PART TWO

Learned Law and Social Change

Theoretical Orientation and European Geneses

THE TWO CHAPTERS IN THIS PART EXAMINE the role of learned law or scholarly legal capital in social change and stability from two vantage points. The first chapter is more theoretical. It draws first on two notable scholars, Harold Berman and Pierre Bourdieu, to develop a theoretical orientation for the relationship between learned law and social change. Berman is famously associated with his historical concept of "legal revolution," which he applied to major transformations such as the Gregorian and Protestant revolutions. Central to the legal revolutions were alliances between new producers of scholarly work and emerging new political movements.

We next discuss the evolution of Bourdieu's sociological approach to the legal field, which we have drawn on in our prior work (e.g., Dezalay and Garth 1996; 2002; 2010), exploring in particular Bourdieu's account of structural contradictions inherent in the reproduction of legal capital, since legal capital—that which is valued in the legal field—comes both from inheritance and from scholarly achievement. The play of this structural contradiction, which is at times a false contradiction, is one of the elements we see in the processes of legal revolution. It helps account also for alternating periods of "boom and bust" in particular legal fields. The chapter shows the ways in which we seek to go beyond these two scholars, and it concludes on the need to add the importance of the imperial and related North–South dimensions (drawing on Benton and Ford 2016).

The second chapter in this part (Chapter 3), is more historical. It explores the invention of learned law, schools of law, and law professors, examining the relationship between education and the position of law and lawyers in Europe as it developed in the medieval period and beyond. It depicts the European structures

that evolved out of that period, but it also highlights a central theoretical point that comes out of Chapter 2. The positions of holders of legal capital are quite mobile, operating among many different spaces. These people can modify their strategies and the positions they take in relation to the historical and political context that valorizes one or another of these spaces. The histories illustrate the theoretical perspective of the legal field as fluid and shifting while maintaining a kind of crossroads position—between religion, state, community, and so on. This focus—hinted at by Bourdieu's lectures on the state discussed in Chapter 2 (2012: 556)—facilitates an analysis of the role of lawyers as courtiers and diplomats between different fields of power, but also and more importantly, it facilitates analyses of the relationship between learned, familial, and political strategies in periods of transition between political regimes. This same paradigm also takes into account the diversity of connections between law and state in different national spaces and in different contexts. The chapter argues that there is a process of relative decline in the value of scholarly capital.

Finally, the chapter shows that the role of lawyers as brokers and converters of capital is evident also in colonial settings and in countries, such as Japan and China, that adapted under pressure to westernized legal systems. They therefore show the same patterns of boom and bust that we see in Europe and elsewhere. These chapters set the stage for Part III, which examines the variations on the same processes in the United States. which have led to the spread of corporate law firms as part of what can be seen as the current global legal revolution.

2

Sociological Perspectives on Social Change and the Role of Learned Law

Building on and Going beyond Berman and Bourdieu

The sociological perspective in this book builds on the work of the sociologist Pierre Bourdieu and the legal historian Harold Berman, both of whom examined the question of the role of law and lawyers in social change and social continuity. Each also examined the role of learned law and legal education in these processes and sought to connect law professors and learned law with changes in economic and political power. A general theme that can be found in various ways in both scholars is stated bluntly by Van Caenegem: "law professors serve the powers that be" (1987). That truism masks the very complex processes that allow that relationship to continue through eras of political and economic change.

Bourdieu emphasizes the links between law professors and the field of state power, highlighting the role of lawyers generally as brokers between different forms of capital. He also makes explicit the tension within legal fields between family capital and meritocratic and scholarly capital. Berman offers a historical model of law and revolution that focuses on the alliances between relatively marginal academics and emerging political, religious and social groups. Both insights are important for us to understand the relationship between law professors, legal scholarship, family capital, and the growth, spread, and rise in prestige of corporate law firms in the United States and in many other countries. This chapter introduces the perspectives of these scholars while suggesting that to acquire a deeper understanding, we need to include the imperial dimension missing in their approaches and destabilize the categories and theories these scholars offer—including Berman's category of revolution in "law and revolution."

BOURDIEU: FROM THE LEGAL FIELD TO THE FIELD OF STATE POWER

Bourdieu began his work specifically on law and the legal profession with his well-known lecture on "the force of the law" (1986). The focus of that lecture was especially on the role of formal law, law professors modeled on the German *Professorenrecht*, and lawyers serving the state. Much can be learned, to be sure, by examining the relationship of pure law and law professors to the field of state power. This early lecture on law, however, draws too much on the German model. Anglo-American lawyers, in particular, who developed through the autonomization of legal fields at the margins of the state, do not fit the German model.

