

# Lawyer Regulation Stakeholder Networks and the Global Diffusion of Ideas

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## ABSTRACT

*This Article examines the increasingly global nature of the networks to which lawyer regulation stakeholders belong. After identifying who lawyer regulation stakeholders are, the Article identifies five different kinds of opportunities these stakeholders have to interact with global counterparts or to be exposed to global perspectives. For each of the five identified opportunities, the Article provides several examples that illustrate the ways in which U.S. lawyer regulation stakeholders are connected to global networks. The Article explains the broad impact that these kinds of networks can have and concludes that global networks, and the perspectives they bring, should now be viewed as a regular part of U.S. lawyer regulation stakeholder conversations.*

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INTRODUCTION: LAWYER REGULATION STAKEHOLDERS PARTICIPATE  
IN GLOBAL NETWORKS

This Article is written for the *Georgetown Journal of Legal Ethics*’ (“GJLE”) 2020 Symposium about the regulation and self-regulation of attorneys in the United States and internationally. Rather than addressing a specific regulation topic, such as the “competencies” lawyers need in order to practice law, this Article focuses on a “process” question related to how lawyer regulation change occurs. This Article suggests that, as a result of global networks of lawyer regulation stakeholders, it has become increasingly rare for U.S. lawyer regulation conversations to be exclusively domestic. Global networks have affected the vocabulary, content, and participants involved in U.S. lawyer regulation conversations. Thus, when approaching a lawyer regulation topic, such as the topics covered in the GJLE Symposium, one should expect the conversation to include perspectives influenced by developments and individuals outside the United States.

Although prior articles have referred to global networks of lawyer regulation stakeholders,<sup>1</sup> this is the first article I am aware of that has as its central focus these global networks and the role they play in the diffusion of knowledge. This Article does not purport to offer a scientific study of these global networks. Indeed, it could not do so because the study of networks is a sophisticated “interdisciplinary field that combines ideas from mathematics, physics, biology, computer science, statistics, the social sciences, and many other areas.”<sup>2</sup> Nor does this Article provide an expert application of diffusion theory.<sup>3</sup> Despite these limitations, the information and examples in this Article will help explain why, when

1. See, e.g., Leslie C. Levin et al., *The Impact of International Lawyer Organizations on Lawyer Regulation*, 42 *FORDHAM INT’L L.J.* 407 (2018); Laurel S. Terry, *Global Networks and the Legal Profession*, 53 *AKRON L. REV.* 137 (2019) (discussing legal profession networks in general) [hereinafter *Global Networks*]; Laurel S. Terry, *The Impact of Global Developments on U.S. Legal Ethics During the Past Thirty Years*, 30 *GEO. J. LEGAL ETHICS* 365, 381–86 (2017) (briefly discussing global lawyer regulation stakeholder networks) [hereinafter *Thirty Years*]. See generally Laurel S. Terry & Carole Silver, *Transnational Legal Practice*, 49 *INT’L LAW.* 413, 413–14 (2015) (articulating a TLP-Nets [transnational legal practice networks] framework to discuss 2014 transnational legal practice year-in-review developments).

2. See, e.g., MARK NEWMAN, *NETWORKS* ix (2d ed. 2018) [hereinafter *NEWMAN, NETWORKS*]. Network science has been applied to networks as diverse as social, technology, information, and biologic networks. *Id.* at 14–103.

3. Cf. William D. Henderson, *Innovation Diffusion in the Legal Industry*, 122 *DICK. L. REV.* 395 (2018).

analyzing U.S. lawyer regulation and legal services issues, it is important for lawyer regulation stakeholders to be aware of global networks and the global conversations and global developments they introduce into the analysis of these issues.

This Article proceeds in the following manner. Part I identifies and categorizes U.S. lawyer regulation stakeholders. Part II identifies five ways in which U.S. stakeholders are exposed to global perspectives and connected to global networks. Part III explains the concept of diffusion and its impact on lawyer regulation stakeholder networks. The final Part offers concluding observations about the global nature of lawyer regulation stakeholder networks.

## I. IDENTIFYING LAWYER REGULATION STAKEHOLDERS

Before examining the opportunities to participate in global networks available to U.S. lawyer regulation stakeholders, it is appropriate to begin by identifying those stakeholders to whom this Article refers. Some of the obvious stakeholders include clients, lawyers, and the entities that traditionally regulate lawyers.<sup>4</sup> To identify entities that traditionally regulate lawyers, it is useful to ask who regulates the entry stage of the profession, who regulates the conduct stage of the profession, and who regulates lawyer discipline.<sup>5</sup> In other words, it is useful to distinguish among the beginning, middle, and end stages of regulation.<sup>6</sup> It is also helpful to distinguish among the traditional regulators that have *overarching* responsibility for regulation and the traditional regulators who are responsible for the “front-line” or *day-to-day* regulation of lawyers.<sup>7</sup> (The term “front-line regulator” has become more common in the United States following the adoption of the 2007 U.K. Legal Services Act and the use of this term to describe U.K. regulators.<sup>8</sup>)

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4. See, e.g., MODEL RULES OF PROF'L CONDUCT pmbl cmt. 9 (2018) [hereinafter MODEL RULES] (indirectly identifying stakeholders when observing that “[v]irtually all difficult ethical problems arise from conflict between a lawyer’s responsibilities to clients, to the legal system and to the lawyer’s own interest in remaining an ethical person while earning a satisfactory living”).

5. Laurel S. Terry, *The Power of Lawyer Regulators to Increase Client & Public Protection Through Adoption of a Proactive Regulation System*, 20 LEWIS & CLARK L. REV. 717, 754–55 (2016) [hereinafter *Proactive Regulation*].

6. *Id.*

7. *Id.* at 756. It should be noted, however, that “overarching authority” does not necessarily mean that the Supreme Court has the *ultimate* authority to regulate lawyers. State supreme court regulation of lawyers is subject to additional federal laws. See, e.g., *Bates v. State Bar of Ariz.*, 433 U.S. 350, 384 (1977) (finding unconstitutional an advertising ethics rules adopted by the Supreme Court of Arizona). With respect to certain issues of lawyer regulation, there may be differing viewpoints about the location of the line between the U.S. Constitution’s Supremacy Clause and its Tenth Amendment reservation of power to the states. See generally Stephen P. Mulligan, INTERNATIONAL LAW AND AGREEMENTS: THEIR EFFECT UPON U.S. LAW 18–19 (Cong. Research Serv. RL32528, Updated Sept. 19, 2018), <https://crsreports.congress.gov/product/pdf/RL/RL32528> [<https://perma.cc/X932-EPKT>]; Marc I. Steinberg & John M. Koneck, *Federalism, the Tenth Amendment, and the Legal Profession: The Power of a Federal Judge to Restrain a Convicted Attorney, as a Condition of Probation, from Practicing in the State Courts*, 56 NEB. L. REV. 783 (1977).

8. Legal Services Act 2007, c. 29, §§ 2, 20, sch. 1–2 (Eng., Wales), <http://www.legislation.gov.uk/ukpga/2007/29> [<https://perma.cc/7V6H-962Z>] (establishing the Legal Services Board and creating the system for

In the United States, each jurisdiction's highest court (which will be referred to for the sake of simplicity as the state supreme court) typically is the regulatory body that has the *overarching* responsibility for lawyer regulation.<sup>9</sup> Its regulatory authority applies to the beginning, middle, and end stages of lawyer regulation.<sup>10</sup> *Front-line* regulatory responsibility, on the other hand, varies from state to state. For example, in some states, especially those with a unified state bar, the state supreme court may have delegated to the *same entity* the initial responsibility for handling the administration of the supreme court's lawyer admissions authority and its discipline authority.<sup>11</sup> In other states, however, the state supreme court has delegated to *different entities* within that state the front-line responsibility for admissions issues on the one hand, and discipline issues on the other hand.<sup>12</sup>

Although lawyer regulation stakeholders clearly include clients, lawyers, and the traditional regulators, the list of lawyer regulation stakeholders is much broader. Professor David Wilkins' groundbreaking article entitled, *Who Should Regulate Lawyers?*, as well as his follow-up article, helped us better understand potential stakeholders.<sup>13</sup> After identifying the potential stakeholders, his articles

approving front-line regulators); *Approved Regulators*, LEGAL SERVICES BOARD <https://www.legal-servicesboard.org.uk/about-us/approved-regulators> [<https://perma.cc/ZHQ9-XVG6>] (last visited May 20, 2020) (listing the Solicitors Regulation Authority ("SRA") as the independent regulatory body for solicitors and the Bar Standards Board ("BSB") as the independent regulatory body for barristers (in England and Wales). The author has personal knowledge that U.K. and U.S. speakers often refer to the SRA and BSB as "front-line" regulators.

9. *See, e.g.*, NAT'L CONF. OF BAR EXAMINERS & AM. BAR ASS'N SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, COMPREHENSIVE GUIDE TO BAR ADMISSIONS REQUIREMENTS 2019, chart 1, <http://www.ncbex.org/assets/BarAdmissionGuide/NCBE-CompGuide-2019.pdf> [<https://perma.cc/5CSW-YJUG>] (listing for all jurisdictions the state supreme court as the authority that promulgates the rules for admission); AM. BAR ASS'N COMM'N ON MULTIJURISDICTIONAL PRACTICE, REPORT 201A: REPORT TO THE HOUSE OF DELEGATES, [https://www.americanbar.org/content/dam/aba/administrative/professional\\_responsibility/mjp\\_migrated/201a.pdf](https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/mjp_migrated/201a.pdf) [<https://perma.cc/Y3WQ-455S>] (reaffirming the ABA's "support for the principle of state judicial regulation of the practice of law" and providing in the accompanying report citations and supporting information) [hereinafter ABA Resolution 201A].

10. *See* Terry, *Proactive Regulation*, *supra* note 5, at 721.

11. *See, e.g.*, OREGON STATE BAR, <https://www.osbar.org> [<https://perma.cc/UFQ3-QTNF>] (last visited May 20, 2020) (listing both admissions and lawyer discipline under the "Licensing/Compliance" top menu item of this unified state bar).

12. *See* Terry, *Proactive Regulation*, *supra* note 5, at 721 & n.9 (citing Pennsylvania as an example, which has the Pennsylvania Board of Law Examiners, which handles admissions issues and the Pennsylvania Office of Disciplinary Counsel, which handles discipline issues; both of these bodies have been delegated their authority by the Pennsylvania Supreme Court and neither is part of a regulatory unified state bar); *see also id.* at 754–55, app. 5 (summarizing ABA data regarding the functions of the state bar in those states that have a unified state bar).

13. David B. Wilkins, *Who Should Regulate Lawyers?*, 105 HARV. L. REV. 801, 804–09 (1992); David B. Wilkins, *How Should We Determine Who Should Regulate Lawyers?—Managing Conflict and Context in Professional Regulation*, 65 FORDHAM L. REV. 465, 465 (1996) [hereinafter *Follow-up Regulation Article*] (responding to Fordham Symposium authors who discussed his original article). The groundbreaking nature of the original article is demonstrated by the fact that although it was written more than twenty-five years ago, it continues to be cited. *See, e.g.*, Michael Moffitt, *Settlement Malpractice*, 86 U. CHI. L. REV. 1825, 1837 n.25, 1891–92, 1892 n.244 (2019); Elizabeth Chambliss, *Evidence-Based Regulation*, 97 WASH. U. L. REV. 297, 305 n.51 (2019).

evaluated the comparative strengths of disciplinary, liability, institutional, and legislative controls for lawyer enforcement systems.<sup>14</sup> Later articles have provided additional insights about stakeholders interested in lawyer regulation issues.<sup>15</sup> Recent articles and policy papers remind us that individuals who are *not* receiving legal services are also stakeholders in the lawyer regulatory system.<sup>16</sup>

There undoubtedly are many different ways in which one might classify lawyer regulation stakeholders, and it is beyond the scope of this Article to examine and apply stakeholder theories developed in other contexts.<sup>17</sup> This Article defines the

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14. Wilkins, *Follow-up Regulation Article*, *supra* note 13, at 467.

15. See, e.g., Fred C. Zacharias, *The Myth of Self-Regulation*, 93 MINN. L. REV. 1147, 1153 (2009) (identifying examples of lawyer regulation in the course of discussing why references to “self-regulation” are inaccurate); Fred C. Zacharias, *Federalizing Legal Ethics*, 73 TEX. L. REV. 335 (1994); John Leubsdorf, *Legal Ethics Falls Apart*, 57 BUFF. L. REV. 959, 963 (2009) (providing examples of lawyer regulation that go well-beyond the traditional judicial state regulation of lawyers); Laurel S. Terry, *The Future Regulation of the Legal Profession: The Impact of Treating the Legal Profession as “Service Providers.”* J. PROF. LAW. 189, 205–06 (2008) [hereinafter *Service Providers*] (identifying examples of soft law regulation of lawyers); Anthony E. Davis, *Professional Liability Insurers as Regulators of Law Practice*, 65 FORDHAM L. REV. 209, 211 (1996); Charles Silver, *Professional Liability Insurance as Insurance and as Lawyer Regulation: Response to Davis*, 65 FORDHAM L. REV. 233, 233–34 (1996); Charles Silver & Kent Syverud, *The Professional Responsibilities of Insurance Defense Lawyers*, 45 DUKE L.J. 255, 267 (1995).

Despite this literature about lawyer regulation stakeholders, when researching this Article, I was unable to locate any resources that contained a comprehensive list of lawyer regulation stakeholders.

16. See, e.g., Gillian K. Hadfield & Deborah L. Rhode, *How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering*, 67 HASTINGS L.J. 1191 (2016); Rebecca L Sandefur, *What We Know and Need to Know about the Legal Needs of the Public*, 67 S.C. L. REV. 443 (2016); LEGAL SERVICES CORPORATION, *THE JUSTICE GAP: MEASURING THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS* (2017), available at <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf> [<https://perma.cc/U4JC-BT3M>].

17. See, e.g., Bobby Parmar et al., *Stakeholder Theory: The State of the Art*, 4 ACAD. MGMT. ANNALS 403–45 (2010) (summarizing stakeholder theory in a corporate setting); Andrew Crane & Trish Ruebottom, *Stakeholder Theory and Social Identity: Rethinking Stakeholder Identification*, 102 J. BUS. ETHICS 77 (Mar. 2011); Erika Rizzoa, *Brownfield Regeneration in Europe: Identifying Stakeholder Perceptions, Concerns, Attitudes and Information Needs*, 48 LAND USE POL’Y 437, 438 (2015) (citing Reed’s definition of stakeholders as “any organisation, group or person who takes an interest in a project, or those who have the ability to influence its outcomes”).

From a network perspective, stakeholders might be thought of as the “nodes” or points that are connected to one another. See NEWMAN, NETWORKS, *supra* note 2, at 1 (“A network is, in its simplest form, a collection of points joined together in pairs by lines. In the nomenclature of the field a point is referred to as a node . . . thinking of [systems] in this way can lead to new and useful insights.”). Network scientists have developed sophisticated theories that help them determine how many different communities there are within a network. See, e.g., M. E. J. NEWMAN & GESINE REINERT, ESTIMATING THE NUMBER OF COMMUNITIES IN A NETWORK (Phys. Rev. Lett. Ser. No. 117.078301, Aug. 23, 2016), available at <https://www.semanticscholar.org/paper/Estimating-the-number-of-communities-in-a-network-Newman-Reinert/81bf82198d038a6c46fa2ff94e6de276b3f39b8a> [<https://perma.cc/Y42E-7KXM>]. The abstract explains that:

Community detection, the division of a network into dense subnetworks with only sparse connections between them, has been a topic of vigorous study in recent years. However, while there exist a range of powerful and flexible methods for dividing a network into a specified number of communities, it is an open question how to determine exactly how many communities one should use. Here we describe a mathematically principled approach for finding the number of communities in a network using a maximum-likelihood method. We demonstrate the approach on a range of real-world examples with known community structure, finding that it is able to determine the number of communities correctly in every case.

term “stakeholders” broadly and includes within its definition groups and individuals who take an interest in, are affected by, or have the ability to influence lawyer regulation. In other words, the stakeholders listed in Table 1, *infra*, include those who are interested in the outcome of lawyer regulation issues, in addition to those for whose *benefit* lawyer regulation provisions are enacted.

Some of the stakeholders in Table 1 are described generically (e.g., clients), whereas others are identified by name, such as the Conference of Chief Justices.<sup>18</sup> The stakeholders in Table 1 have different levels of control: some of the stakeholders exercise what might be called “hard law” power whereas others exercise indirect or “soft law” power and still others have little or no power but are affected by the lawyer regulatory system.<sup>19</sup> This Article groups these stakeholders into the following ten categories:<sup>20</sup>

- 1) *Those on whose behalf regulations are adopted;*
- 2) *Traditional U.S. lawyer regulators;*
- 3) *Groups that represent, and are primarily comprised of, traditional U.S. lawyer regulators;*
- 4) *Groups that purport to offer expert balanced advice to traditional U.S. lawyer regulators;*
- 5) *Other U.S. regulators whose actions directly affect lawyer regulation;*
- 6) *Those who do not have “hard law” regulatory authority over lawyers, but interact with lawyers and may be able to enforce regulatory-like rules or compliance;*
- 7) *Those who are directly affected by lawyer regulation provisions (but are not the population for whose benefit lawyer regulations are adopted);*
- 8) *Additional individuals or entities within the United States that may be affected by, or care about, U.S. lawyer regulation issues;*

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*Id.* at 1. The goals of this Article are modest—it seeks to identify categories of lawyer regulation stakeholders who operate as “nodes” within a network and to identify opportunities available to these stakeholders—i.e., “nodes”—that connect them to stakeholders in other countries, i.e., the opportunities that act as lines (or “edges”).

18. See *infra* note 29 and accompanying text, which lists the Conference of Chief Justices (“CCJ”), the National Conference of Bar Examiners (“NCBE”), and the National Organization of Bar Counsel (“NOBC”) as examples of groups that represent, and are primarily comprised of, traditional U.S. lawyer regulators. See also Wilkins, *Follow-up Regulation Article*, *supra* note 13, at 479–82 (explaining the tradeoffs between a categorical approach to examining regulatory advantages and a case-by-case approach and responding to comments and critiques).

19. For a discussion of hard and soft law, see Laurel S. Terry, *U.S. Legal Profession Efforts to Combat Money Laundering and Terrorist Financing*, 59 N.Y.L. SCH. L. REV. 487, 490 (2015) [hereinafter *US Legal Profession AML Efforts*]. Although many of the “hard-law” and “soft-law” stakeholders easily fit within Professor Wilkins’ categories, some are more difficult to classify. See also Wilkins, *Follow-up Regulation Article*, *supra* note 13, at 477 (noting that his categories did not fully capture the kind of modified self-regulation described by Professor Rory Little that involved U.S. Attorney General efforts to control federal prosecutors).

20. Although many of the listed stakeholders might fit in multiple categories, I have chosen to list each stakeholder once and only once. For an explanation of these categories and examples of stakeholders in each category, see *infra* at notes 25–50 and accompanying text.

- 9) *Foreign governments, intergovernmental organizations, and international dispute resolution bodies that have adopted policies or rules that may directly or indirectly affect U.S. lawyer regulation; and*
- 10) *Additional individuals or entities outside the United States that may be affected by, or care about, U.S. lawyer regulation.*

This Article does not claim that Table 1 is the only way in which one might classify lawyer regulation stakeholders.<sup>21</sup> Some commentators undoubtedly would create a different set of categories or place some stakeholders in different categories than those found in Table 1. In addition, our society's view of "stakeholders" may evolve over time, as has happened in the business context which now includes increased discussion of external stakeholders and interests.<sup>22</sup> Some might decide that it is better not to define the term "stakeholder," which is the approach taken in the 2012 *Recommendations Regarding Regulation Policy and Governance* adopted by the Organisation of Economic Cooperation and Development ("OECD").<sup>23</sup> But

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21. This Article represents my first effort to identify lawyer regulation stakeholders. As stated in note 15, *supra*, my research failed to locate a comprehensive list of these stakeholders. I am grateful to Professor Leslie Levin for thoughtful comments that helped me refine my thinking and my communication about the stakeholder categories I identified. I hope this Article prompts further discussion of stakeholder categories; I recognize that as a result of such discussions, my understanding of stakeholder categories may change and evolve.

