Preface

It is difficult to ignore the extent to which American corporations have grown economically over the last 100 years. They have penetrated global markets and consequently provide goods and services to even the most remote parts of the world. Markets in isolated West African villages sell Coca-Cola products; university students in Istanbul meet up in McDonald's restaurants; enormous billboards advertize American products in Moscow's Red Square. How has the American corporation grown to such proportions? How have American entrepreneurs developed products with such a global reach?

An entire literature exists to explain the economic successes and failures of nations by looking at their institutions—both formal (*e.g*., laws) and informal (*e.g*., cultural practices and beliefs). Scholars within the new institutional economics have placed special emphasis on legal systems as predictors of the economic success of nations. These scholars argue that the degree to which laws provide entrepreneurs with a favorable trade environment largely influences the extent to which businesses are able to flourish.

For example, one theory has suggested that a nation's legal origins help to predict the development of its financial institutions, which in turn provide entrepreneurs with capital for investment.[1] Some scholars have argued that nations whose legal systems are based on the Anglo-Saxon common law allow for greater flexibility and investor protections than those based on the French Civil Code,[2] yet these findings have been disputed by others.[3] This debate is but one manifestation of a thriving literature linking legal systems to market flexibility and economic development. In fact, some writers have explained the superior economic

[1] Thorsten Beck, Asli Demirgüç-Kunt, and Ross Levine, "Law, Politics, and Finance" (The World Bank Development Research Group, April 2001), p. 39.

[2] Rafael La Porta, Andrei Shleifer, Florencio Lopez de Silanes, and Robert W Vishny, "Law and Finance." *Journal of Political Economy*, Vol. 106, No. 6 (December 1998).

[3] *See, e.g*., Naomi R. Lamoreaux and Jean-Laurent Rosenthal, "Legal Regime and Business's Organizational Choice: A Comparison of France and the United States," *NBER Working Paper*, No. W10288 (January 2004).

performance of Europe over the Middle East during the last millennium by pointing to Western legal institutions, which have outpaced their Middle Eastern counterparts by quickly incorporating and adapting to new and innovative business organizations, such as the corporation. Some scholars contrast Western legal systems with Islamic law, which has not evolved as rapidly and thus continues to recognize only the general partnership, which impedes investors from entering stock markets and taking advantage of economies of scale to the extent that Western organizations allow.[4]

If it is true that a nation's legal norms help explain the successes and failures of the nation's businesses, then a study of the American law of business organizations will help to explain how American companies have reached dimensions that have enabled them to penetrate markets in even the most remote parts of the world. It will further shed light on how American statutes and case law have allowed investors to take advantage of favorable tax treatment, limited liability, flexibility in management, and access to massive capital—all tools that have enabled investors to launch enterprises that have successfully competed in the world stage.

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[4] *See, e.g.*, Fatiha Talahite, "Trois approches néo-institutionnelles du développement dans le monde musulman : D.C. North, A. Greif, T. Kuran." *Sciences de l'Homme et de la Société* (CNRS, 2008), Jan. 10, 2008 (offering a general overview of the literature).

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