Bourdieu wrote relatively little about law after "The Force of Law" (1986). After that effort, he did not return to this theme outside of a few short texts: "Les robins et l'invention de l'Etat" (in Bourdieu 1989: 539–48); "Les juristes, gardiens de l'hypocrisie collective" (1991); and "Esprits d'etat: genese et structure du champ bureaucratique" (1993). But he made a number of references to the history of law and lawyers on the occasion of his last series of courses on the state offered at the College de France in 1991 and recently published as *Sur l'Etat* (2012; in English as *On the State* in 2015).

These recently published documents illustrate how Bourdieu had deepened his analysis beyond the theoretical hypotheses developed in "The Force of Law." Bourdieu moved in this later work to treat the legal market more generally, in the process underscoring a central point of our study—how the demand for legal services is in large part constructed by what the producers offer. His course of lectures also examined the genesis and reproduction of the position of holders and producers of legal capital in relation to changing state power structures. He proposed an analysis "in terms of the field, that is to say a differentiated space" (2012: 516). He then examined different groups of lawyers ("jurists" in the English translation of his *juristes*) differentiated by their social origins, their education, and their proximity to royal power.

The first group is the lawyers of the state, who contribute to the creation and legitimation of states and state power. They represent what can be termed the bureaucratic pole of the legal field, and thus are distinguished from the second category, which is the "noblesse de robe," the "officiers de justice," who control the high courts. The ideology and objectives of the latter group were inspired in part by the British model of courts as restraints on royal power. In France this group relied in particular on one key institution, the Parisian Parlement, to which the king had delegated the power of applying the law, in this way establishing legal autonomy as a limit on royal power. The third category Bourdieu specifies is that of the "lower legal clergy . . . speaking and being spokespersons for the collective will, popular will, etc., according to the transhistoric alliance between 'the intelligentsia proletaroïde' as Max Weber pointed out and the popular classes" (2012: 515).

These categories move beyond the earlier work on law and the legal profession, but the categories that Bourdieu uses, while helpful, limit his analysis. First, the categories mask the relative ease with which lawyers can switch roles as the state and social contexts change. Even at the individual level, lawyers may shift from, for example, gaining notoriety by representing a social movement to becoming lawyers for the state or members of high courts. Lawyers serving the state may evolve into spokespersons for a political group. Second, the categories themselves are misleading, because the roles that lawyers play are fluid and constantly evolving at the individual and group level. Bourdieu noted but did not develop the insight that the legal field was a "space of many dimensions [where] things shift in relation to each other" (2012: 518). The holders of legal capital are quite mobile, operating among many different spaces. They can modify their strategies and the positions they take in relation to the historical and political context that valorizes one or another of these spaces. This fluidity challenges the idea that the legal fields of France, Germany, or Great Britain, as prominent examples, are best understood only through the analyses of particular dominant types. The situation is much more nuanced. The histories of legal fields shift and evolve in relation to exchanges of all kinds of capital.

A familial and quasi-familial dimension is one of the keys to these exchanges. Bourdieu highlights the tension between inherited family capital and meritocratic or scholarly capital in legal education and in the legal field (2012). There is a structural contradiction inherent in the reproduction of legal capital, since legal capital comes both from inheritance and from scholarly achievement. On the one hand, legal capital is defined in opposition to aristocratic capital or nobility, assigning value to individual merit and scholarly competence rather than inherited title or family lineage—the earned diploma as against the inherited title of nobility. On the other hand, as Bourdieu observes, those at the top of the legal field seek to be recognized as akin to nobility—"noblesse de robe" in France and its equivalents elsewhere. For example, in the top judicial hierarchy of France prior to the French Revolution, the holders of "legal offices" purchased from the king defended the principle of dynastic reproduction against meritocratic promotion (2012: 510). This claim to the status of nobility was also sustained in many places by barriers to entry—as much cultural as financial—that reserved places in schools of law solely for the most privileged of the "cadets" of aristocratic lineage, who were sustained in their studies by their families or as beneficiaries of the support of powerful religious or civil protectors (Brundage 2008: 121).