22. See, e.g., Milton C. Regan, Jr. & Kath Hall, *Lawyers in the Shadow of the Regulatory State: Transnational Governance on Business and Human Rights*, 84 *FORDHAM L. REV.* 2001 (2016) (discussing, *inter alia*, the United Nations' 2011 Guiding Principles on Business and Human Rights); U.N. HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER, *GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS* 13, (U.N. Doc. HR/PUB/11/04, 2011), available at [https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf) [<https://perma.cc/6KWV-LD2A>]; John C. Coffee Jr. & Darius Palia, *The Wolf at the Door: The Impact of Hedge Fund Activism on Corporate Governance*, 41 *IOWA J. CORP. L.* 545 (2016) (analyzing impact of hedge fund share ownership); ANDREW JOHNSON ET AL., *CORPORATE GOVERNANCE FOR SUSTAINABILITY STATEMENT* (Jan. 2020), available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3502101](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3502101) [<https://perma.cc/WT88-HLL2?type=image>]; PBS, *World's Largest Asset Manager Says It Will Focus On Climate Change* (Jan. 14, 2020), <https://www.pbs.org/newshour/economy/worlds-largest-asset-manager-says-it-will-focus-on-climate-change> [<https://perma.cc/6873-EPMA>]; COUNCIL OF BARS AND LAW SOCIETIES EUROPE, *PRACTICAL ISSUES FOR BARS AND LAW SOCIETIES ON CORPORATE SOCIAL RESPONSIBILITY GUIDANCE III* (May 2017), available at [https://www.ccbce.eu/fileadmin/speciality\\_distribution/public/documents/CSR/CSR\\_Guides\\_\\_\\_recommendations/EN\\_CSR\\_20170519\\_Guidance-III.pdf](https://www.ccbce.eu/fileadmin/speciality_distribution/public/documents/CSR/CSR_Guides___recommendations/EN_CSR_20170519_Guidance-III.pdf) [<https://perma.cc/R8BU-KYW4>]; Alexander Dahlsrud, *How Corporate Social Responsibility is Defined: An Analysis of 37 Definitions*, 15 *CORP. SOC. RESPONSIB. ENVIRON. MGMT.* 1, 1 (2008); Parmar et al., *supra* note 17.

23. ORGANIZATION OF ECONOMIC COOPERATION & DEVELOPMENT (OECD), *RECOMMENDATION OF THE COUNCIL ON REGULATORY POLICY AND GOVERNANCE* 8 (2012), available at <http://www.oecd.org/gov/regulatory-policy/49990817.pdf> [<https://perma.cc/92QD-Z36V>] (referring to governments' obligations regarding stakeholders without defining the term). For example, paragraph 2.2 in the Annex to this recommendation states that "[g]overnments should co-operate with stakeholders on reviewing existing and developing new regulations," but it does not explain how governments should identify or define the relevant stakeholders. *Id.* For background information about the OECD's regulatory reform initiative, see *Regulatory Policy*, OECD, <http://www.oecd.org/gov/regulatory-policy/> [<https://perma.cc/5JBX-5VBK>] (last visited May 20, 2020); *Recommendations and Guidelines on Regulatory Policy*, OECD, <http://www.oecd.org/gov/regulatory-policy/recommendations-guidelines.htm> [<https://perma.cc/SVR8-596C>] (last visited May 20, 2020). For background about the OECD, which is an international organization whose "member countries work with partners and organizations worldwide to address the pressing policy challenges of our time," see *About*, OECD, <https://www.oecd.org/about/> [<https://perma.cc/E3DE-YTEH>] (last visited May 20, 2020).

since the focus of this Article is on the ways in which lawyer regulation stakeholders connect to global networks and the diffusion of these global perspectives, it seemed appropriate for this Article to explicitly identify lawyer regulation stakeholders. Table 1, which appears below, identifies ten categories of U.S. lawyer regulation stakeholders and provides illustrative examples under each category:

**Table 1: U.S. Lawyer Regulation Stakeholders<sup>24</sup>**

Stakeholder Group 1: Those on whose behalf regulations are adopted:<sup>25</sup>

- those who use legal services, whom this Article refers to as “clients;”
- individuals who have a legal need, but are not currently using legal services;
- the public (which may be affected by the manner in which a lawyer delivers legal services to a client); and
- the individuals who oppose a lawyer’s client (in litigation) or who are dealing with a lawyer’s client (in a transactional matter).

Stakeholder Group 2: Traditional U.S. lawyer regulators:<sup>26</sup>

- each state’s highest court [hereinafter “supreme court”], which in the United States is the traditional overarching regulator;

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24. I have not provided a footnote for each stakeholder listed. Some stakeholders, such as “clients,” do not easily lend themselves to a footnote; others, such as the National Conference of Bar Examiners, are easily located with an Internet search. I have included a footnote at the beginning of each category. *See also supra* note 20 (explaining that each illustrative stakeholder is listed in one and only one of the ten categories).

25. Stakeholder Group 1 is intended to correspond to the “objects” of a jurisdiction’s explicit or implicit regulatory objectives—i.e., those on whose behalf its lawyer regulations are adopted. *See generally* Laurel S. Terry et al., *Adopting Regulatory Objectives for the Legal Profession*, 80 *FORDHAM L. REV.* 2685 (2012); (recommending the adoption of regulatory objectives and identifying the authors’ views of those on behalf they should be adopted); Laurel S. Terry, *Why Your Jurisdiction Should Consider Jumping On The Regulatory Objectives Bandwagon*, 22 *J. PROF. L.* 28, 29 (2013), available at [http://www.personal.psu.edu/faculty/l/s/lst3/Terry\\_Regulatory\\_Objectives\\_Bandwagon\\_2013.pdf](http://www.personal.psu.edu/faculty/l/s/lst3/Terry_Regulatory_Objectives_Bandwagon_2013.pdf) [<https://perma.cc/7ZZL-5SP5>] [hereinafter *Regulatory Bandwagon*] (arguing that jurisdictions should explicitly identify their regulatory objectives; doing so may reduce the chance of capture and may increase the chance that regulators consider all appropriate regulatory objectives, rather than focusing exclusively on a single objective, such as client protection, to the exclusion of other appropriate objectives, such as access to legal services); ABA Resolution 105: ABA Model Regulatory Objectives for the Provision of Legal Services (adopted Feb. 8, 2016), [https://www.abajournal.com/files/2016\\_hod\\_midyear\\_105.authcheckdam.pdf](https://www.abajournal.com/files/2016_hod_midyear_105.authcheckdam.pdf) [<https://perma.cc/BKM2-CH3K>]; MODEL RULES OF PROF’L CONDUCT pmb1.

26. Stakeholder Group 2 consists of the actors or entities who traditionally regulate lawyers. *See generally* ABA Resolution 201A, *supra* note 9 (“RESOLVED, that the [ABA] affirms its support for the principle of state judicial regulation of the practice of law”); Terry, *Proactive Regulation*, *supra* note 5, at 77, 98 (summarizing in Appendix 5 ABA data identifying unified state bars and the responsibilities they have assumed).

Because judges and courts adopt local rules that regulate the lawyers who appear before them, I have included them in Group 2. One might argue that they also belong in Group 1, as entities for whose benefit lawyer regulation provisions are adopted. But as explained *supra* note 20, Table 1 lists each stakeholder only once, even though that stakeholder might fit in multiple categories. To use a grammar analogy, I see Group 1 as the objects of regulation and Group 2 as the subjects imposing regulation and believe that courts and judges are more properly included with other traditional regulators, rather than with the beneficiaries or objects of lawyer regulation.

- the state regulators to whom the state supreme courts have delegated authority—in other words, the “day job” regulators or “front-line” regulators;
- judges and courts before whom a lawyer may appear;
- regulatory bar associations (which in the United States are often called “unified bar associations”) when acting in their regulatory, rather than representational capacity;<sup>27</sup> and
- official accrediting agencies to whom power has been delegated, such as the Council of the American Bar Association Section of Legal Education and Admissions to the Bar.<sup>28</sup>

Stakeholder Group 3: Groups that represent, and are primarily comprised of, traditional U.S. lawyer regulators:<sup>29</sup>

- the Conference of Chief Justices [of state supreme courts] (“CCJ”) and the National Center for State Courts;<sup>30</sup>
- the National Conference of Bar Examiners (“NCBE”), which brings together, inter alia, the day job regulators who regulate lawyer admissions (i.e., entry into the profession); and
- the National Organization of Bar Counsel (NOBC), which brings together regulators who discipline lawyers.

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27. See generally *In re* Rule to Create Vol. State Bar Ass’n of Neb., 841 N.W.2d 167, 169, 172–73 (Neb. 2013) (denying petition to convert the Nebraska Bar Association to a voluntary bar, referring to “unified” state bars, and describing their powers and limits). For additional information about state unified bar associations and their functions, see Appendix 5 in Terry, *Proactive Regulation*, *supra* note 5, at 98; *Bar Structure Work Group*, WASHINGTON STATE BAR, <https://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/bar-structure-work-group> [<https://perma.cc/M4GU-UHD7>] (last visited May 20, 2020) (providing links to meeting materials and other resources as the Washington State Bar considered the proper scope of its activities as a unified bar association); Leslie C. Levin, *The End of Mandatory State Bars?*, 109 GEO. L.J. ONLINE 1 (2020), [https://www.law.georgetown.edu/georgetown-law-journal/wp-content/uploads/sites/26/2020/04/Levin\\_The-End-of-Mandatory-State-Bars.pdf](https://www.law.georgetown.edu/georgetown-law-journal/wp-content/uploads/sites/26/2020/04/Levin_The-End-of-Mandatory-State-Bars.pdf) [<https://perma.cc/R6YS-EM7Q>].

28. See, e.g., AM. BAR ASS’N, SEC. OF LEGAL EDUC. & ADMISSIONS TO THE BAR, THE LAW SCHOOL ACCREDITATION PROCESS 3 (Rev’d Sept. 2016), available at [https://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/2016\\_accreditation\\_brochure\\_final.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2016_accreditation_brochure_final.authcheckdam.pdf) [<https://perma.cc/ZHT7-2N5H>], which states:

Under Title 34, Chapter VI, §602 of the Code of Federal Regulations, the Council and the Accreditation Committee of the ABA Section of Legal Education and Admissions to the Bar are recognized by the United States Department of Education (DOE) as the accrediting agency for programs that lead to the J.D. degree. In this function, the Council and the Section are separate and independent from the ABA, as required by DOE regulations.

29. Stakeholder Group 3 includes stakeholders that do not have direct regulatory power, but are associations that represent or include the traditional regulators in Group 2. See, e.g., Terry & Silver, *supra* note 1, at 416 (referring to the stakeholders listed in Group 3).

30. For information about the history of the CCJ, see CONFERENCE OF CHIEF JUSTICES, THE HISTORY OF THE CONFERENCE OF CHIEF JUSTICES: IN COMMEMORATION OF ITS 60TH ANNIVERSARY (2009), <https://ccj.ncsc.org/~media/Microsites/Files/CCJ/Web%20Documents/CCJ%20History%2061709.ashx> [<https://perma.cc/23TH-425F>]. See *id.* at 35–36 for a discussion of the relationship of the CCJ and the National Center for State Courts.

Stakeholder Group 4: Groups that purport to offer expert balanced advice to traditional U.S. lawyer regulators:<sup>31</sup>

- the American Law Institute (ALI), which drafted the Restatement of the Law Governing Lawyers;<sup>32</sup> and
- the American Bar Association when it drafts model provisions for state Supreme Courts and purports to be acting as a “quasi-regulator,” rather than representing its members’ self-interest or acting as a trade group.<sup>33</sup>

Stakeholder Group 5: Other U.S. regulators whose actions directly affect lawyer regulation:<sup>34</sup>

- the U.S. Congress;
- state legislatures;
- state and federal executive or legislative branch agencies, including those that implement antitrust, consumer protection, intellectual property, international trade, securities regulation, and tax policies; and
- domestic dispute resolution bodies that have adopted rules that apply to lawyers appearing before those bodies (to whom such power has been delegated).

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31. Stakeholder Group 4 includes entities that provide expertise or advice to traditional lawyer regulators. The difference between Groups 3 and 4 is that the stakeholder entities listed in Group 3 consist primarily of regulators, whereas the stakeholder entities in Group 4 are not primarily regulators, even though they may have some regulator members, such as judges. Although the entities listed in Group 4 are not organizations of regulators, they opine on model laws (the American Law Institute), their interpretation (the ABA Standing Committee on Ethics and Professional Responsibility), or implementation (the ABA Standing Committee on Professional Regulation when it issues its confidential evaluations of state lawyer discipline systems).

32. RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS (2000). *See also infra* note 33 for a discussion of the distinction between acting as a quasi-regulator and acting as a trade group.

33. *See generally* ABA Center for Professional Responsibility, *Policy & Initiatives*, ABA, [https://www.americanbar.org/groups/professional\\_responsibility/policy/](https://www.americanbar.org/groups/professional_responsibility/policy/) [<https://perma.cc/8UDL-LMAN>] (last visited May 20, 2020) (showing ABA policies, many of which were generated by these groups). Although these groups are not organizations of regulators, they develop model rules and policies for state supreme court consideration.

Several authors have observed that the ABA should not act as a “trade group” when acting in this “quasi-regulator” role. *See, e.g.*, Laurel S. Terry, *Globalization and the ABA Commission on Ethics 20/20: Reflections on Missed Opportunities and the Road Not Taken*, 43 HOFSTRA L. REV. 95, 117 n.93 (2014) [hereinafter *Globalization and the ABA Commission on Ethics*] (noting that in addition to its representational or lobbying function on behalf of lawyers, the ABA also “acts as a ‘quasi-regulator,’ and should endeavor to offer fair and balanced advice to regulators, not advice driven by its members’ own self-interest”); Stephen Gillers, *How to Make Rules for Lawyers: The Professional Responsibility of the Legal Profession*, 40 PEPP. L. REV. 365, 371–74 (2013).

A number of commentators have questioned the degree to which the ABA’s model lawyer regulation policies truly reflect balanced expert advice. *See, e.g.*, Terry, *Globalization and the ABA Commission on Ethics, supra*, at 120–21 (noting that the ABA has been criticized for confusing its representational and quasi-regulator roles); Ted Schneyer, *Professionalism as Bar Politics: The Making of the Model Rules of Professional Conduct*, 14 L. & SOC. INQUIRY 677 (1989).

34. Stakeholder Group 5 includes governmental bodies (and alternative dispute resolution tribunals) whose actions affect lawyers, but who have not been viewed as the traditional regulators of lawyers. *See, e.g.*, Leubsdorf, *supra* note 15 (identifying state and federal statutes that apply to lawyers, as well as other nontraditional regulators); Terry, *Service Providers, supra* note 15, at 205–10 (focusing on potential regulatory impact of federal and international developments); *cf.* ABA Resolution 201A, *supra* note 9.

Stakeholder Group 6: Those who do not have “hard law” regulatory authority over lawyers, but interact with lawyers and may be able to enforce regulatory-like rules or compliance:<sup>35</sup>

- those who employ a particular lawyer;
- legal malpractice insurers;
- companies that provide insurance to clients or to others, such as those who insure a party opposing a lawyer’s client;
- lenders (including those who lend money to clients and those who lend money to lawyers or law firms); and
- those who work in the same law firm (or other employment settings) as the regulated lawyer.

Stakeholder Group 7: Those who are directly affected by lawyer regulation provisions (but are not the population for whose benefit lawyer regulations are adopted):<sup>36</sup>

- lawyers whose representation of a client will be directly affected by existing lawyer regulations;
- lawyers who are not representing a client, but are subject to lawyer regulatory system rules that apply to a lawyer 24/7;
- a lawyer’s opposing counsel who is subject to rules limiting the tactics that opposing counsel may use; and
- court and judicial system officials and participants, such as clerks and court staff.

Stakeholder Group 8: Those inside the United States who were not previously identified but have an interest or stake in the outcome of lawyer regulation issues:<sup>37</sup>

- future lawyers, including current U.S. law students and those who might have been interested but have chosen not to attend law school;

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35. Stakeholder Group 6 includes individuals or entities who are in a position to enforce regulatory-like rules. Unlike the stakeholders in Group 5, however, these stakeholders are not governmental bodies. The stakeholders in Group 6 get their power from voluntarily-created relationships, rather than governmental authority. The malpractice insurance carrier is a quintessential example of a Group 6 stakeholder.

36. Stakeholder Group 7, like Stakeholder Group 1, focuses on the *objects* of regulation rather than the stakeholders *imposing* regulation, such as the stakeholders in Groups 2 and 6. Although the stakeholders in both Groups 1 and 7 will be affected by lawyer regulation, the stakeholders in Group 1 are the individuals or entities for whose benefit lawyer regulations are adopted – i.e., those covered by the jurisdiction’s explicit or implicit regulatory objectives. *See supra* note 25. Group 7 stakeholders are not. For example, lawyers are clearly affected by lawyer regulation rules, but many, including this author, would conclude that lawyer regulation is not (or should not be) adopted *with the goal of benefitting lawyers* (e.g., to increase their market share compared to other kinds of competitors).

37. Stakeholder Group 8 is intended as a catch-all category for U.S. stakeholders that have not been included in Groups 1-7. Similar to Groups 1 and 7, this category includes individuals and entities that will be affected by lawyer regulation (i.e., they are more analogous to the “objects” of regulation than the “actors” imposing regulation). While the distinction between Group 7 and Group 8 stakeholders is subtle, I envision Group 7 stakeholders as those who are involved in a pending matter where there is an immediate and direct impact, whereas Group 8 stakeholders have long-term, less-immediate interests affected by lawyer regulation.

- U.S. law schools and their faculty and administration;
- those who care about our society and the administration of justice;
- those who would like to employ lawyers but are unable to do so under the current lawyer regulatory system which bans outside investment and lawyer-nonlawyer partnerships;<sup>38</sup>
- interest [trade] groups representing certain kinds of actual or potential *clients*, such as the Association of Corporate Counsel;<sup>39</sup>
- interest [trade] groups representing *regulators* whose lives will be affected by the shape and scope of regulation;
- interest [trade] groups representing *lawyers* whose professional lives will be affected by the shape and scope of regulation, such as the Association of Trial Lawyers of America [now called the American Association for Justice], the International Association of Defense Counsel (“IADC”), and the American College of Trusts and Estate Counsel (“ACTEC”);<sup>40</sup>
- interest [trade] groups that might want the opportunity to serve a particular market, such as legal tech providers;
- interest [trade] groups that consider how various kinds of regulatory provisions will affect the constituencies they represent, such as the U.S. Chamber of Commerce or Public Citizen;<sup>41</sup> and
- bar associations, when acting in their representational, rather than regulatory capacity (including subgroups within the association that may have interests that conflict with one another or with the parent group).<sup>42</sup>

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38. As explained *infra* notes 101–18 and accompanying text, Arizona, California, and Utah are among the states that are considering changing or eliminating Rule of Professional Conduct 5.4, which prohibits fee-sharing or partnerships among lawyers and nonlawyers in the delivery of legal services. Thus, the stakeholders who have an interest Rule 5.4 issues include nonlawyers who might want to employ or go into partnership with lawyers to provide “legal services.”

