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LAWYERS AND THE

Lawyers and the Rule of Law in an Era of Globalization

Edited by
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Routledge
Taylor & Francis Group
a GlassHouse book

First published 2011
by Routledge
2 Park Square, Milton Park, Abingdon, Oxon, OX14 4RN

Simultaneously published in the USA and Canada
by Routledge
270 Madison Avenue, New York, NY 10016

A GlassHouse book

Routledge is an imprint of the Taylor & Francis Group, an informa business

Typeset in Baskerville by Taylor & Francis Books
Printed and bound in Great Britain by CPI Antony Rowe, Chippenham, Wiltshire

British Library Cataloguing in Publication Data
A catalogue record for this book is available from the British Library

Library of Congress Cataloguing in Publication Data
Lawyers and the rule of law in an era of globalization / edited by Yves Dezalay and Bryant G. Garth.
p. cm.
Includes bibliographical references.
ISBN 978-0-415-58117-2 (hbk) -- ISBN 978-0-203-83135-9 (ebk)
1. Lawyers. 2. Rule of law. 3. Globalization and law. I. Dezalay, Yves, 1945- II. Garth, Bryant G.
K115.L3878 2011
340'.11--dc22 2010050852

ISBN13: 978-0-415-58117-2 (hbk)
ISBN13: 978-0-203-83135-9 (ebk)

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Two ways of exporting law, expertise and state power

Ole Hammerslev

With the fall of the communist regimes in Eastern Europe, the world experienced a boom in legal assistance projects. Governments, private foundations, international organisations, consultancies and law firms started to invest millions of dollars and euros in legal assistance projects. American lawyers were prompt to move into the international arena, using the rule of law to open up markets, restructuring power hierarchies, deconstructing state bureaucracies and setting up institutions necessary to develop and maintain new forms of state power and market economy.[1] Drawing on the prestige of law, they managed to invent and export law, legal institutions and specific universals of governance to Eastern Europe, and – maybe more importantly – to set up the rules of the game for individuals, institutions and governments that came into the field later. The European Union – which became the other major institutional player in the field – joined in only when the initial rules had already been established. In doing so, it counteracted the growing dominance of U.S. lawyers. In the EU, this reaction was produced within and legitimised through the state in contrast to the U.S., where the production was born out of private initiatives. The grand official history of the EU enlargement towards Eastern Europe hides a complex struggle between two super powers – the EU and the U.S. – over forms of state power, law and legal capacity building.

Focusing on the social genesis behind legal assistance programmes originating in the U.S. and EU, this chapter illustrates two different ways of exporting law, expertise and state power. It examines how the programmes in the U.S. and EU developed differently. In the U.S. the programmes were to a large extent based on private initiative and were promoted by private lawyers whereas the European assistance developed within the administrative field of the EU, namely in the EU Commission. The two different 'origins' of the programmes might explain the foci of the programmes. Law firms, think tanks, private organisations and other institutions outside the state promoted law that could legitimise the (minimal) state or programmes could be designed to promote law and changes within the state.[2] The chapter exemplifies how lawyers use law to export various models of the state, and it exemplifies moreover the competition between the two large powers taking place in Eastern Europe.

Yet, it was not only *laws* these reformatory programmes focused on, it was also – and more importantly – *ways of practising and mental horizons of the agents in Eastern Europe*, the principles of vision and division, which were in focus for change. In that sense the story illustrates how law became a legitimate way of transforming practices around the state and the market.

The first CEELI liaison (cf. below), Bill Meyer, noted in an interview conducted by the author of this chapter, that he taught Bulgarian judges how to file and organise cases. It was a matter of changing the practices around the law and perceptions of law.[3] The following anecdote from American lawyer and CEELI liaison Meyer, who was in Bulgaria shortly after the changes, illustrates the mental categories that had to be changed – which were attempted by westerners by means of education and training, study tours to the U.S., and by sending volunteers to the Eastern European countries who could relate to brokers in these countries:

> 'I went to a cocktail party where the president's economic adviser was. He was a Ph.D. in economics from the Karl Marx Higher Institute of Economics. He did really not know about how things worked. He and I were standing over a glass of wine and he was telling about the mafia and about how the mafia had infiltrated Bulgaria. And I said I hear about it a lot but I have personally not experienced the mafia. Oh, he said, I have just heard a story about a person, a young man who had borrowed one million leva from a bank, and who went down to Greece and bought oranges. He came back and sold the oranges for two million leva and paid the bank back the loan. And made a profit of 200.000 leva. Can you think of anything more mafiaish? And I just said in the U.S. we would have given him a reward as businessman of the year. And this was the economic advisor to the president!'
>
> (See also Meyer 1992)

Analytical levels of the article

Using the tools provided by Pierre Bourdieu, this chapter focuses on how certain agents, given their resources (in the broadest understanding of the term), managed to take up dominant positions offered by the surrounding space, and how other agents managed to obtain positions in the field.[4]

The chapter functions on multiple levels. On one level it focuses on how individual lawyers pursued their own careers in the invention and export of legal programmes and criteria in accordance with the rule of law agenda. On another level it seeks to get behind the commonly told story of these individual creators – or unique individuals – by stressing the environment in which they, in the words of Bourdieu, 'were created', moved, and had their being. Focusing on individual persons' and institutions' biographies, the chapter attempts to write a 'collective relational biography' of how dominating agents in national fields succeeded in establishing their dominant positions in a field of law production.

Examining law production from a field perspective means that the focus changes *from law to legal field* (Bourdieu 1987:814–53). The field perspective stresses that law and legal institutions are not pregiven and universal but things which emerge, develop and are used in relation to the development of a field. Moreover the field perspective underlines that it is not the single agents per se, who have implemented the legal changes (as 'unique creators', in Bourdieu's words (Bourdieu 1997)), but the changes have appeared in relation to specific struggles in the various fields, in which different forms of resources are used to implement changes. Such a focus creates a dynamic in the study, as it shows how different groups on the basis of different investments for the time being have won the game, whereas others have lost. It moreover indicates a focus on the legal agents, which very rarely is part of the legal discourse because the perspective focuses on how legal development is closely related especially to social and cultural capital.

