



## Globalization, Legal Practice, & Education



***AALS Workshop on the  
Future of Legal Education and the  
Future of the Profession  
Jan. 5, 2012, Washington, D.C***

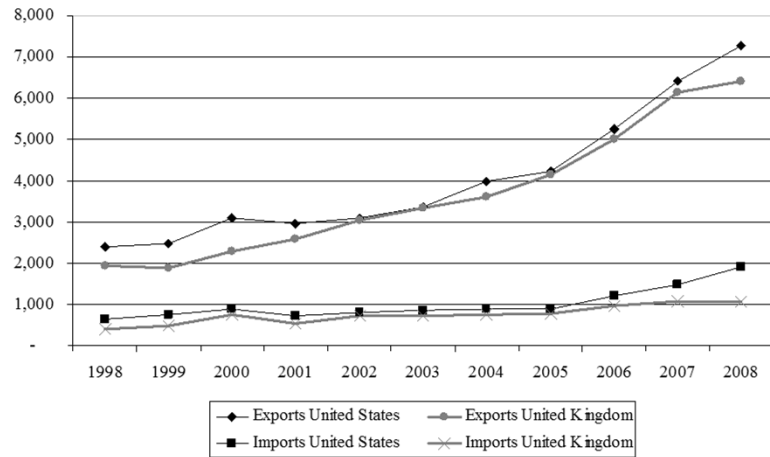
**Prof. Laurel S. Terry (LTerry@psu.edu)**



## Session Overview

- **The Global Dimension of Law Practice**
- **Challenges in achieving a coordinated and consistent regulatory scheme**
- **Fashioning approaches to legal education**
  - Some general observations
  - Leveraging LL.M. Students
  - Views from a global practitioner

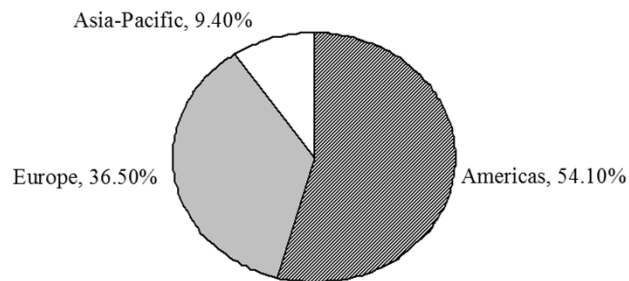
## I. The Global Dimension of Law Practice



Source: WTO Secretariat Report on Legal Services, S/C/W/38 (June 2010), at ¶7

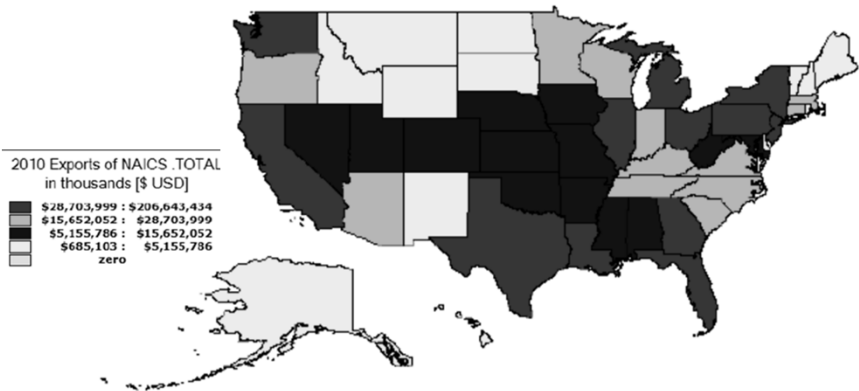
## The Global Dimension is... Global

Chart 2: Global Legal Services Market Segmentation: 2008  
Percentage share by value