39. See, e.g., ASS’N OF CORPORATE COUNSEL, <https://www.acc.com/> [<https://perma.cc/2DF9-VT5W>] (last visited May 20, 2020) (providing resources for lawyers who work for corporations); AM. BANKERS ASS’N, <https://www.aba.com/> [<https://perma.cc/JRD8-KPD3>] (last visited May 20, 2020) (representing banks).

40. See, e.g., *Mission & History*, AM. ASS’N FOR JUSTICE, <https://www.justice.org/who-we-are/mission-history> [<https://perma.cc/6SMT-YVJB>] (last visited May 20, 2020); *About the Association*, INT’L ASS’N OF DEFENSE COUNSEL, <https://www.iadclaw.org/about/about-the-association/> [<https://perma.cc/S7VU-6TFL>] (last visited Apr. 6, 2020); *Purposes of the College*, AM. COLLEGE OF TRUSTS & ESTATE COUNSEL, <https://www.actec.org/about-us/purposes-of-the-college/> [<https://perma.cc/7KLX-5J2J>] (last visited May 20, 2020).

41. See, e.g., *About the U.S. Chamber of Commerce*, U.S. CHAMBER OF COMMERCE, <https://www.uschamber.com/about/about-the-us-chamber-of-commerce> [<https://perma.cc/MNF4-BL93>] (last visited May 20, 2020); *About Us*, PUBLIC CITIZEN, <https://www.citizen.org/about/> [<https://perma.cc/MNF4-BL93>] (last visited May 20, 2020). The author has personal knowledge that both of these organizations have been active on issues that affect lawyer regulation such as international trade and anti-money laundering issues.

42. For a discussion of the difference between regulatory and representational bar associations, see *supra* note 27 (citing *inter alia* the Washington State Bar Resources page).

Stakeholder Group 9: Foreign governments, intergovernmental organizations, and international dispute resolution bodies that have adopted policies or rules that may directly or indirectly affect U.S. lawyers and lawyer regulation.<sup>43</sup>

- intergovernmental organizations such as the United Nations, the World Trade Organization, and the Financial Action Task Force, whose policies are relevant to lawyer regulation;<sup>44</sup>
- international dispute resolution bodies (whose cases may be affected by U.S. lawyer regulation or which may have adopted rules that apply to lawyers and clients appearing before those bodies);<sup>45</sup> and
- foreign governments whose rules affect U.S. lawyers or lawyer regulation.

Stakeholder Group 10: Additional individuals or entities outside the United States who may be affected by, or care about, U.S. lawyer regulation.<sup>46</sup>

- international organizations interested in lawyer regulation issues;<sup>47</sup>
- other organizations, such as the Law Society of England and Wales, that might have an interest in having the United States adopt or follow a particular set of rules or policies;<sup>48</sup> and

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43. Stakeholder Group 9 includes international governmental entities, including foreign governments and intergovernmental bodies, as well as international arbitral tribunals that are the counterpart to the domestic tribunals included in Group 2. Group 9 is similar to Groups 2 and 5 because these stakeholders are actors who create regulation. Group 9's stakeholders differ from the prior groups because they are not U.S. stakeholders. Moreover, unlike the regulators included in Groups 2 and 5, Group 9's stakeholders may have either an indirect or direct impact on U.S. lawyers and lawyer regulation. Examples of direct impact are rules that apply to U.S. lawyers and law firms practicing in England and Wales. *See generally* Legal Services Act, *supra* note 8. For an example of indirect impact, see *infra* notes 82–84 and 140–46 (discussing FATF-AML impact).

44. *See, e.g.,* Terry, *Service Providers*, *supra* note 15, at 190–99 (describing the potential effect of intergovernmental organizations such as the UN, WTO, and FATF on lawyer regulation).

45. *See, e.g.,* PROJECT ON INTERNATIONAL COURTS AND TRIBUNALS (PICT), THE INTERNATIONAL JUDICIARY IN CONTEXT, [https://elaw.org/system/files/intl%20tribunals%20synoptic\\_chart2.pdf](https://elaw.org/system/files/intl%20tribunals%20synoptic_chart2.pdf) [<https://perma.cc/7VZK-V6SB>].

46. Stakeholder Group 10 differs from Groups 1–8 because it involves stakeholders who are primarily foreign, rather than domestic U.S. stakeholders. (Global networks exist, however, because U.S. stakeholders are connected to Group 10 stakeholders.) Group 10 differs from Group 9 because it includes individuals and nongovernmental entities, rather than intergovernmental bodies, foreign governments or international tribunals. Group 10 is intended as a “catch-all” international category. Group 10 includes international regulatory “actors” analogous to those in Groups 4 and 5, those who are affected by regulation and are thus analogous to Groups 1 and 7, and “others,” who are analogous to Group 8.

47. *See also Practice Rules and Guidelines: Alternative Dispute Resolution*, INT'L B. ASS'N, [https://www.ibanet.org/Publications/publications\\_IBA\\_guides\\_and\\_free\\_materials.aspx](https://www.ibanet.org/Publications/publications_IBA_guides_and_free_materials.aspx) [<https://perma.cc/MSN2-CPYK>] (last visited May 20, 2020) (includes links to the IBA Guidelines on Conflicts of Interest in International Arbitration (2014), Guidelines on Party Representation in International Arbitration (2013), and Rules on the Taking of Evidence in International Arbitration (2010)). *See generally* CATHERINE A. ROGERS, ETHICS IN INTERNATIONAL ARBITRATION (2014).

48. In the author's view, representatives from the Law Society of England and Wales are interested in having one or more U.S. jurisdictions adopt rules similar to their alternative business structures or ABS rules. *See also infra* notes 71–73 and accompanying text (describing interactions among U.S. and U.K. stakeholders).

- individuals or entities located outside the United States who might be affected by U.S. lawyer regulation policies.<sup>49</sup>

With the exception of some of the stakeholders in the last two categories, the stakeholders listed above generally have available to them U.S. *domestic networks*<sup>50</sup> to which they might belong. The next Part explains why the lawyer regulation stakeholders listed above also have multiple opportunities to directly participate in *global networks*<sup>51</sup> and, why, even when they do not directly participate in global networks, these stakeholders are likely to be indirectly connected to global lawyer regulation stakeholder networks.

## II. FIVE WAYS IN WHICH STAKEHOLDERS INTERACT WITH, OR ARE EXPOSED TO, GLOBAL NETWORKS

This Article would be impossibly long if it tried to document *all* of the global connections of *all* of the U.S. lawyer regulation stakeholders listed in the prior Part.<sup>52</sup> Rather than attempting to provide a comprehensive list of all of the global connections of all of these stakeholders, this Part identifies five *opportunities* these stakeholders have to connect directly or indirectly to global networks.<sup>53</sup> After describing each of these *opportunities*, this Part provides examples that illustrate global lawyer regulation networks at work. The examples in this Part are intended to be illustrative, rather than exhaustive.<sup>54</sup> The five opportunities described in this Part are:

- attending *in-person meetings* that include speakers or attendees from outside the United States (or by hearing from speakers or attendees who are part of, and have been influenced by, global networks);

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49. See, e.g., Roger J. Goebel, *Professional Responsibility Issues in International Law Practice*, 29 AM. J. COMP. L. 1, 17–20, 45–49 (1981) (posing many hypotheticals, including one on page 49 that asked if U.S.-licensed attorneys can advise their corporate clients to sell in other countries drugs that were expired or illegal in the United States).

50. See *infra* Section II.E.

51. See *infra* Section II.A–E.

52. See *supra* notes 25–50 and accompanying text (listing ten stakeholder categories, each of which included a number of illustrative stakeholders, for a total of more than forty stakeholders).

53. According to a leading network expert, a social network is one in which “the nodes are people (or sometimes groups of people, such as firms or teams) and the edges between them are social connections of some kind, such as friendship, communication, or collaboration.” NEWMAN, NETWORKS, *supra* note 2, at 5. Network science allows one to visualize the impact of “nodes” that are not directly connected to each other but are indirectly connected through various “edges” or links. See, e.g., *id.* at 6 (discussing how the study of food webs can help us understand and quantify ecological phenomenon and the interdependencies between species).

54. Because of time and space limitations, this Article does not attempt to document the global connections of each of the identified stakeholders. Nevertheless, the illustrative examples show that there are many ways in which U.S. lawyer regulation stakeholders are connected to global networks. Cf. NEWMAN, NETWORKS, *supra* note 2, at 5 (noting that because social network studies often are arduous, they usually are small, such as the famous study of a karate club that had thirty-four nodes (individuals), but also noting that social network companies, such as Facebook, have research divisions that collaborate with the academic community to do research on social networks using their vast data resources).

- participating in *virtual meetings* or events that include speakers or attendees from outside the United States (or those who are part of a global network);
- *reading* articles that are written about, or influenced by, global developments and perspectives;
- following the work of *law reform initiatives* inside and outside the United States; and
- being part of a *group* that communicates with its members through a *list-serve* or otherwise, even though the group might, at first glance, seem to be wholly domestic.

The Sections that follow include recent examples of global perspectives within each of these five opportunities.

#### A. IN-PERSON MEETINGS AND CONFERENCES

It has become common for in-person meetings of U.S. lawyer regulation stakeholders to include global information and perspectives that connect U.S. stakeholders to a global network. Consider, for example, the 2019 National Conference on Professional Responsibility, which was sponsored by the ABA Center for Professional Responsibility.<sup>55</sup> Similar to the ABA's prior national conferences, this conference drew a mix of regulators, legal ethics academics, private practitioners (including those who work for law firms that have international offices), and in-house counsel, including those who work for malpractice insurance carriers.<sup>56</sup> The 2019 ABA ethics conference was held in Vancouver, Canada, and those who attended were exposed either directly (through formal programming) or indirectly (through conference conversations and interactions) to global lawyer regulation networks.<sup>57</sup> The formal programming included a networking breakfast for U.S. and Canadian regulators,<sup>58</sup> as well as sessions in which U.S. audience members heard from Canadian speakers and Canadian audience members heard from U.S. speakers.<sup>59</sup> Conference attendees also learned about U.S.-Canadian collaborations that might not otherwise have been apparent. For example, the primary speaker during the first plenary session was Shannon Salter, who is Chair of the Civil Resolution

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55. See ABA 45TH NAT'L. CONF. PROF'L RESPONSIBILITY (Vancouver, May 29–31, 2019) [https://www.americanbar.org/content/dam/aba/events/professional\\_responsibility/2019\\_cpr\\_meetings/2019conf/2019pr-conf-sched.pdf](https://www.americanbar.org/content/dam/aba/events/professional_responsibility/2019_cpr_meetings/2019conf/2019pr-conf-sched.pdf) [<https://perma.cc/KMV4-4R56>] [hereinafter 2019 ABA Ethics Conference program].

56. See, e.g., *id.* (speakers include all of these constituents). The author has personal knowledge that it is typical for this conference to include a range of stakeholders.

57. See *infra* notes 58–61 and accompanying text.

58. See 2019 ABA Ethics Conference program, *supra* note 55 (listing 7:00 AM May 30, 2019 “Canadian/U.S. International Regulators’ Roundtable”). For a discussion of the history of these breakfasts, see Terry, *Thirty Years*, *supra* note 1, at 383–84.

59. See 2019 ABA Ethics Conference program, *supra* note 55, at Plenary #3 & Breakout #9 (panels included a session on technology moderated by the President and CEO of LawPro, which is the mandatory insurance carrier for Ontario lawyers, and a session of the future of Rule 5.4, which included the former Executive Director of the Nova Scotia regulatory body).

Tribunal of British Columbia.<sup>60</sup> Ms. Salter explained the development of this online government-sponsored dispute resolution tribunal and—in response to a question—mentioned that she not only was familiar with the Utah courts’ online dispute resolution system, but she consulted with Utah regarding its system.<sup>61</sup>

The 2019 meeting of the International Conference of Legal Regulators (“ICLR”) provides another recent example of an in-person meeting that has helped foster global knowledge and connections—in other words, a global network. Approximately ten U.S. lawyer regulation stakeholders spoke at, or moderated sessions at, the 2019 ICLR Conference in Edinburgh.<sup>62</sup> There were additional U.S. stakeholders who attended even though they were not speakers or moderators.<sup>63</sup> The U.S. speakers, moderators, and attendees included leaders in the National Organization of Bar Counsel and National Conference of Bar Examiners who are in a position to shape the dialogue within their important regulatory umbrella organizations.<sup>64</sup> Additional recent conferences that show the global connections of U.S. lawyer regulation stakeholders include conferences for specific kinds of clients,<sup>65</sup> and for legal malpractice and risk management professionals.<sup>66</sup>

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60. See generally *id.*

61. The author was present in Vancouver and heard the question and Ms. Salter’s answer. For additional information about Utah’s ODR system, including screenshots, see Deno Himonas, *Utah’s Online Dispute Resolution Program*, 122 DICK. L. REV. 875 (2018), <https://ideas.dickinsonlaw.psu.edu/dlr/vol122/iss3/6> [<https://perma.cc/FY75-TWKM>].

62. *ICLR 2019 Speakers*, INT’L CONF. LEGAL REGULATORS, <https://www.lawscot.org.uk/members/cpd-training/iclr-2019/speakers/> [<https://perma.cc/BNA5-7KMV>] (last visited May 20, 2020) (speakers and moderators included lawyer regulators from Georgia, Illinois, Michigan, Missouri, and representatives from the ABA Center for Professional Responsibility, the Association of Professional Responsibility Lawyers (APRL) Future of Lawyering Committee, the State Bar of California Task Force on Access through Innovation in Legal Services, the National Conference of Bar Examiners, and the Utah Supreme Court’s Work Group on Regulatory Reform). See also *ICLR 2019 Programme*, INT’L CONF. LEGAL REGULATORS, <https://www.lawscot.org.uk/members/cpd-training/iclr-2019/programme/> [<https://perma.cc/PN4U-NAAM>] (last visited May 20, 2020).

63. Although the conference did not issue a list of attendees, the author has personal knowledge that the attendees included U.S. regulators who were neither speakers nor moderators.

64. See *ICLR 2019 Speakers*, *supra* note 62 (the speakers and moderators included Judith Gunderson, who is the President of the National Conference of Bar Examiners and Melinda Bentley, who was the immediate past president of the National Organization of Bar Counsel).

65. See, e.g., *2020 Innovations in Technology Conference*, LEGAL SERVICES CORP., <https://lscitc2020.sched.com/> [<https://perma.cc/CYQ7-Z939>] (last visited May 20, 2020) (includes speakers from Canada in this January 2020 conference focused on increased delivery of legal services to U.S. clients of low and modest means); *In-Person Education Events*, ASS’N CORPORATE COUNSEL, <https://www.acc.com/education-events/inperson-education> [<https://perma.cc/A7SF-PRK2>] (last visited May 20, 2020) (listing the October 2020 Annual Meeting, as well as other events with global content).

66. See, e.g., *Hinshaw’s 19th Annual Legal Malpractice & Risk Management (LMRM) Conference*, HINSHAW, <https://www.hinshawlaw.com/f-lmrm-home.html> [<https://perma.cc/2G6A-7VJ2>] (last visited May 20, 2020) (which includes sessions on U.K. developments and U.K. speakers in this March 2020 conference). Hinshaw described its 2020 conference as:

the industry’s premier event focused on current and important developments in the litigation of legal malpractice claims, malpractice insurance, professional responsibility, and risk management strategies. . . . [and a] must-attend event for law firm general counsel and managing partners, in-house corporate counsel, professional liability practitioners, legal malpractice insurance professionals, and any practicing lawyer concerned with risk management in the practice of law.

When originally drafted, this paragraph was a “placeholder” for later content that would describe the March 20, 2020 *Georgetown Journal of Legal Ethics* Symposium. Although Georgetown’s live Symposium was canceled because of the COVID-19 pandemic,<sup>67</sup> this cancellation, as well as Volume 33(4) of the *Georgetown Journal of Legal Ethics*, illustrate this Article’s overarching point that global networks can have a powerful impact.<sup>68</sup>

Although COVID-19 has led to the cancellation of additional in-person meetings, even *canceled* in-person meetings can help connect U.S. lawyer regulation stakeholders to global networks and perspectives. For example, until the COVID-19 pandemic led to its cancellation, the UCLA School of Law planned to host the 2020 International Legal Ethics Conference (“ILEC”).<sup>69</sup> Although the 2020

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*Id.*; see also ATTORNEYS’ LIABILITY ASSURANCE SOCIETY, HIGHLIGHTS FROM 2019 ALAS ANNUAL GENERAL MEETING, [https://www.alas.com/public/AGM\\_Highlights%202019.pdf](https://www.alas.com/public/AGM_Highlights%202019.pdf) [<https://perma.cc/8272-BVNE>]:

On the Loss Prevention side, we have expanded our programming, including our General Counsel Roundtable for Firms with Foreign Offices in March 2019; a new conference, the Corporate Practice Group Leader Consultation Conference (November 14–15, 2019); and the recent redesign of our ALAS Loss Prevention Journal, published this summer . . . . We also have continued with our broad range of traditional publications and other programming, including . . . our London Loss Prevention Forum (October 2019), addressing liability and regulatory issues arising in our firms’ growing international practices.

*Id.* ALAS was founded by its owner-insured law firms to provide insurance coverage and its representatives periodically share information with other lawyer regulation stakeholders at venues such as the ABA annual ethics conference or through service on ABA committees. See generally the programs from the ABA’s annual National Conference on Professional Responsibility. See also Tenth General Counsel Compliance and Risk Forum 2019, CLYDE & CO., <https://www.clydeco.com/events/view/tenth-general-counsel-compliance> [<https://perma.cc/723B-UY2P>] (last visited May 20, 2020) (jointly chaired by U.S. lawyer Anthony Davis and U.K. lawyer Richard Harrison).

67. See E-mail from Devlin Woods, *GJLE* Vol. XXXIII Editor-in-Chief, to Symposium Speakers (Mar. 11, 2020) (on file with author) (“This morning, Georgetown Law canceled any in-person events, both on and off-campus, until May 10, 2020. It is with a heavy heart that we unfortunately must cancel our Symposium.”) Although the live Symposium was cancelled, Volume 33(4) of the *Georgetown Journal of Legal Ethics* is the Symposium issue and will have articles by authors who have global connections and whose articles include information from countries outside the United States. See *infra* note 187.

68. See *supra* note 67 (citing the cancellation of the live Symposium and citing Volume 33(4), which includes articles that describe or cite international events). For information about the impact of COVID-19, see *WHO Coronavirus Disease (COVID-19) Dashboard*, WORLD HEALTH ORG., <https://covid19.who.int/> [<https://perma.cc/872G-8WLC>] (last visited May 20, 2020); *Coronavirus Disease 2019 (COVID-19): Cases in U.S.*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> [<https://perma.cc/HZ5L-E2TP>] (last visited May 20, 2020).

69. *International Legal Ethics Conference 2020: Lawyers in Divided Times*, UCLA SCHOOL OF LAW, <https://law.ucla.edu/centers/interdisciplinary-studies/program-on-legal-ethics-and-the-profession/events/ilec-2020/> [<https://perma.cc/2NDA-SZXU>] (last visited May 20, 2020). The ILEC 2020 conference was cancelled on March 26, 2020. See E-mail from Scott Cummings, UCLA Professor of Law, to the author and many others (Mar. 26, 2020) (announcing the cancellation of the July 23–25, 2020 conference) (on file with author). The email explained that this “difficult decision was made in close consultation with the International Association of Legal Ethics, whose board unanimously agreed cancellation was necessary.” *Id.* This Board consists of members from around the world. See *Officers & Directors*, INT’L ASS’N OF LEGAL ETHICS, <https://iaole.org/officers-directors/> [<https://perma.cc/JJ73-NNNQ>] (last visited Apr. 28, 2020).

