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ORGANIZATIONAL ALLIANCES BY U.S. LAW SCHOOLS

*Elizabeth Chambliss**

INTRODUCTION

U.S. law schools increasingly are forming organizational alliances with other training providers, such as foreign law schools,[1] business schools,[2] large law firms,[3] and other employers,[4] in the interests of market expansion and/or consolidation. This trend is most pronounced among the most highly-ranked law schools as they develop tailored and accelerated programs for global business lawyers;[5] however, cost pressures coupled

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1. *See* John Flood, *Legal Education in the Global Context*, REP. LEGAL SERVS. BOARD 20 (Oct. 12, 2011), http://www.legalservicesboard.org.uk/news_publications/latest_news/pdf/lsb_legal_education_report_flood.pdf (discussing joint ventures between U.S. and Canadian law schools); Rui Guo, *About*, GLOBAL LEGAL EDUC. F. (Sept. 8, 2011), http://blogs.law.harvard.edu/glef/about/ (discussing developments in "global legal education"); Karen Sloan, *New Hampshire Law School Collaborating with Chinese School*, NAT'L L.J. (Feb. 1, 2011), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202480031861 (discussing collaborative initiatives by U.S. law schools in China and India).

2. *See* Adam Palin, *Law and Business: A Marriage of Convenience*, FIN. TIMES (Nov. 25, 2011), http://www.ft.com/intl/cms/s/2/866327a0-1641-11e1-a691-00144feabdc0.html#axzz1igbcyJnH (discussing increasing collaboration between law and business schools in the United States, United Kingdom, and Europe).

3. *See* Caroline Binham, *Executive Education: Partners in Law*, FIN. TIMES (Nov. 25, 2011), http://www.ft.com/intl/cms/s/2/90ecfb2e-1641-11e1-a691-00144feabdc0.html#axzz1ojVMHQsx (discussing the expanding market for executive education); William Henderson, *Milbank's Big Bet*, AMLAW DAILY (May 11, 2011), http://amlawdaily.typepad.com/amlawdaily/2011/05/hendersonmilbank.html (discussing Milbank's associate training program at Harvard); David Wilkins et al., Proposal, "Cradle to Grave" Legal Professional Development 4 (2011), *available at* http://dotank.nyls.edu/futureed/2011proposals/13ctg.pdf (discussing Harvard's partnership with Goodwin Procter and Pfizer to deliver "cradle to grave" training for corporate lawyers).

4. *See* Marsha M. Mansfield & Louise G. Trubek, *New Roles to Solve Old Problems*, 56 N.Y.L. SCH. L. REV. 367, 373 (2011–2012) (discussing medical-legal partnerships); Rachel Littman & Christine Mooney, Proposal, Training New Lawyers: Post-graduate Partnerships Between Law Schools and the Legal Profession (Apr. 2011), *available at* http://dotank.nyls.edu/futureed/2011proposals/04tnl.pdf (discussing collaborative CLE training by law schools and small law firms); Karen Sloan, *Pace Solo Incubator Will Assist Low-Income Clients*, NAT'L L.J. (Nov. 15, 2011), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202532527024&slreturn=1 (discussing the creation of school-supported law firms to help graduates learn to run their own practices).

5. *See infra* Part I.A.

with calls for more "practical" (i.e., vocational) training have led other law schools to seek various forms of organizational alliance as well.[6] Evidence from other professional contexts,[7] and legal education in other countries,[8] suggests this trend will likely accelerate and spread throughout the legal services industry.[9]

What are the implications of these organizational alliances? There are a number of potential benefits for lawyers, clients, and schools. Alliances between training providers create opportunities for specialization, professional networking, and market access that cannot be fully exploited by any single provider.[10] Alliances also provide opportunities for accelerated training and credentialing, which increases flexibility for lawyers and clients to respond to changes in market conditions, and may help reduce the cost of legal education.[11] Not least, alliances may provide law schools with new sources of revenue and a basis for market differentiation in an increasingly volatile and competitive educational market.[12]

There are also potential dangers, however. One danger is further segmentation and perhaps fragmentation of U.S. J.D. education into separate, specialized niches: global versus local,[13] corporate versus individual,[14] private versus public,[15] and litigation versus transactional

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6. *See infra* Part I.B.

7. *See* Fakhteh Soltani-Tafreshi, The Impact of Industrial Sponsorship on Students, Academia and Industry (Apr. 2010) (unpublished Ph.D. dissertation, Loughborough University) (on file with Loughborough University Institutional Repository), *available at* http://hdl.handle.net/2134/6334 (follow "F. Soltani-Tafreshi Thesis.pdf" hyperlink) (examining the emergence and impact of employer-sponsored degrees in engineering); *BA (Hons) Management and Finance (Three year company sponsored degree with fast track to CIMA qualification)*, NOTTINGHAM BUS. SCH. & CHARTERED INST. MGMT. ACCT., http://www.cimaglobal.com/Documents/Study%20with%20us%20docs/Strategic-degree-partnerships/BAhons_financeandmanagemnet_company%20info.pdf (last visited Apr. 21, 2012) (announcing an employer-sponsored "fast track" degree in accounting).

8. *See* James Faulconbridge, *Alliance "Capitalism" and Legal Education: An English Perspective*, 80 FORDHAM L. REV. 2651 (2012) (describing the move toward tailored and firm-specific legal practice courses in the United Kingdom).