There was conflict between fractions of lawyers who sought to valorize different forms of capital in the field. For example, the inheritors of the "noblesse de robe," characterized by their family and social capital, occupied the top of the hierarchy in part because of their lineage. They opposed new arrivals seeking to forge a career out of their learned competence, their personal merits, their managerial skills, or their eloquence on behalf of the disadvantaged. This structural

contradiction helps explain how learned capital came to be devalued—and how the most intellectual fraction of the legal field was correspondingly marginalized and thus fell into obsolescence, even decline.

The most flagrant example of this decline in the value of learned capital is the evolution of the Inns of Court in Great Britain, which lost all intellectual function following the triumph of barristers around 1750; the latter then imposed recruitment by co-optation and apprenticeship, in conformance with their social origins and political strategy (Prest 1986). One can see this same propensity elsewhere in the histories of faculties of law: they become places where "scholarship" involves little more than reproducing doctrinal exegesis dominated by "guardians of the temple and the texts," who seek to minimize jurisprudential evolution and refuse to take new social realities into account. As Bourdieu remarked in the conclusion of "The Force of Law," in such circumstances, any reinvestment comes from new entrants, typically the "underdogs," who struggle to renew jurisprudential science. They may, for example, attempt to import ideas from the social sciences with the aim of gaining recognition within the law for new social interests, for which they seek to be the legal spokespersons.

These internal battles quite often are very beneficial to the legal field generally in terms of innovations; even so, the process can be quite dramatic and conflict-laden. As Bourdieu noted, "At the core of the field, one kills oneself for things that are imperceptible . . . little changes which, often, are not intelligible except to people who operate within the particular universe." Opposing sides may be completely taken by the logic of symbolic confrontation. They may even fail to see that "they may be in the process of sawing off the branch on which they are sitting. Very often, the dominant group can contribute to weaken the fundamentals of their domination because, taken by the logic of the game . . . they forget that they go a little too far" (2012: 502). The "passion of internal fights" may therefore become suicidal.

Bourdieu adds later on that "legal capital is not only a capital of theories . . . [but also] a species of permanent exchange between practical innovations . . . and theoretical innovations destined to legitimate small conquests in practice" (533). However, he did not develop this insight on the role of legal capital as a site of exchange. As this comment suggests, it is not just about major or sustained confrontations; it is also about a constant process of adjustment through exchanges of symbolic and other capital. Political alliances, elite schools, imperial connections, corporate power, and family dynamics can all be absorbed within the symbolic bank of legal capital.

Bourdieu hinted at the structural tendency to disqualify scholarly production in relation to social and family capital, leading to imbalances in the legal field. But he did not develop this point. As we have noted, the imbalances lead to periods of boom and bust regarding the credibility of lawyers and learned law. To be sure, in societies with long legal histories, the process of decline that comes in part from resistance to any innovation—or more precisely, the loss of credibility in law that

results from that resistance—typically occurs relatively slowly, especially given the weight of the capital accumulated over a period of centuries and inscribed in institutional, symbolic, and linguistic structures endowed with a certain permanence. But the booms and busts are nevertheless evident.

Bourdieu's neglect of this boom-and-bust process relates to the relatively little attention he paid to the role played by family capital in the habitus of actors seeking to enhance their positions in the legal field. Passionate confrontations within the field are not inconsistent with family alliances in the interests of the field and its hierarchies. Family capital can be and often is turned into legal capital. Successful investments in meritocratic legal capital lead also to the production of families and quasi-families at the center of the legal field. This process goes back to medieval times. Martines (1968), for example, shows that individuals with family capital could gain doctorates from the University of Bologna, use a combination of family capital and learning to obtain diplomatic assignments and courtier positions, and then perhaps found or join a school. At that point, the students around him could support themselves through consulting and teaching, becoming quasi-familial or familial when bright pupils ended up marrying the professor's daughters. These mixtures of family and scholarly capital explain how, in a real sense, the process began and ended with family capital playing a central role in the legal field.

There are many modern examples of this enduring process. Indian advocates and judges provide a vivid illustration of the importance of family capital; indeed, we see that in India, family capital plays a key role within the bar, among the elite law firms that challenge some of the bar's privileges, and even in challenges to the bar from social scientists close to law (Chapter 6). Another Asian example can be taken from Eric Feldman's study of law professors in Japan (1993). The bright and relatively meritocratic students selected for the path to legal academe, he noted, often married into the family of the professor mentor (Feldman 1993). Mexican "camarillas" involving professors, politicians, students, and others are another paradigmatic example of the blending of scholarly and familial capital (Dezalay and Garth 2002).

