# Introduction

## *The Emergence of Inter-Asian Law*

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## I THE QUESTION

What happens when Western law is no longer the default referent for legal modernity? This is a deceptively simple question, but its implications are significant for such fields as comparative law, international law, law and technology, and law and development. The question has moorings in legal history (the sources and models for legal development, colonialism, the predominance of certain "legal families," etc.) and, likewise, is twinned with the relationship between law and the economic relations between states (namely, trade and investment). It may further both reflect and influence geopolitics, the concentration of power and influence within certain states over others, and whether the world is organized under "unipolar" or "multi-polar" configurations.

Much of conventional comparative law and the sociology of law is predicated on the idea that modern law flows West to East and North to South.[1] Likewise, world systems theory, modernization theory, and new institutional economics all privilege Western institutions, norms, ideologies, and law as the center and non-Western systems as peripheral.[2] This same logic is sedimented into centuries of inter-state

[1] It is not hard to find traces of Western law and institutional bias in the thinking of the founders of such disciplines. See, e.g., Robert Launay, *Savages, Romans, and Despots: Thinking About Others from Montaigne to Herder* (Chicago University Press 2018) 127, 128–129 (noting that Montesquieu's portrayal of non-Western systems in *The Spirit of the Laws* is informed by his critique of monarchical absolutism); Max Weber, *On Law in Economy and Society*, trans. Edward Shils and Max Rheinsten (Clarion 1967 [1922]) 47 (implicitly using German law as comparative baseline); Karl Marx, "The Future Results of British Rule in India" in Robert C Tucker (ed), *The Marx-Engels Reader* (2nd edn, W. W. Norton 1978 [1853]) 659, 659 (observing that British rule was not only destructive but "regenerating" by "laying the material foundations of Western Society in Asia"). For more contemporary assessments, see, e.g., Mathias Siems, *Comparative Law* (2nd edn, CUP 2018) 43 ("The disregard of non-Western countries by traditional comparative law is . . . difficult to excuse.").

[2] Immanuel Wallerstein, The Rise and Future Demise of the World Capitalist System, in Immanuel Wallerstein (ed), *The Essential Wallerstein* (The New Press 2000 [1974]) 71, 76

behavior and foreign policy: first through the colonial projects and military expansionism of the nineteenth centuries, then the informal trade empires of the twentieth century, and in the twenty-first century, state projects centered on legal development assistance, "rule of law" programs, and, most recently, investor–state dispute settlement, digital development, and regulatory coherence.[3] States work alongside commercial lawyers, financial institutions, chambers of commerce, and civil society – not always in concert but in ways that dovetail – to ensure that legal ideas, choice of law in contracts, investment protection, international standards-setting, and bureaucracies become routinized.[4] The result – as exemplified in the "legal origins" approach to comparative law – is the continual minting of Western law as the blueprint for modernity.[5]

Consequently, Western law, namely, Anglo-American common law and European civil law, has spread the world over.[6] This diffusion was secured by the force of imperialism and associated forms of Enlightenment and industrialization, but also through the path dependence of everyday legal practice and the

(identifying the emergence of modern world-economy in sixteenth-century Europe); Robert A Packenham, *Liberal America and the Third World: Political Development Ideas in Foreign Aid and Social Science* (Princeton 1973) (arguing that modernization theory as applied to Latin American aid was infused with American-centric liberalism); Julio Faundez, "Douglass North's Theory of Institutions: Lessons for Law and Development" (2016) 8 HJRL 373, 387 ("North's focus on Western economies as the end model for all states led him to regard any institutional framework that do not meet the ideal standard as deviant cases and therefore not meriting close investigation.").

3 Teemu Ruskola, *Legal Orientalism: China, the United States, and Modern Law* (Harvard University Press 2013); Jedidiah J Kroncke, *The Futility of Law and Development: China and the Dangers of Exporting American Law* (OUP 2016); Yves Dezalay and Bryant Garth (eds), *Global Prescriptions: The Production, Exportation, and Importation of a New Legal Orthodoxy* (University of Michigan Press 2002); Nick Couldry and Ulises A Mejias, *The Costs of Connection: How Data Is Colonizing Human Life and Appropriating It for Capitalism* (Bloomsbury 2022); Gus Van Harten, *The Trouble with Foreign Investor Protection* (OUP 2020); Howard Mann, "International Investment Agreements: Building the New Colonialism?" (2003) 97 Proc ASIL Annual 247–250; Han-Wei Liu and Ching-Fu Lin, "The Emergence of Global Regulatory Coherence: A Thorny Embrace for China?" (2018) 40(1) U Pa J Int'l L 133–188. A note about Asian name order: we follow the normal practice pursuant to the language in which the author's work is published. Thus, we use Anglicized order (i.e., given name first, family name last) when the work is in English, but use the original Asian language order (i.e., family name first, given name last) when the work is published in the original Asian language.

4 Guy Fiti Sinclair, *To Reform the World: International Organizations and the Making of Modern States* (OUP 2017); William Easterly, *The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So Much Ill and So Little Good* (OUP 2006); Frank K Upham, *The Great Property Fallacy* (CUP 2018).

5 For a critique, see Mathias Siems, "Legal Origins" in Jan Smits, Jaakko Husa, Catherine Valcke and Madalena Narciso (eds), *Elgar Encyclopedia of Comparative Law* (Edward Elgar 2023) 478.

6 Antara Haldar, "Legal Emotions: Why Affect Matters for Law" in Sanjit Chakraborty (ed), *Human Minds and Culture* (Springer 2024) 123, 128.

institutionalization of power in international organizations and treaties. This power institutionalization and path dependence can be seen in the ways in which decolonial states draft their constitutions, international legal and financial organizations are created, and cross-border transactions are structured.[7]

The "what if" question posed by this volume is not to deny the relevance of Western law as the primary source for legal modernization, but to open up new and additional possibilities for alternative sources and methodologies. Hence, this volume is more a reformation than a refutation of orthodox thinking. It is an experimental and preliminary effort to think through other beginnings and endings for law's movement from one jurisdiction to another, laying the grounds for new interactions between legal systems.

Building on the paradigm of "Inter-Asia" which has gained ascendance in recent years across scholarly fields in the social sciences and humanities,[8] "Inter-Asian Law" (IAL) points to an emerging field of comparative and international law that explores the legal interactions – historical and contemporary – between and among Asian jurisdictions.[9] These interactions – through diverse actors, intermediaries, processes, and methods – may lead to a number of important formations including, legal transplantation, law and development, multilateralism and trade blocks, global value chains, transnational orders, judicial networks, legal educational exchange, and digital integration, to name a few.

IAL is particularly relevant in the post-pandemic period given shifting geopolitics, increased regionalization, and the importance of key Asian states including Japan, Singapore, South Korea, China, Taiwan, and India. These jurisdictions are both learning from each other through law and, in the process, reconfiguring the substance and procedure of a number of areas of law in the region, and posing ramifications that are felt well beyond Asia.[10] In parallel, a number of Asia-centric multilateral platforms, including the Association of Southeast Asian Nations (ASEAN) United Nations Convention on International Settlement Agreements Resulting from Mediation (the "Singapore Mediation Convention"), Regional Comprehensive Economic Partnership (RCEP), Asian Infrastructure Investment

[7] Gordon Silverstein, *Law's Allure: How Law Shapes, Constrains, Saves, and Kills Politics* (CUP 2009); Jaakko Husa, "Developing Legal System, Legal Transplants, and Path Dependence: Reflections on the Rule of Law" (2018) 6 China J Comp L 129; John Bell, "Path Dependence and Legal Development" (2013) 87 Tulane L Rev 787; Bryant G Garth and Yves Dezalay, *Law as Reproduction and Revolution: An Interconnected History* (University of California Press 2021).