The chapter also addresses an international level which was created and became functional as a field with the new 'rule of law' agenda providing the operating orthodoxy of the field.[5]

Besides pointing to the mechanisms behind the formation of an international field, the chapter also points to the construction of Europe and illustrates how it is possible to examine fields in which Europe plays a role. The EU does not consist of a coherent unit, but has to be analysed from a field perspective, that is, with focus on the EU–agents' different relations, their relative strength, and the connections they are involved with. The EU is used by national agents, and therefore the analysis of struggles within the EU is essential to uncover the hidden structures of Europe (Cohen 2007:20–33; Hammerslev 2007:4–15; Kauppi 2005).[6]

The chapter deals thus with the EU enlargement towards Eastern Europe by focusing on the generative mechanisms behind the legal criteria that the new member states had to meet in order to gain access to the EU. The underlying view of the chapter is that EU agents were not the only agents taking part in the enlargement process. American lawyers as well as philanthropic foundations and other institutions were participating in what later became known as the EU enlargement.[7]

Yet the international field of legal assistance did not develop without a recipient side, a side in which local agents used international strategies in order to fight their local battles. This reciprocal process involved in the transformation of the Eastern European countries forms another level of the story. In examining the import of legal programmes and transnational capital, the chapter puts specific emphasis on the development of the Bulgarian legal field. The Bulgarian case can be considered as a 'double test case' for the largest and most important American programme in Eastern Europe.[8] Bulgaria was the first country in which the American Bar Association's Central and East European Law Initiative (CEELI) put a 'man on the ground' on a long-term basis, a model later expanded to the rest of the Eastern European region. Moreover, Bulgaria played an important role for the National Endowment for Democracy (NED) when they developed regional programmes, in which agents behind Bulgarian think tanks trained and funded by U.S. funds assisted other think tanks in the region.[9]

In order to *represent* the dynamic of the field, the chapter focuses on biographies of various ideal-typical individuals in the field. These are chosen because they represent either clearly dominating positions in the field with representative and clear trajectories or because they represent changes and differences in the field. They thus characterise the dynamic of the entire field by pointing at specific trajectories and forms of capital at certain points and places.

The (re)emergence of U.S. legal export: the creation of a dominant position

In the U.S. the fabrication of post-Cold War legal assistance in the area of rule of law and the judiciary was to a large extent the result of a private initiative taken by American commercial lawyers within the American Bar Association (ABA).[10] Using the ABA as a platform for their undertaking, Sandy D'Alemberte and Homer Moyer set up the organisation known as CEELI (Central and East European Law Initiative), which was to provide legal assistance in Eastern Europe. At the time the prestige of the ABA was falling with the relatively decreasing profit of the investments in pro bono work helping poor people. They drew on the experiences of the law and development movement and long engagement in Latin America. With the focus of the programmes on apparently universal claims of the rule of law, independent judiciaries, human rights, and the market economy in Eastern Europe, this new programme could unite the right and left wings within the ABA. And the invention was relatively cost free because of the possibility to utilise lawyers doing pro bono work and profiting symbolically from it. With their positions as president of the ABA and chair of the international section of the ABA, respectively, these two lawyers invested in what within 15 years would become one of the largest legal programmes in the world. It became one of the most prestigious departments within the ABA, and it has been characterised by Janet Reno, the former U.S. Attorney General (and a friend to one of the founders) as the 'worthiest pro bono project that American lawyers have ever undertaken' and praised by ABA President Bob Hirshon and former ABA presidents, together with the President of Croatia, in 2002 as 'the crown jewel of the ABA'. CEELI was established in 1990.

Moyer is a corporate lawyer working in the international department of the Washington law firm Miller & Chevalier, which specialises in tax, litigation and international disputes. The law firm took in Moyer from the U.S. Department of Commerce, where he had worked on international issues, in order to create an international department. A political appointee in both Democratic and Republican administrations, Moyer has served as General Counsel and counsellor to the Secretary of the U.S. Department of Commerce. Before government, he practised with Covington & Burling and served in the office of the

Judge Advocate General of the Navy, with collateral duty at the White House. As CEELI developed, the number of international cases coming to Miller & Chevalier grew steadily, and this in turn was reflected in the number of lawyers working in the international department. Moyer has taken part in one of the largest WTO trade disputes and faced the extraordinary challenges presented by NAFTA. He was a product of the Yale Law School.[11] After the invention of CEELI, Moyer was honoured several times by the ABA for his leadership of CEELI.

D'Alemberte is a lawyer with the firm of Hunton and Williams. He came from politics, where he was associated with a progressive group of prominent South Florida Democrats who wielded influence over state policy and politics from the late 1960s. The group included long-time friends such as Janet Reno, as well as the late Governor Lawton Chiles. D'Alemberte received his juris doctor with honours from the University of Florida where he was named to the Order of the Coif. He also studied at the London School of Economics and Political Science. He was dean at the College of Law at Florida State University and later president of Florida State University, with which he had long family connections.

Using their collective social and legal capital, they started CEELI. The first director, Mark Ellis, was a specialist in commercial law and one of D'Alemberte's former students. They set up a board consisting of 'some of the brightest legal minds in the country', as one insider noted, people who were known to Moyer or D'Alemberte – and to the wider public – and who bore a variety of titles. The board included Max M. Kampelman, Justice Sandra Day O'Connor, Lloyd Cutler, and Abner Mikva.

Max Kampelman was a lawyer with the New York/Washington law firm, Fried, Frank, Harris, Shriver & Jacobson LLP. Alongside his association with the law firm, he has worked in U.S. diplomacy and in related institutions such as Georgetown University's Institute for the Study of Diplomacy, the Woodrow Wilson International Center for Scholars, and the think tank Freedom House.

Justice Sandra Day O'Connor from Arizona was nominated by former President Ronald Reagan for a position at the U.S. Supreme Court. She received her degree from Stanford University. She was married to a prominent corporate lawyer in Arizona who also worked for Miller & Chevalier, Washington (Homer Moyer's law firm) when he moved to Washington, D.C. with his wife.

Lloyd Cutler was a corporate lawyer whom Clinton took in as legal adviser – albeit on unusual terms that allowed Cutler to remain as senior counsel at his law firm and to work for undisclosed private clients (Nader and Smith 1996). Cutler's eminence is reflected in the obituary published in the *National Law Journal* by Stuart Taylor Jr. on May 17, 2005. It states that 'there will never be another superlawyer on the scale of Lloyd Cutler, who died on May 8 at age 87. This is not to deny the possibility that someone, somewhere may replicate the dazzling array of talents that made Cutler the pre-eminent lawyer-statesman of his generation: intellectual brilliance, wisdom, public-spiritedness, eloquence, genius for grasping the interests of everyone around the table, and a passion for forging consensus solutions to hard problems'.[12]

Abner Mikva was Cutler's successor appointed by the Clinton government. He was a former federal judge and a congressman from Illinois.

It was thus agents with significant resources who constructed the programmes, which were legitimated as idealistic undertakings. The conditions of possibilities for the construction of the programmes exist in the American national field, in which it is legitimate for the agents to make career criss-crosses between private law firms and the Washington administration and between corporate law and idealistic projects.

Putting law on the agenda

Drawing on this kind of social capital, D'Alemberte and Moyer – with the acceptance and approval of, among others, Miller & Chevalier – set up the programme and managed to overcome resistance and get funding from the U.S. government. Drawing on their social and cultural capital, the persons behind CEELI convinced the people in the U.S. State Department dealing with aid to Eastern Europe that the project merited funding.

