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Foreword

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COLLOQUIUM

GLOBALIZATION AND THE LEGAL PROFESSION

FOREWORD

*Bruce A. Green**

It is my privilege to offer a brief introduction to the *Fordham Law Review*'s collection of articles and essays on "Globalization and the Legal Profession." The collection grows out of a colloquium on this subject held at Fordham University School of Law on October 20–21, 2011, and organized by the law school's Stein Center for Law and Ethics. The collection is the most recent product of the Center's two-decade collaboration with the *Law Review* to produce an annual set of writings on contemporary issues relating to the legal profession and legal ethics.

In recent years, the organized bar in the United States has recognized the significance of globalization as a force changing the nature of legal practice, and its regulation, worldwide. Indeed, the American Bar Association has a commission underway examining how the regulation of U.S. lawyers should be reformed in light of this phenomenon and concurrent technological changes.¹ The commission has been considering, among other questions, how professional conduct rules—especially those regarding conflicts of interest and choice of law among regulatory regimes—should apply to U.S. lawyers and law firms in multinational law practices; whether it should be made easier for lawyers from other jurisdictions to accompany their clients to the United States and to assist them in this country; and whether rules restricting non-lawyers from acquiring partnership or ownership interests in law firms should be liberalized in the United States as they have been in England and Australia.

These questions are a small percentage of those that might be explored with respect to the implications of globalization for legal practice here and abroad. There is a growing body of scholarly literature and discussion on this subject, to which this collection is meant to contribute. For example, the international journal *Legal Ethics* has promoted comparative and

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1. See *ABA Commission on Ethics 20/20*, ABA, http://www.americanbar.org/groups/professional_responsibility/aba_commission_on_ethics_20_20.html (last visited Apr. 21, 2012); see also Bruce A. Green, *ABA Ethics Reform from "MDP" to "20/20": Some Cautionary Reflections*, 2009 J. PROF. LAW. 1.

interdisciplinary studies of the legal profession for more than a dozen years; the fifth biannual International Legal Ethics Conference will be held this summer in Banff; and an International Association of Legal Ethics was recently established to promote international study and dialogue on the regulation of the bar worldwide.²

In hindsight, perhaps we organizers should have narrowed the subject of the colloquium. Instead, our organizing principle was to focus on process. We sought to bring global perspectives to bear on the study of the legal profession by assembling legal academics who work in, or study, a variety of jurisdictions, and by asking each to collaborate in some way with an academic or lawyer representing another jurisdiction. That explains why virtually all of the works—presented here in the order in which they were presented at the colloquium—are either co-authored or paired with an article or response on the same subject. Although considerations of cost made over-representation of United States academics inevitable, participants came to Fordham from around the globe to attend the colloquium. The resulting works address various implications of globalization for legal professionals not only in the United States,³ but also in China⁴ and other East Asian countries,⁵ India,⁶ Australia,⁷ Canada,⁸ the U.K.,⁹ and elsewhere.¹⁰

2. *Mission Statement*, INT'L ASS'N LEGAL ETHICS, <http://www.stanford.edu/group/lawlibrary/cgi-bin/iaole/wordpress/mission-2/> (last visited Apr. 21, 2012).

3. Elizabeth Chambliss, *Organizational Alliances by U.S. Law Schools*, 80 FORDHAM L. REV. 2615 (2012) (examining the possibilities for strategic alliances between U.S. law schools and other institutions, including foreign law schools); Michele DeStefano, *Nonlawyers Influencing Lawyers: Too Many Cooks in the Kitchen or Stone Soup?*, 80 FORDHAM L. REV. 2791 (2012) (examining regulatory restrictions on lawyer–nonlawyer collaborations in the United States).

4. Mark A. Cohen, *International Law Firms in China: Market Access and Ethical Risks*, 80 FORDHAM L. REV. 2569 (2012) (discussing Chinese restrictions on practice by international law firms); Xueyao Li & Sida Liu, *The Learning Process of Globalization: How Chinese Law Firms Survived the Financial Crisis*, 80 FORDHAM L. REV. 2847 (2012) (discussing the impact of the global financial crisis on Chinese law firms).

5. Yves Dezalay & Bryant G. Garth, *Corporate Law Firms, NGOs, and Issues of Legitimacy for a Global Legal Order*, 80 FORDHAM L. REV. 2309 (2012) (discussing the possible effect of “spillover” in China, Japan, and South Korea).

6. Swethaa Ballakrishnen, *Homeward Bound: What Does a Global Legal Education Offer the Indian Returnees?*, 80 FORDHAM L. REV. 2441 (2012) (examining the impact of a Western legal education on Indian lawyers).

7. Laurel S. Terry, Steve Mark, & Tahlia Gordon, *Adopting Regulatory Objectives for the Legal Profession*, 80 FORDHAM L. REV. 2685 (2012) (analyzing the use of “regulatory objectives” in Australia, Canada, and the United Kingdom).

8. Deborah L. Rhode & Alice Woolley, *Comparative Perspectives on Lawyer Regulation: An Agenda for Reform in the United States and Canada*, 80 FORDHAM L. REV. 2761 (2012) (comparing U.S. and Canadian regulation of law practice with regulation in Australia, England, and Wales).