[8] Engseng Ho, "Inter-Asian Concepts for Mobile Societies" (2017) 76 J Asian Studies 907–928; Prasenjit Duara, "Asia Redux: Conceptualizing a Region for Our Times" (2010) 69 J Asian Studies 963–983; Fahad Ahmad Bishara, *A Sea of Debt: Law and Economic Life in the Western Indian Ocean, 1780–1950* (CUP 2017).

[9] See, e.g., Matthew S Erie, "The New Legal Hubs: The Emergent Landscape of International Commercial Dispute Resolution" (2020) 60(2) Va J Int'l 225–298.

[10] Tom Ginsburg, "Eastphalia and Asian Regionalism" (2011) 44 UC Davis L Rev 859; Pasha L Hsieh, *New Asian Regionalism in International Economic Law* (CUP 2022); Guiguo Wang, *International Investment Law: A Chinese Perspective* (Routledge 2015).

Bank, Shanghai Cooperation Organization, Belt and Road Initiative, Digital Economy Partnership Agreement (DEPA), Global Development Initiative, and others, are further inflecting international law and the law of member states.[11] The salience of these countries, their multilateral organizations, the dynamic flows of law, capital, and legal professionals, and the region as a whole generate legal creativity that warrants interdisciplinary research through doctrinal analyses, case studies, empirical approaches, historical assessments, and other methods of comparative and international law.

IAL is of increasing importance given the ongoing tension between the US and China and the resulting regionalization of trade and investment. IAL is not divorced from Western legal systems but demonstrates a complex set of relationships with Western law, such as post-colonialism, "late-comer advantages," path dependency, and divergence. While there is inheritance, there is also modification and innovation. To be clear, IAL may not only have Asian origins; it may borrow from non-Asian law but also extensively reform said law such that it finds new applications; it may even loop back to and co-evolve with said law through global norm diffusion and interaction.

The 2008 Global Financial Crisis and the COVID-19 pandemic cast doubt on Western liberal forms of law and governance, and calls for decolonizing comparative law have become more urgent.[12] It is no longer the case that legal change derives exclusively from Anglo-American common law or European civil law; rather, IAL shows how the Asian region is a dynamic field of legal modernization and experiment, an observation particularly germane during the COVID-19 pandemic and the emergence of data-driven economies and artificial intelligence (AI).[13]

IAL spotlights not only comparative law, but also international law, law and history, and law and society. More specifically, IAL touches on such fields as inter alia constitutional law, labor, property, contract, trade and investment, dispute

[11] Wang Guiguo [王贵国], Li Wulin [李鋈麟] and Liang Meifen [梁美芬], *Yidaiyilu zhengduan jiejue jizhi* [A Belt and Road Initiative Dispute Resolution Mechanism] (Zhejiang University 2017); Guiguo Wang and Rajesh Sharma, "The International Commercial Dispute Prevention and Settlement Organization: A Global Laboratory of Dispute Resolution with an Asian Flavor" (2021) 115 AJIL Unbound 22–27; Tom Ginsburg, "Authoritarian International Law" (2020) 114 AJIL 221–260; David Suter, *The Shanghai Cooperation Organisation: A Chinese Practice of International Law* (Schulthess 2015); Pasha L Hsieh, "Against Populist Isolationism: New Asian Regionalism and Global South Powers in International Economic Law" (2018) 51 Cornell Int'l L J 683–729.

[12] Lena Salaymeh and Ralf Michaels, "Decolonial Comparative Law: A Conceptual Beginning" (2022) 86 Rabel J Comp & Int'l Private L 166–188.

[13] Henry S Gao, "Data Regulation with Chinese Characteristics" in Mira Burri (ed), *Big Data and Global Trade Law* (CUP 2021); Jeanne Huang, "Applicable Law to Transnational Personal Data: Trends and Dynamics" (2020) 21(6) German Law J 1283–1308; Matthew S Erie and Thomas Streinz, "The Beijing Effect: China's 'Digital Silk Road' as Transnational Data Governance" (2021) 54 NYU JILP 1–92; Anu Bradford, *Digital Empires: The Global Battle to Regulate Technology* (OUP 2023).

resolution, data governance, law and technology, civil and criminal procedure, human rights, gender, and law and religion. Most fundamentally, at the epistemological level, IAL asks what it means if Asia – and not the West – is the referent for Asia's own legal modernity.

This volume, the first of its kind, is premised on a collective and experimental effort to provide an analytical framework to understand IAL and think through its possibilities and limits. It charts out the main origins, drivers, trajectories, and mechanisms of IAL, their effects at the national, regional, and transnational levels, and broader consequences for the political economy of the Asian region and beyond. It refers to IAL as both an empirical mapping and assessment as well as a new methodology of comparative and international legal studies. It seeks to unpack IAL as a phenomenon, to assess whether it is unique, and the extent to which the interactions traced demonstrate discernible patterns of influence. It presents empirical, doctrinal, and theoretical contributions thematically organized into commercial law, constitutional law, law's movements, and emerging problems. Specifically, the contributions examine both state-led initiatives at legal harmonization, commercial causes for convergence, many of which are driven by lawyers and their corporate clients, judges' citations to and networks with neighboring courts, and the role of other non-state actors. Hence, the volume's individual contributions assess different units and layers of analysis, among them, states, transnational networks, and company towns that effect legal and regulatory change across multiple jurisdictions.

The volume explicitly endeavors a form of deep interdisciplinarism to understand the nature and operation of IAL; it tracks between secular and religious law, private and public law, and national and international law. The operating assumption is that hyper-specialization in legal analysis has created siloed thinking which sacrifices historical and cultural perspectives and macroregional breadth for doctrinal minutiae. It hence eschews the safety of blinkered thinking and boldly recenters causation. As such, the volume takes a diachronic view of IAL, ranging from historical approaches that lay a groundwork for understanding the origins and trajectories of legal modernization in the region to contemporary doctrinal and policy analyses that assess how national legal systems have responded to current crises, whether in the forms of pandemics or wars. This emphasis on robust comparison facilitates thinking across disciplinary and national distinctions to show the evidence of and possibilities for legal pasts, presents, and futures that may benefit from Western precedents but also create new bases for solving regional and global dilemmas. While we argue that IAL elucidates broader rules rather than the "law of the horse,"[14] we are also conscious of the problem of overclaiming and recognize that IAL remains nascent whereas there is significant path dependency in choice of law throughout world legal systems which, in many aspects, still favor Anglo-American and Western European laws.

[14] See the final chapter of this volume, "A Beginning."

