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THE FALL AND RISE OF LEGAL EDUCATION IN SINGAPORE

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Prior to independence, legal education was all but non-existent in Singapore and many other colonies. This essay briefly discusses that colonial context before going on to describe how the National University of Singapore Faculty of Law came to play an important part in Singapore's rule of law story as Singapore's national law school, a global law school, and an Asian law school. A third section considers challenges for the future, including the impact of technology on legal practice and the changing market for legal services. These transformations require us to rethink the purpose of law school, even as they are matched by changes in the students and faculty who enter our classrooms and our offices.

There is probably no country in the world more closely identified with the rule of law than Singapore. Throughout its history, Singapore's commitment to a robust legal system with clear laws, an independent judiciary, and zero tolerance for corruption has served it well. Today, Singapore styles itself as the legal hub of Asia. That ambition is being realised through offering a suite of world-class dispute resolution mechanisms, encouraging multinational corporations to use Singapore as their Asian base and opening its doors to leading global law firms, while also strengthening Singapore firms with regional and global ambitions. The impact on the economy has been considerable:

> The legal sector's nominal value added grew from S$1.5 billion in 2008 to S$2.2 billion in 2016. Over the same period, the value of legal services exported from Singapore more than doubled. Legal services exports increased by about 110% from S$363 million in 2008 to S$760 million in 2016.[1]

Given this context, it is surprising to note that legal education was essentially prohibited in most British colonies, including pre-independence Singapore. This essay will briefly review that early suppression of legal education before turning to consider the important role that the National University of Singapore ("NUS") Faculty of Law has

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1 Indranee Rajah, "Raising the Bar, Accounting for the Future" (2 May 2017), online: Ministry of Law <https://www.mlaw.gov.sg/content/dam/minlaw/corp/News/Note%20on%20CFE%20Legal%20and%20Accounting%20Services.pdf>.

come to play as a national, regional, and global law school. A third section considers challenges for the future, including the impact of technology on legal practice and the changing market for legal services. These transformations require us to rethink the purpose of law school—even as they are matched by changes in the students and faculty who enter our classrooms and our offices.

I. Troublemakers

The history of legal education in Asia bears the scars of colonialism. The most obvious signs lie in the common law/civil law divide between the various countries of the region, a distinction for which the determining factor was typically the legal system of the European power that happened to exercise colonial rule. Hence Singapore, Malaysia, and India are common law countries with nearly identical criminal law codes first drafted by the British, while Indonesia and Vietnam are civil law countries with legal systems heavily influenced by the Dutch and the French respectively. The Philippines' unique blend of civil and common law was a result of successive colonialism by Spain and the United States ("US"). Other countries, like China, Japan, and Thailand were never colonised, though their legal systems were also influenced by Western norms. "Influence" is not the same as dictate, however. Even in those countries that were colonised, law pre-dated the colonial encounter—*adat* law in Indonesia, customary law in the Chittagong Hill Tracts of Bangladesh, Sharia law in Malaysia and elsewhere.[2]

These pre-existing legal systems and subsequent colonial transplants set the stage for the plural regimes that we see today. But how law actually comes to be understood and practised also depends heavily on how it is taught. In the colonial context, law was an important tool used to justify and enforce what was essentially foreign occupation. In such circumstances, it is not surprising that legal education of the local population was not a high priority. This was true even in the British colonies, where law was a vital part of the legal structures that facilitated colonial rule, with local elites co-opted into those structures.

In the early colonial period, education as a whole was often left to missionaries. This meant that secular law—and much else—lost out to religious instruction.[3] Even in countries where education later came to be seen as part of the colonial enterprise, however, law was either not prioritised or actively discouraged. This was not an accident or an oversight: it was policy.[4] The reasons given tended to fall into two broad categories. First, it was sometimes suggested that the lack of law schools was simply a question of priorities. It was more important to train "engineers, doctors and agriculturalists than lawyers".[5] But it was obviously not just a question of limited

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2 This and the following sections draw on material considered at greater length in Simon Chesterman, "The Fall and Rise of Legal Education in Asia: Inhibition, Imitation, Innovation" in Andrew J Harding, Jiaxing Hu & Maartje de Visser, eds, *Legal Education in Asia: From Imitation to Innovation*, Brill [forthcoming in December 2017].

3 Bruce L Ottley, "Legal Education in Developing Countries: 'The Law of the Non-Transferability of Law' Revisited" (1979) 2 Loyola Los Angeles Intl & Comparative L Annual 47 at 51.

4 Muna Ndulo, "Legal Education in Africa in the Era of Globalization and Structural Adjustment" (2002) 20:3 Penn State Intl L Rev 487 at 489.