ILEC conference was cancelled, because notice of this California conference was widely circulated within the U.S. legal ethics community, it undoubtedly helped increase U.S. lawyer regulation stakeholder awareness of global network opportunities.<sup>70</sup>

There are additional in-person conferences affected by COVID-19 that have increased U.S. stakeholder awareness of, and connection to, global networks. For example, the Association of Professional Responsibility Lawyers (APRL) had been planning to co-host with the Law Society of England and Wales an April 2020 conference in London; even though this conference has been postponed because of COVID-19, the planning process brought together U.S. and U.K. stakeholders.<sup>71</sup> APRL's Spring 2020 London conference built on connections that were made during the November 2018 conference called *Crisscrossing the Pond: Transatlantic Issues in Legal Ethics and Law Firm Regulation* that was jointly sponsored by APRL and the Law Society of England and Wales.<sup>72</sup> Similarly, although the October 2020 International Conference of Legal Regulators will now be held online due to COVID-19, it has already connected U.S. stakeholders to a global network: It is hosted by the Attorney Regulation and Disciplinary Commission of the Supreme Court of Illinois, a regulatory body, and has been publicized within the United States and elsewhere.<sup>73</sup>

Although one could cite many more examples of in-person meetings that foster global networks, the in-person meetings listed above demonstrate that many

70. See, e.g., E-mail from Scott Cummings, UCLA Professor of Law, to the AALS Professional Responsibility Section listserv and three other listserv groups, *UCLA—Register soon! Early Bird Deadline is February 28!* (Feb. 18, 2020) (reminding numerous listserv recipients of the registration deadline for this California conference). These listserv notices might have been particularly informative for those who have recently joined the lawyer regulation stakeholder community. ILEC conferences are typically held every other year and the 2018 ILEC conference was held in Melbourne, Australia. See *ILEC Conferences*, INTERNATIONAL ASSOCIATION OF LEGAL ETHICS (last visited Jan. 12, 2020) [<https://perma.cc/3YHY-VGYS>]. The 2016 ILEC conference, which took place in New York at Fordham Law, included academics from approximately seventy U.S. law schools, along with individuals from more than sixty countries. See Terry, *Thirty Years*, *supra* note 1, at 382.

71. See ASS'N PROF'L RESPONSIBILITY LAWYERS, *Save the Date—London 2020*, <https://aprl.net/save-the-date-london-2020/> [<https://perma.cc/3PDJ-54D3>] (last visited May 20, 2020); ASS'N PROF'L RESPONSIBILITY LAWYERS, *International Meeting Agenda* (Apr. 30, 2020), <https://aprl.net/wp-content/uploads/2020/03/london-program-3-3-2020-rev-draft.pdf> [<https://perma.cc/5B58-96QL>] (last visited May 20, 2020); APRL/LAW SOCIETY OF ENGLAND AND WALES, *AGENDA: TRANSATLANTIC LEGAL ETHICS 2020: CURRENT ISSUES IN LAW FIRM REGULATION AND LEGAL ETHICS IN A POST-BREXIT WORLD* (May 1, 2020) <https://aprl.net/wp-content/uploads/2020/03/Transatlantic-Flyer.02.26.2020.pdf> [<https://perma.cc/7QT2-VR3S>] (last visited May 20, 2020); *APRL's Next Meeting*, ASS'N PROF'L RESPONSIBILITY LAWYERS, <https://aprl.net/next-meeting/> [<https://perma.cc/67R6-V2EJ>] (last visited May 20, 2020) (“The International and Joint Meetings in London, UK, will be rescheduled from April 30 and May 1, 2020 to a future date. Please check back for updates.”).

72. See APRL/LAW SOCIETY OF ENGLAND AND WALES, *Agenda* (Nov. 8–9, 2018), <https://aprl.net/wp-content/uploads/2018/11/Agenda.pdf> [<https://perma.cc/F4UX-KDJZ>].

73. See, e.g., *Chicago 2020*, INT'L CONF. OF LEGAL REGULATORS, <https://iclr.net/conference/chicago-2020/> [<https://perma.cc/LWX8-DN8E>] (last visited June 12, 2020). For information about the ICLR, see Laurel S. Terry, *Creating an International Network of Lawyer Regulators: The 2012 International Conference of Legal Regulators*, 82(2) BAR EXAMINER 18 (June 2013) (describing the first meeting in London of what has become the International Conference of Legal Regulators).

different categories of lawyer regulation stakeholders participate in in-person meetings that expose them to global perspectives and global networks.

## B. VIRTUAL MEETINGS AND EVENTS

In addition to in-person meetings, another method by which U.S. lawyer stakeholders connect to, or are exposed to, global lawyer regulation stakeholder networks is through virtual meetings or events. Even before COVID-19, virtual meetings and conferences provided an opportunity for individuals from different countries to engage with those who have similar interests. For example, APRL has established a *Future of Lawyering* committee, which is conducting its work through various subcommittees.<sup>74</sup> Although many would think of APRL as a “domestic” group, the APRL subcommittees include participants from Australia, Canada, and England, as well as the United States.<sup>75</sup> Most of the work of these APRL subcommittees has been handled through virtual meetings, rather than in-person meetings.<sup>76</sup> The international composition of these APRL committees creates a ripple effect through the larger APRL community.

The National Organization of Bar Counsel’s Entity Regulation Subcommittee provides another example that shows how virtual meetings can facilitate global networks. This “Global Resources” subcommittee, which was appointed by NOBC’s then-president Tracy Kepler, developed the Entity Regulation and Proactive Regulation Global Resources FAQ documents that discuss global developments.<sup>77</sup> The NOBC Entity Regulation subcommittee conducted most, if not all, of its work through virtual meetings.<sup>78</sup> Even though many would think of the NOBC as a “domestic” organization, the participants in these virtual meetings included individuals from Australia, Canada, and the United Kingdom, as well as the United States.<sup>79</sup>

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74. See, e.g., *The Future of Lawyering Special Committee*, ASS’N PROF’L RESPONSIBILITY LAWYERS, <https://aprl.net/aprl-future-of-the-legal-profession-special-committee/> [https://perma.cc/2J8U-CCSL] (last visited Apr. 28, 2020).

75. See, e.g., E-mail from David Bell to APRL Subcommittee Members (Nov. 18, 2019) (on file with author) (recipients of correspondence include individuals from Australia, Canada, and the United Kingdom, as well as the United States).

76. See, e.g., ASS’N OF PROF’L RESPONSIBILITY LAWYERS, FUTURE OF LAWYERING COMMITTEE—RULE 5.4 SUBCOMMITTEE, *Meeting Notes from September 17, 2019* (on file with author). The author has personal knowledge that the APRL Future of Lawyer Subcommittees have primarily met through virtual meetings, rather than in-person meetings.

77. See *Alternative Business Structures Committee FAQ*, NAT’L ORG. BAR COUNSEL, <https://www.nobc.org/resources/Documents/State%20Disciplinary%20Flowcharts/Alternate.Business.Structures.FAQ.Final.pdf> [https://perma.cc/6V29-JVMM] (last visited May 20, 2020); *Proactive Regulation FAQ document*, NAT’L ORG. BAR COUNSEL, <https://www.nobc.org/resources/Documents/Entity%20Regulation/2017-6-22%20FAQs%20NOBC%20Proactive%20regulation%20Committee.pdf> [https://perma.cc/UK49-VKUV] (last visited May 20, 2020).

78. The author has personal knowledge of this fact.

79. See, e.g., *Global Resources: Information for Entity and Proactive Regulation*, NAT’L ORG. BAR COUNSEL, [https://perma.cc/5MYJ-MBWE] (listing subcommittee members from Australia, Canada, and England). The author has personal knowledge that the other NOBC Global Resources subcommittees either included international members or reviewed international information.

Because the documents this committee produced were posted on the NOBC's "Global Resources" public webpage for a number of years and are still available in the members only section, the information this global network assembled was broadly dispersed among U.S. lawyer regulation stakeholders.<sup>80</sup>

The State Bar of Georgia's International Trade in Legal Services ("ITILS") Committee further illustrates how virtual meetings promote global connections and networks. This Committee conducts regular in-person meetings, but it also offers a telephone conference option.<sup>81</sup> During one of its meetings, the Committee invited a representative from the Council of Bars and Law Societies of Europe to make a lengthy telephone presentation to the Committee members regarding anti-money laundering regulations in Europe.<sup>82</sup> As a result of the representative's "virtual," rather than in-person participation, Georgia lawyers from large and small firms and from in-house and government practice settings heard about the EU's experiences.<sup>83</sup> After this conversation and additional discussions, the Georgia ITILS Committee recommended an ethics rule change that would, in essence, add an anti-money laundering due diligence obligation to Georgia's ethics rules.<sup>84</sup>

The LawWithoutWalls program, which has been operating for approximately one decade, provides an additional example of the power of virtual meetings to create global networks. This semester-long course, which is offered to law students and business students from universities around the globe, has also served to connect the program's thought leaders and mentors, who include law faculty, entrepreneurs, and practitioners from many different countries.<sup>85</sup>

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80. See, e.g., *supra* note 79; *Jurisdictions' Activity on Alternative Licensed Legal Professionals*, NAT'L ORG. OF BAR COUNSEL (July 1, 2015), [https://nabc.org/resources/Documents/Alternative%20Licensure/NOBC%20-%20Alternative%20Licensure%20Table%20\(00139906\).pdf](https://nabc.org/resources/Documents/Alternative%20Licensure/NOBC%20-%20Alternative%20Licensure%20Table%20(00139906).pdf) [<https://perma.cc/X24L-VHXQ>]; *State and International Reciprocity*, NAT'L ORG. OF BAR COUNSEL, [<https://perma.cc/J6HD-Y23M>] (last visited May 20, 2020); see also E-mail from Melinda Bentley, NOBC Immediate Past President, to author (Feb. 13, 2020) (on file with author) (noting that because of its age, the Global Resources webpage was moved to the "members only" section of the website). The previously-public version of the *Global Resources* webpage is archived at *Global Resources*, NAT'L ORG. BAR COUNSEL, [<https://perma.cc/7ZBD-RS3F>] (last visited May 20, 2020).

81. The author has personal knowledge of these facts.

82. The author has personal knowledge of the Committee's work on this issue and the fact that CCBE staff lawyer Peter McNamee made a presentation by telephone to the Georgia ITILS Committee.

83. *Id.*

84. *Id.*; see *infra* notes 140–46 and accompanying text for additional information on this topic.

85. See LAWWITHOUTWALLS, <https://lawwithoutwalls.org/> [<https://perma.cc/5BH5-3K2C>] (last visited May 20, 2020); see also Gary Blankenship, *UM'S Law Without Walls Pursues International Solutions to Legal, Business Problems*, Florida Bar News (Oct. 14, 2019), <https://www.floridabar.org/the-florida-bar-news/ums-law-without-walls-pursues-international-solutions-to-legal-business-problems/> [<https://perma.cc/JZ53-6CQE>]; *FT Innovative Lawyers Awards North America*, FINANCIAL TIMES (Dec. 2018), <https://live.ft.com/Events/2018/FT-Innovative-Lawyers-Awards-North-America> [<https://perma.cc/S4DC-FFWE>] (LawWithoutWalls was shortlisted and placed second in North America for "Innovation in Collaboration"); *Project Teams*, LAWWITHOUTWALLS, <http://lawwithoutwalls.org/teams-1> [<https://perma.cc/5JWZ-8EJX>] (last visited May 20, 2020) (includes links to team members from multiple years).

Although this Section has included only a handful of examples, they demonstrate that virtual meetings and events can serve as a vehicle to disperse global perspectives and knowledge among lawyer regulation stakeholders and can create global networks. Moreover, as a result of the “virtual meeting” expertise that many lawyer regulation stakeholders have gained as a result of the stay-at-home COVID-19 orders, there undoubtedly will be even more virtual meetings in the future and they will help connect U.S. stakeholders to global networks.

### C. LITERATURE WRITTEN ABOUT, OR INFLUENCED BY, GLOBAL DEVELOPMENTS AND PERSPECTIVES

In addition to the information from global networks that U.S. lawyer regulation stakeholders are exposed to by attending in-person or virtual meetings, U.S. stakeholders may be exposed to information from global networks while quietly reading in their offices. This is because the materials from the in-person or virtual meetings described in the prior Sections may be archived and either publicly-accessible or available to members who didn’t attend the meetings.<sup>86</sup> For example, one of the benefits of an APRL membership is access to the materials from conferences that one did not attend;<sup>87</sup> the same is likely true for some of the other seemingly “domestic” stakeholder networks.

Written information from global networks is not limited to the contents of archived conference material. To illustrate the increased opportunities to read global perspectives, consider the *Georgetown Journal of Legal Ethics*, which is one of the leading journals in the field of legal ethics and lawyer regulation.<sup>88</sup> One study found a dramatic increase in internationally-influenced articles between 1987 and 2017; its data found that there was more than a six-fold (600%) increase in internationally-influenced articles from the first decade of publication to the third decade of the Journal’s publication.<sup>89</sup> It concluded that

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86. *National Conference on Professional Responsibility*, ABA CNTR. PROF’L RESPONSIBILITY, [https://www.americanbar.org/groups/professional\\_responsibility/events\\_cle/archiveconferencemeetings/](https://www.americanbar.org/groups/professional_responsibility/events_cle/archiveconferencemeetings/) [https://perma.cc/X7V5-JYBC] (last visited May 20, 2020).

87. *Download Meeting Materials*, ASS’N OF PROF’L RESPONSIBILITY LAWYERS, <https://aprl.net/download-meeting-materials/> [https://perma.cc/9ZNT-KBYE] (requires member access) (last visited May 20, 2020).

88. See, e.g., *Georgetown Journal of Legal Ethics: Prospective Members*, GEO. L. LIBRARY, <https://www.law.georgetown.edu/legal-ethics-journal/prospective-members/> [https://perma.cc/KQ7P-ZHWH] (last visited May 20, 2020) (“The Georgetown Journal of Legal Ethics is America’s leading ethics journal. As the second most-cited journal at Georgetown, GJLE is also in the top 100 journals nationally, and one of the nation’s most-cited student-run specialty journals.”); Terry, *Thirty Years*, *supra* note 1, at 368 (“[The GJLE] became a ‘must read’ publication for many legal ethics academics. The GJLE has served as part of the ‘gel’ that has bound the legal ethics community together and that has educated the ethics community about current developments and debates.”).

89. See Terry, *Thirty Years*, *supra* note 1, at 371 (citing the increase from six articles in the first decade to forty articles in the third decade, but not citing the 600% figure). For a discussion of the methodology used in this article and the ways in which it was both underinclusive and overinclusive, see *id.* at 369. This article found that during the first decade of the Journal’s publication, there were six articles influenced by international developments. *Id.* at 370. During its second decade, which was between 1997–2006, the Journal published eighteen articles that were about or influenced by international developments. *Id.* During the third decade of its

“an increase in global networks, dialogue, and collaboration” was one of the explanations for the dramatic increase in internationally-influenced articles.<sup>90</sup>

The *Georgetown Journal of Legal Ethics* is not the only publication where lawyer regulation stakeholders might be exposed to perspectives shaped by global lawyer regulation networks. These kinds of perspectives can also be found in the law review issues memorializing the annual *Colloquia* of the *Fordham Stein Center for Law and Ethics*,<sup>91</sup> the Symposium issue of *The Professional Lawyer*, which is published by the ABA Center for Professional Responsibility,<sup>92</sup> the *International Journal of the Legal Profession*,<sup>93</sup> and in a myriad of journal articles written by stakeholders who have been exposed to global developments and perspectives.<sup>94</sup> This sampling is not a comprehensive list—there are many more publications that a lawyer might read in his or her office that would contain global perspectives, including items such as surveys and benchmarking data from the Association of Corporate Counsel.<sup>95</sup>

Moreover, even if a U.S. lawyer regulation stakeholder chooses not to read any of the articles by international authors or about international developments, the authors they *do* choose to read may themselves be part of a global network (or may follow the work of those who are part of a global dialogue and network). To illustrate this point, consider the “drivers of change” section of a report by Dr. María J. Esteban. In 2017, Dr. Esteban prepared a Phase I report for the International Bar Association’s (“IBA”) Presidential Task Force on the Future of

existence, between 2007–2016, the *Georgetown Journal of Legal Ethics* published more than forty articles that were about international developments or influenced by them. *Id.*

90. *Id.* at 381–85.

91. See generally *Publications and Films: Fordham Law Review Ethics Books*, FORDHAM SCHOOL OF LAW STEIN CENTRE FOR LAW & ETHICS, [https://www.fordham.edu/info/23524/publications\\_and\\_films](https://www.fordham.edu/info/23524/publications_and_films) [<https://perma.cc/77FL-KQNX>] (last visited May 20, 2020).

92. See generally *Journal of the Professional Lawyer*, ABA CNTR. PROF'L. RESPONSIBILITY, [https://www.americanbar.org/groups/professional\\_responsibility/publications/journal\\_of\\_the\\_professional\\_lawyer\\_home/](https://www.americanbar.org/groups/professional_responsibility/publications/journal_of_the_professional_lawyer_home/) [<https://perma.cc/FWV9-HEHX>] (last visited May 20, 2020).

93. See generally *International Journal of the Legal Profession*, TAYLOR & FRANCIS ONLINE, <https://www.tandfonline.com/loi/cijj20> [<https://perma.cc/8664-V8BV>] (last visited May 20, 2020).

94. *The Bar Examiner* magazine regularly publishes globally-influenced articles for admissions regulators. See, e.g., Diane F. Bosse, *Testing Foreign-Trained Applicants in a New York State of Mind*, 83(4) THE BAR EXAMINER 31, 31–37 (Dec. 2014); Judith A. Gundersen, *President's Page*, 88(3) THE BAR EXAMINER 8 (Fall 2019) (discussing the ICLR conference); Franklin R. Harrison, *Letter from the Chair*, 81(4) THE BAR EXAMINER 2, 3 (Dec. 2012) (discussing the first ICLR meeting). For additional *Bar Examiner* articles with an international focus, consult the author dropdown menu in the archive for articles by Julian Lonbay, Alan Treleaven, and others: *Search Article Archives*, THE BAR EXAMINER, <https://thebarexaminer.org/search-article-archives/> [<https://perma.cc/H5BN-UV3E>] (last visited May 20, 2020).

95. See, e.g., ASS'N CORP. COUNSEL, 2015 ACC GLOBAL CENSUS: A PROFILE OF IN-HOUSE COUNSEL: EXECUTIVE SUMMARY, [<https://perma.cc/5QLB-PZZ3>] (reviewing the global issues that in-house counsel encounter); ASS'N CORP. COUNSEL, ACC CHIEF LEGAL OFFICERS 2018 SURVEY: EXECUTIVE SUMMARY, [<https://perma.cc/3C9V-9YLU>] (summarizing annual survey results from in-house counsel, 64% of whom had their offices in the United States and citing global issues that keep them up at night, such as cyberattacks).

Legal Services.<sup>96</sup> Figure 4 in the Phase I report shows frequent cross-citation by authors from Australia, Canada, the United Kingdom, and the United States.<sup>97</sup> The authors who were listed included noted U.S. legal profession scholars such as Harvard's David Wilkins and Stanford's Deborah Rhode, whose influence is not limited to issues that involve international developments.<sup>98</sup> This cross-citation data suggests that U.S. lawyer regulation stakeholders don't need to read internationally-focused articles in order to be exposed to the views of those who participate in, and are exposed to, global conversations and global networks of lawyer regulation stakeholders.