## II BACKGROUND AND CORE CONCEPTS

The legacy of empires, formal and informal, has assured that the West, namely, the United Kingdom (UK), Europe, and the United States (US), has defined legal modernity throughout the world.[15] Empires functioned to export, transplant, and reproduce variants of common law and continental civil law throughout Latin America, Africa, and Asia. Pursuant to the relationship between power and modern knowledge, the disciplines of international law and comparative law have further concretized such binaries as the Global North produces "legal subjects" whereas the Global South features "legal barbarians."[16]

However, decolonization, globalization, and the economic ascendance of former (semi-)colonized territories, including Hong Kong, Taiwan, Singapore, Japan, China, and India, have challenged long-standing orthodoxies about the nature and directionality of legal modernity. Scholars have developed critiques of existing knowledge about law and modernization, through, for example, the Third World Approaches to International Law,[17] Critical Race Theory,[18] subaltern studies,[19] the study of international law as empire,[20] and the so-called

[15] Maïa Pal, *Jurisdictional Accumulation: An Early Modern History of Law, Empires, and Capital* (CUP 2020); Lauren Benton and Richard J Ross, "Empires and Legal Pluralism: Jurisdiction, Sovereignty, and Political Imagination in the Early Modern World" in Lauren Benton and Richard J Ross (eds), *Legal Pluralism and Empires, 1500–1850* (New York University Press 2013).

[16] Daniel Bonilla Maldonado, *Legal Barbarians: Identity, Modern Comparative Law and the Global South* (CUP 2021). See also David W Kennedy, "New Approaches to Comparative Law: Comparativism and International Governance" (1997) *Utah L Rev* No. 2, 545; Günter Frankenberg, "Critical Comparisons: Re-Thinking Comparative Law" (1985) 26 HILJ 411.

[17] Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law* (CUP 2004); Olabisi D Akinkugbe, "Africanization and the Reform of International Investment Law" (2021) 53 Case W Res J Int'l L 7; B S Chimni, "The World of TWAIL: Introduction to the Special Issue" (2011) 3 TL&D 1.

[18] Ruth Gordon, "Critical Race Theory and International Law: Convergence and Divergence" (2000) 45(5) Villanova L Rev 827; Makau Mutua, "Critical Race Theory and International Law: The View of an Insider-Outsider" (2000) 45 Villanova L Rev 841; Vijah Prashad, *Darker Nations: A People's History of the Third World* (The New Press 2008); Barbara Young Welke, *Law and the Borders of Belonging in the Long Nineteenth Century United States* (CUP 2010).

[19] Dianne Otto, "Subalternity and International Law: The Problems of Global Community and the Incommensurability of Difference" in Eve Darian-Smith and Peter Fitzpatrick (eds), *Laws of the Postcolonial* (University of Michigan Press 1999).

[20] Karen J Alter, "From Colonial to Multilateral International Law: A Global Capitalism and Law Investigation" (2021) *iCON* 1–67; Lauren Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800–1850* (Harvard University Press 2016); Kate Miles, *The Origins of International Investment Law: Empire, Environment and the Safeguarding of Capital* (CUP 2013); Karen Alter, "The Empire of International Law?" (2019) 113 AJIL 183–199; Luis Eslava, "The Moving Location of Empire: Indirect Rule, International Law, and the Bantu Educational Kinema Experiment" (2018) 31 Leiden JIL 539–567; Martti Koskenniemi, Walter Rech and Manuel Jimenez Fonseca, *International Law and Empire: Historical Explorations* (OUP 2017).

BRICS.[21] In recent years, the spread of nationalism, protectionism, xenophobia, and dedemocratization have greatly weakened the global footprint of the erstwhile epicenter of legal modernity, most visibly, the US, but also, to various degrees, the UK, France, and Germany.[22] All of these trends have opened up more spaces for both Asian economic powers, not only China, but also India, Singapore, and Japan, to expand their regional and global influence.

The foregoing lays the backdrop for the study of IAL. As a definition of "Inter-Asian law," we propose the following: *a conceptual framework for comparative and international law that underscores the interactions between Asian jurisdictions at bilateral, regional, or transnational levels which introduce legal, regulatory, or normative change*. Under this definition, several concepts require unpacking, including "Asia," "Inter-Asia," and, more centrally, "Inter-Asian law."

## A. *"Asia"*

First, "Asia " can be understood as a geographical megaregion, a juxtaposition of legal systems, or a discursive conceit. These interpretations are not necessarily mutually exclusive. Geographical understandings of Asia include East Asia, South Asia, Central Asia, Southeast Asia, and Western Asia.[23] In the geographic sense, Asia is a place in the world defined by physical boundaries, culture, and populations. A legal systems approach recognizes that Asia is a mixture of diverse legal systems including common law, civil law, and hybrid legal systems, including Islamic law.[24] These systems are a result of historical processes, including imperialism and decolonization. The discursive understanding takes these historical and contemporary relationships further to underscore the historical construction of "Asia" as that which is "not Europe."[25] In this understanding, Asia is both a product of Western knowledge production (diplomatic, academic, etc.) and one that has also sought

[21] William W Burke-White, "Power Shifts in International Law: Structural Realignment and Substantive Pluralism" (2015) 56 HILJ 1–79; David Wilkins and Mihaela Papa, "The Rise of the Corporate Legal Elite in the BRICS: Implications for Global Governance" (2013) 54 B C L Rev 1149–1184; David B Wilkins, Virkramaditya S Khanna and David M Trubek, *The Indian Legal Profession in the Age of Globalization: The Rise of the Corporate Legal Sector and Its Impact on Lawyers and Society* (CUP 2017); Gregory Shaffer, *Emerging Powers and the World Trading System: The Past and Future of International Economic Law* (CUP 2021).

[22] Tom Ginsburg and Aziz Huq, *How to Save a Constitutional Democracy* (University of Chicago Press 2019); Steven Levitsky and Daniel Ziblatt, *How Democracies Die: What History Reveals About our Future* (Penguin 2018); Cass R Sunstein, *Can It Happen Here? Authoritarianism in America* (Day Street Books 2018).

[23] World Atlas, "Asia", www.worldatlas.com/webimage/countrys/as.htm, accessed March 5, 2024.

[24] Christoph Antons, "What Is 'Asian Law'? Asia in Law, the Humanities and Social Sciences" in Christoph Antons (ed), *Routledge Handbook of Asian Law* (Routledge 2017) 3–27.

[25] Edward W Said, *Orientalism* (Vintage 1978); Amitav Archarya, "Asia Is Not One" (2010) 69(4) J Asian Studies 1001; Teemu Ruskola, "Where Is Asia? When Is Asia? Theorizing Comparative Law and International Law" (2011) 44 UC Davis L Rev 879.

redefinition and agency.[26] These different understandings build on each other and provide different lenses through which to study Asia as place, system(s), and image. While Asia attains some coherence when contrasted against the West, Asia itself is highly heterogeneous, both in terms of law and politics, and thus diversity, including diverse interests, must be central to any analysis of Asia.