Sacriste's analysis of the rise of a new generation of scholars in France in the late nineteenth century is an earlier European example (2011). These young scholars built up their power in alliance with new political groups and in opposition to conservative and complacent law professors. The history of this scholarly and meritocratic move includes a number of examples of the new generation of challengers marrying into the older legal families associated with the status quo, thus blending family capital with legal scholarly capital (Sacriste 2011). These marital alliances between newcomers and families with established social capital are indeed legion in the world of law schools and faculties of law. These largely neglected processes are central to the booms and busts—and adaptations—that we see in legal fields. The tension between inherited family capital and meritocratic scholarly capital that Bourdieu noted is in fact central to the processes of change and continuity in legal fields.

Another key to Bourdieu's account of change and continuity relates to his focus on how lawyers serve as go-betweens among different fields of power and successive variations in the field of state power. Drawing on Skinner (1978), he particularly stressed "the role of the great religious ruptures in the construction of the state" (Bourdieu 2012: 528). Consistent with Berman's basic hypothesis, elaborated on below, Bourdieu found that internal conflicts are crucial to the history of legal fields, including their genesis, their crises, and their reformations. Pursuant to this, Bourdieu explored the central hypothesis of a parallel genesis for law and state, a theme he took up again in his 1993 article. Bourdieu contended that legal capital accumulated through competitive struggles between religious and royal power: "The jurists, at bottom, served the Church and used resources furnished largely by the Church to construct the State against the Church. . . . The State was constructed on the model of the Church, but against it" (526).

These contributions by Bourdieu pointed to the existence of double agency: lawyers built their strength in the field of state power by working back and forth between church and state. The concept of double agency helps account for the role of lawyers and how they acquired it. Yet the category of double agent may be somewhat misleading. Brundage (2008) showed that, during the medieval period, familial processes blurred the categories on each side of the double agency. Ambitious individuals seeking to advance within the state could hit a glass ceiling because they were outside the circle of the royal or noble families. They might then move closer to the church, and indeed bishops were often the key sponsors of study at the University of Bologna. The complex ways in which church and state blended at the familial level challenge double agency as such.

In sum, the familial processes hinted at by Bourdieu are central to understanding the processes of change and continuity in legal fields. They also undermine many of the categories that define the study of law and the legal profession, such as practitioners versus professors, apprenticeship versus academy. The categories mask who occupies those positions, and what their characteristics are, as well as their elite roles within the positions. In general, to use Bourdieu's term, the habitus of actors within legal fields draws on and seeks the accumulation of family capital.

BERMAN'S LEGAL REVOLUTIONS

In the introduction to his first book, *Law and Revolution*, Harold Berman wrote that "the Western legal tradition has been transformed . . . by six great revolutions" (1983: 18). Berman's own research covered three of these revolutions: first, the Gregorian reforms (1983); next the Lutheran reforms; and finally the English revolution (2003). The Gregorian revolution, named after Pope Gregory (1073–1085), who played a key role in it, was both a social movement and the very first mobilization of "legal" authority. The reforms gave the Catholic Church and the

Pope authority over emperors and kings through a new division of society into separate ecclesiastical and secular spheres. The social movement was led by the clergy, which in the process "became the first translocal, transtribal, transfeudal, transnational class in Europe to achieve political and legal unity. It became so by demonstrating that it was able to stand up against, and defeat, the one preexisting universal authority, the emperor" (108). Key to its success was the mobilization, for the first time, of collections of canon law and a return to earlier Church writings consistent with the Gregorian program. This canon law became central to the teachings at the University of Bologna and elsewhere, along with the Justinian compilation of Roman civil law rediscovered—probably not coincidentally—at the same time. Yet as Berman also shows, the victory came with compromises that enhanced the legitimacy of secular power as well.

The *problématique* that Berman developed for these dramatic revolutions can be expanded to help explain other, less dramatic transformations, both legal and political. The principal heuristic merit of Berman's *problématique* is that it facilitates an analysis of the processes of both rupture and recomposition that occur simultaneously in the field of state power and in the field of legal representation and practice. The processes play out through alliances and converging strategies that shake up and realign the boundaries between the two universes. Modernist leaders and reformers construct new modes of government by relying on a small group of relatively meritocratic producers of learned law, whom they can then make their influential advisers. The scholars furnish them not only with legitimate legal arms for battles to gain power but also with collaborators predisposed to participate in the new governance regime. As stated in the introduction, Berman's model inspired the second sociological insight we use in this study—the competition and complementarity between lawyers (interpreted broadly as actors in the legal field) and the state.