Source: WTO Secretariat Report, supra, at ¶5

# Globalization Affects All US States

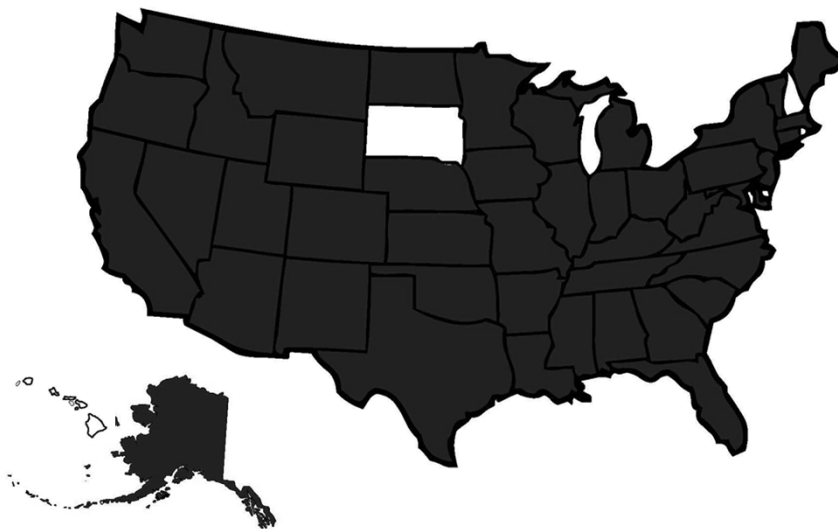


\*All states except Hawaii and Wyoming had 2010 exports in the billions

Source: Office of Trade and Industry Information (OTII), Manufacturing and Services, International Trade Administration, U.S. Department of Commerce. <sup>5</sup>

Slide content from Jim Jones at the May 2009 CCJ-Globalization Conference

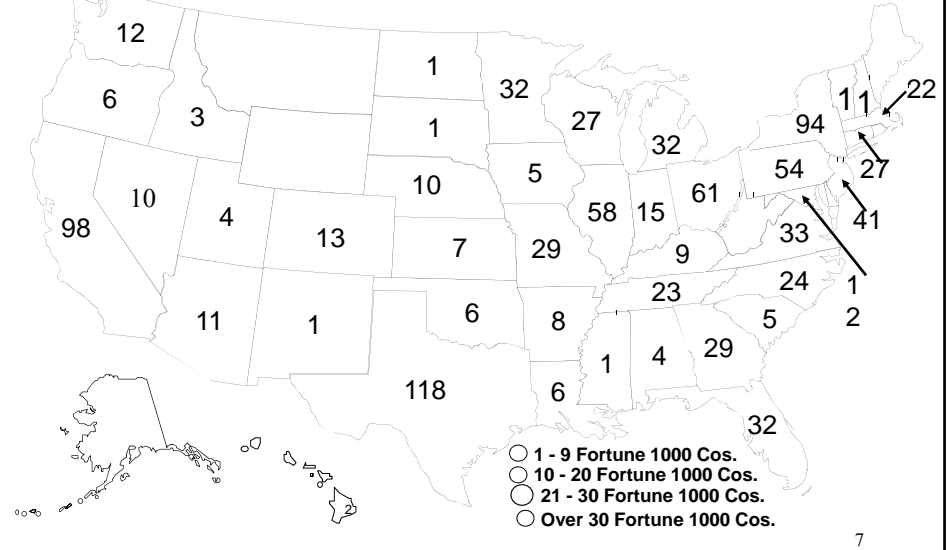
## States in Which NLJ 250 Firms Have Offices (This is significant because of imputation rules)



Slide content by Jim Jones at the May 2009 CCJ-Globalization Conference

Source: Fortune 500, May 2009

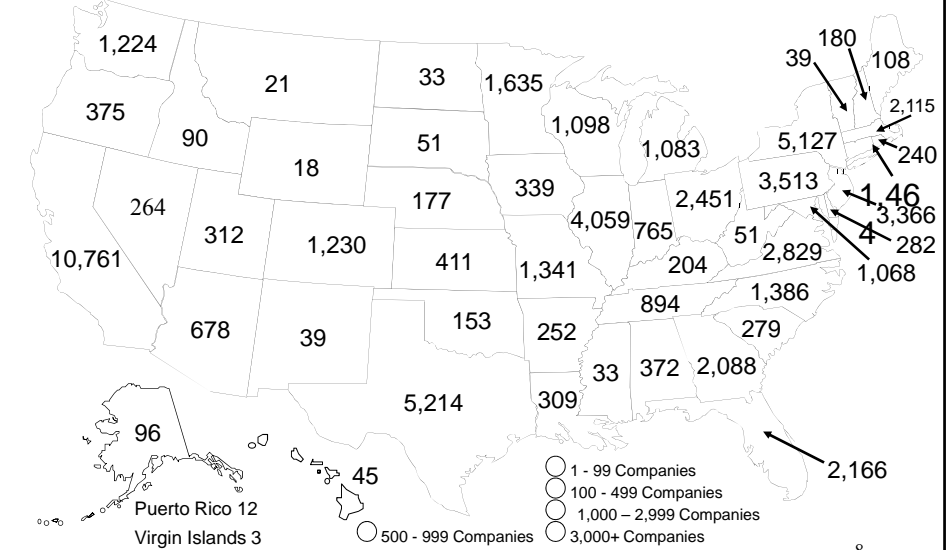
### Concentration of Fortune 1000 Companies



Slide content by Former ACC Gen'l Counsel Susan Hackett (5/09 CCJ Conf.)