#### D. LAW REFORM INITIATIVES

Another way in which lawyer regulation stakeholders are exposed to global networks is by participating in, or passively following, lawyer regulation law reform efforts. For example, before New York adopted its "court navigator" program,<sup>99</sup>

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96. See María J. Esteban, *Phase I: Drivers of Change for Legal Services of the Task Force*, INT'L B. ASS'N (Oct. 9, 2017), [<https://perma.cc/W7SS-CAHU>] [hereinafter IBA Phase I report]; see also *Presidential Task Force on the Future of Legal Services, Presentation Slides 23*, INT'L B. ASS'N, [<https://perma.cc/4X6N-APMP>]; *Presidential Task Force on the Future of Legal Services*, INT'L. BAR ASS'N, <https://www.ibanet.org/Task-Force-on-the-Future-of-Legal-Services.aspx> [<https://perma.cc/89LJ-Z75V>] (last visited May 20, 2020) (Task Force webpage includes multiple links of interest). In addition to her position at ESADE Law School in Spain, Dr. Esteban is a Senior Research Fellow at the Harvard Law School Center for the Legal Profession and a frequent co-author with Harvard Professor David Wilkins. See *ESADE Faculty Directory, Maria Jose Esteban Ferrer*, ESADE, <https://www.esade.edu/faculty/mariajose.esteban> [<https://perma.cc/L7XT-FWBQ>] (last visited May 20, 2020).

97. See IBA Phase I report, *supra* note 96, at 57 (Figure 4: Academic Authors by Percentage of Cross Citations). Citation network studies, such as that conducted by Professor Esteban, are a common way to study information networks. See NEWMAN, NETWORKS, *supra* note 2, at 4 (stating that a "much studied example of an information network is a citation network, such as the network of citations between academic journal articles"). Although an information network, such as a citation network, may be closely related to a social network, in the former, the network nodes that are measured are information, whereas in a social network, the nodes that are measured are individuals. See *id.* at 4–5.

98. See IBA Phase I report, *supra* note 96, at 57–66 (Figure 4 and Table 6—Cross Citations in the Phase I Report). The U.S. authors listed in Figure 4 included Professors Deborah Rhode (12.9%), William Henderson (11.8%), David Wilkins (9.9%), Marc Galanter (9.9%), Tahlia Gordon (Australian erroneously listed as U.S.), Carole Silver (8.8%), Laurel Terry (7.3%), Larry Ribstein (7.3%), Elizabeth Chambliss (7.0%), D. Martin Katz (5.9%), Russell Pearce (5.5%), Renee Knake (5.5%), Tanina Rostain (5.5%), Paul Lippe (4.7%), Ben Barton (4.7%), Robert Nelson (4.4%), Stephanie Kimbro (4.0%), Eli Wald (4.0%), Bryant Garth (3.6%). See also NEWMAN, NETWORKS, *supra* note 2, at 37–39 (discussing citation networks) and at 9 (noting that a recent topic of research "has been the investigation of the effects of hubs [i.e., nodes that have unusually high connections] on the performance and behavior of networked systems. A wide range of results, both empirical and theoretical, indicate that hubs can have a disproportionate effect, particularly on network resilience and transport phenomena, despite being few in number.").

99. See Fern Fisher, *Navigating the New York Courts with the Assistance of a Non-Lawyer*, 122 DICK. L. REV. 825 (2018). This article was written by the first administrator of New York's court navigator program. The appendix to this article is the evaluation of New York's court navigator program prepared under the auspices of the American Bar Foundation and the National Center for State Courts. See REBECCA L. SANDEFUR & THOMAS M. CLARKE, ROLES BEYOND LAWYERS: SUMMARY, RECOMMENDATIONS, AND RESEARCH REPORT OF AN EVALUATION OF THE NEW YORK CITY COURT NAVIGATORS PROGRAM AND ITS THREE PILOT PROJECTS (Dec. 2016).

the New York City Bar Committee on Professional Responsibility issued a report on the proposals that also included a discussion of initiatives in England and Wales.<sup>100</sup> Many people are likely to be familiar with the New York navigator program, even if they are not familiar with the foreign initiatives that may have influenced it.

Some of the most high-profile recent legal services reform initiatives are found in Arizona, California, Illinois, and Utah.<sup>101</sup> As the discussion below shows, the relevant committees in each of these states are connected to global networks and have heard about initiatives in other countries. Consider, for example, the State Bar of California's *Task Force on Access Through Innovation in Legal Services* ("ATILS").<sup>102</sup> Part of the impetus for the creation of this task force was Professor Bill Henderson's 2018 *Legal Market Landscape Report*, which described, inter alia, developments in Australia and the United Kingdom.<sup>103</sup> The California ATILS Task Force subsequently received additional information about global trends and developments.<sup>104</sup> Because the California State Bar circulated for public comment recommendations that proposed significant regulatory changes,<sup>105</sup>

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100. NEW YORK CITY BAR COMM. ON PROF'L. RESPONSIBILITY, NARROWING THE "JUSTICE GAP": ROLES FOR NONLAWYER PRACTITIONERS 21–24 (2013), [https://www2.nycbar.org/pdf/report/uploads/20072450-Role forNonlawyerPractitioners.pdf](https://www2.nycbar.org/pdf/report/uploads/20072450-Role%20for%20Nonlawyer%20Practitioners.pdf) [<https://perma.cc/5ERR-G8QF>] (discussing nonlawyer advisers in England and Wales, including "McKenzie Friends" and "lay advocates").

101. All of these initiatives, except the initiative in Illinois, were featured in Breakout Panel #9 at the 2019 National Conference on Professional Responsibility. See *supra* note 55 for the 2019 ABA Ethics Conference program and *infra* notes 108–22 for links.

102. See *Task Force on Access Through Innovation of Legal Services*, STATE BAR OF CALIFORNIA, <http://www.calbar.ca.gov/About-Us/Who-We-Are/Committees/Task-Force-on-Access-Through-Innovation-of-Legal-Services> [<https://perma.cc/7GUR-LU74>] (last visited May 20, 2020) (Task Force homepage, which includes basic information).

103. WILLIAM D. HENDERSON, LEGAL MARKET LANDSCAPE REPORT 26-27 (July 2018), <http://board.calbar.ca.gov/docs/agendaItem/Public/agendaitem1000022382.pdf> [<https://perma.cc/X2KM-UTL5>]. Professor Henderson's report is Attachment A to the State Bar of California Board of Trustees' Agenda Item 703 (July 2018). The introductory paragraph of this agenda item explains why the report was commissioned. The agenda states that "Next steps include Board consideration of a task force to prepare policy and implementation recommendations." *Id.* at 2. The State Bar of California is a unified bar that exercises regulatory authority over California's lawyers. See *About Us: Our Mission*, STATE BAR OF CALIFORNIA, <https://www.calbar.ca.gov/About-Us/Our-Mission> [<https://perma.cc/W8ED-KKLA>] (last visited May 20, 2020); see also Terry, *Proactive Regulation*, *supra* note 5, at 798 (summarizing in Appendix 5 ABA data about the functions of unified state bars, including California).

104. See generally *Task Force on Access Through Innovation of Legal Services*, *supra* note 102.

105. See *Options for Regulatory Reforms to Promote Access to Justice*, STATE BAR OF CALIFORNIA, <http://www.calbar.ca.gov/About-Us/Our-Mission/Protecting-the-Public/Public-Comment/Public-Comment-Archives/2019-Public-Comment/Options-for-Regulatory-Reforms-to-Promote-Access-to-Justice> [<https://perma.cc/86BK-PH4D>] (last visited May 20, 2020). The supporting documents that were available as links included: STATE BAR OF CALIFORNIA, *Paving the Future for Access*, [http://www.calbar.ca.gov/Portals/0/documents/publicComment/2019/Infographic\\_PavingTheFuture\\_V3.pdf](http://www.calbar.ca.gov/Portals/0/documents/publicComment/2019/Infographic_PavingTheFuture_V3.pdf) [<https://perma.cc/47H5-YWC6>] (last visited May 20, 2020); Overview Memo and Full List of Concepts for Regulatory Changes Under Consideration: STATE BAR OF CALIFORNIA, PUBLIC INPUT REQUESTED BY THE TASK FORCE ON ACCESS THROUGH INNOVATION OF LEGAL SERVICES (2019), <http://www.calbar.ca.gov/Portals/0/documents/publicComment/2019/List-of-Tentative-Recommendations-Memo-For-Public-Comment.pdf> [<https://perma.cc/9D8A-JHLW>]; and STATE BAR OF CALIFORNIA, STATE BAR TASK FORCE ON ACCESS THROUGH INNOVATION OF LEGAL SERVICES REPORT: REQUEST TO CIRCULATE TENTATIVE

many lawyer regulation stakeholders, including those located outside of California, are familiar with the work product of the California Task Force. For example, the California reform initiative was mentioned during the 2020 Association of American Law Schools' Annual Meeting session that was organized by the Section on Professional Responsibility.<sup>106</sup> Thus, whether they are aware of it or not, U.S. lawyer regulation stakeholders who are following the work of the California ATILS Task Force are indirectly exposed to the global networks and conversations that have helped shaped the California discussions.<sup>107</sup>

Law reform initiatives in Arizona and Utah provide additional opportunities for stakeholders to be exposed to global conversations. The Utah law reform initiative has received significant attention because of its ground-breaking decisions and its quick pace.<sup>108</sup> In August 2019, the Utah Work Group on Regulatory Reform issued a lengthy report that recommended relaxation or elimination of the lawyer-nonlawyer partnership and fee-sharing ban found in Rule 5.4,<sup>109</sup> and recommended the creation of a new regulator, which would

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RECOMMENDATIONS FOR PUBLIC COMMENT, <http://board.calbar.ca.gov/docs/agendaItem/Public/agendaitem1000024450.pdf> [<https://perma.cc/G2RS-8FTM>] (last visited Apr. 28, 2020); and the webpage of the Task Force on Access Through Innovation of Legal Services at *Task Force on Access Through Innovation of Legal Services*, THE STATE BAR OF CALIFORNIA, <http://www.calbar.ca.gov/About-Us/Who-We-Are/Committees/Task-Force-on-Access-Through-Innovation-of-Legal-Services> [<https://perma.cc/PA6B-CDYJ>] (last visited May 20, 2020). *Id.* In March 2020, the California Task Force issued its Final Report and Recommendations and in May 2020, the State Bar trustees voted, *intra alia*, to create a working group to consider the development of a regulatory sandbox approach. Links to the March 2020 Final Report and subsequent action are available on the IAALS "Unlocking Legal Regulation Knowledge Center" webpage, *infra* note 120.

106. *Professional Responsibility, Co-Sponsored by Alternative Dispute Resolution and Continuing Legal Education*, ASS'N. AM. LAW SCHOOLS (Jan. 4, 2020), [https://memberaccess.aals.org/eweb/DynamicPage.aspx?webcode=SesDetails&ses\\_key=3a5664e8-4d30-4771-903c-76e0a1c443a3](https://memberaccess.aals.org/eweb/DynamicPage.aspx?webcode=SesDetails&ses_key=3a5664e8-4d30-4771-903c-76e0a1c443a3) [<https://perma.cc/8VMC-K934>] (last visited May 20, 2020).

107. *See, e.g.*, STATE BAR OF CALIFORNIA, MEMORANDUM ON STATE BAR TASK FORCE ON ACCESS THROUGH INNOVATION OF LEGAL SERVICES REPORT: REQUEST TO CIRCULATE TENTATIVE RECOMMENDATIONS FOR PUBLIC COMMENT (July 11, 2019), <http://board.calbar.ca.gov/docs/agendaItem/Public/agendaitem1000024450.pdf> [<https://perma.cc/G2RS-8FTM>] (showing comments by former U.K. regulator Crispin Passmore to the Task Force); Jordan Furlong, *The Coming End of Lawyer Control Over Legal Regulation*, SLAW (Feb. 8, 2019), <http://www.slw.ca/2019/02/08/the-coming-end-of-lawyer-control-over-legal-regulation/> [<https://perma.cc/M33V-9R52>] (discussion of U.S. developments in a Canadian publication); Jonathan Goldsmith, *Lessons on Legal Tech From the US*, LAW GAZETTE (Oct. 2019), <https://www.lawgazette.co.uk/commentary-and-opinion/lessons-on-legal-tech-from-the-us/5101712.article> [<https://perma.cc/7MNM-EW77>] (discussion of U.S. developments in an English legal publication). These examples illustrate the global conversations that take place around law reform initiatives.

108. *See, e.g.*, AALS 2020 Program, ASSOCIATION OF AMERICAN LAW SCHOOLS, [https://memberaccess.aals.org/eweb/DynamicPage.aspx?WebKey=51F9EC45-5CD0-4957-BE72-C4B89FD07778&RegPath=EventRegFees&REG\\_evt\\_key=bcc3d06a-9b37-467d-8916-ca46aa97a78f&Site=AALS](https://memberaccess.aals.org/eweb/DynamicPage.aspx?WebKey=51F9EC45-5CD0-4957-BE72-C4B89FD07778&RegPath=EventRegFees&REG_evt_key=bcc3d06a-9b37-467d-8916-ca46aa97a78f&Site=AALS) [<https://perma.cc/MZW4-99SL>] (listing the Saturday, Jan. 4, 2020, session at 10:30 AM–12:15 PM of the Section on Professional Responsibility, Co-Sponsored by Alternative Dispute Resolution and Continuing Legal Education entitled "*Confronting the Big Questions About the Regulation of the Legal Profession*"). The author has personal knowledge that the panel discussed these Utah developments.

109. *See* THE UTAH WORK GROUP ON REGULATORY REFORM, NARROWING THE ACCESS-TO-JUSTICE GAP BY REIMAGINING REGULATION 15 (Aug. 2019), <https://www.utahbar.org/wp-content/uploads/2019/08/FINAL-Task-Force-Report.pdf> [<https://perma.cc/VRYS-3UXE>] [hereinafter UTAH WORK GROUP REPORT]. "[W]e

begin with the establishment of a pilot project or “regulatory sandbox.”<sup>110</sup> On August 28, 2019, the Utah Supreme Court unanimously voted “to approve pursuing changes to the regulatory structure for legal services” and announced that the next step would be “to create an implementation task force, which will begin work on putting the recommended changes in place.”<sup>111</sup> By September 2019, the Court had adopted an order creating this task force.<sup>112</sup> These far-reaching developments took place against the background of global developments and conversations. For example, Appendix C to the Utah final report is a discussion of the U.K.’s 2007 Legal Services Act and its aftermath.<sup>113</sup> Thus, U.S. lawyer regulation stakeholders who are following the Utah developments have been exposed—directly or indirectly—to global perspectives and networks.

Arizona provides another example. The *Arizona Task Force on the Delivery of Legal Services* has also issued a report that calls for the elimination of Rule 5.4 (as well as nine other recommendations).<sup>114</sup> The October 2019 Arizona Report contains a brief reference to U.K. developments,<sup>115</sup> but it is clear that the Task Force received additional materials about developments outside the United States, including Professor Henderson’s report.<sup>116</sup> Thus, anyone who follows the

view the elimination or substantial relaxation of Rule 5.4 as key to allowing lawyers to fully and comfortably participate in the technological revolution. Without such a change, lawyers will be at risk of not being able to engage with entrepreneurs across a wide swath of platforms.” *Id.*

110. *Id.* at 15–16.

111. Press Release, Administrative Office of the [Utah] Courts, *Utah Supreme Court Adopts Groundbreaking Changes To Legal Service Regulation* (Aug. 29, 2019), available at <https://www.utahbar.org/wp-content/uploads/2019/08/Supreme-Court-Regulatory-Reform-PR-8-19.pdf> [<https://perma.cc/9WFR-THYZ>].

112. See Utah Supreme Court, Standing Order No. 14 (effective Sept. 9, 2019), available at <https://www.utcourts.gov/resources/rules/urap/Suptcso.htm> [<https://perma.cc/5KV6-7VMC>] (regarding creation of the Task Force on Regulatory Reform); UTAH IMPLEMENTATION TASK FORCE ON REGULATORY REFORM, <https://sandbox.utcourts.gov/> [<https://perma.cc/3B4D-W5Q4>] (last visited Apr. 4, 2020) (including information on the proposed regulatory scope for the Task Force and regulatory sandbox initiative, the proposed structure and approximate timetable for this initiative, proposed data collection requirements for sandbox participants, and a form inviting contact from those interested in participating in a sandbox initiative, among other items).

113. Utah Work Group Report, *supra* note 109, at 40–53.

114. ARIZ. SUP. CT. TASK FORCE ON THE DELIVERY OF LEGAL SERVS., REPORT AND RECOMMENDATIONS (Oct. 4, 2019), <https://www.azcourts.gov/Portals/74/LSTF/Report/LSTFReportRecommendationsRED10042019.pdf?ver=2019-10-07-084849-750> [<https://perma.cc/KP8B-9UUA>].

115. *Id.* at 13.

116. See, e.g., ARIZ. SUP. CT. TASK FORCE ON THE DELIVERY OF LEGAL SERVS., DRAFT MINUTES 2 (Jan. 7, 2019), <https://www.azcourts.gov/Portals/74/LSTF/Minutes/2019/2019MinutesLSTF.pdf?ver=2019-08-06-114425-273> [<https://perma.cc/4RKP-KGQW>] (“Judge Cruz then reported that the work group determined that the topic of alternative business structures was likely to be where the most time was spent researching and discussing ideas. She noted that Arizona could look to Washington D.C., England and Australia to see what they had done and noted that California recently convened a committee to look at the topic as well.”). The Arizona Task Force heard from Professor Henderson about the *Legal Market Landscape Report* he prepared for the State Bar of California and received a copy of that report. *Id.* at 1 (“[Professor Henderson] presented on the legal market landscape. Professor Henderson conducted a study of the legal market for California and the report from his study was available through the meeting materials.”). Professor Henderson’s *Legal Market Landscape Report* discussed U.K. and Australian developments. See *supra* note 103 (citing pp. 26–27, which is Section 4.3 of Professor Henderson’s report).

Arizona law reform initiative has been exposed at least indirectly to the global networks that are discussing lawyer regulation and legal services reforms.<sup>117</sup>

The Chicago Bar Association and Chicago Bar Foundation have also launched a lawyer regulation reform initiative that is connected to a global network.<sup>118</sup> This initiative's National Advisory Council includes significant personnel crossover with other initiatives, which ensures that the individuals involved in this Chicago initiative are familiar with developments in other countries.<sup>119</sup> Thus, the Chicago initiative, like the Arizona, Utah, and California law reform initiatives, provides an additional opportunity for lawyer regulation stakeholders to be directly or indirectly exposed to the conversations taking place in global lawyer regulation networks.

Two groups that have promoted recent regulatory reform initiatives also have global connections. The first of these groups is the Institute for the Advancement of the American Legal System ("IAALS"), which sponsored an April 2019 workshop entitled, "Making History: Unlocking Legal Regulation."<sup>120</sup> The Workshop attendees included members of the Arizona, California, and Utah reform initiatives, as well as individuals familiar with the legal services reforms in other countries.<sup>121</sup> In October 2019, IAALS launched an "Unlocking Legal Regulation

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The "Resources" link at the bottom of the Arizona Task Force webpage connects to a "LSTF Resources" webpage with resources on international developments. See *Legal Services Task Force Webpage*, ARIZONA JUDICIAL BRANCH, <https://www.azcourts.gov/cscommittees/Legal-Services-Task-Force> [https://perma.cc/C4GF-BUQ6] (which links to *LSTF Resources*); ARIZONA JUDICIAL BRANCH, <https://www.azcourts.gov/cscommittees/Legal-Services-Task-Force/LSTF-Resources> [https://perma.cc/YA7K-X5P2] (listing resources such as the ABA "Issues Paper Concerning Alternative Business Structures" and the NOBC's "Alternative Business Structures Frequently Asked Questions" document, both of which discussed international developments).