### B. *"Inter-Asia"*

Second, and in part pursuant to this observation of heterogeneity, the idea of "Inter-Asia" grows out of a number of efforts across the humanities and social sciences to rethink area studies. Area studies as a field underwent attack in the 1980s as a vestige of colonial thinking, that is, the idea of bounded culture-units that are "other" than the West. Contrary to this idea, scholars such as Prasenjit Duara and Engseng Ho have explained the idea of Inter-Asia as one of circulation of migrants, ideas, and capital between and among Asian jurisdictions.[27] In his formulation, Ho identifies Inter-Asia as "an old world crisscrossed by interactions between parts that have known and recognized one another for centuries ...."[28] Hence, Inter-Asia is not just an effect of modernity; rather, it has deep historic roots, roots that work both down and outward, connecting origins, nationalisms, and modernizations, across the region.[29] Further, Inter-Asia builds on but is conceptually different from "pan-Asianism" and "Asian regionalism," concepts that have gained traction in Asian political thought and academic study, respectively.[30]

While the defining movements of Asian nationalism and anti-colonialism were both reactions against Western imperialism and selective appropriations of Western political forms (e.g., Mahatma Gandhi's *satyagraha* ("holding to truth"), Liang Qichao's *ziqiang yundong* ("self-strengthening"), and Sun Yat-sen's *minzu* ("nationality")), there were also extensive borrowings between and among Asian polities. For instance, many of the efforts to reform the Qing Empire were borrowed from the Meiji restoration and even Mustafa Kemal took Japan as a model for reform.[31] Manchukuo, Japan's puppet state in northeast China from 1932 to 1945, cross-fertilized ideas of governance between Europe, Japan, and China.[32] Through the

[26] Gayatri Chakravorty Spivak, "Subaltern Studies: Deconstructing Historiography" in Ranajit Guha and Gayatri Chakravorty Spivak (eds), *Selected Subaltern Studies* (OUP 1988) 3–24.
[27] Duara (n 8); Ho (n 8).
[28] Ho (n 8) 907.
[29] Christine R Yano, "Global Asias: Improvisations on a Theme" (2021) 80 J Asian Studies 845–864.
[30] See, e.g., Kakuzō Okakura, *The Awakening of Japan* (Adamant Media Corp 2001 [1904]); Mark Beeson and Richard Stubbs, *Routledge Handbook of Asian Regionalism* (Routledge 2021).
[31] Pankaj Mishra, *From the Ruins of Empire: The Revolt against the West and the Remaking of Asia* (Penguin 2012) 1.
[32] Prasenjit Duara, *Sovereignty and Authenticity: Manchukuo and the East Asian Modern* (Rowen & Littlefield 2004).

push and pull of exile and diaspora, Chinese traders, merchants, and businesspeople created interlinked ecosystems of commerce, religion, and politics throughout the South Pacific from Southeast China to Taiwan, the Philippines, Vietnam, Malaysia, Sumatra, Cambodia, Thailand, and overland into Myanmar.[33] Likewise, decolonization and political movements fomented a diaspora throughout South Asia.[34] There were further overlapping commercial and religious links between the present-day Gulf States and South Asia;[35] China, Taiwan, and the Middle East;[36] the Middle East and Southeast Asia;[37] and Turkey and Central Asia.[38] In many cases, and chiefly, China and India, diasporas served to channel foreign direct investment into nascent nation-states allowing them to become the economic behemoths they are today.[39]

Inter-Asia as a concept has a rich intellectual history. One starting point is the work of Yoshimi Takeuchi, a major intellectual in post-war Japan, who proposed as early as 1960, "Asia as Method," by which he sought to trace the Chinese and Japanese approaches to modernization.[40] Takeuchi's method, then, is both comparative and reflexive; he shifts the analysis away from Euro-American models to juxtapose Chinese and Japanese ones, assessing their mutual inheritance and differences. Takeuchi's approach has been influential in Asian studies and has been taken up by several key intellectuals, including the Taiwanese scholar Kuan-Hsing Chen. Chen is a leading figure in the "Inter-Asian Cultural Studies project," which founded the academic journal *Inter-Asian Cultural Studies* in the late 1990s and a number of conferences that have "worked toward the imagination and possibilities

[33] Gungwu Wang, *China and the Chinese Overseas* (Times Academic Press 1992); Laurence J C Ma and Carolyn L Cartier, *The Chinese Diaspora: Space, Place, Mobility, and Identity* (Rowan & Littlefield 2003); Melissa Macauley, *Distant Shores: Colonial Encounters on China's Maritime Frontier* (Princeton University Press 2021); Santasombat Yos, *Chinese Capitalism in Southeast Asia: Cultures and Practices* (Palgrave Macmillan 2017); Aihwa Ong, *Flexible Citizenship: The Cultural Logics of Transnationality* (Duke University Press 1999).

[34] Papiya Ghosh, *Partition and the South Asian Diaspora: Extending the Subcontinent* (Routledge 2007).

[35] Engseng Ho, *The Graves of Tarim: Genealogy and Mobility across the Indian Ocean* (University of California Press 2006).

[36] Hyeju Jeong, "A Song of the Red Sea: Communities and Networks of Chinese Muslims in the Hijaz" (2016) 12 Dirasat 1–29; Zvi Ben-Dor Benite, *"Nine Years in Egypt": Al-Azhar University and the Arabization of Chinese Islam*. HAGAR: Studies in Culture, Polity & Identities (Ben Gurion University 2008).

[37] Michael Gilsenan, "Topics and Queries for a History of Arab Families and Inheritance in Southeast Asia: Some Preliminary Thoughts" in Eric Tagliacozzo (ed), *Southeast Asia and the Middle East: Islam, Movement, and the Longue Durée* (National University of Singapore Press 2009).

[38] Magnus Marsden, *Trading Worlds: Afghan Merchants across Modern Frontiers* (Hurst 2015).

[39] Min Ye, *Diasporas and Foreign Direct Investment in China and India* (CUP 2014).

[40] Yoshimi Takeuchi, "Asia as Method" in Richard F Calichman (ed), *What Is Modernity? Writings of Takeuchi Yoshimi* (Columbia University Press 2005) 149–166.

of diverse forms of intellectual integration in Asia."[41] Building on Takeuchi, Chen argues for "Asia as method" by which he means that by "using the idea of Asia as an imaginary anchoring point, societies in Asia can become each other's points of reference, so that the understanding of the self may be transformed, and subjectivity rebuilt."[42] With such genealogies in mind, it is clear that "Inter-Asia" speaks not of "one Asia" but, rather, many.[43]

### C. *"Inter-Asian Law"*

Third, IAL builds on the foregoing concepts to highlight law as a mobile normative resource between and among Asian jurisdictions. Crucially, the prefix *inter*-points to the relationship between and among Asian jurisdictions rather than taking them as independent case studies.[44] There is, of course, a premodern history to such exchanges, for example, in the legal borrowing of Qing China and Joseon Korea from Meiji Japan.[45] Contemporary assemblages may build on these historical precedents but may likewise operate across new configurations.

There is a growing literature that examines such legal comparisons, some of which may challenge conventional comparative law theory[46] and demonstrate degrees of harmonization of modern commercial law in different Asian jurisdictions.[47] As a theoretical or practical matter, private law may demonstrate greater convergence given that the interests of stakeholders may be aligned to optimize their respective rules.[48] Yet even in public law, there is a growing literature on such

[41] Inter-Asian Cultural Studies, "About Us", https://culturalstudies.asia/about-us/, accessed March 5, 2024.

[42] Kuan-Hsing Chen, *Asia as Method: Toward Deimperialization* (Duke University Press 2010) 212.

[43] Sanjay Subrahmanyam, "One Asia, or Many? Reflections from Connected History" (2016) 50 Modern Asian Studies 5–43.

[44] This phenomenon may not be unique to Asia; for example, Latin American states have experienced their own degree of intra-regional law. See, e.g., Maximo Langer, "Revolution in Latin American Criminal Procedure: Diffusion of Legal Ideas from the Periphery" (2007) 55 AJCL 617.

[45] See, e.g., Tay-sheng Wang, *Legal Reform in Taiwan under Japanese Colonial Rule, 1895–1956* (University of Washington Press 2000); Marie Seong-Hak Kim, *Law and Custom in Korea: Comparative Legal History* (CUP 2012).