5 William Twining, "Legal Education within East Africa" in *East African Law Today* (London: British Institute of International and Comparative Law, 1966) 115 at 116.

resources. Those who "wished to read law" were regarded as "prepar[ing] for a career in politics", William Twining wrote, based on his own experience in Tanzania in the 1960s.[6] From the colonial point of view, it would have been self-destructive to encourage the production of such troublemakers.[7]

By the Second World War, the Dominions, British India, and British-administered Egypt had reasonably developed systems of higher education, including law schools. But for the 66 million people living in the other territories in Asia and Africa controlled by the British Colonial Office, there were only four universities and only one of them—the Royal University of Malta—had a law school,[8] which in any case had predated Malta's incorporation into the British Empire.[9]

In the period after the Second World War, it became increasingly clear that the self-government and independence of Britain's colonies were inevitable. A series of university colleges were established in Africa, notably in the period 1945 to 1949 with the creation of Ibadan in Nigeria, Khartoum in Sudan, Achimota in what is now Ghana, and Makerere in Uganda.[10]

The same was largely true in Asia.[11] British India had seen the establishment of law schools at the Government Law College, Bombay (now Mumbai) in 1855,[12] the Punjab University Law College in what is now Pakistan in 1870,[13] Rangoon University (now the University of Yangon) in Myanmar in 1920, and the University of Dhaka in what is now Bangladesh in 1921. Lee Kuan Yew, Singapore's founding Prime Minister—and a lawyer (educated at Cambridge)—argued in 1959 that, precisely because of their experiences in India, the British were reluctant to establish law schools in other parts of the Empire:

> [T]hey knew that large numbers of lawyers meant large numbers of self-employed intellectuals who were well-versed in the mechanics of the colonial system, and who then set out to lead the mass of the local people in breaking down the colonial system.[14]

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6 *Ibid.*

7 *Ibid*; Samuel O Manteaw, "Legal Education in Africa: What Type of Lawyer Does Africa Need?" (2008) 39:4 McGeorge L Rev 903 at 912-917.

8 Assaf Likhovski, "Colonialism, Nationalism and Legal Education: The Case of Mandatory Palestine" in Ron Harris *et al*, eds, *The History of Law in a Multi-Cultural Society: Israel 1917-1967* (Aldershot: Ashgate, 2002) 75 at 76, 77.

9 The University of Malta's Faculty of Laws dates to 1769. Malta officially became part of the British Empire in 1814 under the Treaty of Paris.

10 Ottley, *supra* note 3 at 52.

11 See generally Tan Cheng Han *et al*, "Legal Education in Asia" (2006) 1:1 Asian J Comparative L 184.

12 Arjun P Aggarwal, "Legal Education in India" (1959) 12:2 J Leg Educ 231 at 232; Arthur Taylor von Mehren, "Law and Legal Education in India: Some Observations", Comment, (1965) 78:6 Harv L Rev 1180. See also Lovely Dasgupta, "Reforming Indian Legal Education: Linking Research and Teaching" (2010) 59:3 J Leg Educ 432.

13 Osama Siddique, "Legal Education in Pakistan: The Domination of Practitioners and the 'Critically Endangered' Academic" (2014) 63:3 J Leg Educ 499.

14 Singapore Government, Press Release, INFSNV 68/59/TTS, "Text of the Speech by the Prime Minister, Mr. Lee Kuan Yew, at the University of Malaya Law Society Dinner on Saturday, November 14, 1959, at 9 p.m." (14 November 1959) at 1, online: National Archives of Singapore <http://www.nas.gov.sg/archivesonline/data/pdfdoc/lky19591114.pdf>.

People like him, in other words. And so it went: in the rest of the British Empire in Asia, the creation of law schools tended to take place either just before or sometime after independence.

Sri Lanka's first law school dates back only to 1947 at the University of Ceylon (now the University of Colombo), a year before it achieved Dominion status. In Malaya, the first law school—what is now NUS Law—was established in Singapore in 1956, a year before the Federation of Malaya became independent; when that Federation fell apart, Malaysia itself lacked a law school until the University of Malaya established a Faculty of Law in Kuala Lumpur in 1972. The University of Papua New Guinea School of Law was established with six students in 1965 while the territory was under Australian administration, a decade before independence. The University of Hong Kong ("HKU") launched a Department of Law in 1969. The University of the South Pacific's School of Law was created in 1994.[15] This unusual entity has a main branch in Vanuatu, but is owned by 12 member countries that were former colonies of Britain, Australia, New Zealand, and France (one of them, Tokelau, is still listed by the United Nations as a non-self-governing territory).[16] Brunei, which became independent from Britain in 1984, established the Universiti Brunei Darussalam the following year but it does not have a law school; the Sultan Sharif Ali Islamic University began offering Brunei's first Bachelor of Laws programme (a double degree with a Bachelor of Shariah) in 2007.