117. At the time this Article was written, it was not clear when the Arizona Task Force recommendations would be implemented. See *In re Petition to Amend Rules 31, 32, 41, 42 (ERs 1.0-5.7), 46-51, 54-58, 60, 75 and 76, and Adopt New Rule*, Ariz. Sup. Ct. (Jan. 31, 2020), <https://www.azcourts.gov/Portals/74/LSTF/Report/RulePetitionandAppendicesRed.pdf?ver=2020-01-30-142830-090> [https://perma.cc/6RT7-TR9J] (requesting court implementation of the Task Force's recommendations). Regardless of whether the recommendations are implemented, those who have been following this law reform initiative have been indirectly exposed to global conversations about the proper scope of lawyer regulation.

118. See *CBA/CBF Task Force on the Sustainable Practice of Law & Innovation*, THE CHI. BAR FOUND., <https://chicagobarfoundation.org/advocacy/issues/sustainable-practice-innovation/> [https://perma.cc/8P98-PRQZ].

119. *Id.* Advisory Council members include Bridget Gramme, a member of the California ATILS Task Force, and Lynda Shely, who is a member of the Arizona Task Force, and Arthur Lachman. *Id.* Lachman co-chairs the APRL Future of Lawyering Committee described *infra* notes 123–25 and accompanying text.

120. See IAALS, *Making History: Unlocking Legal Regulation* (Apr. 16–17, 2019), in *Breakout Panel #9: Considering the Future of Rule 5.4: 45th ABA National Conf. on Prof. Responsibility*, 243–72, [https://www.americanbar.org/content/dam/aba/events/professional\\_responsibility/2019\\_cpr\\_meetings/2019conf/Materials/breakout9-complete-materials.pdf](https://www.americanbar.org/content/dam/aba/events/professional_responsibility/2019_cpr_meetings/2019conf/Materials/breakout9-complete-materials.pdf) [https://perma.cc/VM3M-NTH7] (containing the April 2019 Workshop agenda and attendee bios).

121. See *id.* at 245–46; see also Lucy Ricca, *UK Legal Service Reforms Under the Legal Services Act (2007): A Brief Overview*, <http://www.utcourts.gov/utc/rulespc/wp-content/uploads/sites/27/2019/02/Summary-of-Legal-Services-Act-and-ABS-regulation.pdf> [https://perma.cc/Z9ND-8KPH] (circulated by the Utah RPC Committee for its April 15, 2019 meeting). Ms. Ricca, who is a Special Projects Advisor for IAALS and a Fellow of the Stanford Law School Center on the Legal Profession, was also a member of the Utah Work Group on

Knowledge Center” webpage that includes links to regulatory provisions and resources from around the United States and from other countries.<sup>122</sup>

APRL is the second group that has participated in regulatory reform conversations and that is part of a global network.<sup>123</sup> As Section II.B explained,<sup>124</sup> APRL’s “Future of Lawyering” Committee, which meets virtually and is working on developing reform proposals, includes individuals from Australia, Canada, and England who share information about developments and perspectives in their countries.<sup>125</sup>

Law reform initiatives related to regulatory objectives provide additional examples of the impact of global networks. When the United Kingdom adopted a new Legal Services Act in 2007, “regulatory objectives” were included as Section 1 in that Act.<sup>126</sup> Stakeholders in the United States and elsewhere took note of these developments and recommended that their jurisdictions also adopt regulatory objectives.<sup>127</sup> In 2016, upon the recommendation of the ABA Commission on the Future of Legal Services, the ABA adopted Resolution 105, which encourages state supreme courts to adopt regulatory objectives.<sup>128</sup> The Supreme Courts of Colorado, Illinois, and Washington have now adopted regulatory objectives; other supreme courts or their delegated bodies are studying this issue.<sup>129</sup>

Proactive management-based regulation (“PMBR”) provides the final example discussed in this Section. In 2010, an Australian academic and two Australian

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Regulatory Reform. See Utah Work Group Report, *supra* note 109, at 2–3 (identifying Ms. Ricca as a member of the Utah Work Group); *Members of the Task Force: Lucy Ricca*, UTAH IMPLEMENTATION TASK FORCE ON REGULATORY REFORM, <https://sandbox.utcourts.gov/about#LucyRicca> [<https://perma.cc/8Z72-MJEJ>] (providing a biography of Ms. Ricca with these details).

122. See IAALS, *Unlocking Regulation Knowledge Center*, *supra* note 120.

123. See generally *The Future of Lawyering*, ASSOC. OF PROF. RESPONSIBILITY LAWYERS, <https://aprl.net/aprl-future-of-the-legal-profession-special-committee/> [<https://perma.cc/2J8U-CCSL>] (last visited Apr. 9, 2020).

124. See *supra* notes 74–85 and accompanying text.

125. See *supra* note 76.

126. Legal Services Act, *supra* note 8, § 1.

127. See, e.g., *Adopting Regulatory Objectives*, *supra* note 25; Terry, *Proactive Regulation*, *supra* note 5, at 763 (“In my view, U.S. jurisdictions should adopt explicit regulatory objectives that set forth what they are trying to accomplish with the lawyer regulatory system.”).

128. ABA Resolution 105: ABA Model Regulatory Objectives for the Provision of Legal Services (adopted Feb. 8, 2016), [https://www.abajournal.com/files/2016\\_hod\\_midyear\\_105.authcheckdam.pdf](https://www.abajournal.com/files/2016_hod_midyear_105.authcheckdam.pdf) [<https://perma.cc/BKM2-CH3K>].

129. See, e.g., Laurel S. Terry, *Selected Examples of Regulatory Objectives* (Mar. 2, 2019), [https://works.bepress.com/laurel\\_terry/89/](https://works.bepress.com/laurel_terry/89/) [<https://perma.cc/JN3D-Q4QV>] (contains the substance of these regulatory objectives, as well as links to the source); Utah Work Group Report, *supra* note 109, at 15–17 (report adopted by the Utah Supreme Court endorsed the development of a new regulator whose approach, inter alia, would be “driven by clearly articulated policy objectives and regulatory principles (objectives-based regulation)”); State Bar of Michigan, *21st Century Law—Regulatory Hurdles*, <https://www.michbar.org/future/regulation> [<https://perma.cc/5JJJ-5D92>] (“First Steps . . . [u]se formally-adopted regulatory objectives as a tool to rigorously evaluate the effectiveness of current and proposed regulatory measures.”).

regulators published an article that has sparked global interest in PMBR.<sup>130</sup> Their article discussed New South Wales' required self-assessment process for firms that chose to practice as an incorporated legal practice ("ILP") and reported the results of an empirical study that found a dramatic reduction of client complaints after implementation of the self-assessment process.<sup>131</sup> In the United States, an ad hoc group of lawyer regulation stakeholders, including regulators from the U.S., Canada, and Australia, held several workshops devoted to PMBR.<sup>132</sup> In January 2017, the Illinois Supreme Court amended its Rule 756 to require lawyers who do not carry malpractice insurance to complete "a self-assessment of the operation of his or her law practice."<sup>133</sup> The self-assessment is provided online by the Illinois' lawyer regulatory body known as the ARDC.<sup>134</sup> The Colorado Supreme Court Office of Attorney Regulation Counsel has also embraced PMBR: It has developed a series of voluntary PMBR checklists and self-assessment forms for lawyers in different kinds of practice settings.<sup>135</sup> In August 2019, the American Bar Association adopted Resolution 107 that urged state supreme courts to explore PMBR.<sup>136</sup> Professor Susan Fortney's Georgetown Symposium article

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130. See Christine Parker, Tahlia Gordon & Steve Mark, *Regulating Law Firm Ethics Management*, 37 J.L. & Soc'y 466, 485 (2010); see also Terry, *Proactive Regulation*, *supra* note 5, at 730–36. Terry's article explains that Canadian regulators were among the first to act on Australian data. Terry, *Proactive Regulation*, *supra* note 5, at 730–36. After conducting a pilot project and issuing several reports, Nova Scotia adopted a profession-wide mandatory self-assessment program (although they do not call their programs PMBR). *Id.* British Columbia, Ontario, and the Prairie Provinces have been exploring self-assessment projects that would help prevent lawyer problems and are at different stages in the process. *Id.*

131. Parker et al., *supra* note 130. On average, the complaint rate (average number of complaints per practitioner per years) for ILPs after self-assessment was two-thirds lower than the complaint rate before self-assessment. *Id.*

132. See, e.g., Laurel S. Terry, *When it Comes to Lawyers . . . Is an Ounce of Prevention Worth a Pound of Cure?*, JOTWELL (July 13, 2016), <https://legalpro.jotwell.com/when-it-comes-to-lawyers-is-an-ounce-of-prevention-worth-a-pound-of-cure/> [<https://perma.cc/E9MF-ZBMC>] (reviewing Susan Saab Fortney, *Promoting Public Protection through an "Attorney Integrity" System*, 23 PROF. LAW. 16 (2015)) (citing the first and second Workshops). The author has personal knowledge that the ad-hoc group is planning another workshop.

133. Order Amending Rule 756, Ill. Sup. Ct. (Jan. 2017), [https://courts.illinois.gov/SupremeCourt/Rules/Amend/2017/012517\\_756.pdf](https://courts.illinois.gov/SupremeCourt/Rules/Amend/2017/012517_756.pdf) [<https://perma.cc/VUR5-DUR5>].

134. *Id.*; see also ARDC's *Management Based Regulation Learning Site*, ILL. ATT'Y REG. & DISCIPLINARY COMM'N, <https://www.iardc.org/pmbr.html> [<https://perma.cc/CM63-6PEW>] (includes links and learning modules, free to all); *Illinois Supreme Court Adopts 'Proactive Management-based Regulation'*, ILL. B. NEWS (Jan. 25, 2017), <https://www.isba.org/barnews/2017/01/25/illinois-supreme-court-adopts-proactive-management-based-regulation> [<https://perma.cc/6VE8-CWUW>] (includes background about the adoption of Illinois' PMBR program).

135. See COLO. SUP. CT. OFFICE OF ATT'Y REG. COUNSEL, *Colorado Lawyer Self-Assessment Program Checklists*, <http://www.coloradosupremecourt.us/AboutUs/PMBRMinutes.asp> [<https://perma.cc/J2TH-J8YK>]; see also Jonathan P. White, *Self-Assessment Program Aims to Enhance Lawyer Competency and Client Satisfaction*, 46 COLO. LAWYER 10 (Oct. 2017) (contains information about the development of Colorado's program), <http://www.coloradosupremecourt.us/PDF/AboutUs/PMBR/Law%20Practice%20Management%20%20CO%20Lawyer%20Self%20Assessment%20Program.pdf> [<https://perma.cc/7Y3M-FBGJ>].

136. ABA HOUSE OF DELEGATES, RESOLUTION AND REPORT 107 (adopted Aug. 2019), <https://www.americanbar.org/content/dam/aba/directories/policy/annual-2019/107-annual-2019.pdf> [<https://perma.cc/7JZN-JR26>].

describes some of the additional ongoing efforts.<sup>137</sup> As her article and other articles have shown, PMBR provides a prime example of the impact of global networks on law reform initiatives and lawyer regulation stakeholders.<sup>138</sup>

The prior paragraphs have focused on U.S. law reform initiatives that collected information from outside the United States. It is worth noting, however, that global information travels in both directions—it can come into the United States, as the prior examples illustrate, but information can also flow from the United States to other countries. Thus, law reform efforts in other countries may also promote global connections and networks.<sup>139</sup>

Federal law reform conversations, as well as state law reform initiatives, expose U.S. lawyer regulation stakeholders to the views of those who participate in global networks. Consider, for example, the issue of how to apply anti-money laundering (“AML”) standards to U.S. lawyers.<sup>140</sup> There are global networks that promote AML standards and that urge U.S. federal lawmakers to adopt more stringent AML legislation governing lawyers.<sup>141</sup> U.S. lawyer regulation stakeholders are exposed to these global views through their interactions with U.S. federal government officials, through conversations with their counterparts in other countries, and as a result of information they receive from the domestic

137. Susan Fortney, *Keeping Lawyers' Houses Clean: Global Innovations to Advance Public Protection and the Integrity of the Legal Profession*, 33 GEO. J. LEGAL ETHICS 891 (2020).

138. Professor Fortney is a leading expert on PMBR and her Symposium article, *id.*, includes cites to additional articles, including those that report the results of her empirical research. For additional articles that address PMBR and proactive regulation, see Ted Schneyer, *The Case for Proactive Management-Based Regulation to Improve Professional Self-Regulation for U.S. Lawyers*, 42 HOFSTRA L. REV. 233, 238–51 (2013) (discussing Australia’s experience with PMBR); Terry, *Proactive Regulation*, *supra* note 5, at 724–54 (discussing global examples of proactive lawyer regulation, including many details about the development of Nova Scotia’s proactive regulation program).

139. It is beyond the scope of this Article to analyze the ways in which U.S. lawyer regulation has influenced lawyer regulation elsewhere. A November 2019 example highlights the flow of information from the United States to Canada. In 2012, the ABA adopted a new comment to Model Rule of Professional Conduct 1.1 that explains that competent representation requires that lawyers understand the risks and benefits of technology. See ABA COMM’N ON ETHICS 20/20, REVISED RESOLUTION 105A AS AMENDED 3–4 (adopted 2012), [https://www.americanbar.org/content/dam/aba/administrative/ethics\\_2020/20120808\\_revised\\_resolution\\_105a\\_as\\_amended.pdf](https://www.americanbar.org/content/dam/aba/administrative/ethics_2020/20120808_revised_resolution_105a_as_amended.pdf) [<https://perma.cc/8DYR-ZQMN>] (the comment number was changed by a later amendment to Rule 1.1). In October 2019, the Federation of Law Societies of Canada added a similar provision to its model code. See FED. L. SOC’YS CANADA, MODEL CODE OF PROF’L CONDUCT R. 1.1 cmt. 3.1-2[4A], <https://flsc.ca/wp-content/uploads/2019/11/Model-Code-October-2019.pdf> [<https://perma.cc/MU86-74KH>]. The author has personal knowledge that during a November 2019 conference in Canada, a Canadian regulator referred to the ABA Model Rule when explaining the new Canadian model rule to the largely Canadian audience. Additional examples of global lawyer regulation stakeholder engagement include the capacity building initiatives of groups such as the International Bar Association, the American Bar Association, and the CCBE and European Lawyers’ Foundation, among others. See, e.g., Levin et al., *The Impact of International Lawyer Organizations on Lawyer Regulation*, *supra* note 1, at 427–28.

140. See, e.g., Laurel S. Terry & José Carlos Llerena Robles, *The Relevance of FATF’s Recommendations and 4th Round of Mutual Evaluations to the Legal Profession*, 42 FORDHAM INT’L L.J. 627, 722 (2018) (describing U.S. involvement in the intergovernmental organization called the Financial Action Task Force (FATF)); Terry, *US Legal Profession AML Efforts*, *supra* note 19.

141. See *infra* notes 142–46.

organizations to which they belong.<sup>142</sup> The resulting AML discussions have led to developments that affect U.S. lawyers (although some suggest that much more stringent requirements are called for).<sup>143</sup> The changes include, inter alia, Geographic Targeting Orders (“GTOs”) designed to inhibit money laundering, ethics opinions reminding lawyers of their AML obligations, education efforts, and proposed rule changes.<sup>144</sup> Despite the GTOs and heightened educational efforts, the U.S. has been heavily criticized by those inside and outside the country for its failure to more strictly regulate U.S. lawyer AML efforts.<sup>145</sup> These kinds of globally-influenced conversations may have been one of the reasons why, in 2019, for the first time ever, the U.S. House of Representatives (but not the Senate) passed a bill that required disclosure of corporate beneficial ownership information.<sup>146</sup>

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142. See, e.g., ABA TASK FORCE ON GATEKEEPER REGULATION AND THE LEGAL PROFESSION, [https://www.americanbar.org/groups/criminal\\_justice/gatekeeper/](https://www.americanbar.org/groups/criminal_justice/gatekeeper/) [<https://perma.cc/H989-CT6C>] (including policy letters that demonstrate the interaction among lawyer regulation stakeholders and U.S. government and FATF officials); AM. COLLEGE OF TRUSTS & ESTATES COUNSEL, *Combatting Money Laundering; FATF and the Lawyer’s Role*, <https://www.actec.org/resources/fatf-and-the-lawyers-role/> [<https://perma.cc/S6E7-8VKQ>] (last visited Apr. 9, 2020); Terry & Robles, *supra* note 140, at 676–77 (describing U.S. legal profession interactions with U.S. Department of the Treasury officials and subsequent education efforts); see also Duncan Osborne, *The Financial Action Task Force and the Legal Profession*, 59 N.Y.L. SCH. L. REV. 421, 422–23 (2015) (describing his involvement with the FATF private sector consultation group). The author has personal knowledge that the ABA Task Force cited above currently includes a lawyer regulator from Georgia who is also active in the National Organization of Bar Counsel and thus can share with state regulators the information she learns from the globally-connected AML networks.

143. See generally Terry, *US Legal Profession AML Efforts*, *supra* note 19 (describing U.S. education and other efforts); Delphine Nougayrède, *Anti-Money Laundering and Lawyer Regulation: The Response of the Professions*, 43 FORDHAM INT’L L.J. 321 (2019) (criticizing the U.S. legal profession for its AML efforts and calling for greater changes).

144. See, e.g., Press Release, Fin. Crimes Enf’t Network, *FinCEN Reissues Real Estate Geographic Targeting Orders for 12 Metropolitan Areas* (Nov. 8, 2019), <https://www.fincen.gov/news/news-releases/fincen-reissues-real-estate-geographic-targeting-orders-12-metropolitan-areas-0> [<https://perma.cc/7B47-3ZH9>]; Terry & Robles, *supra* note 140, at 689–90; Ass’n of the Bar of the City of N.Y. Comm. on Prof’l Ethics, Formal Op. 2018-4: Duties When an Attorney Is Asked to Assist in a Suspicious Transaction (2018), <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/formal-opinion-2018-4-duties-when-an-attorney-is-asked-to-assist-in-a-suspicious-transaction> [<https://perma.cc/AQ3F-ARKH>]; ABA, Formal Op. 491: Obligations Under Rule 1.2(d) to Avoid Counseling or Assisting in a Crime or Fraud in Non-Litigation Settings (2020), [https://www.americanbar.org/content/dam/aba/administrative/professional\\_responsibility/aba-formal-opinion-491.pdf](https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/aba-formal-opinion-491.pdf) [<https://perma.cc/54FW-2SRG>]. The author has personal knowledge that a committee-developed AML-related ethics rule change has been submitted to the State Bar of Georgia Board of Governors for its consideration.

145. See, e.g., FINANCIAL ACTION TASK FORCE, ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING MEASURES, UNITED STATES, MUTUAL EVALUATION REPORT 11 ¶ 30(3)(b) (Dec. 2016), <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-United-States-2016.pdf> [<https://perma.cc/LB8S-BNS6>]. FATF’s Mutual Evaluation Report for the United States recommended as one of its “priority actions” that the United States “[a]pply appropriate [anti-moneylaundering] obligations . . . on the basis of a specific vulnerability analysis, to lawyers . . .” *Id.*; see also Nougayrède, *supra* note 143, at 331–42 (criticizing U.S. legal profession AML efforts); Terry & Robles, *supra* note 140, at 638–641, 707–08 (discussing the domestic and global critiques of U.S. legal profession AML efforts).