Berman limited his research to revolutions that were both political and religious. But the same *problématique* can be extended to regime transformations such as from a monarchy to a republic, or from colony to independent state. We use it here to clarify major political reorientations, such as the New Deal and the welfare state in the United States, as well as the retreat over the past several decades from the welfare state to neoliberalism. In each of these moments, whatever the intensity and violence of the political-ideological breaks, transformations within the legal order are part of the recomposition of scholarly learning, legal practice, and state governance. Hierarchies may change, but they are also relatively stable, as is seen in the enduring role of the partners of elite corporate law firms in the United States. The *problématique* developed by Berman retains its heuristic strength in these situations and may usefully be expanded to cover them. It also works well for the legal revolution we trace in Asia in Chapters 6 to 9, which made a place for relatively prestigious corporate law firms and their practices in legal fields where they had not previously been welcome.

The approach provides analytical tools to explain how, through an internal dynamic, these successful readjustments operate, as well as how they are able to preserve the relative autonomy of the legal field with respect to the holders of political power. That autonomy, as shown famously by Kantorowicz (1997) and others (e.g., Thompson 1975), is the basis of the social credibility of legal institutions and the reason why the law may serve political leaders and further legitimate their power. For these transformations to happen, the law must at the same time shift to the new power alignment—professors (and others) serving the powers that be—and, principally through developments in learned law, reaffirm its autonomy.

According to Berman, change involves converging political and legal strategies successfully working through a kind of osmosis between the two spaces, leading to the emergence of new legal hierarchies conforming to the interests of the new holders of power. One question about this process is how the two sides – law and state power – diverge so as to allow new strategic alliances to come into play. Reformers and political opponents of the status quo must get together with legal "young Turks" who are ready to risk their capital of legal authority by questioning established legal hierarchies consolidated out of prior configurations of the field of state power.

From our vantage point, Berman misses some of the dynamics of this process, which leads producers of learned law to risk their careers (and more) by forming alliances with potential modernist leaders seeking to gain power and legitimacy in the field of state power. No doubt there is the pull of potential new leaders and movements, but there is also a push from within the legal field. New entrants into the field seek to advance by investing in learned law to show their ability to excel in the scholarly world. But what they often confront is a status quo that has devalued legal scholarship and learned law relative to the familial and social capital that is comfortable with the current political arrangement. The newcomers feel therefore that scholarly capital itself is devalued.

The new producers, while placing their doctrinal expertise at the service of these new regimes, also deploy political resources to invest in the reproduction of legal learning. This investment is not inconsistent with initial opposition to the hierarchies of the legal field and its *doxa* of independence with respect to the holders of political power. The vehemence of the challenge goes with efforts to reshape legal scholarly representations to conform to the new dominant ideologies, and the overinvestment in legal science serves to legitimize the innovations as part of the existing tradition of legal science—now skillfully reinterpreted. Despite being quite politically marked, therefore, the new legal discourse is assimilated into the discourse and tradition of law—with its universal and almost timeless pretentions.

There is a constant process of change and adjustment in the legal field. As noted earlier, Bourdieu stated at one point in the lectures that "legal capital is not only a capital of theories . . . but it is a species of permanent exchange between practical innovations . . . and theoretical innovations destined to legitimate small conquests

in practice" (2012: 533); but he did not develop this insight in terms of the role of legal capital as a site of exchange. This constant process of exchange is part of the explanation as to why the revolutions are not that revolutionary in terms of the hierarchies of the legal field.

At the same time, as we have noted, there is also a continuing familial dimension that is part of the assimilation of the new into the old. Change takes place, as we have noted, but the enduring hierarchies in the legal field, and their relationship to societal power, make the term revolution questionable in important respects. Even in Berman's archetypical examples of law and revolution—the Gregorian and Protestant revolutions—the conversions and reforms that took place kept social and legal hierarchies largely in place.

The meritocratic element of the revolution on which we focus here, which includes the more rigorous selection of students as well as better training within law schools, is quite obvious. But the new corporate law firms and law schools in the periphery, including in South and East Asia, take a more elitist and perhaps even plutocratic approach. What is in part a conservative counter-revolution exported abroad is also a huge departure from the idealist law-and-development projects that were the basis earlier of importing and exporting of US legal technologies and approaches.