In other parts of Asia, law schools also tended to be relatively recent innovations. In China, Peiyang University offered a modern legal education from 1895;[17] by the 1950s there were more than 50 law schools, but in the tumultuous decades that followed that number shrank to only two: at Peking University and Jilin University.[18] In Indonesia, the Dutch colonial government established a secondary school for law in 1909 that was upgraded to a school for higher education in 1924. This became the Faculty of Law at the University of Indonesia in 1950, five years after independence. Legal education in Thailand dates back to 1933;[19] a small law faculty was created in Hanoi University in 1976.[20] And so on.

Until local law schools were established, the path to legal practice typically lay through the metropole. For the British Commonwealth, that meant training in London and the Inns of Court. The costs of such an education ensured that it was limited both in number but also in the class background of the individuals who pursued it. The majority of colonial subjects who trained in London did so through the Inns of Court, enabling them to qualify as barristers but not solicitors. This distinction was of little relevance in the colonies, but sometimes caused problems. As the 1961 Denning Commission recognised of lawyers educated in this way:

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15 University of the South Pacific, "School of Law" (2017), online: USP <http://www.usp.ac.fj/index.php?id=518>.

16 Cook Islands, Fiji Islands, Kiribati, Marshall Islands, Nauru, Niue, Samoa, Solomon Islands, Tonga, Tokelau, Tuvalu and Vanuatu.

17 Chen Li, "The Founding of Peiyang University Department of Law: Oxford Style Legal Education in China (1895-1899)" (2017) 9:2 Tsinghua China L Rev 227.

18 Tan *et al*, *supra* note 11 at 185.

19 *Ibid.*

20 *Ibid* at 186.

> Many of the young men [*sic*] coming back can make quite a good show as lawyers, but they have absolutely no knowledge of how to handle their accounts or of the desirability of keeping their clients' money separate from their own.[21]

Another problem was that although many of the colonies had inherited English law, its application was often different in the various territories.

I have begun with this historical survey not to suggest that law schools such as NUS Law started their various projects with a blank slate. On the contrary, the plural legal regimes described earlier define the complex environment within which those schools now operate. But what the colonial approach to legal education does suggest, and what is borne out in many Asian countries, is that law schools were at least initially regarded as inherently political institutions and therefore seen as potentially destabilising to the social order.

Another speech from Lee Kuan Yew, this time delivered in 1962, is indicative of the view at the time:

> The rule of law talks of habeas corpus, freedom, the right of association and expression, of assembly, of peaceful demonstration, concepts which first stemmed from the French Revolution and were later refined in Victorian England. But nowhere in the world today are these rights allowed to practise without limitations, for blindly applied these ideals can work towards the undoing of organised society.[22]

Law schools across the region and around the world continue to train people who develop into political actors—both leaders and "troublemakers". Indeed, just one indication is that in the elections held in Singapore in September 2015 no fewer than 12 of the 89 seats in Parliament were filled by graduates of NUS Law, representing both the People's Action Party and the opposition, the Workers' Party.

The men and women who pass through our hallways are among the brightest and most articulate, and we—hopefully—further strengthen their ability to think critically and communicate effectively. This is a tremendous opportunity for us as educators, but also imposes a special responsibility on us to ensure that our graduates do not only have sharp minds and silver tongues, but also fully-formed consciences and hearts.[23]

II. Enablers

The legacy of colonialism may live on, but in a short period of time Asian law schools have risen significantly in their prominence. To pick just one crude measure,

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[21] UK, HC, "Report of the Committee on Legal Education for Students from Africa", Cmnd 1255 in *Sessional Papers* (1961) at 11 (quoting the Solicitor-General of one of the territories under review).

[22] Singapore Government, Press Statement, MCJA 52/62/TKC, "Singapore Prime Minister's Speech to the University of Singapore Law Society Annual Dinner at Rosee d'Or on 18th January, 1962 at 8.30 p.m." (19 January 1962) at 5, online: National Archives of Singapore <http://www.nas.gov.sg/archivesonline/data/pdfdoc/lky19620118.pdf> [Singapore Government, "Singapore"].

[23] *Cf* International Association of Law Schools, "Singapore Declaration on Global Standards and Outcomes of a Legal Education" (26 September 2013), online: IALS <http://www.ialsnet.org/wp-content/uploads/2013/09/Singapore-Declaration-2013.pdf>.

the number of Asian law schools listed in the top 50 of the Quacquarelli Symonds ("QS") World University Rankings for law went from three in 2011,[24] when the rankings were first published, to nine in 2017.[25] Only four years ago, no Asian law school was listed in the top 20; today there are three.[26] To be sure, part of this change is due to a refinement of the methodology in ranking. But one of the most significant components of the QS method is reputation, and there is no question that the reputation of Asian law schools is on the rise.

This growing prominence offers opportunities as well as challenges to law schools like NUS Law. In this section I focus on the challenge of how to identify one's mission. NUS Law is, first and foremost, a *national* law school educating students and producing research for Singapore. Secondly, however, we are—or aspire to be—*global*, preparing our graduates for a globalised profession and participating in global debates. Thirdly, however, and often overlooked, we are *Asian*, giving us and our graduates and researchers a unique chance to play a key role in the Asian century.