[46] Dan W Puchniak, Harald Baum and Michael Ewing-Chow (eds), *The Derivative Action in Asia: A Comparative and Functional Approach* (CUP 2021); Dan W Puchniak, Harald Baum and Michael Ewing-Chow (eds), *Independent Directors in Asia: A Historical, Contextual and Comparative Approach* (CUP 2017).

[47] Anselmo Reyes and Weixia Gu (eds), *The Developing World of Arbitration: A Comparative Study of Arbitration Reform in the Asia Pacific* (Hart 2018).

[48] Gary F Bell, "Harmonisation of Contract Law in Asia – Harmonising Regionally or Adopting Global Harmonisation – The Example of the CISG" (2005) *Singapore J Legal Studies* 362; Gary F Bell, *The UNCITRAL Model Law and Asian Arbitration Laws: Implementation and Comparisons* (CUP 2018); Oliver Gaillard and Krista Nadakavukaren Schefer, *Private International Law in East Asia: From Imitation to Innovation and Exportation* (Hart

comparisons. Several collections of comparative Asian constitutional law have been published in recent years demonstrating this trend.[49] These volumes evince the increasing relevance of comparative Asian law to "mainstream" legal scholarship. This volume builds on these studies but provides a substantial innovation by creating a conceptual foundation for the study of IAL as a field of widespread interest.

The recentering of law in Asian studies and Asian law within legal studies must overcome histories of marginalization. Historically, the disciplines that study law have denigrated the place of law in Asian societies giving rise to what Teemu Ruskola has called "legal orientalism."[50] There is, in fact, a long history of negating Asian law, dating back at least to Max Weber's sociology of law, and his treatment of law in India, China, and Muslim societies.[51] That it was mainly European, British, and, later, American officials, diplomats, traders, and scholars who denied Asia law, and who epistemologically foreclosed the possibility of law in Asian communities has not gone unchallenged.[52]

In their place, legal scholars who work on Asian law, some from the region and others based in Western academies, have put forth their own perspectives – theoretical, doctrinal, ethnographic, and comparative – on Asian law. In an early example of Inter-Asian legal scholarship, the Japanese legal sociologist and anthropologist Masaji Chiba made canonical contributions to the study of what he alternately called "customary law," "living law," and "unofficial law" of Japan, eventually building out conceptual frames taken up by scholars from not just Japan but also Egypt, Iran, Sri Lanka, India, and Thailand.[53] One of his collaborators, Upendra Baxi developed his own sociology of Indian law.[54] The "raw material" of Asian law(s) included ethics, religious law, social norms, market principles, social networks, and other functional equivalents of "law." Expanding the parameters of legal analysis coupled with ongoing deimperializing projects called for new epistemological approaches. Exemplifying the idea that both the substance and study of Asian law demand a new set of analytical tools, Chinese legal scholar Suli Zhu has called attention to China's "native resources" (*bentu ziyuan*) as foundational to its legal

Publishing 2024). On the potential for developing states to develop "heterodox" approaches to private law that diverge from Global North prescriptions, see Kevin E Davis and Mariana Pargendler, *Legal Heterodoxy in the Global South: Adapting Private Law to Local Contexts* (CUP 2025).

[49] Wen-Chen Chang et al (eds), *Constitutionalism in Asia: Cases and Materials* (Bloomsbury 2014); Rosalind Dixon and Tom Ginsburg (eds), *Comparative Constitutional Law in Asia* (Edward Elgar 2014); Ngoc Son Bui and Mara Malagodi (eds), *Asian Comparative Constitutional Law, Volume 1: Constitution-Making* (Bloomsbury 2023).

[50] Ruskola (n 3).

[51] Max Weber, *Economy and Society* (University of California Press 1978 [1922]).

[52] Li Chen, *Chinese Law in Imperial Eyes: Sovereignty, Justice, and Transcultural Politics* (Columbia University Press 2016); Kroncke (n 3); Douglas Clark, *Gunboat Justice: Volume 2* (Earnshaw 2015).

[53] Masaji Chiba (ed), *Asian Indigenous Law: In Interaction with Received Law* (Routledge 1986).

[54] Upendra Baxi, *Toward a Sociology of Indian Law* (Satvahan Publications 1986).

culture and path for development,[55] and has inveighed polemically against what he deems the Western monopoly on knowledge production about Asian law, and Chinese law in particular, calling for the birth of Asian law and social sciences.[56] Contributions by Asian scholars occurred in conjunction with those Western scholars who were trained in Asian law and studied, in particular, the relationships between Asian legal systems, including state, religious, and customary ones.[57]

Ideas of Asian law, of course, have not evolved in an apolitical space. One historical data point is the 1955 Asian Lawyers' Conference in Calcutta. While overshadowed in the academic literature by the Bandung Conference, of the same year, the Calcutta Conference shared many of the key themes as Bandung but focused particularly on their legal aspects. Thus, the lawyers discussed sovereignty, mutual respect, and non-interference, among other topics, within the frame of international law.[58] The Calcutta conference was thus one meeting ground for lawyers to share ideas in the context of anti-colonial struggles.

There would be other moments where Asian leaders would attempt to differentiate themselves from the West. For example, first the Singaporean and Malaysian governments and then the Chinese one espoused discourses on "Asian values." Drawing opportunistically from (Neo-)Confucian communitarianism, Chinese Marxism, and cultural relativism, "Asian values" were also seen as unique to Asia and born of the ether of Asian culture.[59] While the content of Asian values varied according to the regime in question, they often stood for several claims including that rights are culturally determined, the community should be prioritized over the individual, social and economic rights are more important than civil and political ones, and rights are ultimately a matter of national sovereignty.[60] Proponents of Asian values hold that the relationship between rights, governance, and capitalism is fundamentally different in Asian countries given their unique histories and philosophies.[61] Critics, however, hold that Asian values demonstrate states self-orientalizing themselves to legitimate authoritarian rule[62] or other political agendas. Some of the

[55] Zhu Suli [朱苏力], *Fazhi jiqi bentu ziyuan (Rule of Law and Native Resources)* (China University of Political Science and Law 2004 [1996]).

[56] Zhu Suli [朱苏力], *Songfa xiaxiang: Zhongguo jiceng sifa zhidu yanjiu (Sending the Law down to the Countryside: Research on China's Grassroots Judicial System)* (Peking University 2011).

[57] See, e.g., M B Hooker, "The Relationship between Chinese Law and Common Law in Malaysia, Singapore, and Hong Kong" (1969) 28 J Asian Studies 723–742.

[58] Amrit S Pradhan, Vice-President, All-India Association of Democratic Lawyers and President of Bombay Branch, Asian Lawyers' Conference: To the Editor, *Times of India* (March 5, 1955) 6.

[59] Wm. Theodore De Bary, *Asian Values and Human Rights* (Harvard University Press 1998).

[60] Xiaorong Li, "'Asian Values' and the Universality of Human Rights" in Patrick Hayden (ed), *The Philosophy of Human Rights* (Paragon 2001 [1996]) 399–400.

[61] See, e.g., Morishima Michio, "Confucianism as a Basis for Capitalism" in Daniel I Okimoto and Thomas P Rohlen (eds), *Inside the Japanese System: Readings on Contemporary Society and Political Economy* (Stanford University Press 1988) 36–38.

