

**The Education of Ming, Chen, Aberto, and Natalia: Teaching
(International) Lawyers How to Think, Speak,
and Act like (U.S.) Lawyers**

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What challenges do U.S. law faculty face when they teach non-U.S. lawyers enrolled in U.S. international LL.M. programs?

Students are already accomplished practitioners, almost all trained originally in a civil law tradition, and most are learning U.S. law in a second language

Faculty teach “at home” and abroad

- Two reasons to examine what occurs when U.S. law faculty and non-U.S. attorneys find themselves in different academic and legal cultures:

- 1) Like Herzfeld (2015), my intention is to render visible mostly invisible patterns of interaction that deploy power in inchoate forms and that make transnational classes sometimes paradoxical locales
 - I ask as an anthropological question: “You teach? What is it that you *do*?”

- LL.M. programs provide lawyers with credentials – “*de facto* permission to speak” (Kendzior cited in Graeber 2015:22)

Influence and consequences of race, gender, and socioeconomic status in U.S. JD classrooms well-documented

Providing permission to speak entails subtle/not-so – subtle forms of silencing

Does the education of international attorneys entail similar processes?

- 2) How can we understand better the “imperial process” that governs the internationalization of legal education (Garth 2015)?
 - What hegemonic patterns can we observe in the content of courses, styles of pedagogy, and the design of the programs?
 - By who, where, and when are classes, the language of instruction, and pedagogical styles contested?

- Methods and Data

Ethnographic research and interviews

50 international LL.M. students, 32 faculty members, 9 administrators at two law schools, one in the Midwest and one on the East Coast

2014 – schools ranked in top 75 law schools (U.S. News & World Report)

- Larger Project: Examines three contexts in which faculty teach international lawyers how to think, speak, and act like U.S. attorneys:
 - 1) Classes that are part of the LL.M. program, but taught in the students' countries of origin
 - 2) Classes in the U.S. specifically designed for international lawyers
 - 3) Classes in the U.S. in which the primary audience is U.S. JD students

An important finding of the broader study:

- The politics of pedagogy, the deployment of power and agency, different structural constraints, and the hierarchical ordering that obtains between students and faculty, between faculty and administrators, and between administrators who craft these programs are strongly influenced by these three different contexts.

- Today's presentation focuses on classes in which faculty teach at home in classes designed for U.S. JD students, but in which LL.M. students are enrolled
- Four observations....

- 1) Presence of non-U.S. attorneys has little influence upon course content if subject is tested in the Multistate Bar Exam (MBE)
 - Professors teach to the test/presume knowledge about what students “must” know
 - Structural pressures (ABA, administration) to ensure that students pass the bar (Espeland and Sauder 2016)
 - Some do send the message: “civilized people do things differently” (acknowledgement and critique of U.S. law and the imperial process)

- 2) More leeway to change course content and explore the experiences of international lawyers in subjects not tested by the MBE
 - Different structural constraints
 - Diversity of ideas and practices

- 3) What effect did the presence of non-U.S. lawyers have upon faculty's pedagogical style?
 - Very little--but for reasons one might not expect
 - 75% of sample use a variety of teaching techniques
 - Challenge “signature pedagogy” (Carnegie Report, 2007)
 - Power and agency between students and faculty shifts

- 4) Is there silencing in “credentialism” of non-U.S. attorneys?
 - Silencing = power to define or re-define a given situation exercised in sometimes blatant and sometimes subtle forms
 - Extensive literature on silencing of white women, men and women of color, and “members of other historically under-represented groups” (Niemann 2012:459)

- Non-U.S. attorneys are also “differently situated” (Moran 2000:2330)
- Evidence of resistance to hegemonic demands of the faculty
- Students opt in and out of the educational process, even if they are “invested” in winning a U.S. LL.M.

- Nevertheless, silencing is a consequence of structural directives by the ABA, and practiced by administrators, faculty, and U.S. JD students
 - Students steered away from classes “too difficult” for “them”
 - Faculty teach to the test/assume “common knowledge”
 - Silenced directly when difficult to comprehend
 - Ignored by U.S. JD students

Five Conclusions from “The Education of Ming, Chen, Aberto, and Natalia”:

- 1) “Teaching” changes when classes are taught abroad, in those designed specifically for international attorneys, and when they are enrolled with U.S. JD students
- 2) Different relations of power and agency, different structural constraints, different forms of silencing, and different influences and effects of the imperial process pertain in these different contexts

- 3) International status is as critical a sociological variable in legal education as are variables of race, gender, and class
- 4) Pedagogy and programs are complex - international attorneys are representatives of nations caught up in imbalanced international political economies and legal systems that are unequally weighted
- 5) Issue of voice—which ones matter and which ones don't—constantly in play

References Cited

Carnegie Foundation for the Advancement of Teaching

2007. Educating Lawyers: Preparation for the Profession of Law. William M. Sullivan, Anne Colby, Judith Welch Wagner, Lloyd Bond, and Lee S. Shulman. San Francisco: Jossey-Bass.

Espeland, Wendy Nelson and Michael Sauder

2016. Engines of Anxiety: Academic Rankings, Reputation, and Accountability. New York: Russell Sage Foundation.

Garth, Bryant G.

2015. "Notes Toward an Understanding of the U.S. Market in Foreign LL.M. Students: From the British Empire and the Inns of Court to the U.S. LL.M." Indiana Journal of Global Legal Studies. 22(1):67-79.

Herzfeld, Michael

2015. "Anthropology and the Inchoate Intimacies of Power." American Ethnologist. 42(1):18-32.

Moran, Rachel F.

2000. "Diversity and its Discontents: The End of Affirmative Action at Boalt Hall." California Law Review. 88:2241-2352.

Niemann, Yolanda Flores

2012. "Lessons from the Experiences of Women of Color Working in Academia." In Presumed Incompetent: The Intersections of Race and Class for Women in Academia. Gutierrez y Muhs et al. (eds.) Boulder: Utah State University. Pp. 446-499.