Let me consider these in turn.

A. *National*

Despite the best efforts of globalisation, the practice of law remains largely jurisdiction-specific. If only as a regulatory matter, the vast majority of law schools have a primarily *national* focus. Our graduates get admitted to practise in specific jurisdictions and we must report to regulators in those jurisdictions.

This is not the only model, of course. There have been some interesting experiments that do not link legal education to practice. Tilburg University's Bachelor of Laws in Global Law, for example, does not qualify its graduates to practise law in any jurisdiction. The Tilburg website states that:

> [Y]ou can apply for jobs in international organizations or in the public sector, or you can continue in academia. . .
>
> Imagine a large international company such as Google. . . These companies have legal departments with specialists from all over the world. What they are lacking, however, is someone with the skills of a global lawyer, who is able to tie these different legal systems together.[27]

Another interesting experiment is the Peking University School of Transnational Law, in Shenzhen, which in 2008 launched a *Juris Doctor* programme based on the typical curriculum in the US law schools. It also announced that it was seeking American

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[24] NUS 24th, HKU 31st and Tsinghua University 45th.

[25] NUS 15th, HKU 18th, Peking University 20th, University of Tokyo 22nd, Tsinghua University 33rd, Seoul National University 34th, National Taiwan University 38th, Korea University 48th and Kyoto University 50th.

[26] See QS Top Universities, "Worldwide University Rankings, Guides and Events" (2017), online: QS Top Universities <https://www.topuniversities.com>.

[27] Tilburg University, "Career Perspective after Global Law" (2017), online: Tilburg University <https://www.tilburguniversity.edu/education/bachelors-programs/global-law/career/>.

Bar Association accreditation for this programme,[28] which was ultimately rejected in 2012.[29] It subsequently refocused its mission to emphasise genuinely transnational law, expanding its China law curriculum to complement what had essentially been a transplantation of US law.

But, for the most part, law schools focus on giving graduates the opportunity to practise law in their home jurisdiction, in many cases with the additional requirement that these graduates sit for a bar examination. Yet it would be foolish to suggest that we have done our job if our graduates understand only a single jurisdiction. Even if they do practise only in the jurisdiction in which they qualify, they will frequently interact with lawyers from other jurisdictions, they will have clients who operate in multiple jurisdictions, and they will need to understand the pressures on their home jurisdiction from the globalised economy. This is particularly important in Singapore where so much of economic activity is tied to cross-border transactions.

Specific challenges remain in our roles as national law schools. One is whether we can and should participate in the protection of specific areas from the external influences of globalisation. While it might be natural, for example, for our telecommunications rules to be in harmony with other jurisdictions, many countries balk at exposing public law to such forces. The manner in which human rights and constitutional law is taught can sometimes raise sensitivities among local authorities.[30]

A second question is whether we can and should protect specific constituencies—notably the local bar—from the kind of competition in which most other parts of the economy must engage. This is not something that law schools alone can determine, but there is a big difference in our educational mission between seeing the main "consumers" of our "product" as being main street lawyers in our home jurisdiction or the Magic Circle and white shoe law firms of London and New York.

B. *Global*

The answers to such national questions are often heavily influenced by global trends.

Although the guild-like nature of the profession once encouraged a focus not merely on national but on *sub*-national jurisdictions, that is no longer tenable. In the US, for example, a century ago admission to practise in one state did not require either familiarity with or the ability to practise in another.[31] As interstate commerce

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[28] Martha Neil, "Chinese Law School Plans to Seek Accreditation from ABA" *ABA Journal* (6 June 2008), online: ABA Journal <http://www.abajournal.com/news/article/chinese_law_school_to_seek_accreditation_from_ABA>.

[29] Megan Stride, "ABA Votes No on Accrediting Foreign Law Schools" *Law360* (3 August 2012), online: Law360 <https://www.law360.com/articles/366928/aba-votes-no-on-accrediting-foreign-law-schools>.

[30] *Cf* Singapore Government, "Singapore", *supra* note 22 at 8:

> A curious position that has arisen in Malaya is that the temporary alliance of the pure academic who talks in terms of the absolute qualities of freedom, liberty and the rights of man, finds himself a strange fellow traveller with the Communist revolutionary, whose whole philosophy is a complete denial of these liberal concepts. The academic liberal may or may not believe in the practicability of his enunciations of absolute ideals. But the Communist revolutionary certainly does not.

[31] Colin Croft, "Reconceptualizing American Legal Professionalism: A Proposal for Deliberative Moral Community", Note, (1992) 67:6 NYUL Rev 1256 at 1296.

and thus cross-jurisdictional legal practice increased, however, so did the need for lawyers to be familiar with other jurisdictions; with the increased movement of professionals it became necessary to have a means of transferring accreditation.[32]

That is now a global phenomenon. Today, the practice of law has been transformed by new clients, a new operating environment, and new law firms. This is obvious at the high-end. Commercial giants and the major banks sell products and services across multiple jurisdictions, even as those jurisdictions become more assertive in their regulations. They need law firms and lawyers that can provide advice across those jurisdictions and help manage the legal risks associated with global commercial activities. In response, a handful of global law firms have emerged, some of which have expanded not only across developed but also developing markets.