Until that time, the U.S. government had focused primarily on weakening the strong political bureaucracies in Eastern Europe in order to oust the former communists from the field of power and replace them with reform-friendly forces. Officials from the U.S. administration, government, judges, and think tanks were training the opposition to the communists and were trying to construct a form of civil society, which from a U.S. perspective was identified by the presence of regional non-governmental organizations (NGOs), think tanks, and non-state institutions. These institutions could produce and import discourses concerning necessary reforms and problems that had to be solved, and they could train other reform-friendly forces. The American perspective was, in other words, to train, support, and fund institutions and individuals who could fight their fights by strongly investing in making virtues of necessity. Moreover, the U.S. government focused on privatisation and building up open markets. One of the people brought in to create and administer governmental programmes for the U.S. State Department was the former U.S. ambassador to Bulgaria, Robert Barry. In 1992 he noted: 'We do not have government-to-government agreements ... Our task is to promote the growth of the private sector rather than to encourage the growth of new bureaucracies' (quoted from Wedel 2001:53).[13] The focus of the U.S. government was not on legal programmes, and it did not have any real strategy for rule of law programmes.

Like the government, The National Endowment for Democracy (NED) and its agencies, all of which were key institutions in the task of training oppositional groups to take up the fight against the former communists, did not focus strongly on rule of law programmes, though it was 'one of the underpinnings of what we did ... We worked on rules regarding democratic elections, representation etc. We tried to change the democratic rules', as someone previously associated with the regime of NED expressed it.

CEELI became part of a larger U.S. professional field consisting of U.S. policy idea brokers and its trajectory corresponds with the structures of the field.

NED was founded under former President Ronald Reagan in order to promote democracy globally. The persons behind NED and the policy establishment in Washington came out of anti-communist policy in the U.S. in the 1950s. It is a core institution behind the transformation of Cold War activism into a professional field of international practices based on democracy in which human rights and the rule of law were important components (Dezalay and Garth 2002). The long-time head of NED, Carl Gershman, provided the grant to CEELI. Before joining NED he was engaged in politics. Like the CEELI board member Max Kampelman, he was born in New York City, has been involved in the U.S. Social Democrats and Freedom House. Yet, it is not only behind the social structures, where a correspondence exists between NED and CEELI.

NED has invested in and tried to export a specific form of policy knowledge, and it has also participated in the actual production of such knowledge by supporting a wide range of professional idea brokers both nationally and abroad such as politicians, lawyers and so-called independent research centres. The latter work primarily in areas defined and funded by dominating agents and institutions. Such institutions work to promote ideas in the areas of public policy. The ideas are formulated in a scientific language in various scientific traditions – such as law, economics and political science – the policy behind the ideas is hidden. As Nicolas Guilhot (2005:87) notes on the basis of American research centres, the activities of funding, building institutions, and training professionals ensure that 'a significant control is exercised over the process by which policies are fabricated and circulated'. The scientific and 'independent' idea production emphasises the universal need for a U.S. policy industry. With this specific U.S. model of promoting ideas, cultures, management techniques, and ways of practices, funded by among others, NED, the Washington policy community can extend its reach. Emanating from dominating institutions and persons in Washington, this form of imperialism opens new foreign markets for policy prescriptions focusing on public institutions and the market.

Though being primarily funded by the U.S. government and closely related to the foreign policy establishment NED appears as an independent civil society organisation. As Guilhot (2005:86) notes: ' ... the enhancement of professional standards and the promotion of research and reflection on democratization processes contributed to turn the U.S. model of policy research and advocacy as a universal model of political change. Itself a product of the strong resurgence of foundations, think tanks, policy research centres, institutionalized lobbies and advocacy networks which deeply transformed U.S. politics in the 1970s, the NED actively seeks to export and internationalize this model'.[14]

In Bulgaria the NED managed to relate to and train a group of younger lawyers, some of whom went on to become prime ministers and presidents of the country and would be the driving force within the political field for investment in law reforms. When CEELI moved into Bulgaria, the Bulgarian NED-trained

lawyers collaborated with the representatives of CEELI in Bulgaria in determining the priorities and focus areas behind the rule of law and independent courts. The Prime Minister of Bulgaria in the first non-socialist government, Philip Dimitrov, is an example of such an actor. Dimitrov took into his cabinet 'all good persons', among others Nelly Koutzkova, who became a key figure in the later development of the rule of law agenda and who was very closely related to CEELI. She became a mentor and an inspiration for younger reformist lawyers and judges. Another leader in the legal community trained by NED was former Minister of Justice, Svetoslav Louchnikov, who had been a professor in civil law before the communist take-over. He was removed during the communist regime for political reasons, but yet he found a position as *juris consult* during the years of communism (Meyer 1993:134ff.). The story of Alexander Djerov, who also was trained by NED, might exemplify the resources and impact of these legal key reformers. Alexander Djerov was born in 1929 in Sofia. He came from a famous law family; the grandfather had chaired the Supreme Court of Cassation and was Minister of Justice three times. His father was one of the first lawyers in Bulgaria working in the field of finance law and commercial law. After the communist takeover, his father was deported to a small village. During communism Djerov started as 'an enemy of the state' but by drawing on the prestige of his family and social network he managed to study at the university. In 1989 he joined the Radical Democratic Party again due to his social capital – with the addition of cultural capital. In 1992 he became a professor of civil law. Just after 1989 he was in the U.S. on a study programme. Djerov was one of the founders of the private New Bulgarian University, which was based on a U.S. model to counter the previous communist domain of St. Kliment Ohridski University in Sofia. The university was founded with the cooperation of the leading think tanks – led by persons who also were or had been related to the establishment and continuation of George Soros's Open Society Institute and were mainly funded by various foreign institutions, especially USAID. At the same time, they were also professors at the New Bulgarian University. Djerov also practised civil and property law in his and his son's law firm (Hammerslev 2005:91–104; Hammerslev 2006b:29:27–42).

CEELI managed to get funding from the American government via the NED. The rule of law was thus outsourced to the inventors of the programmes, namely CEELI. It turned out 'that CEELI was a cheap and very effective way of promoting legal reforms' due to the *pro bono* programmes of lawyers in the U.S. 'Our people working on the ground did not get any salaries ... so it was good value for the money.' The grant 'provided U.S. with the chance to experiment with CEELI', as someone close to CEELI put it. 'It was clear that the approach we were taking was *pro bono* assistance, because we thought we could attract lawyers to participate, and they did – they came out in great numbers.'

Since the launch of the project, more than 5000 volunteers have participated. In the beginning CEELI had two employees, the director Mark Ellis and a secretary. Their annual budget was approximately $400,000. By 2003 the

annual budget had increased to approximately 20 million dollars. In 2006, CEELI had 30 offices in Eastern Europe and Central Asia and more than 35 liaison officers and long-term legal specialists working overseas. CEELI has assessed more than 465 draft laws and constitutions, and has some 40 employees in its Washington D.C. office.[15]

The resources and backgrounds possessed by the American lawyers coming into the field, however, are unequally distributed – an inequality that is projected to the international level. Initially, the lawyers working on the ground did not carry the same forms of and amounts of capital as their Washington-based colleagues who were the inventors and leaders of the programmes. They were all lawyers but with differences in their possession of cultural, social, and economic capital – and also legal capital. The American lawyers who worked in Eastern Europe were often first-generation academics (and lawyers) who had qualified and established their practice in the provinces of the U.S. Some had never worked internationally before, but the work in CEELI was a gateway to international work and positions in less prestigious NGOs.