146. See H.R. 2513, 116th Cong., 1st Sess. (2019), <https://www.congress.gov/bill/116th-congress/house-bill/2513/text/eh> [<https://perma.cc/7D5W-JGMF>] (last visited Apr. 23, 2020). This bill would amend the Bank Secrecy Act. It proposes to add a new § 5333(a)(1)(A) that states that “[e]ach applicant to form a corporation or limited liability company under the laws of a State or Indian Tribe shall file a report with FinCEN containing a

Although international trade discussions are not typically characterized as “law reform initiatives,” conversations among the Office of the U.S. Trade Representative, the Conference of Chief Justices, and the ABA Standing Committee on International Trade in Legal Services illustrate the degree to which global information and global perspectives have shaped initiatives that have lawyer regulation implications. For example, in 2015, after citing international trade negotiations, the Conference of Chief Justices (“CCJ”) adopted a resolution that encouraged all state supreme courts to adopt rules that would allow foreign lawyers to practice in their state on a limited basis.<sup>147</sup> The CCJ group that prepared this resolution regularly confers with representatives from the Office of the U.S. Trade Representative and with foreign, as well as U.S., stakeholders.<sup>148</sup> Since the adoption of this CCJ resolution, a number of state supreme courts have changed their rules that regulate foreign lawyers.<sup>149</sup> This CCJ Resolution is one of many different international trade examples that might have been cited to illustrate the global context of federal “law reform” initiatives.<sup>150</sup> Moreover, there are other

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list of the beneficial owners of the corporation or limited liability company [that meets certain requirements].” *Id.* Section 5333(d)(1) defines an “applicant” as “any natural person who files an application to form a corporation or limited liability company under the laws of a State or Indian Tribe.” *Id.* This bill, which was not adopted by the Senate, arguably would have applied to lawyers, but might have been challenged on legal grounds. *Cf.* *ABA v. FTC*, 636 F.3d 641 (D.C. Cir. 2011) (dismissing as moot the FTC’s appeal of a district court decision that found in favor of the ABA and enjoined enforcement of a “red flags” rule against lawyers, in light of subsequent clarifying legislation). *See also* Press Release, Global Witness, *Historic Bipartisan Bill To End Anonymous Companies Passes U.S. House of Representatives* (Oct. 22, 2019), <https://www.globalwitness.org/en/press-releases/historic-bipartisan-bill-end-anonymous-companies-passes-us-house-representatives/> [<https://perma.cc/D2AP-C2EY>]. For additional information about why beneficial ownership regulation is relevant to lawyer regulation, see Terry & Robles, *supra* note 140, at 689–90 (“Because of the manner in which lawyer AML obligations and substantive corporate disclosure laws related to beneficial ownership have been intertwined in FATF Mutual Evaluation Reports and public discussions, [beneficial ownership scandals] are likely to create additional pressure in the United States for lawyer regulation reform.”).

147. *Resolution 2, In Support of Regulations Permitting Limited Practice by Foreign Lawyers in the United States to Address Issues Arising from Legal Market Globalization and Cross-Border Legal Practice*, CONF. OF CHIEF JUSTICES (Jan. 28, 2015), <https://ccj.ncsc.org/~media/microsites/files/ccj/resolutions/01282015-legal-market-globalization.ashx> [<https://perma.cc/G76P-PJ3M>]. This resolution stated that the CCJ “strongly encourages its members to adopt explicit policies that permit qualified activities by foreign lawyers as a means to increase available legal services, and to facilitate the movement of goods and services between the United States and foreign nations.” *Id.*

148. The author has personal knowledge of this fact.

149. *See, e.g.*, ABA CNTR. FOR PROF’L RESPONSIBILITY, *State by State Adoption of Selected Ethics 20/20 Commission Policies, Guidelines for an International Regulatory Information Exchange, and Amendment to Model Rule 8.4* (Aug. 8, 2017), [https://www.americanbar.org/content/dam/aba/administrative/professional\\_responsibility/state\\_implementation\\_selected\\_e20\\_20\\_rules.pdf](https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/state_implementation_selected_e20_20_rules.pdf) [<https://perma.cc/ND9J-37UU>] (showing state adoption of some of the foreign lawyer rules).

150. *See, e.g.*, ABA STANDING COMM. ON INT’L TRADE IN LEGAL SERVICES, *Featured Resources*, [https://www.americanbar.org/advocacy/governmental\\_legislative\\_work/priorities\\_policy/promoting\\_international\\_rule\\_law/internationaltradetf/](https://www.americanbar.org/advocacy/governmental_legislative_work/priorities_policy/promoting_international_rule_law/internationaltradetf/) [<https://perma.cc/S5B6-EN8X>] (last visited Apr. 9, 2020) (providing links to documents that show the ABA Standing Committee’s involvement on international trade issues). For additional information about ABA international trade-related activities and the impact of global networks on lawyer regulation stakeholder conversations, one can consult the ABA Transnational Legal Practice Committee “Year-in-Review” reports. For links to these reports from 2002–2016, select “Transnational

kinds of federal initiatives, beyond international trade discussions, that potentially could affect lawyer regulation and that reflect or include global perspectives.<sup>151</sup>

Lawyer regulation initiatives from international groups, such as the International Bar Association (“IBA”), also connect U.S. lawyer regulation stakeholders to global networks and conversations. For example, the IBA has drawn upon the resources of the ABA Center for Professional Responsibility when working on projects such as the commentary to accompany the IBA professional code<sup>152</sup> and the IBA’s adoption of guidelines regarding regulatory cooperation.<sup>153</sup> Because the ABA Center for Professional Responsibility plays a central role in bringing together U.S. lawyer regulation stakeholders through its annual conferences and its extensive resources,<sup>154</sup> the ABA Center’s connection to these global

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Legal Practice Year-in-Review Articles” from the “Jump to Category” menu available at [https://works.bepress.com/laurel\\_terry/](https://works.bepress.com/laurel_terry/).

151. See, e.g., Elizabeth Chambliss, *Evidence-Based Lawyer Regulation*, 97 WASH. U. L. REV. 297, 335–49 (2019) (suggesting, inter alia, that state lawyer regulation adapt to the federal [and international] trend of requiring evidence-based regulation); Laurel S. Terry, *Putting the Legal Profession’s Monopoly on the Practice of Law in a Global Context*, 82 FORDHAM L. REV. 2903, 2905–06 (2014) (noting the way in which global discussions about the scope of the legal profession’s monopoly have appeared in U.S. lawyer regulation-international trade discussions); Laurel S. Terry, *The European Commission Project Regarding Competition in Professional Services*, 29 NW. J. INT’L L. & BUS. 1, 5–7, 92, (2009) (citing U.S. involvement in global conversations about antitrust law and lawyer regulation and citing U.S. Department of Justice efforts to restrict state lawyer regulations it viewed as anti-competitive); Levin et al., *supra* note 1, at 427–28 (describing various ABA-federal government initiatives); see also Amy Salyzyn, *Building Better Lawyer Regulators*, JOTWELL (Dec. 6, 2019), <https://legalpro.jotwell.com/building-better-lawyer-regulators/> [<https://perma.cc/Y2FL-5LEU>] (reviewing Chambliss, *supra* note 13); Levin et al., *supra* note 1, at 410 (noting how the IBA, ABA, and CCBE worked together to respond after the “Troika” of the International Monetary Fund, European Central Bank, and European Commission insisted on regulatory reform of the Irish legal profession as a condition of their assistance).

152. See, e.g., INT’L BAR ASS’N, *IBA International Principles on Conduct for the Legal Profession Approved on 25 May 2019 by the Council of the International Bar Association* (2019), [<https://perma.cc/CBR7-HZCP>] (opens a PDF document). The second page of this document states: “The IBA wishes to thank the following for their contribution to the International Principles on Conduct for the Legal Profession . . . Co-opted member Ellyn Rosen (USA).” *Id.* The author has personal knowledge that Ms. Rosen is a long-time staff lawyer for the ABA Center for Professional Responsibility. See also Levin et al., *supra* note 1, at 414–18 (documenting additional ways in which the International Bar Association has brought together lawyer regulation stakeholders).

153. See, e.g., ABA Res. 104 (adopted Aug. 12–13, 2013), [<https://perma.cc/H7C7-G9DX>] (adopting a resolution that set forth and recommended its *Guidelines for an International Regulatory Information Exchange*). After the ABA adopted its resolution, the International Bar Association adopted similar guidelines. INT’L BAR ASS’N, *IBA Guidelines for an International Regulatory Information Exchange Regarding Disciplinary Sanctions against Lawyers* (May 2017), [<https://perma.cc/BGY4-WKRX>] (opens PDF document). See also Levin et al., *supra* note 1, at 435–51 (describing the cooperation and competition among the ABA, IBA, and CCBE on efforts relating to lawyer regulation).

154. See, e.g., *supra* notes 55–61 (describing the ABA Center for Professional Responsibility’s annual ethics conference); ABA CENTER FOR PROF’L RESPONSIBILITY, *Policy & Initiatives*, [https://www.americanbar.org/groups/professional\\_responsibility/policy/](https://www.americanbar.org/groups/professional_responsibility/policy/) [<https://perma.cc/2ZD3-FALB>] (last visited Apr. 22 2020) (providing links to numerous U.S. ethics resources, which are extensively used by many lawyer regulation stakeholders); see also Terry, *Globalization and the ABA Commission on Ethics*, *supra* note 33, at 119 (citing as the ABA’s strengths its 1) its ability to serve as an information aggregator; 2) its role as a network facilitator;

networks has ripple effects throughout the U.S. lawyer regulation stakeholder community.

The IBA's November 2019 circulation of a consultation paper about proposed IBA principles on the provision of unregulated legal services also illustrates U.S. stakeholders' connections to global conversations.<sup>155</sup> This consultation paper addressed, *inter alia*, issues that arise in connection with artificial intelligence and technology-provided legal services.<sup>156</sup> This paper was circulated to the IBA's Member Bars, which include the American Bar Association, the State Bar of Michigan, and the State Bar of California,<sup>157</sup> the last of which has been particularly interested in issues related to whether and how to regulate the use of AI and technology in the delivery of legal services.<sup>158</sup> U.S. stakeholders confronting artificial intelligence-legal services issues undoubtedly will find it helpful to consult the global resources cited by the IBA.<sup>159</sup>

In sum, because regulators in different countries are likely to face similar regulatory issues,<sup>160</sup> legal services reform initiatives inside the United States trigger cross-border comparisons, conversations, and networks. Moreover, the participation of U.S. lawyer regulation stakeholders in law reform discussions and initiatives outside the United States helps foster and deepen the global connections

3) its ability to speak for more U.S. lawyers than any other organization, given the occasional request from U.S. governmental bodies and others to hear about the views of "the U.S. legal profession;" and 4) its ability to bring together a relatively diverse group of stakeholders).

155. *See, e.g.*, Consultation Paper from the Bar Issues Comm'n of the Int'l Bar Ass'n, *Unregulated Providers of Legal Services* (Nov. 2019), [<https://perma.cc/VC7L-3L7S>] [hereinafter IBA Consultation Paper]; Email from Jonathan Goldsmith, Chair, IBA Committee on Guidelines for Unregulated Providers of Legal Services to Laurel S. Terry (and others) (Nov. 12, 2019) (on file with author) ("Dear colleagues, This is just to bring to your attention that the consultation of IBA member bars on our document was sent out yesterday by the IBA office, and is copied below."). This Consultation Paper and responses are expected to become the basis for an IBA report. *See* Email from Jonathan Goldsmith, Chair, IBA Committee on Guidelines for Unregulated Providers of Legal Services to Laurel S. Terry (and others) (June 4, 2020) (on file with author).

156. IBA Consultation Paper, *supra* note 155.

157. *See generally* INT'L BAR ASS'N, *Membership Organisations*, <https://www.ibanet.org/MembershipOrganisations/Default.aspx> [<https://perma.cc/4V74-54ZJ>] (last visited Apr. 25, 2020).

158. *See supra* note 105 for a link to the California ATILS Task Force. Its initial recommendations included some developed by its Artificial Intelligence/Unauthorized Practice of Law Subcommittee. *Id.* Although the Task Force's March 2020 Final Report did not include an AI-specific recommendation, the regulatory sandbox work group is likely to consider these kinds of issues. *See generally supra* note 105 (citing the Final Report and May 2020 vote to establish a regulatory sandbox work group).

159. The IBA Consultation Paper, *supra* note 155, cited, *inter alia*, a European Commission document entitled "Ethics Guidelines for Trustworthy AI," a 2018 report by the EU Fundamental Rights Agency ("FRA") on the topic of "BigData" and discrimination in data-supported decision making; a December 2018 document called the *European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and their Environment*, which was prepared by a working group of the European Council body called the European Commission for the Efficiency of Justice ("CEPEJ"); and a June 2019 Law Society of England and Wales report regarding "*The Use of Algorithms in the Criminal Justice system.*" IBA Consultation Paper, *supra* note 155, at 4–7.

160. *See, e.g., supra* notes 130–38 (discussing PMBR); *see also* Laurel S. Terry et al., *Trends and Challenges in Lawyer Regulation: The Impact of Globalization and Technology*, 80 *FORDHAM L. REV.* 2661 (2012).

among lawyer regulation stakeholder networks. Thus, even if they are not conscious of this fact, anyone who follows U.S. lawyer regulation reform initiatives is likely exposed to, and indirectly connected to, global networks and conversations.

#### E. MEMBERSHIP IN “DOMESTIC” GROUPS THAT LIKELY INCLUDE GLOBAL PERSPECTIVES

The prior paragraphs provided examples of the global information sharing that takes place through in-person meetings, virtual meetings, legal literature, and law reform initiatives. This Section focuses on the global information sharing that can occur through the groups to which U.S. lawyers belong, many of which might, at first glance, seem to be wholly domestic.

Most lawyers presumably belong to at least one, and probably many, different groups that might be described as affiliation networks or groups.<sup>161</sup> Lawyers in private practice might work for a law firm that has a network of offices throughout the country or the world.<sup>162</sup> Alternatively, or in addition, a lawyer in private practice might work for a law firm that belongs to a domestic or global *network of law firms*.<sup>163</sup> Many lawyers in private practice belong to a bar association group or another kind of affinity organization for lawyers.<sup>164</sup> Government lawyers, in-house counsel, and lawyers who work for other entities, such as non-profit organizations, are similarly likely to belong to at least one, and likely multiple, affiliation groups.<sup>165</sup>

Despite the seemingly “domestic” nature of many of the groups to which U.S. lawyers belong, global perspectives and issues are likely to creep into these “domestic” networks, whether in listserv conversations, magazine articles, the occasional meeting topic, or otherwise.<sup>166</sup> Law review articles and other sources show the broad contexts in which global issues can arise, including in practice settings that might, at first glance, seem to involve “domestic” issues.<sup>167</sup> The wide

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161. NEWMAN, NETWORKS, *supra* note 2, at 60 (describing an affiliation network as a network in which actors are connected via their membership in groups of some kind). Network experts sometimes express these as bipartite representation, in which the edges or connecting lines they draw do not connect individuals directly to one another, but instead connect individuals to groups. *See id.* at 61.

162. *See* Terry, *Global Networks*, *supra* note 1, at 163–64.

163. *See id.* at 164–66.

164. *See id.* at 159–60.

165. *See id.* at 167–69.

166. The author has encountered this in all of the groups with which she is connected, even though some of the groups she belongs to involve topics such as Civil Procedure or Pennsylvania legal ethics that might not obviously strike one as involving “global” issues.

167. *See, e.g.*, Carrie Menkel-Meadow, *Why and How to Study “Transnational” Law*, 1 U.C. IRVINE L. REV. 97, 98–99 (2011) (citing numerous “hypotheticals” that raise global issues, many of which are based on actual situations or cases); Susan L. DeJarnatt & Mark C. Rahdert, *Preparing for Globalized Law Practice: The Need To Include International And Comparative Law In The Legal Writing Curriculum*, 17 J. LEGAL WRITING INST. 3, 19–20 (2011) (finding in a survey of Philadelphia Bar Association that 67.5% of those responding had worked on a matter in the past five years that required them to “know something about foreign and/or

range of substantive law areas covered by the ABA Section of International Law's committees suggests that international issues can arise in virtually every substantive area of the law.<sup>168</sup> Thus, because foreign or international law issues can arise in almost any substantive law area, these issues are likely to periodically spill over into listserv messages, journal articles, and other activities of what might be thought to be purely "domestic" affiliation groups. Moreover, as the number of individuals who participate in both domestic and global networks expands, the diffusion of global perspectives increases. The Section that follows elaborates on this point.

### III. DIFFUSION, TIPPING POINTS, AND GLOBAL NETWORKS OF LAWYER REGULATION STAKEHOLDERS

There are many different sources one could cite and terminology that one might use in order to convey the idea that diffusion matters and that tipping points exist. Infectious disease epidemics, for example, typically go through three stages that begin with a slow-growth phase, which is then followed by an explosive phase, and the burnout phase.<sup>169</sup> On the other side of the health spectrum, if a sufficient percentage of the population obtains a vaccination, then a "herd effect" occurs that helps protect those who have *not* been vaccinated.<sup>170</sup> Scholars have written about the concept of "critical mass" in settings as varied as the adoption

international law," even though only 3.4% described their primary geographic client base as "international"); Ronit Dinovitzer et al., *The Am. Bar Found. & The NALP Found. For Law Career Research and Educ., After the J.D. II: Second Results from a National Study of Legal Careers* 35 (2009), [http://www.americanbarfoundation.org/uploads/cms/documents/ajd2\\_final\\_for\\_distribution.pdf](http://www.americanbarfoundation.org/uploads/cms/documents/ajd2_final_for_distribution.pdf) [<https://perma.cc/B8ML-TVH3>] (last visited Apr. 23, 2020) (finding that 44% of the surveyed lawyers had done at least some work that involved clients from outside the United States).

168. See Terry, *Global Networks*, *supra* note 1, at 161 (describing these committees). I sometimes challenge the students in my required first-year *Practicing Law in a Global World: Contexts and Competencies* course to "stump" me by coming up with an area of law where there are no foreign or international issues. They rarely can, and when they do, I usually conclude that it is due to my lack of exposure, rather than the lack of issues.

169. See, e.g., DUNCAN J. WATTS, *SIX DEGREES: THE SCIENCE OF A CONNECTED AGE 170–73* (W.W. Norton & Co. ed., 2004). Although the Watts book is more than fifteen years old, it provides a useful introduction to the subject and is accessible to the nonexpert. See also NEWMAN, *NETWORKS*, *supra* note 2, at 607–74 (examining the mathematical techniques that allow one to understand and predict the outcomes of epidemics given the connections between network structure and disease dynamics). This Section of the Article was written during and before December 2019, when COVID-19 was not yet widespread and the phrase "flattening the curve" was not yet commonplace. See *supra* note 68 (citing WHO and CDC COVID-19 websites). I suspect that most readers now have a heightened appreciation of the power of networks and impact of exponential growth.