Globalisation affects the main street lawyer also. A family law specialist would be negligent if he or she was not able to assist a client whose family straddles more than one nationality.[33] Even small and medium-sized enterprises are now typically part of global supply chains, meaning that they confront regulatory issues and potential disputes in multiple jurisdictions.

Two critiques of the globalisation of legal education and the practice of law are that this is primarily a discourse of the rich, and that it reflects the dominance of the West in general and the US in particular. Both critiques are partially accurate: truly global law schools are an elite phenomenon and it is no coincidence that all but one of the top 20 global law schools by ranking conduct their classes in English.[34] The same is even more true of the major law firms: of the top 100 law firms by revenue in 2016, all but two are headquartered either in the US (80) or the United Kingdom (18).[35]

C. *Asian*

Nonetheless, as the global rankings data cited earlier suggest,[36] Asian law schools are rising in a manner that suggests a correlation with the larger rise of Asia as an economic and political power. This presents both opportunities and challenges to schools like NUS Law, which start with the significant advantage of combining strong ties to Asia with long traditions of high-quality education in English.

It is important to note at the outset that "Asia" is a category that should be used only with caution. Indeed, the very word derives from a term used in Ancient Greece rather than any indigenous political or historic roots. Yet there does seem to be some things shared by many of its jurisdictions.

From the perspective of an international lawyer, one of the most interesting aspects is the apparent paradox that Asian states have arguably profited most from the stability and prosperity of a world ordered under international law and institutions—and

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[32] *Cf* George A Riemer, "A State of Flux: Trends in the Regulation of Multijurisdictional Practice of Law", Feature, (2004) 64 Or State Bar Bull 19.

[33] See *eg*, Debbie Ong, *International Issues in Family Law in Singapore* (Singapore: Academy, 2015).

[34] See further Simon Chesterman, "The Globalisation of Legal Education" [2008] Sing JLS 58.

[35] Legal Business, "Global 100 2016" (8 July 2016), online: Legal Business <http://www.legalbusiness.co.uk/index.php/global-100-2016>. Of the US firms, Dentons is co-headquartered in China. Of the two outliers, King & Wood Mallesons is headquartered in the Hong Kong Special Administrative Region and FIDAL in France.

[36] See *supra* notes 24-26.

yet they are the least likely to be parties to those rules or be represented in those organisations. This does not mean that Asian states are wary of law as such, but it is unusual that the most economically dynamic region of the planet, with increasing political power, consists of countries that were not, for the most part, authors of many foundational rules of the game.[37]

Two consequences follow from this situation. The first is domestic. Many of the highly competitive economies of Asia grew extremely quickly in non-liberal regimes for which legitimacy was more closely tied to economic success than to traditional political processes. In recent years there has been a genuine commitment to the rule of law across most countries, but without a tradition of the rule of law there is a danger that lawyers are seen as instruments of the state rather than servants of the law.[38] This is the modern legacy of the inhibition of legal education, with some states continuing to view lawyers as potential "troublemakers".[39]

The second consequence is regional. Asia is unique for not having any meaningful regional organisation. There is no continent-wide framework comparable to the African Union, the Organization of American States, or the European Union. Those regional organisations that do exist—such as the Association of Southeast Asian Nations ("ASEAN"), the South Asian Association for Regional Cooperation ("SAARC"), and the Shanghai Cooperation Organisation ("SCO")—have weak mandates and extremely limited resources.[40] This creates an opportunity in the area of legal research. Given the economic dynamism of the region, there is a clear appetite for integration of economies and convergence of legal regimes. The fact that governments are extremely limited in what they can and will do to facilitate integration means that networks of legal academics can play a role in that process. Initiatives such as the Principles of Asian Contract Law project and the Asian Business Law Institute ("ABLI") (launched in Singapore in January 2016), as well as networks such as the Asian Law Institute ("ASLI") and the Asian Society of International Law (both with secretariats based at NUS Law), thus have the potential to supplement intergovernmental action.

In the coming years, such opportunities are likely to grow. With the Trans-Pacific Partnership ("TPP") and China's "One Belt, One Road" initiative, there will be growing demand for coherence across Asia but without a formal intergovernmental

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[37] See further Simon Chesterman, "Asia's Ambivalence about International Law and Institutions: Past, Present and Futures" (2016) 27:4 Eur J Intl L 945.

[38] *Cf* Thio Li-ann, "Between Apology and Apogee, Autochthony: The 'Rule of Law' Beyond the Rules of Law in Singapore" [2012] Sing JLS 269; Jothie Rajah, *Authoritarian Rule of Law: Legislation, Discourse and Legitimacy in Singapore* (Cambridge: Cambridge University Press, 2012).