They were often idealists who wanted to 'change the world' and 'do something good', as several CEELI liaisons stated in interviews and in personal conversations. Their Washington counterparts wanted to change the world too, but their aims were driven less by idealism and more by strategy than their counterparts on the ground. The first phase of the process after the fall of the Berlin Wall, which saw the formation of this specifically U.S. side to the international field of legal assistance, was characterised by a period of idealism. This idealism was taken into the field and used both in order to attract volunteers – who were drawn to the 'peace corps' – and to establish relations with reformers in Eastern Europe, who were themselves propelled forward by their euphoria. Eastern European lawyers, judges and a few jurists were, moreover, attracted to the American lawyers who came on a volunteer basis in order to help them develop in the direction of Western societies. A similar idealism was not to be found either in the corridors of the U.S. administration nor on the private market (Hammerslev 2005:91–104).

The most significant illustration of the discrepancy between possession of capital and idealistic intentions might be the biography and views of Bill Meyer, the first volunteer CEELI liaison officer to be sent to Bulgaria (and Eastern Europe). He grew up in a small city in Ohio, where his parents worked as farmers. He was educated in Colorado. He is a lawyer in a law firm in Boulder, Colorado, where he lives on a farm. He had taught black people in prison. When he contacted CEELI he was full of idealism. When he saw the fall of the Berlin Wall, he 'thought it was the time where I could actually make a difference' as he said in an interview. An exceptionally winning personality (as a Bulgarian key reformer said: 'Bill? Oh, I loved him.'), Meyer was not part of the big Washington and Wall Street law firms, and these attributes gave him additional opportunities to socialise with the Bulgarians in the transition processes. In contrast to the career diplomats from USAID and the Washington administration

of whom they worked independently from the beginning, the volunteers used 'friendship strategies' in order to build relationships with reformist lawyers in the country. In his own words, Meyer 'lived like a Bulgarian. In contrast to many other foreigners, my wife queued up for milk' (see also Meyer 1992). With 'friendship strategies' the liaison officer in Bulgaria was able to relate to the next generation of reform lawyers, which was quite unique in the field of legal assistance.

The difference between this profile and the individuals behind CEELI is also illustrated by an account about Kampelman and O'Connor's arrival in Eastern Europe: 'CEELI has a meeting every summer somewhere in the region. And very often when we arrive, the government in the country we visit, the delegation that comes to meet us only really wanted to greet O'Connor and Kampelman. And they would often have separate cars for them.'

CEELI focused on programmes in a number of legal areas such as the constitution, legal education, judicial reform, bar reform, commercial law reform, and criminal law reform. The rule of law focus was very closely related to commercial law reform and the development of market reform in order to assist these countries on their way towards global economic integration. The new legal agenda, which went hand in hand with business interests, was invented in the legal field as neutral universals, then extended and imposed globally onto the political fields and onto the social universe.[16] The law was once again on the political agenda in the U.S. and Europe; and various governments,[17] international institutions,[18] and philanthropic foundations[19] began to focus on the rule of law and associated legal areas such as human rights, strong and independent courts and commercial law. These legal categories became key assessment criteria when the democratic status of various countries around the world was evaluated by international organisations such as the World Bank, Open Society, and the EU. Moreover, CEELI managed to get into a position where some of the individuals behind CEELI were advising other international institutions such as the International War Crimes Tribunal.

When Mark Ellis moved from CEELI to the International Bar Association (IBA), he took the CEELI model to the IBA, which is using it in, among other places, Afghanistan. At the same time, some of the individuals associated with CEELI were also used as consultants for international institutions. Once again, this is illustrated very well by following the career of Mark Ellis. With his background in foreign investments he was used by the World Bank as a consultant in foreign investment issues relating to Eastern Europe and the former Soviet Union while simultaneously being the director of CEELI.

CEELI therefore became part of a larger field for the production of legal assistance by the U.S. As illustrated, the trajectory of the persons involved in the organisation as well as the trajectory of the organisation itself corresponds to the structures of the field of production and exportation of legal models. CEELI and the persons involved grew out of a specific U.S. field and their actions abroad were shaped by their national field. The particular U.S. model of state with its main focus on governance and civil society was exported to Eastern Europe

(and other places) via structural homologous agencies trained and supported by U.S. agents to fight their fights.

Government to government programmes: from demand to accession-driven approaches of the EU

The trajectory of the legal programmes in the EU is different from the trajectory of the U.S. programmes. As the following demonstrates, the EU's legal programmes were created in the bureaucratic field of the EU, that is, mainly in the executive branch and in particular in the Commission. Yet, not only were the backgrounds of the programmes different, they also functioned differently.

In the first years after the fall of the communist regimes, the Phare programme was established. It purported to provide assistance within five main areas: agricultural supplies and restructuring, access to markets, investment promotion, vocational training and environmental protection. As a high positioned civil servant in the Commission noted in an interview with the author of this chapter, 'The Phare project was in English, and it was in fact built by native English speakers'. The persons behind the Phare programmes were mainly economists from Britain and persons with backgrounds in development. Moreover, the Commission got the central role in the assistance work and in the coordination of the G-24 because Jacques Delors could mobilise his social network (Smith 2004). Yet the assistance was what is termed *demand and market* driven. Private consultancies from the west were earning their keep on the big projects that were established (Wedel 2001). As several persons working in the area noted, 'we had so much money, the only problem was how to spend it quickly enough'. But still the funding and projects were subordinated to the auditing and bureaucratic control of the Commission.

When it became clear that the Eastern European countries were moving for membership of the EU, a group of persons invested in a legal focus. In 1993 the Copenhagen European Council defined the criteria the Eastern European countries had to fulfil if they were to join the EU. The political criteria comprised stable institutions guaranteeing democracy, the rule of law, human rights and respect for minorities; the economic criterion was a functioning market economy; and finally the countries had to incorporate the Community *acquis* and had to adhere to the various political, economic and monetary aims of the EU. Despite the vague criteria, which did not give specific instructions of institutional organisation, they could be used by the EU as an instrument to put pressure on the Eastern European countries in relation to the various reform projects.

A legal turn: the shift of the EU programme from demand to accession driven

With the new legal criteria, the lawyers behind them got an instrument to transform the EU support via the Phare programmes from *demand driven* to *accession driven*. That meant that rather than support what the Eastern European countries sought in aid and grants, the assistance programmes of the EU now mainly focused on projects concerning the ability of the countries to fulfil the accession criteria. The inventors of the new form of focus were working for and around one core person, François Lamoureux.