Source: Extracted from ACC data.

### Companies with In-House General Counsels



## This is More Than a Big Law Phenomenon

- In 2009, 12% of U.S. population was foreign born (more than 36million)
  - More than 17 states (one-third) had a foreign-born population that was  $\geq 10\%$
  - Examples: California (26.8%), Nevada (18.9%), Florida (18.5%), Massachusetts (14.4%), Washington State (12.3%), and Rhode Island (12.2%)
  - Selected cities: LA (39%), San Jose (38%), NY (35%), Boston (25%), Austin (20%), Chicago (20%), Denver (15%), Charlotte (13%), Nashville (11%), Columbus (10%)

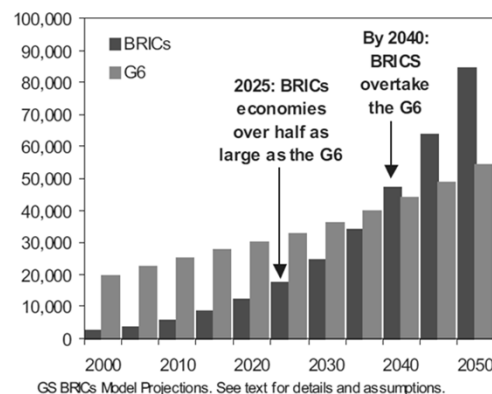
*Sources: ABA Commission on Ethics 20/20 Proposed Model Rule on Pro Hac Vice Admission & U.S. Census Bureau, 2009 American Community Survey*

*See also* Laurel S. Terry, *The Legal World is Flat: Globalization and its Effect on Lawyers Practicing in Non-Global Law Firms*, 28 Northwestern J. Int'l L. & Bus. 527 (2008)

9

## BRICs: Brazil, Russia, India, China

**BRICs Have a Larger US\$GDP Than the G6  
in Less Than 40 Years**



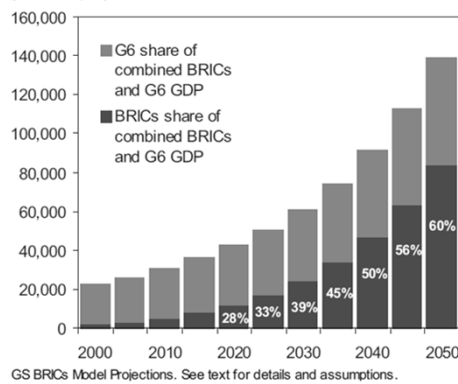
South Africa has now joined this group which is now known as “BRICS”

**Source:** Goldman Sachs, *Dreaming With BRICs: The Path to 2050*, Global Economics Paper #99 (2003), <http://www2.goldmansachs.com/our-thinking/brics/brics-reports-pdfs/brics-dream.pdf>

10

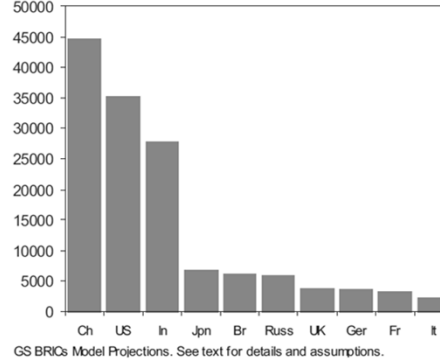
## This Shift will affect clients & thus lawyers

GDP (2003 US\$bn) **BRICs Share of GDP Rises**



Source: See previous slide

GDP (2003 US\$bn) **The Largest Economies in 2050**



## II. Is There a Coordinated Regulatory Regime?

- Not really...we are at the very beginning stages of such efforts:
  - ABA Commission on Ethics 20/20
  - Association of the Bar of the City of New York
  - Int'l Groups
    - E.g., Int'l Bar Assoc., Int'l L. Assoc. Hague Principles, ILLACE, APEC, Terry "global lawyer regulator umbrella group" proposal)
  - Council of Bars and Law Societies of Europe (CCBE)
  - Conference of Chief Justices
    - Discipline cooperation with the CCBE & Law Council of Australia

## What Issues do Global Regulators Face?

- **Who regulates:**
  - Self-regulation, co-regulation, other models? See, e.g., UK Legal Services Board
- **What is regulated:**
  - Should regulators regulate services or providers? See, e.g., Law Society of Upper Canada, UK LSB
- **When should regulation take place:**
  - Should regulation be ex-ante or post-hac? See, e.g., New South Wales, Australia.