[39] Singapore's longstanding commitment to the rule of law makes it an outlier in the region. It is ranked first in Asia for the rule of law by the World Justice Project and ninth in the world: World Justice Project, *World Justice Project Rule of Law Index 2016* (Washington, DC: World Justice Project, 2016), online: World Justice Project <https://worldjusticeproject.org/sites/default/files/documents/RoLI_Final-Digital_0.pdf> (New Zealand is included in "East Asia & Pacific" for the 2016 report). The Transparency International's Corruption Perceptions Index similarly names Singapore least corrupt in the region: Nur Asyiqin Mohamad Salleh, "Singapore Climbs to 7th on Global Least-Corrupt Index" *The Straits Times* (26 January 2017), online: The Straits Times <http://www.straitstimes.com/singapore/singapore-climbs-to- 7th-on-global-least-corrupt-index>.

[40] See further Simon Chesterman, *From Community to Compliance?: The Evolution of Monitoring Obligations in ASEAN* (Cambridge: Cambridge University Press, 2015).

framework for delivering it. In such a situation the role of academics becomes more important in areas from formation of contracts and data protection rules to enforcement of awards and cross-border insolvencies. We have the opportunity and the responsibility to contribute to these developments through our research, and all the more so through our teaching. A starting point is ensuring that our graduates are "Asia literate" and able to understand the diverse perspectives across the region. It is unrealistic to expect them to develop a deep knowledge of every jurisdiction, yet awareness of how their own system compares with others and the different forces that have shaped Asia's legal traditions would be a good place to start.

III. Disruptors

The rise of Asia is linked to other sources of disruption to established ways of doing business in Singapore and elsewhere. This part will look at two kinds of pressures affecting the practice of law—and, as a result, those who seek to educate the lawyers of the future. These overlapping pressures are technology and the wider economic climate.

A. *Technology*

As the market in which law is practised changes, so are the tools with which it is practised. Legal research, for example, has been transformed by the Internet. Many of those teaching law today began their own research at a time when loose-leaf services were cutting-edge technology, enabling reference books to have updates inserted into folders. Our students tend to regard such pre-Internet technologies in the same manner we might see the manuscripts copied out by monks in the days before printing presses.

Writers like Richard Susskind have argued that this is only the tip of the iceberg. Facilitating access to information will be followed by fundamental and irreversible changes in the practice of law. Much of what is now charged for will become free—think of the music industry, or the door-to-door encyclopaedia salesman. More fundamentally, the prospect of online dispute resolution may take many disputes out of lawyers' hands entirely.[41] This is far from science fiction: eBay presently resolves about 60 million disputes annually through its online Resolution Center;[42] an 18-year-old wrote a programme called DoNotPay to automate parking fine appeals that is now being adapted to refugee asylum claims;[43] and, most ominously for lawyers, the white shoe law firm BakerHostetler hired International Business Machines Corporation's artificial intelligence product ROSS to take over much of its bankruptcy

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[41] Richard Susskind, *Tomorrow's Lawyers: An Introduction to Your Future*, 2d ed (Oxford: Oxford University Press, 2017).

[42] Civil Justice Council, "Online Dispute Resolution: For Low Value Civil Claims: Online Dispute Resolution Advisory Group" (2015) at 5, online: Judiciary <https://www.judiciary.gov.uk/wp-content/uploads/2015/02/Online-Dispute-Resolution-Final-Web-Version1.pdf>.

[43] Elena Cresci, "Chatbot that Overturned 160,000 Parking Fines Now Helping Refugees Claim Asylum" *The Guardian* (6 March 2017), online: The Guardian <https://www.theguardian.com/technology/2017/mar/06/chatbot-donotpay-refugees-claim-asylum-legal-aid>.

practice.[44] Some regard these as signs of the apocalypse,[45] but as Chief Justice Sundaresh Menon said at the Opening of the Legal Year in 2017: "it would be wrong to approach technology as if it is something to be vanquished just because it threatens to disrupt or challenge how we have been accustomed to operate".[46]

The market has changed, the tools our students need have changed, but our students themselves have also changed. This is not the place for a long excursus on the phenomenon of so-called "millennials", but there is no question that the manner in which the current generation of students consumes and processes information is different. Attention spans are shorter, they are more familiar with and reliant on technology, and they are often more comfortable interacting with the world through virtual means.

One positive aspect of this is that there is much that we can learn from our students. At NUS Law, a student group, alt+Law, was invited to brief Senior Minister of State Indranee Rajah on legal innovation.[47] Another group of students have launched a start-up company, Lex Quanta, that is pioneering work in legal data analytics.[48]

Let me stress that this does not mean that we should hand over our classrooms to the students, abandon books and whiteboards, and run our law schools through Snapchat. What our students are comfortable with is different from what is good for them. But it does mean that a legal curriculum based on rote learning and tested by writing answers in longhand bears less and less connection to the practice of law.