The trajectory of François Lamoureux is very illustrative in showing the difference behind the U.S. and EU production of legal programmes. Lamoureux was part of Delors's cabinet (or as they were called 'practitioners of Rottweiler politics', 'Napoleonists, becoming Bonapartists', 'a gang'/'commandors' (Ross 1995:51)). He was educated at the *Instituts d'études politiques* and taught at the University of Paris I and the University of Metz before moving into the legal service of the Commission in 1978. He had been involved in politics for the French Socialists and had served as assistant mayor of a suburban Parisian town. He had been a member of Delors's cabinet since 1985 and formed together with Pascal Lamy (now head of WTO) the closest advisors to Delors. Lamoureux had been 'a central player in hammering out the Single European Act' (Ross 1995:55). In 1996 he moved to the Directorate-General External Relations as Deputy Director-General and later became Director-General of DG Transport. He and others used various strategies to strengthen the position of the bureaucratic side of the EU. Using the EU to regain the former imperial strength of the French, they managed to mobilise a strong cabinet – including many persons educated at the *Instituts d'études politiques* and with strong social capital in the form of international social networks (Kauppi 2005).

Lamoureux and the persons around him managed to take the Phare programmes to the next phase. They used their strength in order to impose the rule of law agenda into the political field, and it became a core area of assistance to Eastern Europe. With the rule of law agenda settled, legal expertise was needed in the Commission. A group of persons started the programmes, and the area of justice and home affairs became one of the growth areas within the EU Commission. It was an area where the Commission could play a leading role both within the EU *vis-à-vis* the Parliament and also *vis-à-vis* other institutions.

Lamoureux was also a key person behind the Twinning programmes, which are programmes supporting specific collaborations between a public institution in the recipient country and a similar institution in one of the EU's member states. By inventing the new programmes, they changed the ways of using experts and, more importantly, were able to place a larger responsibility on the member states for European integration. As a civil servant from the Commission noted in an interview, 'We saw that the area of public administration was extremely expensive, and we needed to draw our expertise on the market. And they did not leave stable results. Once the experts had left, we did not get any local know-how to take on the reforms.'

This new legal turn in assistance to Eastern Europe did not only mean that new forms of assistance were invented. It also meant that the state and legal (and other) bureaucrats were related and became committed to the development

of the Eastern European countries. The Twinning programmes, which sent bureaucrats, judges, police officers – in other words, state officials – to the countries in order to share their expertise and assist in reform efforts *within the state*, were also an invention to 'create network and focus, not a private focus. And then it might be possible to put political pressure from the members of the EU on the institutions for which Twinning is', as one of the inventors of the programme said in an interview before continuing, 'by nature, the field of justice and home affairs is something the state is in charge of. It is not the market that changes the judiciary'.[20] Thus, in certain ways the Twinning programmes mimicked the CEELI pattern with dominated agents from the provinces (capitals) of Europe sent out to assist the countries in changing legal agents' practices and outlooks. Yet, a fundamental difference existed in the way they functioned. The U.S. focused on private lawyers and the EU focused on bureaucrats, including judges, police officers, etc.

Lamoureux, who had been one of the closest advisors to Delors and who knew the rules of the game, succeeded in ousting others who wanted to expand the programmes to softer areas such as civil society, unions and welfare states. Despite the resistance from especially the U.K. to the changes from market expertise to legal state expertise, Lamoureux won the battle.

Even though there were internal EU reforms with the internal market and later the euro, the enlargement became one of the key areas of European development, and the persons who invested in the enlargement and not least in the rule of law agenda were promoted internally in the EU Commission. The legal assessment criteria of the legal reform programmes were decided progressively, mainly by a group of lawyers in the DG Enlargement in Brussels with the assistance of the growing DG Justice and Home Affairs.

Naturally the Commission and other EU institutions are surrounded by a host of professional lobbyists trying to influence which issues the political institutions should put on the agenda, how they should treat them, and which positions they should take on political issues. One of the ways the major lobby institutions, such as the European Roundtable of Industrialists and the EU Committee of the American Chamber of Commerce, operate is to try to influence leading persons in the Commission (Cowles 1995; Cowles 1996). In Europe, therefore, state institutions – and especially the bureaucratic field – are core institutions of influence for political development and for the establishment of major legal programmes and legislative initiatives (Hammerslev 2008:145–62).

The legalisation of the EU programmes was also a way to counteract the predominance of U.S. lawyers. As one of the founders of the EU legal programmes noted:

> 'It was in 96–97 you can say that the EU promotion became legalised. And the accession partnership gave us the possibility to say, look do not take U.S. experts in that field. Here is the priority, it is this EU legislation. So it is for us to tell you what to do … And then we felt: now they have applied for membership, should we continue to programming in the same manner? Or should we reverse the situation? We know in principle what should be good for you, what assistance you should receive. If you want to become member, we could tell you what we think your priorities should be. So we invented the accession partnership, which was an instrument whereby we would draw the priorities. And therefore we changed the way that the Phare programs were driven: from demand driven to accession driven.'[21]

However, the U.S. was still dominant in the area. They had educated the persons the EU had to count on when it evaluated the Eastern European countries, just as CEELI had invented evaluation criteria and written country assessment reports on the various Eastern European countries, which the EU lawyers had to use. Thus, much of the criteria and evaluation priorities were set with the inspiration of the work of CEELI.

When Bulgaria is assessed, the EU makes its reports based on interviews with elite persons about the development of the rule of law. Many of these interviewed experts were also the experts related to the NGO sector or to some of the prominent lawyers. It included, in other words dominating agents in Eastern Europe (Hammerslev 2006b:27–42). Many experts used in the beginning were also CEELI-trained experts. Yet, in order to get more European NGOs into the picture, the EU started to be in dialogue with the newly started think tank the European Institute, which was set up by the chief negotiator of Bulgaria for the accession agreement, Stanislav Daskalov. Daskalov was an economist and was closely related to some of the first Bulgarian law firms set up after the fall of the Zhivkov regime. Initially he and a lawyer working with the Open Society Institute of George Soros got funding from the Open Society Institute to set up the institution, which became one link between the persons in the Commission and advisors for the Bulgarian government.