170. See, e.g., Francis L. Black, *The Role of Herd Immunity in Control of Measles*, 55 *YALE J. BIOL. MED.* 351 (1982); Fengchen Liu, et al., *The Role Of Vaccination Coverage, Individual Behaviors, And The Public Health Response In The Control Of Measles Epidemics: An Agent-Based Simulation For California*, 15 *BMC PUB. HEALTH* 447 (2015); see also Aimee Cunningham, *How Holes In Herd Immunity Led To A 25-Year High In U.S. Measles Cases*, *SCL NEWS* (Apr. 29, 2019), <https://www.sciencenews.org/article/holes-herd-immunity-led-25-year-high-us-measles-cases> [<https://perma.cc/Y9CK-QGW2>]. Network experts are likely to refer to this as percolation. See, e.g., NEWMAN, *NETWORKS*, *supra* note 2, at 570 ("Another example of a percolation process is the vaccination or immunization of individuals against the spread of disease.").

of electric vehicles,<sup>171</sup> collective bargaining,<sup>172</sup> platform businesses,<sup>173</sup> cancer research,<sup>174</sup> and corporate boardroom diversity,<sup>175</sup> although a leading contemporary network science textbook does not include the term “critical mass.”<sup>176</sup>

This Article will not provide a “deep dive” into network science nor will it examine for lawyer regulation stakeholders the variables that network experts likely would use to analyze the reach and impact of lawyer regulation stakeholder networks.<sup>177</sup> Nevertheless, when seeking to understand global networks and the diffusion of information, it is helpful to be familiar with what network experts call the “small-world” effect.<sup>178</sup> Although law review readers may not be familiar with the original “small-world” experiment conducted by Stanley Milgram, they may be familiar with the phrase “six degrees of separation,” the play entitled “Six Degrees of Separation,” or the game called “Six Degrees of Kevin Bacon,” in which one tries to connect actor Kevin Bacon to any actor in the world by citing six or fewer movies; all of these use language that can be traced to Stanley Milgram’s original “small-world” experiment.<sup>179</sup> Although experts have critiqued Milgram’s methodology, later research suggests that the conclusions were sound and that two unrelated individuals are generally able to connect to each other in

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171. See Yiyi Zhou & Shanjun Li, *Technology Adoption and Critical Mass: The Case of the U.S. Electric Vehicle Market*, 66 J. INDUS. ECON. 423 (2018).

172. See GERALD MARWELL & PAMELA OLIVER, *THE CRITICAL MASS IN COLLECTIVE ACTION* (Cambridge U. Press 1993).

173. David S. Evans and Richard Schmalensee, *Failure to Launch: Critical Mass in Platform Businesses* (2010), available at <https://ssrn.com/abstract=1353502> [<https://perma.cc/PZU7-5K96>] (last visited Apr. 23, 2020).

174. See, e.g., Fabien Calvo et al., *Cancer Core Europe: A European Cancer Research Alliance Realizing A Research Infrastructure With Critical Mass And Programmatic Approach To Cure Cancer In The 21st Century*, 103 EUR. J. CANCER 155 (2018).

175. See, e.g., Lissa L. Broome, et al., *Does Critical Mass Matter? Views From the Boardroom*, 34 SEATTLE U. L. REV. 1049 (2011); Jasmin Joecks, et al., *Gender Diversity in the Boardroom and Firm Performance: What Exactly Constitutes a ‘Critical Mass’?*, 118 J. BUS. ETHICS 61 (2013).

176. See, e.g., NEWMAN, NETWORKS, *supra* note 2, at 751–80 (excluding this phrase from the index of this leading textbook); see also WATTS, *supra* note 169, at 363–74 (referring briefly to a critical point, but not a critical mass).

177. Cf. NEWMAN, NETWORKS, *supra* note 2, at 608 (observing that “ideas and models for the spread of disease can be usefully applied to help us understand the spread of information.”). As many of us observed during the COVID-19 pandemic, there can be daily changes in scientific models about networks and the spread of disease (or information).

178. See, e.g., NEWMAN, NETWORKS, *supra* note 2, at 62–65 (discussing experiments related to the “small-world” effect); see also WATTS, *supra* note 169, at 32 (referring to this as the “small world problem.”).

179. See, e.g., WATTS, *supra* note 169, at 38–39 (noting that Milgram’s experiment became the basis for the phrase “six degrees of separation” which was thereafter used as the title of John Guare’s 1990 “Six Degrees of Separation” play, as well as parlor games); Six Degrees of Kevin Bacon, WIKIPEDIA, [https://en.wikipedia.org/wiki/Six\\_Degrees\\_of\\_Kevin\\_Bacon](https://en.wikipedia.org/wiki/Six_Degrees_of_Kevin_Bacon) [<https://perma.cc/8ER3-9MFW>] (last visited June 3, 2020) (explaining the game “Six Degrees of Kevin Bacon”); M. E. J. Newman, *The Structure and Function of Complex Networks*, 45 SIAM [SOC’Y FOR INDUSTRIAL AND APPLIED MATHEMATICS] REV. 167, 175 (2003) (“two actors are considered connected if they have appeared in a film together.”); see also NEWMAN, NETWORKS, *supra* note 2, at 63 (noting that Milgram’s study “is the origin of the idea of the ‘six degrees of separation,’ the popular belief that there are only about six steps between any two people in the world.”).

five to seven steps.<sup>180</sup> As one expert has explained, “the fundamental conclusion that [two individuals] tend on average to be connected by short paths is now widely accepted.”<sup>181</sup> Moreover, the “small-world” effect is not limited to social networks; it is widespread and has been studied both empirically and mathematically.<sup>182</sup>

In order to illustrate the implications of this research and the impact that networks can have on lawyers, it is instructive to consider the situation of a lawyer who practiced in the United Kingdom. This lawyer used his work email to forward to six friends an email he had received from a woman.<sup>183</sup> Within a matter of days, this email had been forwarded to seven million readers.<sup>184</sup> This lawyer was later disciplined for using his work email for personal purposes.<sup>185</sup> This example shows how networks serve to amplify and diffuse information. Although individuals may have become more savvy about how messages can go viral, I suspect that most lawyers may not fully appreciate how an email sent to six people can travel around the world in a matter of days.

Recent events have demonstrated the impact of networks and the concept of exponential growth. During the COVID-19 pandemic, many undoubtedly were following the WHO and CDC COVID-19 dashboards that showed how quickly an outbreak could go “viral” and infect the world. Global developments in the lawyer regulation field have obviously not travelled around the world as quickly as COVID-19<sup>186</sup> or the email in the prior paragraph, but the past five to ten years *have* shown an impressive amount of global diffusion. Lawyer regulation ideas that have been adopted elsewhere in the world—such as mandatory malpractice insurance, regulatory objectives, PMBR, nonlawyer providers, and non-lawyer ownership—have become a regular part of U.S. lawyer regulation

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180. NEWMAN, NETWORKS, *supra* note 2, at 63–64 (indicating that Milgram’s study should be taken with a large pinch of salt because of methodology issues, but noting that a more rigorous 2003 study by Dodds et al. found that the average path length to make the study’s required connections was between five and seven steps).

181. *Id.* at 10 (noting that the mean distance between node pairs in many networks is very short, often no more than a dozen steps or so, even for networks with millions of nodes). Professor Newman has explained that the conclusion that node pairs tend to be connected by short paths

has been confirmed directly in many cases, including for some very large social networks such as the entire network of Facebook friends . . . and has moreover been shown to extend to many other (non-social kinds) of networks as well. Enough experiments have observed this “small-world effect” in enough networks that, whatever misgivings we may have about Milgram’s particular technique, the general result is not seriously called into question.

*Id.* at 63.

182. *Id.* (noting that the fundamental conclusion that node pairs are connected by short paths “has moreover been shown to extend to many other (non-social) kinds of networks”); Newman, *The Structure and Function of Complex Networks*, *supra* note 179, at 175, 183 (citing empirical studies of networks and noting that “the small-world effect is also mathematically obvious.”).

183. WATTS, *supra* note 169, at 165.

184. *Id.*

185. *Id.*

186. See WHO COVID-19 Dashboard, *supra* note 68; CDC Cases in the U.S., *supra* note 68.

conversations.<sup>187</sup> Regardless of whether one considers these developments to be positive or negative,<sup>188</sup> they have become part of U.S. lawyer regulation conversations.

Moreover, if one considers the examples of in-person meetings and virtual meetings described in Sections II.A and II.B, *supra*,<sup>189</sup> and then imagines how many other stakeholders each of these participants will interact with after having been exposed to global lawyer regulation stakeholder perspectives, one can see how diffusion can happen within lawyer regulation stakeholder communities. Just like an email originally sent to six people ended up in the hands of seven million readers within a week—and just as COVID-19 spread around the world—the global perspectives that originally were dispersed to a relatively small group of individuals will continue to expand and spread throughout the larger lawyer regulation stakeholder community. (In light of these expanding contacts, one can see why U.S. and foreign regulators have recently been interested in developing regulatory cooperation models.<sup>190</sup>)

As demonstrated above, there are many places in which lawyer regulation stakeholders may connect with global perspectives.<sup>191</sup> Network experts might refer to these stakeholders as “nodes” and the opportunities as the “edges” that connect lawyer regulation stakeholders.<sup>192</sup> Although global network opportunities existed in the past, and although there have been globally-connected stakeholders for years, if not decades,<sup>193</sup> it appears that there are significantly more globally-connected “nodes” that U.S. stakeholders are likely to encounter than

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187. See, e.g., Fortney, *supra* note 137, at Parts II-IV (discussing practices in other countries regarding PMBR, compensation, and discrimination); Leslie C. Levin, *The Politics of Lawyer Regulation: The Malpractice Insurance Example*, 33 GEO. J. LEGAL ETHICS 969, 973 n.21 (2020) (referring to other countries' practices regarding professional liability insurance); *Thirty Years*, *supra* note 1, at n.76 (citing articles that discussed global conversations regarding nonlawyer ownership and providers, and regulatory objectives); *Adopting Regulatory Objectives*, *supra* note 25 (citing global regulatory objectives developments).

188. The author has personal knowledge that there are strong feelings in support of and in opposition to most if not all of these developments.

189. See *supra* Sections II.A–B for a discussion of the ways in which in-person and virtual meetings connect lawyer regulation stakeholders to a global network.

190. See, e.g., *IBA Guidelines for an International Regulatory Information Exchange*, *supra* note 153; ABA Res. 104, *supra* note 153. The Conference of Chief Justices has passed resolutions endorsing cooperation with the CCBE in Europe and the Law Council of Australia. See, e.g., Conference of Chief Justices, *Resolution 13: In Support of Cooperation Among United States and Australian Bar Admission and Lawyer Disciplinary Bodies* (Aug. 2009), [<https://perma.cc/LBV2-CWN3>]; Conference of Chief Justices, *Resolution 2, In Support of Cooperation Among United States and European Disciplinary Bodies* (Jan. 2009), [<https://perma.cc/V5DX-CM5F>].

191. See Part II, *supra*, which discusses five ways in which lawyer regulation stakeholders can connect to a global network—through in-person meetings, virtual meetings, by reading articles, following law reform initiatives, or being part of a law-related group that communicates with its members.

192. Network experts use the term “edge” to refer to some form of connection between individuals in a social network. NEWMAN, NETWORKS, *supra* note 2, at 64. Newman explained that “there are many different possible definitions of an edge” in a social network and that the “the particular definition one uses will depend on what questions one is interested in answering.” *Id.*; see also *supra* note 17. This Article discussed five opportunities or “edges” that connect U.S. lawyer regulation stakeholders or “nodes” to their global counterparts.

193. See generally Terry, *Thirty Years*, *supra* note 1; Laurel S. Terry, *U.S. Legal Ethics: The Coming of Age of Global and Comparative Perspectives*, 4 WASH. U. GLOBAL STUDIES L. REV. 463 (2005).

there were five years ago, and that there are significantly more opportunities or “edges” where a U.S. lawyer regulation stakeholder might tap into a global network and connect with global perspectives.

At this point, it may be worth comparing the current situation to the situation approximately five years ago when Professor Carole Silver and this author co-wrote a “year-in-review” article about 2014 transnational legal practice developments.<sup>194</sup> That article used the framework of transnational legal practice networks (“TLP-Nets”) to discuss the 2014 transnational legal practice “year-in-review” developments.<sup>195</sup> This 2015 article drew a distinction between nationally-based TLP-Nets and transnationally-focused TLP-Nets.<sup>196</sup> It observed that although the transnational TLP-Nets discussed in the article had been active for several years, their 2014 activity suggested that their significance was building.<sup>197</sup> That prior article also highlighted the global connections of U.S. lawyer regulation stakeholders, stating that:

What is noteworthy, however, is the degree to which [the U.S. nationally-based TLP-Nets] now interact with international and transnational regulatory actors as well as with one another, resulting in cross-fertilization of TLP-related terminology, ideas, and initiatives. Each of these organizations was involved with transnational legal practice issues in 2014.<sup>198</sup>

Despite these sentences acknowledging the global connections of U.S. stakeholders, the 2015 article is noteworthy because the concluding section on U.S.-based TLP-Nets highlighted the overlapping linkages *within* U.S. stakeholder groups.<sup>199</sup>

What seems different today, compared to 2015, is the volume of linkages *among* U.S. stakeholder groups *and* the transnational TLP-Nets identified in that article.<sup>200</sup> This is particularly noteworthy in the law reform arena. In my view, global perspectives and networks have become much more deeply embedded in

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194. See Terry & Silver, *supra* note 1, at 413.

195. *Id.* at 413.

196. *Id.* The 2015 article defined nationally-based TLP-Nets as those that “take as their focus the TLP agenda of a particular jurisdiction, and necessarily are comprised principally—although not exclusively—of actors based in that jurisdiction.” *Id.* at 416. It defined transnational TLP-Nets as those that “are formed to bring together actors from various jurisdictions to generate dialogue and share information.” *Id.* at 426. The nationally-based TLP-Nets section of the article highlighted the 2014 activities of U.S. and European TLP-Nets. See *id.* at 425–26 (describing CCBE activities); *id.* at 416–25 (describing eleven U.S. developments). The transnationally-focused TLP-NETS section of the article focused on the 2014 activities of the International Conference of Legal Regulators, the International Bar Association, and the International Association of Legal Ethics, as well as informal collaborations among U.S. and Canadian regulators. *Id.* at 426–30.

197. *Id.* at 426.

198. *Id.* at 417.

199. *Id.* at 425 (the concluding paragraph of the section on U.S.-based TLP-Net observed that “[i]n addition to the formal organizational efforts within the ABA, there are numerous linkages among these [ABA] entities, including overlaps in membership or staff.”).

200. *Cf. id.* at 425 (concluding the section on U.S. TLP Nets by referring to linkages among U.S. domestic groups, rather than linkages among U.S. stakeholder groups and transnational networks).

U.S. conversations than they were five years ago. There has been a diffusion of global perspectives in all five of the settings or “opportunities” previously discussed: in-person and virtual meetings, legal literature, law reform initiatives, and lawyer affiliation networks, including those that are seemingly domestic.<sup>201</sup>

One way to think about the spread of global lawyer regulation stakeholder networks is to compare this phenomenon to the Rogers *Diffusion of Innovations* curve that has been used to describe the ways new technology spreads through a society. The Rogers *Diffusion of Innovations* curve refers to an idea that was originally published in Professor Everett Rogers’ 1962 book *Diffusion of Innovations*. This influential book, which was most recently updated in 2003, focuses on how innovation spreads.<sup>202</sup> Even those who are aren’t experts are likely to have an intuitive sense of the correctness of the Rogers *Diffusion of Innovation* curve. As Professor Bill Henderson has explained, Rogers posited that successful innovations progress through a bell curve that involved the actions of innovators, early adopters, early majority, late majority, and laggards.<sup>203</sup> Not all innovations (or ideas) will make their way through the entire bell curve, however.<sup>204</sup> One of the most perilous stages for an idea or innovation is the transition from the “early adopter” stage to the “early majority” stage; those innovations that make this transition have been described as “crossing the chasm.”<sup>205</sup>

The ideas found in Rogers’ *Diffusion of Innovations* book have been influential in a variety of settings. They have been used to explain certain aspects of network theory;<sup>206</sup> the diffusion of political policy,<sup>207</sup> in the health care context;<sup>208</sup> to explain mathematical models that help companies more effectively target future customers,<sup>209</sup> and to better understand the circumstances under which legal

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201. See *supra* Part II discussing these five methods of interaction.

202. Everett M. Rogers, *DIFFUSION OF INNOVATIONS* (5th ed. 2003).

203. Henderson, *supra* note 3, at 401.

204. *Id.* at 402–403.

205. *Id.* at 432, 458–59 (describing the “crossing the chasm” concept). See generally GEOFFREY A. MOORE, *CROSSING THE CHASM* (3rd ed. 2014) (exploring how and why innovations cross the chasm that often exists between the innovation and early adopter stages, on the one hand, and the early majority stage, on the other hand). See also WATTS, *supra* note 169, at 232 (explaining that Rogers’ terminology may be easier to understand than the technical version of the threshold model but noting that Rogers’ “diffusion of innovations” can refer to diffusion of ideas or practices, as well as technology).

206. See, e.g., WATTS, *supra* note 169, at 232–35.

207. See, e.g., Diane Stone, Osmany Porto de Oliveira & Leslie A. Pal, *Transnational Policy Transfer: the Circulation of Ideas, Power and Development Models*, 39 POL’Y AND SOC’Y 1 (2019); Todd Makse & Craig Volden, *The Role of Policy Attributes in the Diffusion of Innovations*, 73 J. OF POL. 108 (2011) (“We adopt Everett Rogers’ (1983, 2004) attribute typology from the diffusion of innovations literature and apply it to a sample of 27 policy innovations from the sphere of criminal justice policy in the U.S. states between 1973 and 2002.”).

208. James W. Dearing & Jeffrey G. Cox, *Diffusion of Innovations Theory, Principles, and Practice*, 37 HEALTH AFF. 183 (2018).

209. See, e.g., Dorit S. Hochbaum et al., *Rating Customers According to Their Promptness to Adopt New Products*, 59 OPERATIONS RES. 1171 (2011).

services innovation might succeed.<sup>210</sup> As explained by Professor Bill Henderson when applying Rogers' "Diffusion Curve" ideas to the legal services industry, "Rogers's core insight—one that is absolutely foundational for readers—is that the diffusion of innovation is a *process* that occurs through a *social system*. . . . [T]he social system has five 'adopter' segments that fit a normal distribution."<sup>211</sup> In my view, the examples cited in this Article suggest that the United States has "crossed a chasm."<sup>212</sup> U.S. lawyer regulation stakeholders now seem firmly embedded within a global network.

### CONCLUSION

This Article has examined a particular subset of legal profession networks—namely, the networks of stakeholders interested in lawyer regulation issues. After enumerating many different lawyer regulation stakeholders, including ten categories into which these stakeholders might be grouped, this Article identified five ways in which lawyer regulation stakeholders can participate—directly or indirectly—in global networks. These opportunities include in-person meetings, conferences, virtual meetings, law reform initiatives, as a result of reading literature, and as part of the information that is delivered by the "domestic" affiliation groups to which U.S. lawyer regulation stakeholders belong. For each of these five opportunities, this Article provided specific examples that illustrate how U.S. lawyer regulation stakeholders are exposed to global perspectives and networks. These examples demonstrated how global networks have changed the vocabulary, content, and participants involved in lawyer regulation conversations. Given the pervasiveness of these global networks, it is important for stakeholders to recognize the degree to which global networks and experiences are likely to have an impact on U.S. lawyer regulation stakeholder conversations including those that are the subject of the 2020 Symposium issue of the *Georgetown Journal of Legal Ethics*. To return to the Article's introduction and the "process" issue of how lawyer regulation change occurs, this Article argues that it is important for U.S. lawyer regulation stakeholders to be aware of the prevalence of global networks and to be prepared for global comparisons and perspectives when discussing domestic lawyer regulation issues.

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210. Henderson, *supra* note 3.

211. *Id.* at 402 (emphasis in original). As Professor Henderson's article explains, the factors that Rogers identified that affect the rate of adoption include: 1) the perceived attributes of innovation; 2) type of innovation decision (such as optional, where everyone decides for themselves, versus collective decision-making, versus authoritarian decision-making); 3) communication channels; 4) nature of the social system; and 5) efforts of change agents. *Id.* at 411 (including a table entitled "Rogers Rate Of Adoption Model," which Henderson describes as "Adapted from Everett Rogers, Diffusion of Innovations Fig. 6.1 (2003)"). See also *id.* at 428, Fig. 7 (including a table entitled "Rogers Organizational Innovativeness Model" that summarizes the variables Roger identified that affect an organization's innovativeness).

212. See *supra* note 205 and accompanying text for a reference to "crossing the chasm."