The current developments also raise interesting questions about Berman's equating of the Lutheran and Anglican revolutions. The Lutheran story perfectly fits his hypothesis that reformist policies were coupled with the meritocratic reproduction of legal knowledge. Yet the Anglican emergence of the common law, instead of being scientific and meritocratic, happened at the opposite end of the spectrum. It can be seen as an elitist counter-offensive to impose the political recognition of the gentry and merchants at the expense of the scholarly reproduction of legal knowledge. The more recent episodes in legal palace wars that we explore in this book—especially in Chapter 5 and Part IV—thus suggest new factions of the financial elites gaining entry and claiming a larger share of the fields of law and state power (for similarities with the French legal field and field of state power today, see Vauchez and France 2017).

EMPIRES, BLOWN-UP MIRRORS, BOOMS AND BUSTS

The European powers used law in somewhat different ways in support of their colonial adventures. The approach depended in part on the role of the existing population and the amount of colonial settlement that took place, shifts in domestic politics in relation to colonialism, and the related importance of groups seeking to conquer, exploit, or civilize the subjects of colonial governance. Nevertheless, there were key similarities generating similar impacts. The Western colonizers, especially the British, built up law in part by finding or creating counterparts to the kings, barons, and advocates at home. They elevated or co-opted individuals,

naming them as quasi-judges, quasi-lawyers, and quasi-nobles, as part of a process of legalizing and legitimating empire. As noted by Benton and Ford (2016), some form of law and legal order emerged through these improvisations. The Dutch acted similarly when they co-opted and empowered the Javanese elite so that they could negotiate a "legal" arrangement with them. The United States in the Philippines in the late nineteenth century followed the Spanish practice of appointing the most prominent local *ilustrados* in each town and province to positions of governance. They had been named *gobernadorcillos* and tax collectors under Spanish rule, and the same group became politicians and "lawyer-statesmen" under US rule. Stanley Karnow's history of the Philippines under US rule is appropriately titled "In Our Image" (1989).

In many respects, these co-optations and quasi-conversions created *faux*-counterparts to what was found in the governing country. Building on Bourdieu, we see colonial legal fields as images produced by mirrors that inflate and exaggerate what is seen in the core of the empire. Bourdieu saw legal fields as symbolic fields constructed around the opposition and complementarity between the much smaller field of production—pure jurists at the core of the legal field—and the much larger field of those who use legal capital in various ways (cf. merchant, soldier, and sage in Priestland [2012]). But the mirror effect is both to exaggerate the larger part around the law and the impact of the sporadic investment from the core.

In the colonial legal field, the second and larger circle around the law was much broader and more extended than in the centers of the empire. It was more diversified in space and time, and it was fluid and evolving as a consequence of professional and colonial competition. As suggested by Benton and Ford (2016), it included colonial administrators, including those who controlled the exploitation and circulation of gold in Latin America; merchants and justices of the peace, who often were the first to apply some version of colonial law; and agents who interacted on the borders of the legal field, including soldiers, as Steinmetz (2007) showed, and missionaries in many places, including India. These interactions led to hybrid statuses between north and south, including, for example, the *ilustrados*/lawyer-statesmen in the Philippines and the legal gentlemen-barristers in India (Dezalay and Garth 2010).

The inner circle of the legal field—most identified with pure law—was important but distant from the colonial territories. Its relative lack of presence in the colonies meant that its role was *ad hoc* and episodic, as described by Benton and Ford (2016). Nevertheless, the center in London played a central role in colonial governance, for it controlled the "despotic dominions"—for example, the abuses of power by those given positions as justices of the peace. That control came from a combination of legal capital (often the barristers and judges) and political capital (through relationships with the government and Parliament). The resources of the legal core thus played a prominent role in colonial governance. Because of the size and fluidity of those around the law or pretending to use the law on the peripheries, in particular, there were many opportunities to intervene with resources from

the core of the legal field in London. The logic is similar to what we see with Berman, but here there were many *ad hoc* mini-revolutions. The two-tier structure exacerbated the mini-revolutions that broke out between agents with shifting and frequently divergent interests and resources in the colonies.