[62] Jack Donnelly, "Human Rights and Asian Values: A Defense of "Western" Universalism" in Joanne R Bauer and Daniel A Bell (eds), *The East Asian Challenge for Human Rights* (CUP

logic of Asian values can be seen in other politicized discourses, such as the promotion of a "China model"[63] and various strains of Hindu nationalism.[64] Whereas Asian values as a legitimating discourse have largely peaked, these other ideologies continue to have traction in their respective corners.

Law has become a privileged domain for modernization projects in Asia. Whereas the gravitational center of international and comparative law has long been held to be Europe, across a number of contemporary fields of law, including constitutional law, international economic law, data law/cyber law, dispute resolution, and religious law, among others, Asia has become a new fulcrum for legal dynamism and co-evolution. Innovation takes several forms.

First, linking the political discourses on sovereignty and decolonization with the remarkable economic performances of many Asian economies in the latter half of the twentieth century (i.e., Japan's post-WWII economic recovery, the "Asian tigers," China's economic ascendance, and India's rise), scholars have noted that many Asian jurisdictions have developed their own approaches to international law, and international economic law, in particular.[65] It is in the field of commercial law where harmonization across Asian jurisdictions is most apparent. Asian jurisdictions have strong incentives to reduce cross-border transaction costs and facilitate inter-regional trade and investment.

Second, Asian jurists and lawyers have led IAL harmonization projects, such as the Principles of Asian Contract Law[66] led by scholars at Keio University in Japan and Tsinghua University in China, the Asian Principles of Private International Law, based out of Ritsumeikan University in Japan,[67] and the work of the Asia Business Law Institute in Singapore.[68] While not all of these have led to legal or policy innovation, they demonstrate intellectual projects of and for Asian law, in particular its co-evolution across Asian jurisdictions. Third, and related, Asian

1999); Inoue Tatsuo, "Liberal Democracy and Asian Orientalism" in Joanne R Bauer and Daniel A Bell (eds), *The East Asian Challenge for Human Rights* (CUP 1999) 27–59.

63 Francis Fukuyama and Weiwei Zhang, "The China Model: A Dialogue between Frances Fukuyama and Zhang Weiwei" (2011) 4 NPQ 41.

64 Balraj Madhok, *Indianization? What, Why and How* (S Chand 1970).

65 Muthucumaraswamy Sornarajah and Jiangyu Wang, *China, India and the International Economic Order* (CUP 2010); Muthucumaraswamy Sornarajah, "Review of Asian Views on Foreign Investment Law" in Vivienne Bath and Luke Nottage (eds), *Foreign Investment and Dispute Resolution and Practice in Asia* (Routledge 2011).

66 Shinyuan Han, "Principles of Asian Contract Law: An Endeavor of Regional Harmonization of Contract Law in East Asia" (2013) 28 Villanova L Rev 589; Naoki Kanayama, "Principles of Asian Contract Law" (2010) 1406 Jurist 102.

67 Uematsu Mao, "APPIL (Asian Principles of Private International Law) and Its Perspective Regarding International Jurisdiction" (2019) 37 Ritsumeikan L Rev 35.

68 Asia Business Law Institute, "Convergence of Laws and Frameworks for Cross-Border Personal Data transfers in Asia", https://abli.asia/abli-projects/convergence-of-data-privacy-laws-and-frameworks-for-cross-border-transfers-of-personal-data-in-asia/, accessed March 5, 2024.

jurisdictions including, chiefly, Singapore and Hong Kong have led the global race for institutional optimality among dispute resolution venues.[69]

Fourth, middle- and high-income Asian states (e.g., China, Singapore, and Japan) may serve as "intermediaries" for lower-income Asian jurisdictions during legal transplantation. The former may have adapted transplants from the West, and these countries are now transplanting their ideas, through further adaptation and interpretation, to recipient states elsewhere in Asia and Africa. A new generation of Asian legal exporters has subsequently emerged, including India, Singapore, and Vietnam. Hence, law and development requires attention to these "second-order transplants."[70] Tying these strands together, recent multilateral agreements have shifted the world's focus to Asia as a center for advancements in trade law and conflict resolution, as in the example of the RCEP and the Singapore Mediation Convention. The Chinese-led Belt and Road Initiative has also been widely viewed as a novel form of megaregional ordering, connected through bilateral investment treaties, free trade agreements, and soft law.[71] Hence, Asian states may contribute to their own bodies of regional law and transnational law.[72]

Yet another dynamic area for Asian legal revival is the question of religious law. Buddhism, Confucianism, Daoism, Islam, and Christianity all have their own normative sources, including ethical and legal orders.[73] Migrants, missionaries, proselytizers, and refugees have promoted these orders, sometimes not wholly disconnected from secular law and its institutions.[74] Lastly, it bears mentioning that Asian scholarly organizations have served to foment not just academic but also policy change in these areas of law, including the Asian Society of International Law, Asian Academy of International Law, and the Asian Law and Society Association, to name a few. In summary, Asian jurisdictions are emerging as catalysts for academic study (knowledge) and legal practice (power) through both competition and collaboration, and, collectively, they are changing the nature of law in the region and beyond.

[69] Reyes and Gu (n 47).

[70] Matthew S Erie and Do Hai Ha, "Law and Development Minus Legal Transplants: The Example of China in Vietnam" (2021) 8 Asian J L & Soc 372–401.

[71] Gregory Shaffer and Henry Gao, "A New Chinese Economic Order?" (2020) 23 J Int'l Econ L 607–635; Jiangyu Wang, "China's Governance Approach to the Belt and Road Initiative (BRI): Partnerships, Relations, and Law" (2019) 14(4) Glob Trade Cust J 222; Matthew S Erie, "Chinese Law and Development" (2021) 62 HILJ 51.

[72] Ngoc Son Bui, "Vertical Law and Development" (2021) 54 Cornell Int'l L J 1; Hsieh (n 11, 2018); Benedict Kingsbury et al (eds), *Megaregulation Contested: Global Economic Ordering after TPP* (OUP 2019).

[73] Peter van der Veer, *The Modern Spirit of Asia: The Spiritual and the Secular in China and India* (Princeton University Press 2014).

[74] Matthew S Erie, "Shari'a as Taboo of Modern Law: Halal Food, Islamophobia, and China" (2019) 33(3) J L & Rel 390; Fernanda Pirie, *The Rule of Laws: A 4,000-Year Quest to Order the World* (Profile Books 2021); Tom Ginsburg and Benjamin Schonthal (eds), *Buddhism and Comparative Constitutional Law* (CUP 2022).

By way of summary, there are thus three caveats to IAL and its study. First, and echoing insights from the study of Inter-Asia, IAL does not assume that Asia is a homogenous jurisprudential space. Rather, IAL is premised upon the understanding that Asia (and Asian law) is highly heterogenous and dynamic, sometimes contested. As Evan Feigenbaum and Robert Manning have argued, there are (at least) "two Asias": The first is one of economic integration, and the second is characterized by security dilemmas.[75] As to the latter, to take China as an example, the country is nearly surrounded by non-allies; Japan, South Korea, Taiwan, and India all have antagonistic relationships with China, and other countries like Vietnam have historically complicated relationships with China. Hence, any degree of IAL between China and these neighbors is precarious, although there are examples to the contrary.

The second caveat, also drawing on the above, is that IAL does not assume Asia is hermetically sealed. There are ongoing relationships with Western jurisdictions defined by learning, exporting, transplantation, co-evolution, and transnational harmonization. Yet, as mentioned, the East–West relationship is complicated in several ways. The role of "intermediary" states means that legal borrowings, transplantations, or translations may be sequential. Likewise, vertical transplants vis-à-vis regional, megaregional, or transnational law further show Asian jurisdictions informing law beyond the state, and vice versa, those sources of law may shape domestic or "municipal" law in Asia. These interactive relationships – horizontal and vertical – require mapping and analysis.