The lawyers in the EU Commission engaged also in the battle for judicial training in Bulgaria (Hammerslev 2006b:27–42). The U.S. focus had been to have institutions outside the state, which were able to train magistrates, but the EU wanted such training institutions to be state institutions. The story of the Magistrates Training Centre is illustrative of the two different foci of the U.S. and EU. Different groups of 'reformist judges' and the Minister of Justice from the Union of Democratic Forces, Vassil Gotzev, decided to establish a joint venture organisation. The Magistrates Training Centre (MTC), as the organisation was called, was established in 1999 on an NGO basis between different organisations and the Ministry of Justice with the purpose of setting up training programmes for magistrates. The reasons for establishing an NGO were, as one of the persons involved in the training centre since its beginning noted in an interview, first, 'that NGOs are not bound by strict rules of the state, but mainly by rules given by the founders and the board'; second, that it is 'much more flexible with such an institution'; and third, that it 'could be funded by mainly international foreign projects'. USAID and the Open Society Institute agreed

to fund the project. Leading reformist judges got the idea for such an institution after discussions with a former CEELI liaison back at the beginning of the 1990s. USAID chose to work – via another Soros-founded institution, the East-West Management Institute – with MTC. MTC started as a small training centre, as one observer noted, but now it has grown, which would not have been possible without the support of USAID. Initially the project met some resistance among persons from the previous Communist Party both in the local courts and among law professors at the University of Sofia. The judges thought that it would interfere with their independence, and the university professors saw NGO-based training programmes as attacks on their expertise. The 'reformist judges' profited, however, by taking part in the establishment of the various NGOs and were often used as experts in various forums – national as well as international (Hammerslev 2007:135–55). When the EU Commission began to prioritise judicial reforms, it also focused on judicial training in Bulgaria. In the Commission the opinion was, however, that such institutions should be state institutions. As a central player in the Commission noted about the MTC, 'Throughout the years, we saw that their capacity to train magistrates was limited and remained limited. They were not able to grow so we imposed the Bulgarian Ministry of Justice to take their responsibility and to transfer it to some full fledged institute as you have in France or other countries.'

Conclusion

This chapter has demonstrated two modes of production of legal assistance by focusing on the social genesis behind the American and European production and export of legal assistance. In the U.S. the programmes were mainly the product of private initiatives, funded by the U.S. government via NED. In contrast, in the EU the production was the result of mainly French lawyers and bureaucrats within the EU Commission who invested in legal programmes and managed to replace the dominant positions in the enlargement game, namely British economists and persons trained in development. It is, in other words, in the organisation of the national fields of power that the conditions of possibilities for the different programmes can be found. It was possible for highly resourceful agents in the U.S. by means of their specific legal and social capital to mobilise legal export programmes to Eastern Europe. In the EU, law came on the agenda when agents with bureaucratic capital moved onto the stage.

An international field of legal assistance developed when different agents and institutions invested in the area of legal assistance based on the rule of law, democracy, independent and strong judiciaries, and business law. The chapter exemplifies how law and legal programmes were not only a strategic instrument to pursue self-interests in the agents' own careers, in which legal investments paid a good rate of return, they were also instruments used to change other states, markets and legal systems in Eastern Europe. Both from the EU side of the field and the U.S. side, the field was structured with the dominating figures

from the main cities with significant social and cultural capital, whereas the dominated persons who were sent out on the ground in Eastern Europe were typically from the provinces. They did not possess the same amount of capital as their dominating counterparts. Yet, an important pole exists in the way the programmes function, namely their relation to the state. Whereas the U.S. lawyers worked in separate institutions outside the state and sought to build institutions mainly outside the state, the European bureaucrats assisted mainly in the state. This meant that American lawyers were operating with various groups of lawyers and others, many of whom were the main elite reformist lawyers and persons behind large think tanks, whereas the Europeans mainly were assisting dominated persons within the local authorities and ministries (persons with low salaries, low prestige and neither distinct social nor cultural capital).

Because of the focus of this chapter, it might seem as if the international players did not meet much resistance in Eastern Europe. Yet, huge resistance has existed since the fall of the communist regimes. Despite the efforts of the U.S. and EU – as well as many lawyers, philanthropic foundations, think tanks, transnational agencies etc. – the former practices in and around the law were not so easily transformed in the Eastern European countries. As one of the lawyers behind CEELI noted in an interview conducted by the author of this chapter, 'First of all, the whole concept of CEELI was going to be short term. The idea was that CEELI would exist four maybe five years, or even less than that because the conception was that the transition would go so quickly in Eastern Europe that there would not be a need for us. But of course we know now that that was not true.'

The quote expresses the initial understanding of the transformation process of the legal systems in Eastern Europe shared by many persons involved in legal assistance projects from the U.S. and EU as well as many of the Eastern Europeans involved in the processes on the other side. It was a common belief that the transformation of the political and legal systems only would take a few years. The reasons for this relative failure of legal reforms have to be found in the national fields of power. In Bulgaria, for instance, relatively autonomous fields like the legal field did not exist so law and legal institutions were (and are) to a large extent subordinated to the political field with its heritage of practices from the communist regimes. CEELI and other Western institutions allied especially with the liberals – opposing the former communists in Bulgaria by investing in legal reforms in order to counterbalance the emerging economic elite. High-ranking politicians within the Communist Party had reinvested their political capital into economic capital and laid the grounds for an independent economic field in which social networks and previous political capital were important factors. As Stephan Nikolov notes, 'Being in the best strategic positions when the communist regime collapsed, the *nomenklatura* members were able to compete successfully for top positions in the new regime. They had the most important assets in the form of money and personal connections with which to replace defunct organizational connections. This is why the majority of today's *nouveaux riches* in

Bulgaria come not from the ranks of the old economic elite but from the ranks of the *Komsomol* and secret police' (Kostova 1994:31–40; Nikolov 1998:222; Kostova 2000:199–207).

Moreover, the opposition with whom the Western institutions collaborated in their legal investments was not as unified as it appears. The trajectories of Vasil Gotsev and the aforementioned Alexander Djerov illustrate two ways of moving in the new Bulgarian environment. They also show how different the profiles were of members of this group of reformers, which in itself was a source of internal struggles in the group of reformers. Vasil Gotsev was born in 1929 in Sofia. In 1953 he became a lawyer and the legal advisor of the then Minister of Justice Yaroslav Radev – who was the 'gate keeper' to legal and state positions and who, as is often noted, was feared even by persons in the Communist Party. Later he also became an assistant professor at the St. Kliment Ohridski University in Sofia. When the opposition to the Communist Party developed, he reinvented himself publicly and joined the re-establishment of his former party, the Democratic Party. A shift in career, which his opponents characterised as 'pragmatic', made him deputy from the UDF to the National Assembly in the period from 1990 to 1997. In 1996 he became the deputy chairman of the group of the European People's Party in the Parliamentary Assembly of the Council of Europe, and he has been a member of the Venice Commission and one of the promoters of the protocols of the Council of Europe. In 1997 he became Minister of Justice and European Integration after which he became a judge in the Constitutional Court.

In such an environment, Western legal exporters had difficulties with their transplants. One way CEELI, Soros's Open Society Institute, and the EU, etc. have tried to find ways to get beyond this form of internal struggle was to join forces with lawyers from the younger generation, who did not (necessarily) have close family origins among the elite of the former Communist Party. Yet the heavy investments in longer educational programmes (and masters degrees) through scholarships to Western Europe and the U.S. take time before they can have great impacts on the national fields of power. Moreover, despite the relative success of the legal assistance programmes in implementing Western forms of legal acts, the practices in and around the law as well as the importance of social capital have been difficult to change by means of legal export programmes.

Notes

1 The present global expansion predominantly in U.S. rule of law programmes – an expansion stretching across the Middle East, Eurasia, South-East Asia, China, Latin America and Africa – has to a large extent developed out of the programmes designed to assist the Eastern European countries in their transition towards Western-style democracies and market economics. Yet many of the present U.S. rule of law programmes started in the mid-1980s in Latin America but were redesigned after the experiences in Eastern Europe. As Carothers (2003:5) notes, the current programmes are already older than their precursor was, namely the law and development movement of the 1960s and early 1970s.

