a serious option worth considering. Within this homogenous group, it is probable that gender differences were less likely to emerge because of a balancing class effect.

this *global liking*. We see some evidence of this in the data, but it is likely that it is a more nuanced process that is rooted in individual variables, such as education, economic and social status, and some measure of cultural capital.

Given the constantly evolving legal education and regulatory landscape, other changes to this process are also likely. With more time in India, returnees might rely less on this credential and more on other capital, such as experience and networks, to leverage professional rewards. *Globalikation* might still be a process for them, but the ways in which it plays out might be altogether different. In any event, there is a case for this interactional process to be explored in more grounded fieldwork. What the limited preliminary data does tell us is that, in the end, the returnee story is one of differentiated capital and its valorization across different individual, institutional, and interactional characteristics. Therefore, to truly understand this story of personal and professional osmosis, we must heed all these levels equally.

Appendix A

TABLE 1: DESCRIPTIVE STATISTICS OF ALL INTERVIEWS[156]

	HLS Student Study	***Pilot LL.M Study***	***Returnee Study***
Interview Years	2007–2008	2011 Winter, Spring	2011 Summer, Fall
Sample (N)	14	9	19
Respondent (R) Type	Current LL.M. students and recent LL.M. alumni from one law school.	Current LL.M. students from three U.S. law schools	LL.M. Returnees
Respondent location at the time of the interview	United States	United States	India
Interview Type	In Person	In Person	In Person / Internet / Telephone

156. The HLS Study and the Pilot Study are two sources of data that were instrumental to these data on Indian Returnees (Returnee Study) used in this Article. For a more detailed description of these sources, see *supra* Part I.

TABLE 2: RESPONDENT STATISTICS, 2011 RETURNEE STUDY (N=19)

	n	Proportion of N[157]
General Respondent Characteristics		
Female Respondents	8	0.42
City of Origin		
Mumbai / Delhi	6	0.32
Chennai / Bangalore / Calcutta / Hyderabad	12	0.63
Other	1	0.05
Current City		
Mumbai / Delhi	9	0.47
Chennai / Bangalore / Calcutta / Hyderabad	10	0.53
Undergraduate Law School		
National Law Schools	15	0.79
Other	4	0.21
LL.M.-Specific Characteristics		
Type of LL.M. Degree		
General	12	0.63
Specialized Program (e.g., Tax, Finance, IP)	7	0.37
Financial Aid		
Full Financial Aid / Tuition Waiver	4	0.21
Partial Financial Aid / Tuition Waiver	13	0.68
No Financial Aid	2	0.11
Student / Other Loans to Finance LL.M.		
Yes	17	0.89
No	2	0.11
LL.M. was an Obvious Path		
Yes	16	0.84
No	3	0.16
Duration of Legal Practice (in years)		
Mean Years of Practice Before the LL.M.	2.52	
Mean Years of Practice on Return to India After the LL.M.	3.12	
Organizational, Interactional Characteristics		
Practice Type		
Corporate Law Firm	6	0.32
Large Corporate Law Firm (>50 lawyers)	2	
Smaller Corporate Law Firm	4	
Litigation Practice	8	0.42
Independent Counsel	4	
Litigating Lawyer in Firm	4	
Academic / Research Careers	4	0.21
Law Teaching	3	
Other	1	
In-House (General) Counsel	1	0.05
International Clients and Transactional Work		
Corporate Law Firm (relevant N=6)	5	0.83
Litigation Practice (relevant N=8)	3	0.38
Employer With Foreign Education (relevant N=7)		
Has a U.S. LL.M.	3	0. 37
U.K. / Other LL.M.	4	

157. N=19 except where relevant Ns are specified.