The third caveat is that IAL is only just emerging; hence, this volume is an early attempt to make sense of embryonic trends that may deepen, evolve, or diverge in the future. Pushback against globalization and enhanced regionalization, including Asian regionalism, may promote more IAL. Without flattening the Asian region, it is likely that increased intra-regional dependence with its economic incentives (e.g., reducing transaction costs and minimizing conflicts between legal systems) may further stimulate the conditions for IAL. Commercial law is one area that already suggests such increased activity.[76] Increased interactions may lead to more legal convergence, sometimes divergence, or innovation. In order to understand these emerging dynamics, the next section provides an analytical framework for the study of IAL.

[75] Evan A Feigenbaum and Robert A Manning, "A Tale of Two Asias" (2012) Foreign Policy. https://foreignpolicy.com/2012/10/31/a-tale-of-two-asias/, accessed March 5, 2024.

[76] Dan W Puchniak, "The False Hope of Stewardship in the Context of Controlling Shareholders: Making Sense Out of the Global Transplant as a Legal Misfit" (2024) 72 AJCL 109–169, 159 ("In Asia, some jurisdictions may even decide to follow the Singapore Family Code model and claim that they are tailoring their approach to a new form of Asian corporate governance – with family owners as the natural stewards of a significant portion of listed companies.").

## III THE ANALYTICAL FRAMEWORK

Comparative law scholar Ralf Michaels concludes his study of Asian law with the assertion that what he calls "intra-Asian comparison" holds perhaps the most promise to create a pathway that steers the study of Asian law away from its own essentialization, providing a durable basis for future study.[77] This IAL volume starts where Michaels leaves off, asking: Why study IAL? What insights does it provide? How does one engage in its study?

As part of the process of building a conceptual framework for the study of IAL, on December 16–17, 2022, a group of scholars convened the Inter-Asian Law workshop in Hsinchu, Taiwan, at the National Tsing Hua University. Participants included scholars who focus on several fields including corporate law, international economic law, dispute resolution, constitutional law, comparative law, and interdisciplinary approaches. The participants were united in their study of Asian law; most are from the region and teach in law schools in Asian countries, and a minority are from the US, UK, and Australia and likewise teach Asian law in law schools in their universities. The participants were tasked with addressing one or more of the following questions, which cohere the volume:

1. How and why have specific Asian jurisdictions borrowed or adapted legal innovations, procedures, institutional designs, and techniques from neighbors?
2. What have been the main mechanisms for the flow of ideas about legal change between Asian jurisdictions and who/what have been the agents for that change?
3. How has legal change responded to crisis and transformation (epidemiological, environmental, socioeconomic, political, technological, etc.) in the Asian region?
4. What are the trajectories and dimensions of IAL relationships in various fields? How may IAL relationships necessitate new methods and theories of comparative law?
5. In examining the relationship between law and economic growth as well as technological advances, how has development in specific Asian jurisdictions or the region at large spurred particular types of legal modernization and innovation? Why and how have such types of legal modernization and innovation spilled over to other Asian jurisdictions?
6. Is the Asian region growing indigenous models of law that diverge from Western law? If so, how? In this vein, are there new forms and channels of legal interactions emerging between Asia and the rest of the world?

[77] Ralf Michaels, "How Asian Should Asian Law Be?" in Gary Low (ed), *Convergence and Divergence of Private Law in Asia* (CUP 2022) 227–251.

Over the course of the two-day workshop, participants stimulated synergies between their papers through discussion and elaboration. Comparative cases, literatures, and theoretical frames were identified and used as touchstones to unite the pieces. Discussion between panel members was facilitated by additional commentators who the organizers invited to help round out knowledge on specific areas of Asian law, with a focus on the mechanisms of legal integration, their effects at different levels of analysis, and broader consequences for the political economy of the region. At the end of the workshop, the organizers assessed its findings and contributions but also the gaps. Subsequently, the organizers contacted a small number of additional scholars to fill those gaps.

Over the course of both the Hsinchu workshop and resulting conversations, it became clear that IAL is a broad field, with different types of discernible patterns among specific configurations of jurisdictions, and that, also, the field itself has its own set of limitations. The conversations coalesced around a set of themes that structure this volume.

***Types and methods of interactions***: These include cooperation, competition, mimicry, diffusion, norm innovation, and export. They are not mutually exclusive types or methods. They also may not be limited to Asia but show inheritance and borrowing from or co-evolution with Western jurisdictions even if the crucible of the interaction resides in Asia. History of inter-state relations, types of legal systems (e.g., common law, civil law, Islamic law, hybrid, etc.), geopolitical and economic contexts, and types of political regimes are important variables explaining which type of interaction prevails and its relative success.

***Actors and intermediaries***: The role of the experts, platforms, or institutions that facilitate the movement (and translation) of law is pivotal. Specific intermediaries include judiciaries, administrative officials, lawyers, regulators, and scholars. Institutional actors include trade agreements, international and regional organizations, and bilateral platforms. Such actors and intermediaries have different catalytic functions and processes at various levels. These different individual and institutional intermediaries may have different capacities, interests, influences, constraints, and agendas, which may, in turn, structure IAL.

***Effects, consequences, and conflicts***: IAL may result in harmonization and convergence, which can catalyze economic, judicial, or political relations. IAL may just as probably lead to inter-jurisdictional borrowing that does not result in harmonization given that the effects of localization may trump convergence. The ultimate effect may be that legal exchange effectively promotes reinforcement or retrenchment of local identity, politics, or institutional design. IAL may even lead to conflicts that can generate friction between and among jurisdictions. Effects may be more or less pronounced in substantive or procedural areas of law, domestic or transnational levels. Just as equally, would-be norm exporters may encounter obstacles to such normative work. Differences in political systems, cultures, languages, legal orders, and long-standing sensitivities and even hostilities can greatly complicate outcomes.

These themes, which, broadly speaking, provide a conceptual scaffolding for the volume, are taken up by the individual contributions. By using these themes as touchstones for their individual contribution, the writers explicitly and implicitly generate conversations across their respective studies. In short, through this analytical framework, the writers assess the merits and potential, as well as limitations and even shortcomings, of IAL as a mode of conducting comparative (and international) legal analysis.

## IV ORGANIZATION OF THE VOLUME

The volume is structured to reflect the results of this work. It includes, in addition to this Introduction, which provides the background to and analytical framework for IAL, four sections: *Commercial Law: From Firms to International Economic Law* (hereinafter "Commercial Law"); *Constitutional Law: Judicial Practices, Inter-Court Dialogue, and Democratic Resilience* (hereinafter "Constitutional Law"); *Law's Movements: Transnational Networks, Religious Donors, and Institutional Co-Learners* (hereinafter "Law's Movements"); and *Emerging Problems: Between Technology and Authoritarianism* (hereinafter "Emerging Problems"). These sections capture the main legal domains of interaction.

Part I, *Commercial Law*, features contributions that analyze innovations in private or business law in Inter-Asia, a hallmark of this new field of inquiry. For example, Gen Goto and Dan W. Puchniak examine the corporate law frameworks for Asian jurisdictions with a focus on independent directors, derivative actions, and stewardship codes. They argue that alleged convergence with Anglo-American law is superficial; rather, they point to local factors as shaping corporate governance reform in Asian jurisdictions. In their analysis, IAL becomes a lens through which to explore this adaptive diversity.