2 Moreover, the distinction concerns a struggle between what is promoted as legal models, namely between civil law and common law. For a discussion about these classical legal regimes, see, for example, Weber (1978:vol. 2).

3 Another reflection, Meyer had, illustrates the same within the legal domain:

> 'It was interesting from my perspective because these people, these lawyers, were interested in reform, but did not really know what that meant. And they found it unnerving and sometimes even frightening to learn what reform of the legal profession meant. The Bulgarian bar in Sofia when I arrived was essentially housed in a building in downtown Sofia where virtually all the lawyers had their offices provided by the government. We would create a new bar reform created after the independent Western European or American style … But it meant that lawyers were on their own, they had to find clients, find their office space and act like western lawyers. And … many of … the older were eager on reform. Code of ethics – they did not know what it meant. They were amazed. They wanted reforms but they became nervous about the details.'

4 Examining how does *not* mean asking how the individuals came to be what they were by following the biographical illusion of a reconstructed coherence of individual life (Bourdieu 1986:69–72; Bourdieu 1996a:215; Bourdieu 1997:ch. 17).

5 Bourdieu uses the term *nomos* in relation to the fundamental law of the field, the principle of vision and division defining the field (see, for example, Bourdieu 1987: 814–53; Bourdieu 1996a: 223ff.; Bourdieu 1996b).

6 Cf. also the articles in *Law & Social Inquiry*. Volume 32, Issue 1, 109–35, Winter 2007 and in *Retfærd. Nordisk juridisk tidsskrift*. Special issue: Pierre Bourdieu: From law to legal field, no. 114/2006. Bourdieu's analysis of the state is thus brought into the study of EU and international fields (Wacquant 1993:1–17; Bourdieu 1996b; Bourdieu 1998:21–32; Bourdieu 2005a:29–54; Bourdieu 2005b).

7 A separate methodological point of the chapter is to illustrate how the Bourdieusian field perspective can be used without examining the entire field but only part of it. The chapter builds on around 130 in-depth interviews conducted with, among others, agents in Bulgaria, in the EU, and individuals involved in the American programmes. The interviews are supplemented with other data. Research conducted by others is used in order to show the transformation and overall structures of the different national and international processes. These structures are reflected in the interviews, and the interviews confirm the other research as well. In this sense the macro-story of the transformation is told on the basis of the agents' micro-stories. The chapter builds thus on a 'bottom-up' perspective from which the macro-story of the transformation will be told by focusing on the involved agents' structured micro-stories. By focusing on a single individual's trajectories *in relation to* other individuals' trajectories it is possible to write a 'relational collective biography' of the development. The biographical information indicates which strategies the agents have used, which possibilities they had, who their competitors were, as well as which kind of resources (forms of capital) they could mobilise. Moreover, biographical information about social background, career choices, career strategies, etc. illustrates the hidden hierarchical structures of the social world and its institutions. When examining such relations in relation to a field, it becomes possible to examine and decode the complex struggles in the field, and it becomes visible how and why individuals move and act in the fields of power as well as which resources and forms of expertise they can mobilise. Predefined identities are challenged because they are seen in the specific historical contexts and therefore related to the structures and possibilities of the field. The relational collective biography is also a strategy to get beyond ruling discourses and orthodoxies because the

struggles behind the definitions and practices behind the discourses become part of the story. This means that such information shows how different persons in various ways have profited from new principles and how legal institutions are products of different agents' strategic use, struggles, and resources.

8 See also Hammerslev (2006b:27–42), which focuses on the transformation of the Bulgarian judiciary and on how the law was used in Bulgaria to bring to account people formerly closely related to those behind the leadership of the Communist Party.

9 Internal NED-memo given to the author of this chapter during an interview, Washington DC, 10 February 2006.

10 Also the 'law and development movement' of the 1950s and 1960s, which was carried forward by idealistic and entrepreneurial U.S. lawyers, who tried to put law on the agenda, was advanced by leaders of the American Bar Association (ABA), leading U.S. law schools, the American judiciary, and the executive branch of the U.S. government. These promoters of law reforms were supported by private foundations and by the U.S. government's assistance programmes. Yet a decade later the law and development movement was on the retreat. With the relative failure of this legal assistance movement, the export of U.S. law and legal models by U.S. lawyers was significantly diminished in subsequent years.

11 Miller & Chevalier formed a close alliance with one of the big five accounting firms, PricewaterhouseCoopers, with which they offer coordinated advice in relation to tax services for U.S. and foreign corporate taxpayers doing business in the U.S. (Dezalay and Garth 2001:513–35). Before the merger of Price Waterhouse and Coopers & Lybrand, PricewaterhouseCoopers was (just as the other big four) also active in Eastern Europe winning contracts from, among others, USAID, the EU, the World Bank, the British Know How Fund (Wedel 2001).

12 www.theatlantic.com/doc/prem/200505u/nj_taylor_2005-05-17, 6 March 2006.

13 The policy of not having government-to-government agreements was in contrast to the official view of the EU. The EU programmes were designed to assist governments in their development.

14 About the history of NED and Gershman, see Guilhot (2005); see also Hammerslev (2006a:29–34). Former CIA agent Philip Agee has noted that the task of NED was to

> 'support democratic institutions throughout the world through private, non-governmental efforts but in actual fact, when they say the promotion of democracy, or civic education, or fortifying civil society, what they really mean is using those euphemisms to cover funding to certain political forces and not to others. In other words, to fortify the opposition of undesirable foreign governments as in the case of Venezuela, or to support a government that is favorable to U.S. interests and avoid of coming to power of forces that are not seen as favorable to U.S. interests.'
>
> (Bernstein 2005)

One of the drafters of the legislation establishing NED, Allen Weinstein, said in 1991: 'A lot of what we [NED] do today was done covertly 25 years ago by the CIA' (Blum 2001:180; see also Carothers 2004).

15 Source: www.abanet.org/ceeli/, 2 March 2006.

16 The orthodoxy of the new legal agenda and its relation to economics is illustrated in Jeffrey Sachs's famous speech at Yale Law School, in which he stressed the necessity of lawyers in international development: 'As I am sure you will readily agree, the international economy is far too important to be left to the economists.' Sachs spoke at Yale Law School 16 October 1998, www.law.yale.edu/outside/html/Publications/pub-sachs.htm, 23 March 2006.

17 For instance, the Dutch Matra programme has its origins in economics – and in the attempt to optimise the conditions for Dutch business in Eastern Europe. In the design of the programme, they 'took out the soft sectors' and started to focus on the rule of law in order to pursue economic goals, as one of the inventers of the programme noted in an interview with this author. 'We wanted to export – that was our purpose. And to develop business it was necessary to invest in the legal system.'

