

Michaels on Globalisation and Law

Ralf Michaels (Duke Law School) has posted Globalization and Law: Law Beyond the State on SSRN.

The chapter provides an introduction into law and globalization for sociolegal studies. Instead of treating globalization as an external factor that impacts the law, globalization and law are here viewed as intertwined. I suggest that three types of globalization should be distinguished — globalization as empirical phenomenon, globalization as theory, and globalization as ideology. I go on to discuss one central theme of globalization, namely in what way society, and therefore law, move beyond the state. This is done along the three classical elements of the state — territory, population/citizenship, and government. The role of all of these elements is shifting, suggesting we need to move away from the traditional paradigm of both social and legal studies: methodological nationalism. I do not answer here how this paradigm should be replaced, but I discuss one prominent candidate of a meta-theory: transnational law. Transnational law, I suggest, helps transcend dichotomies of methodological nationalism that have become unhelpful: between domestic and international, between public and private, and between law and society

The paper is forthcoming in *Law and Social Theory* (Bannaker & Travers eds., Oxford, Hart Publishing, 2013).