And so we must prepare our students for a globalised market in which technology plays a vital role. Some of the skills required have not changed: critical and analytical skills, excellence in communication—both oral and written. Perhaps one thing to supplement is that those students more comfortable interacting with their peers through social media need to learn how to interact with clients of flesh and blood.[49]

B. *Economic Climate*

A second source of pressure on the traditional way lawyers have operated is in the economic model, with downward pressure on legal fees from clients resistant to being

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44 Karen Turner, "Meet 'Ross,' the Newly Hired Legal Robot" *The Washington Post* (16 May 2016), online: The Washington Post <https://www.washingtonpost.com/news/innovations/wp/2016/05/16/meet-ross-the-newly-hired-legal-robot/>.

45 Joe Patrice, "BakerHostetler Hires A.I. Lawyer, Ushers in the Legal Apocalypse" *Above the Law* (12 May 2016), online: Above the Law <http://abovethelaw.com/2016/05/bakerhostetler-hires-a-i-lawyer-ushers-in-the-legal-apocalypse/>.

46 KC Vijayan, "Legal Sector Launches Tech Road Map" *The Straits Times* (10 January 2017), online: The Straits Times <http://www.straitstimes.com/singapore/legal-sector-launches-tech-road-map> (quoting Sundaresh Menon CJ).

47 See Ministry of Law, "Speech by Senior Minister of State for Law Indranee Rajah at the Committee of Supply Debate 2017" (3 March 2017), online: Government of Singapore <https://www.gov.sg/microsites/budget2017/press-room/news/content/speech-by-senior-minister-of-state-for-law-indranee-rajah-at-the-committee-of-supply-debate-2017>.

48 See Chang Zi Qian *et al*, "Running Your Practice: Technology and Data as Lawyers' Allies: From Data to Insights" *Singapore Law Gazette* (January 2017) 41.

49 See also Singapore Academy of Law, Legal Technology Cluster Committee, *Legal Technology Vision: Towards the Digital Transformation of the Legal Sector* (Singapore: Singapore Academy of Law, 2017).

overcharged. Though it is no longer clear that arbitration offers a cheaper alternative to litigation,[50] the rise of mediation is in part reflective of cost-aversion.[51]

Two more fundamental challenges are the possibility that many legal services will become essentially free, or conducted outside of traditional jurisdictional boundaries.

In relation to routine legal transactions, material available on the Internet makes it hard to justify charging to provide a basic template for, say, a will. Quality legal advice will still be required, but some start-ups such as Rocket Lawyer now offer a "freemium" model, in which many services are given away in the hope of attracting revenue from the fraction of transactions that is more complex. A different economic challenge is sometimes termed "uberisation" and embraced by entities such as UpCounsel. This refers to a model in which clients no longer go to a single lawyer for advice, but distribute their problem among a large number of lawyers who then bid for the job. All of this has added weight to questions about whether retainers and billable hours can continue to be justified in modern legal practice.[52]

A different challenge to charging legal fees at all is posed by virtual currencies, which might mean that transactions—and potentially disputes—occur outside the jurisdictions entirely. Credit cards, PayPal, and other electronic and mobile payment solutions have lowered the barriers to participating in a global market. But the next stage of evolution might lie with virtual currencies that do not simply smooth the barriers between countries—they avoid countries completely. The best known such virtual currency is Bitcoin, a peer-to-peer payment system that allows value to be transferred directly from one entity to another without going through a bank or a government regulator. "Mined" through complex mathematical processes, the value of one Bitcoin approached US$1,000 in late 2013, dropped to around US$210 in 2015, and rose again to around US$5,000 in 2017. Decentralisation and anonymity made it a favourite of libertarians—with additional breathless speculation that it will soon become the currency of choice for terrorists like the Islamic State. Much of this was overblown, as Bitcoin does not provide true anonymity. Although it does allow the use of pseudonyms, the history of transactions is maintained and can be accessed through the "blockchain", a public ledger that records Bitcoin transactions.

Indeed, it is the blockchain that is now generating more interest than Bitcoin itself. Central to the current economic system is the role of trusted third parties, like banks and governments, that regulate transactions. If their role is replaced by an algorithm, enthusiasts see a faster and freer world of direct exchange between individuals. Others are more sceptical, because those third parties also help resolve disputes when property is lost or stolen. It is still too early to see what impact Bitcoin and its blockchain will ultimately have. While it is essentially treated as a form of currency in the US, in Singapore the Inland Revenue Authority of Singapore considers its sale to be a supply of services—meaning that Goods and Services Tax is payable. Other countries outlaw Bitcoin completely, or remain on the fence.

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[50] *Cf* the data presented in Alec Stone Sweet & Florian Grisel, *The Evolution of International Arbitration: Judicialization, Governance, Legitimacy* (Oxford: Oxford University Press, 2017) at 51.