18 The World Bank, for instance, has its legal programmes, which the IMF is supporting. Cf. the story behind the rule of law programmes of the World Bank (Dezalay and Garth 2002:ch. 13).

19 George Soros's empire, which spent around 570 million dollars in 1999, consisting of Open Society Institutes and various other organisations such as the Institute for Constitutional and Legislative Policy, which monitored legal development and stimulated legal education, and the Roma Right Center, which focuses on issues around discrimination of gypsies (Kaufman 2002:256ff.). The legal programmes took off with the arrival of Aryeh Neier, a former director of the American Civil Liberties Union and one of the architects behind Human Rights Watch, which he served as executive director before moving to the Open Society Institute (see Neier 2003). On the board of the Open Society Justice Initiative is Anthony Lester, who not only carries significant cultural capital but who also has been one of the main figures behind international human rights on the British scene. In the last 17 years, George Soros has granted about 100 million dollars to Bulgaria to assist the country's civil society and the democratisation process (novinite.com news alert, 10 June 2007).

20 On governmental networks see Slaughter (2004).

21 Interview, Brussels, 23 February 2006.

References

Bernstein, D. 2005. "Philip Agee, Former CIA agent speaks on Venezuela." *Flashpoints*, 2005.

Blum, W. 2001. *Rogue State: A Guide to the World's Only Superpower*. London: Zed Books.

Bourdieu, P. 1986. "L'illusion biographique." *Actes de la recherche en sciences sociales* XII (62–63): 69–72.

——. 1987. "The Force of Law: Toward a Sociology of the Juridical Field." *Hastings Law Journal* 38: 814–53.

——. 1996a. *The Rules of Art*. Cambridge: Polity Press.

——. 1996b. *The State Nobility*. Cambridge: Policy Press.

——. 1997. *Men hvem skabte skaberne?* København: Akademisk Forlag.

——. 1998. "On the Fundamental Ambivalence of the State." *Polygraph* 10: 21–32.

——. 2005a. "From the King's House to the Reason of State: A Model of the Genesis of the Bureaucratic Field." In L. Wacquant (ed.), *Pierre Bourdieu and Democratic Politics*, 29–54. Cambridge: Polity Press.

——. 2005b. *The Social Structures of the Economy*. Cambridge: Polity.

Carothers, T. 2003. "Promoting the Rule of Law Abroad: The Problem of Knowledge." Carnegie Paper No. 34, January 2003. Washington D.C.: Carnegie Endowment for Peace.

——. 2004. *Critical Mission: Essays on Democracy Promotion*. Washington DC: Carnegie Endowment for International Peace.

Cohen, A. 2007. "Who are the Masters of the Treaties? Law and Politics in the Birth of European Constitutionalism." *Praktiske Grunde. Tidsskrift for kultur-og samfundsvidenskab* (2): 20–33.

Cowles, M.G. 1995. "Setting the Agenda for a New Europe: The ERT and EC 1992." *Journal of Common Market Studies* 33: 4 (December): 501–26.
——. 1996. "The E.U. Committee of AmCham: the powerful voice of American firms in Brussels." *Journal of European Public Policy* 3: 3 (September): 339–58.
Dezalay, Y., and Garth, B.G. 2001. "The Big Five Versus Big Law: Confrontational Rhetoric in the Service of Legitimating Shifting Relationships Between Business and Law." In J. Drolshammer & M. Pfeifer (eds.), *The Internationalization of the Practice of Law*, 513–35. The Hague: Kluwer Law International.
——. 2002. *The Internationalization of Palace Wars: Lawyers, Economists, and the Contest to Transform Latin American States*. Chicago: University of Chicago Press.
Guilhot, N. 2005. *The Democracy Makers*. New York: Columbia University Press.
Hammerslev, O. 2005. "Transformationen af retlige felter i Øst Europa." In HVG Pedersen (ed.), *Juridiske emner ved Syddansk Universitet*, 91–104. København: Jurist-og Økonomforbundets Forlag.
——. 2006a. "Anmeldelse af Nicolas Guilhot *The Democracy Makers: Human Rights and the Politics of Global Order*. New York: Columbia University Press, 2005." *Hexis-nyhedsbrev* (31): 29–34.
——. 2006b. "Kampen om den dømmende magt i Bulgarien: Import og eksport af ret, juridiske institutioner og ekspertise." *Retfærd. Nordic Legal Journal* 29 (2): 27–42.
——. 2007. "Reform Strategies Around the Bulgarian Judicial Branch: Social Struggles Converted into Struggles about Court Reforms." In R. Coman & J.M. De Waele (eds.), *Judicial Reforms in Central and Eastern Europe*, 135–55. Brugge: Vanden Broele.
——. 2008. "Lobbyisme og den danske beslutningsproces." In B. Egelund Olsen & K. Engsig Sørensen (eds.), *Europæiseringen af dansk ret*, 145–62. København: Jurist-og Økonomforbundets Forlag.
Kaufman, M.T. 2002. *Soros: The Life and Times of a Messianic Billionaire*. New York: Vintage Books.
Kauppi, N. 2005. *Democracy, Social Resources and Political Power in the European Union*. Manchester: Manchester University Press.
Kostova, D. 1994. "Power Interests of the Elite in the Post-communist Bulgaria." *Anthropological Journal on European Cultures* 3 (1): 31–40.
——. 2000. "Bulgaria: Economic Elite Change during the 1990s." In J. Higley and G. Lengyel (eds.), *Elites after State Socialism: Theories and Analysis*, 199–207. Lanham: Rowman & Littlefield Publishers.
Meyer, W.D. 1992. *You Listened and You Cared: Year One of the CEELI Liaison Mission to Bulgaria*. Washington: CEELI.
——. 1993. "Bulgarian Lawyers in Transition." *The Journal of the Legal Profession* 18: 123–44.
Nader, R. and Smith, W.J. 1996. *No Contest: Corporate Lawyers and the Perversion of Justice in America*. New York: Random House.
Neier, A. 2003. *Taking Liberties: Four Decades in the Struggle for Rights*. New York: Public Affairs.
Nikolov, S.E. 1998. "Bulgaria: A Quasi-Elite." In J. Higley, J. Pakulski & W. Wesolowski (eds.), *Postcommunist Elites and Democracy in Eastern Europe*, 213–25. Basingstoke: Macmillan Press.
Ross, G. 1995. *Jacques Delors and European Integration*. New York: Oxford University Press.
Slaughter, A.-M. 2004. *A New World Order*. Princeton: Princeton University Press.
Smith, K.E. 2004. *The Making of E.U. Foreign Policy: The Case of Eastern Europe*. New York: Palgrave Macmillan.

Wacquant, L. 1993. "On the Tracks of Symbolic Power: Prefatory Notes to Bourdieu's 'State Nobility'." *Theory, Culture & Society* 10 (1): 1–17.
Weber, M. 1978. *Economy and Society*. Berkeley: University of California Press.
Wedel, J.R. 2001. *Collision and Collusion: The Strange Case of Western Aid to Eastern Europe*. New York: Palgrave.