See, e.g., Laurel S. Terry, Tahlia Gordon, and Steve Mark, *Trends and Challenges in Lawyer Regulation: The Impact of Globalization and Technology*, Fordham L. Rev. (2012)(forthcoming) 13

## What Issues do Regulators Face? (2)

- **Where:**
  - In a virtual world, where may lawyers practice and who should regulators have jurisdiction over?
- **How:**
  - Should regulators use an outcomes-based approach or a rules-based approach? See New South Wales & UK LSB
- **Why:**
  - What should regulation be trying to achieve? Should legal regulators adopt “regulatory objectives”? See UK LSB, Terry, Gordon, & Mark, *Regulatory Objectives for the Legal Profession*, Fordham L. Rev. (2012)(forthcoming)

### III. What Should Legal Educators Do?

#### Recognize that....

- We live in a global world
- Students from all law schools will need to be prepared to represent clients with global needs
- Ideas and developments from outside the US may migrate to the US - even if not ultimately successful
- You don't have to become a global expert in order to expose students to law's global dimension
- Impediments can be overcome (limited class time, limited prep time, & confidence issues)

15

### Overcoming the Impediments

- **Class Time:**
  - A one minute “aside” can make students aware of the global dimension
- **Class Prep Time:**
  - Find someone who knows your field to tell you 1-5 items you can read.\* The CCBE “Committees” webpage can be very useful. See <http://www.ccbe.org/index.php?id=25&L=0>
- **Confidence:**
  - You don't have to master the global dimension of EVERY issue. Pick 1-2 issues & 1-2 documents.

\*See Laurel S. Terry, A “How To” Guide for Incorporating Global and Comparative Perspectives into the Required Professional Responsibility Course, 51 St. Louis U. L. J. 1135 (2007)

16

## Conclusion

- The global dimension of law is pervasive
- Regulatory challenges for lawyers exist
- Efforts are underway to achieve a more consistent & coordinated approach, but....
- Your students may encounter tough issues
- You owe it to them to expose them to these issues.
- Have confidence that you can do it!

17

## To Read More About It...

- **ABA Commission on Ethics 20/20**
  - [http://www.americanbar.org/groups/professional\\_responsibility/aba\\_commission\\_on\\_ethics\\_20\\_20/initial\\_proposals.html](http://www.americanbar.org/groups/professional_responsibility/aba_commission_on_ethics_20_20/initial_proposals.html)
- **CCBE Committees Page,**
  - <http://www.ccbe.org/index.php?id=25&L=0>
- **International Association of Legal Ethics (and ILECs)**
  - <http://www.stanford.edu/group/lawlibrary/cgi-bin/iaole/wordpress/>
- **LawWithoutWalls Materials**
  - <http://www.lawwithoutwalls.org/>
- **Fall 2011 Fordham Symposium on Globalization and the Legal Profession**
- **Archived programs at, *inter alia*, Harvard, Stanford, Georgetown, MSU, Akron, & Hofstra**

18

## To Read More About It...

**By Laurel Terry**



**Global Legal Practice Resources Webpage:**

<http://www.personal.psu.edu/faculty/l/s/lst3/globalprac.htm>

**Links to Publications by Topic:**

<http://www.personal.psu.edu/faculty/l/s/lst3/>

**Presentations Page:**

<http://www.personal.psu.edu/faculty/l/s/lst3/presentations.htm>

**SSRN page:** <http://ssrn.com/author=340745>

19

## My Presentations Webpage:

> **Global Developments in general** (See 1-11, 9-09 and 11-08) (See also 2008 Service Providers article, "The Legal World is Flat", and other "Global Legal Practice"

\*\*\*

*To read my law review articles (or testimony) on the topics listed below,  
please visit my "Publications By Topic" section of my webpage*

> **Alternative Business Structure (ABS)** developments (including the UK's Legal Services Act 2007, Australia's publicly traded law firms, EU, and OECD deve

> **Antitrust initiatives** directed towards the legal profession, including the EU's Professional Services Competition Initiative (See 5-08, 4-08)

> **the APEC Legal Services Initiative** (See 10-09)

> **Australian Legal Profession Developments**. (See 8-08; 5-09)

> **the Bologna Process** (See 3-06, 1-05; see also 1-11)

> **Classification Systems for Counting Legal Services** (See 10-04; 4-07)

<http://www.personal.psu.edu/faculty/l/s/lst3/presentations.htm>

20