9. James Faulconbridge, *Alliance “Capitalism” and Legal Education: An English Perspective*, 80 FORDHAM L. REV. 2651 (2012) (describing alliances between law schools and law firms in England); Janine Griffiths-Baker & Nancy J. Moore, *Regulating Conflicts of Interest in Global Law Firms: Peace in Our Time?*, 80 FORDHAM L. REV. 2541 (2012) (discussing regulation of cross-border legal practice in the United Kingdom and the United States).

Although the subject of the colloquium was broad, some unifying themes have emerged. Let me suggest the following three.

One recurring question is how, in an interconnected world, legal professions in different countries may or may not learn from, or otherwise be influenced by, each other. This was explored from varying perspectives. For example, Yves Dezalay and Bryant Garth consider whether Western notions of the rule of law, and of lawyers' role in promoting it, will "spill over" into non-Western law and legal professions as a result of the international presence of U.S. and other Western lawyers and law firms.¹¹ Elizabeth Chambliss looks at whether U.S. law schools will form alliances, including with foreign schools, like the law school-law firm alliances described by James Faulconbridge¹² that have been forged in England.¹³ A handful of contributors—Michele DeStefano; Deborah Rhode and Alice Woolley; and Laurel Terry, Steve Mark, and Tahlia Gordon—examine whether regulators of the bar should and will derive lessons from their counterparts in other countries, both with regard to the content of professional regulation and with regard to the regulatory process.¹⁴

Another theme is how globalization is shaping, or not shaping, domestic and international law practice. For example, Xueyao Li and Sida Liu discuss how Chinese law firms have responded to global economic forces.¹⁵ Hilary Sommerlad examines how and why globalization has failed to promote social equality in U.K. and U.S. law firms.¹⁶ Christine Parker and Tanina Rostain argue that global legal capital has shaped the legal profession's ideology and discourse.¹⁷ Carole Silver describes how access to a U.S. LL.M. degree affects the careers of foreign lawyers,¹⁸ with Swethaa Ballakrishnen focusing on LL.M.s who return to India.¹⁹ John Flood and Peter Lederer show how global business law practice has led to the development of a "cosmopolitan" approach to bridging parties' cultural

10. Carole Silver, *States Side Story: Career Paths of LL.M. Students, or "I Like to Be in America,"* 80 FORDHAM L. REV. 2383 (2012) (describing the career paths of international lawyers who enroll in U.S. LL.M. programs).

11. Dezalay & Garth, *supra* note 5.

12. As testimony to the relationship between globalization and communications technology, Professor Faulconbridge presented his paper at the colloquium from England via Skype.

13. Chambliss, *supra* note 3; Faulconbridge, *supra* note 9.

14. DeStefano, *supra* note 3; Rhode & Woolley, *supra* note 8; Terry, Mark, & Gordon, *supra* note 7; Laurel S. Terry, Steve Mark, & Tahlia Gordon, *Trends and Challenges in Lawyer Regulation: The Impact of Globalization and Technology*, 80 FORDHAM L. REV. 2661 (2012) (identifying regulatory challenges commonly facing regulators of the bar).

15. Li & Liu, *supra* note 4.

16. Hilary Sommerlad, *Minorities, Merit, and Misrecognition in the Globalized Profession*, 80 FORDHAM L. REV. 2481 (2012).

17. Christine Parker & Tanina Rostain, *Law Firms, Global Capital, and the Sociological Imagination*, 80 FORDHAM L. REV. 3347 (2012) (arguing that global legal capital has shaped the legal profession's rhetoric of professionalism).

18. Silver, *supra* note 10.

19. Ballakrishnen, *supra* note 6.

differences.²⁰ And Eli Wald charts the transformation of a Denver general practice into a global law firm.²¹

A third theme is the impact of globalization on the regulation of law practice. Janine Griffiths-Baker and Nancy Moore explore the complexity of regulating transnational legal practice, given the inconsistencies among the regulatory regimes of different jurisdictions.²² Christopher Whelan and Neta Ziv describe the expanding role of corporations in regulating their lawyers' professional conduct.²³

Needless to say, this collection is not the last word on globalization and the legal profession. As individuals and nations become increasingly connected, there will be much more to say and write. My thanks to the authors, my fellow organizers, the *Law Review* staff and editors, the David Berg Foundation for its financial support, and everyone else who contributed to the colloquium and to this collection for expanding the previous discussion and, we hope, inspiring further discussion of this important and fascinating subject.

20. John Flood & Peter D. Lederer, *Becoming a Cosmopolitan Lawyer*, 80 FORDHAM L. REV. 2513 (2012).

21. Eli Wald, *Smart Growth: The Large Law Firm in the Twenty-First Century*, 80 FORDHAM L. REV. 2867 (2012) (offering the experience of a Denver firm, Brownstein Hyatt Farber Schreck, LLP, as an alternative to the conventional model for the provision of global legal services by large law firms).

22. Griffiths-Baker & Moore, *supra* note 9 (describing the inadequacy of cross-border regulation of legal practice, especially with respect to conflicts of interest, in both the United Kingdom and the United States).

23. Christopher J. Whelan & Neta Ziv, *Privatizing Professionalism: Client Control of Lawyers' Ethics*, 80 FORDHAM L. REV. 2577 (2012).