In a similar vein, Trang (Mae) Nguyen explores the role of "company towns" in Inter-Asian global supply chains and their role as legal entrepôts as they are both formed by and formative of various sources of law, including sub-national, national, and transnational. She finds that such company towns mark divergence from earlier American versions that were vertically integrated; rather, inter-Asian ones demonstrate horizontal (and indeed regional) integration.

Tran Hoang Tu Linh analyzes what happens when things go wrong and disputes arise between corporate and other parties. In particular, she assesses Inter-Asian hubs for alternative dispute resolution, including arbitration, and their modeling for second-tier (smaller market) Asian states in the region. In the same spirit as the other contributions, she concludes that while Asian hubs may not displace the dominant centers of international commercial dispute resolution (e.g., London and Paris), they demonstrate more frequent and tighter interaction, showing causal connections in design and implementation as in the example of Singapore's influence in Vietnamese arbitration.

Lastly, Pasha Hsieh provides an assessment above the firm or national level to show how ASEAN members are building international economic law. They do so in a way that is distinct in procedural rather than substantive terms; they create multilayered investment agreements for the region. For Hsieh, the uniqueness of IAL at the international level is its procedural aspects, consensus-building and interest-alignment. Such a perspective casts light on how Asian regionalism may foment IAL. The section thus shows across a number of units (sub-national, national, and supranational) how IAL operates to support cross-border business.

Part II, *Constitutional Law*, shifts the focus from private law matters to public ones and the central role of courts in establishing legal norms for their respective jurisdictions. Yvonne Tew, Deepa Das Acevedo, and Gauri Pillai each provide different accounts of national courts' cross-citations on specific questions of law, including judicial review, essential religious practices, and reproductive rights, respectively. Each focuses on the importance of India (and, for Pillai, Nepal) as an epicenter of case law that has gained traction outside of the home state, in neighboring common law South Asian and Southeast Asia countries. Whereas Tew and Das Acevedo provide empirical accounts of cross-citation and doctrinal migration arguing for deep localization driven by IAL rather than homogenization, Pillai takes a hypothetical approach to show how IAL can be a wellspring of legal imagination. The authors draw different conclusions about how borrowing jurisdictions may deploy case citations to Indian (or Nepali) decisions and what such practices mean for judicial empowerment, regionalism, and women's rights, broadly construed.

Wen-Chen Chang and Yi-Li Lee take a different tack in their contribution. Contrary to the notion that Asian states are dedemocratizing, the co-authors suggest that several states, South Korea, Taiwan, and Singapore among them, feature courts that resist authoritarian or illiberal trends. As such, the co-authors examine the constitutional foundations, jurisprudential developments, and democratic processes that allowed such jurisdictions to do so despite trends in other states – including Western ones – to exercise various emergency measures during the COVID-19 pandemic that may have laid the groundwork for states of exception. In particular, building on the shared constitutional norms underlying their pandemic responses, the authors point to the learning among the three jurisdictions in pandemic legal framework, multi-level governance between central and local governments, and the involvement of non-governmental organizations (NGOs). In summary, the section demonstrates various forms of interaction – explicit or implicit – between Asian jurisdictions and among their courts in particular which suggest diffusion of constitutional norms and principles.

Part III, *Law's Movements*, provides inter-disciplinary studies of how law "moves" throughout Inter-Asia. Contributions spotlight several such ways, including through transnational IAL networks, religious donations, and institutional co-learning. These

insights, in turn, help reflect on conventions in comparative law more generally, for example, the focus on "legal transplants." For instance, Matthew S. Erie shows how China has emerged as a would-be norm exporter to developing countries in Asia. It does so through creating transnational networks, although this is hardly a facile process. China has taken the lead in several areas including cyber law and data regulation but also in terms of how political authorities use law – all of which may be attractive (to varying degrees) to other states in Asia or Africa.

Examining a different set of relationships, Theodora Yuni Shah Putri and Veronica L. Taylor focus on inter-regional legal influence between Middle Eastern and Southeast Asian communities. Specifically, they examine the case of Saudi influence on criminal law reform in Indonesia. Putri and Taylor are thus also interested in transnational networks and ones that, in their understanding of IAL, transgress the sacred–secular divide of law. Lastly, Valerie Hans focuses on the diffusion of models of lay participation in trial systems across Asia. She observes that some of these represent "legal translations," a concept that she prefers over transplants. Legal translation, for Hans, is a mode of institutional co-learning as states studied each other's advancements in lay participation. For example, Japan studied systems throughout the world and other East Asian states like Korea and Taiwan studied Japan's modifications, among those of other states. Repeating earlier historical patterns, established during the Meiji Period, Japan has been a first mover in adapting Western law into local law, which was, in turn, adapted by other Asian states. In summary, the section demonstrates different modalities for the diffusion of IAL and diverse normative effects.

Part IV, *Emerging Problems*, begins where the previous section left off, by taking stock of some of the key issues facing the region, including emerging technologies and creeping authoritarianism, issues that are all endogenous to the Asian region and global in scope. First, many Asian states, such as China, Japan, Korea, Taiwan, and Singapore, have led the global race in integrating AI and other "smart" technologies like smart cities into their commercial and legal systems, which have caused their own challenges (e.g., privacy protection). Two contributions in this section place these innovations in context, national, transnational, and comparative. Ching-Fu Lin explores how East Asian countries have been shaping law and policy initiatives in response to the complex and multifaceted challenges posed by AI and how such jurisdictions interact through regulatory cross-referencing, learning, and competition. Lin further points out new regional forums such as DEPA as potential venues for IAL policy dialogue, best practices exchanges, and the co-development of AI governance. In parallel, Yoshiko Naiki examines the role of Japan, in competition with Singapore, and China, and the forms and substance of their policies in shaping smart cities in ASEAN states. These smart cities are built through hard and soft infrastructure, and also legal infrastructures in the sense of IAL. Naiki shows how Japanese proponents of the technology engage with questions of law in their construction of smart cities outside of Japan.

Jacques deLisle draws attention to an extreme case of the impact of one Asian jurisdiction on another: the increasing footprint of Chinese governance in Hong Kong. DeLisle diagnoses the different types of this influence as a "field guide" to IAL, including the informal methods that are adopted by Hong Kong in the shadow of China's influence. While the administrative relationship between China and Hong Kong is distinct, DeLisle's contribution offers insights for IAL, suggesting that the social, political, and economic weight of one jurisdiction may lead to legal and judicial change in another. Through its studies on emerging challenges such as advanced technology and authoritarianism, this section highlights that IAL is not a seamless or given process, but rather, encounters tension between cross-border work and domestic priorities, including protectionism and sovereignty.

In lieu of a conclusion, "A Beginning" summarizes and synthesizes these findings. It notes the potential for IAL as a comparative lens but also recognizes its limitations. It further suggests that the thematic domains of law covered in the four sections are not exclusive. There are more than likely additional domains and questions to which the IAL analytical framework can be applied. It further suggests that intra-regional comparison may not be unique to Asia, and that IAL may provide a template for considering Inter-Latinx law, Inter-African law, and Inter-European law. In summary, IAL and its derivates may suggest pathways to rethink comparative and international law from the vantage of the former peripheries that have, in a period of geo-economic flux and ideological doubt, to varying degrees, become center.