In certain favorable circumstances, in addition, there were successful movements for independence, nourished in part by legal investments that played out on the periphery but that were built from the scholarly and symbolic legal capital produced by and bestowed in the metropolitan center. Well-known examples are the Indian barristers of the Congress Party and the graduates of the Academy of Chiquisaca who led independence in Argentina (Bohmer 2013).

In sum, there were, in effect, overextended imperial legal fields, with internal and external conflicts breaking out around the colonial peripheries but also in the imperial legal cores. There were also boomerang effects and "symbolic telescopes," as evident in notions such as the Indian Raj as a British laboratory, and the similar idea of the Comaroffs that colonial experiments served as "petri-dishes for imperial reformers" (2011) (cf. Oguamanam and Pue on "fighting brigades" [2007]).

The exaggerated mirrors that structured the colonial legal fields were more fragile than those in the European colonial powers. Over time, local social capital became much more embedded in the imported colonial legal capital (Dezalay and Garth 2010). The resulting social structures led to relatively rapid conversions, such as those just mentioned, from nabobs of the law to leaders of independence, or from officers of Spanish kings to Latin American revolutionaries. But even then, the conversions masked the centrality of family capital.

To return to our elaboration of Bourdieu's discussion of the relationship between family capital and scholarly legal capital, we can see an exacerbated boom-and-bust phenomenon in the peripheral ex-colonies and in countries that adopted legal reforms under threat of colonization. Legal capital, once converted into and embedded in family capital, becomes central to the habitus of actors in the legal field, which makes it that much easier to discredit the role of lawyers and law. It also makes it relatively easy at times to convert, however shallowly, and bring in a new revival or boom period in the law, such as the one tied to US hegemony, which operates in the same way as in colonial empires in the past. But the resulting conflict between family capital and legal capital generates resistance, even a bunker mentality opposed to "modernization."

CONCLUSION: BEYOND GRAND NARRATIVES OF LAW AND THE LEGAL PROFESSION

Our goal is not to produce a grand narrative that starts with Roman law or medieval Bologna and then proceeds up to the present day, showing the emergence of fixed categories such as civil law, common law, and more generally the idea of "legal families." Bourdieu did indeed move beyond the dichotomy of professors and state lawyers to see different models of law and the state, but his categories still

mask the fluid and shifting nature of the relationships. Similarly, Berman's depiction of the relationship between law and revolution neglects the way that the same processes of change he uncovers are ongoing as the legal field absorbs and converts new and competing forms of capital into the bank of legal capital. There are story lines, to be sure, and we pursue certain of them in this book, but the processes are fluid and constantly shifting as they produce adaptations within the various legal fields.

Berman and Bourdieu saw the need to explain the interaction of meritocratic scholarly movements and legal and social change. Berman highlighted the revolutionary change that comes when new legal scholarly investment connects to emerging social movements, a process that tends to have the conservative effect of rebuilding and relegitimating the prevailing legal hierarchies. Bourdieu suggested that it was important to grasp the relationship between meritocratic scholarly capital and familial capital in order to understand the structure of the legal field. In this book, we stress the constant boom and bust that takes place in law and the legal field as actors continue to invest achievements in the legal field into familial accumulation, which paves the way for delegitimation and devaluation—a bust that then paves the way for new investment and potential new booms such as the one associated with corporate law firms and related reforms in legal education (discussed in Part IV).

The study of the role of law in change and continuity requires us to look beyond the comparative national contexts taken up by Berman and Bourdieu. So we turn to the more complex *interconnected* national and transnational stories that are vital to understanding legal change. These stories must include colonial and imperial activities, which play key roles in processes of constructing legal capital and determining what goes into it. Imperial competition helps shape and define the values of local capital in many different settings through links to dominant colonial or imperial powers. At the same time, the imperial processes create mirrors, in such a way that the actors who occupy such posts as lawyer, judge, or professor exaggerate and to some extent distort what exists in the colonial power. The family power also becomes more entrenched, and the resistance to meritocratic and scholarly capital more pronounced. In this way, in many of these contexts, a bunker mentality develops in opposition to legal change.

Finally, we emphasize again that our goal is not to create a new grand narrative. Our theoretical approach is built around capital conversion, fluidity, and constant processes of change that are generally also stories of continuity in the hierarchies of the legal field. The challenges are absorbed so as to rebuild—at least for a time—the legitimacy of the legal field. Our emphasis on processes, therefore, means that we focus not on a unified history but rather on explaining the genesis of the processes and approaches that emerged early in the history of the legal profession, became part of colonial competitions, and are still quite evident today.