[51] Valencia Soh Ywee Xian, "Mediation Advocacy: Doing Good, Doing Right and Doing Well" in Joel Lee & Marcus Lim with the collaboration of Phua Jun Han, eds, *Contemporary Issues in Mediation* (Singapore: World Scientific, 2016) vol 1, 17 at 19.

[52] Leigh McMullan Abramson, "Is the Billable Hour Obsolete?" *The Atlantic* (15 October 2015), online: The Atlantic <https://www.theatlantic.com/business/archive/2015/10/billable-hours/410611/>.

In any event, as a result of these technological and economic changes, an increasing number of deals may be done without lawyers; if disputes arise they may be resolved without recourse to the courts. Estonia, for example, has entered into a partnership with BITNATION (the world's first blockchain powered virtual nation) to offer notary services to Estonian e-Residents. Estonian e-Residents can notarise their marriages, birth certificates and other documents on a public distributed ledger located entirely online. The conclusion is not that lawyers will become obsolete, but to add value they will need to be more creative—with the possibility that the absolute number of true "lawyers" will eventually start to shrink. Future law firms may have a mix of high-value lawyers, mid-value information technology specialists, and lower-value project managers and paralegals.

IV. Conclusion

Let me conclude with some suggestions on what all of this might mean for the educational and research mission of NUS Law. I will focus on three areas in which we can magnify the impact that we have on our students, on the global practice of law, and on our region.

First, in terms of our students, I believe we have a responsibility to educate them not only about their home jurisdiction and the jurisdiction of the former colonial power, but also about their region. It is natural that Singaporean students read English and Australian cases, but we need to encourage them to become more familiar with Indonesian and Thai cases also. Students in common law countries need a deeper understanding of the civil law tradition and *vice versa*. Our graduates should be known not only for their intellectual abilities, their professional skills, their ability to analyse problems and communicate answers, but also for their sensitivity to the context within which they operate.

Secondly, and in relation to the global practice of law, it is time for us to be more ambitious. Our students and our professors are now among the best in the world, operating in its most economically dynamic continent. Even as we continue to serve our national and regional missions, we should aim to see our alumni practising at the very highest level. To pick just one area of global practice, investment arbitration: by various counts there are between 15 and 24 key individuals who dominate the field—none of them is from Asia.[53] It is merely a question of time before this changes,[54] but as Singapore cements its position as one of the world's top arbitral hubs, we should expect our graduates to be practising at the top of this game.

Thirdly, in terms of our region, we have an opportunity to shape the convergence of many of our legal regimes. This has already begun to take place in areas like data protection, where the global imperative is perhaps most obvious and networks of legal scholars have helped to craft guidelines. But it is also possible in other

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[53] See *eg*, Michael Waibel, "ICSID Arbitrators: The Ultimate Social Network?" (25 September 2014), online: *EJIL: Talk!* (blog) <https://www.ejiltalk.org/icsid-arbitrators-the-ultimate-social-network/>. *Cf* Chiara Giorgetti, "Who Decides who Decides in International Investment Arbitration?" (2013) 35:2 U Pa J Intl L 431.

[54] Joongi Kim, "International Arbitration in East Asia: From Emulation to Innovation" (2014) 4 Arbitration Brief 1.

areas, perhaps most simply in the area of commercial law. For too long, comparative law in Asia has tended to focus on comparing individual Asian jurisdictions with their Anglo-American or continental European counterparts. Moving forward, initiatives like ABLI will be calling on academics from across the region to explore what commonalities there are across jurisdictions, laying the foundations perhaps for convergence of those laws.[55]

The colonial shadow cast across many Asian jurisdictions is long. Yet the days of foreign powers inhibiting legal education are in the past. In the wake of those retreating powers, the rush to develop legal institutions necessarily entailed a degree of imitation. But with the economic and political rise of Asia there is an opportunity and, I would argue, a responsibility to be more bold. This does not mean change for change's sake, but as we at NUS Law seek to be the best national, global, and Asian law school that we can be, our educational and research mission must evolve. The three fairly modest starting points I have proposed are a recommitment to comparative law that has an emphasis on Asia, the creation of more opportunities for our graduates to practise law at the highest levels, and the taking up of the mantle of regional convergence of laws so that Asia's influence on economics and politics is matched by its influence on the law.

In this way, our goal is to ensure that Singapore, the country so closely identified with the rule of law, is not merely seen as a venue for practising law, but plays an active role in shaping that law also.

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[55] *Cf* The Honourable the Chief Justice Sundaresh Menon, "Roadmaps for the Transnational Convergence of Commercial Law: Lessons Learnt from the CISG" (Address delivered at the 35th Anniversary of the Convention on Contracts for the International Sale of Goods, 23 April 2015), online: Supreme Court Singapore <http://www.supremecourt.gov.sg/docs/default-source/default-document-library/media-room/cisg-speech-(final-230415).pdf>.