9. *See* Richard A. Matasar, *The Viability of the Law Degree: Cost, Value, and Intrinsic Worth*, 96 IOWA L. REV. 1579, 1623 (2011) (predicting "enormous growth" in "consortia, partnerships, joint ventures, and other more exotic arrangements" as law schools seek ways to reduce costs).

10. *See* Mansfield & Trubek, *supra* note 4, at 372–73 (discussing the advantages of interdisciplinary and collaborative training); Palin, *supra* note 2 (discussing the benefits of joint training by law and business schools).

11. *See* Faulconbridge, *supra* note 8, at 2654; Matasar, *supra* note 9, at 1624–26 (discussing the benefits of accelerated training).

12. *See* Faulconbridge, *supra* note 8, at 2653 (noting that providers of firm-sponsored training are guaranteed "a sustained income stream"); Binham, *supra* note 3 (discussing the high fees law firms pay for tailored executive education).

13. *See* Vivia Chen, *Law School News: International Rankings; Desert Law School; ABA's Wimpiness*, CAREERIST (Sept. 27, 2011), http://thecareerist.typepad.com/thecareerist/2011/09/law-school-news-rankings-go-international-palm-springs-opens-law-school-aba-wimps-out.html (announcing a new global ranking of law schools).

14. *See* Randolph N. Jonakait, *The Two Hemispheres of Legal Education and the Rise and Fall of Local Law Schools*, 51 N.Y.L. SCH. L. REV. 863, 864 (2006–2007) (calling for separate J.D. training for corporate versus personal services lawyers); Brian Tamanaha, *A*

practice.[16] Such segmentation arguably threatens the foundations of professional socialization and the profession's capacity for self-regulation.[17]

A related danger is the capture of legal education by clients—particularly traditional market elites such as large law firms and their multinational corporate clients.[18] To the extent that professional independence is bolstered by unified training and licensing, the development of specialized and proprietary training threatens to undermine it.[19] Access to legal services, too, may be undermined by specialized and/or proprietary training narrowly tailored to the functional needs of organized clients.[20] Although there are many ready training partners for elite law schools serving global corporate markets, there are fewer for law schools primarily serving local and consumer markets; and increased segmentation will diminish cross-subsidies for training aimed at those markets.

Slice of Information About Corporate Law Firms and Legal Academia, BALKINIZATION (Jan. 31, 2007, 3:25 PM), http://balkin.blogspot.com/2007/01/slice-of-information-about-corporate.html (arguing that, given large law firms' preference for elite law graduates, non-elite law schools "ought to develop a different model of education that better matches the jobs and careers of their graduates").

15. *See* Gillian K. Hadfield, *Legal Barriers to Innovation: The Growing Economic Cost of Professional Control over Corporate Legal Markets*, 60 STAN. L. REV. 1689, 1695, 1732 (2008) (arguing that the "economic" and "political/democratic" sectors of the legal profession face fundamentally different issues and require separate training and regulation).

16. *See New Law School Planned for Palm Springs Region*, PRELAW (Sept. 30, 2011, 8:39 AM), http://www.nationaljurist.com/content/new-law-school-planned-palm-springs-region (reporting plans to open the California Desert Trial Academy College of Law, focusing on trial advocacy).

17. *See* Andy Boon, John Flood & Julian Webb, *Postmodern Professions? The Fragmentation of Legal Education and the Legal Profession*, 32 J.L. SOC'Y 473, 486 (2005) (discussing the implications of educational segmentation in the United Kingdom); Andrew M. Francis, *Legal Ethics, the Marketplace, and the Fragmentation of Legal Professionalism*, 12 INT'L J. LEGAL PROF. 173, 185 (2005) (examining the implications of market diversification for lawyers' claims to shared professional values).

18. *See* John Flood, *Legal Education, Globalization, and the New Imperialism*, *in* THE LAW SCHOOL: GLOBAL ISSUES, LOCAL QUESTIONS 127, 148 (Fiona Cownie ed., 1999) (noting the dangers of "mono-functional" training); Brian Tamanaha, *Wake Up, Fellow Law Professors, to the Casualties of Our Enterprise*, BALKINIZATION (June 13, 2010, 3:25 PM), http://balkin.blogspot.com/2010/06/wake-up-fellow-law-professors-to.html (urging law schools to "shrink the number of graduates," especially "students with the worst prospects" in the corporate client sector).

19. *See* Faulconbridge, *supra* note 8, at 2655 (discussing the impact of proprietary training on lawyer socialization). The ABA historically has resisted specialized training and licensing on the grounds that unified training is necessary for professional socialization. *See Report of the Special Committee to the Section of Legal Education and Admissions to the Bar of the American Bar Association*, 44 ANN. REP. A.B.A. 679, 681–84 (1921) [hereinafter *Root Report*].

20. *See* Elizabeth Chambliss, *Two Questions for Law Schools About the Future Boundaries of the Legal Profession*, 36 J. LEGAL PROF. (forthcoming 2012) (manuscript at 10), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1945764 (criticizing calls for further segmentation of law schools according to the size and wealth of private employers).

Thus, law school alliances lead to questions about the boundaries of unified legal education and, ultimately, the legal profession.[21] Although U.S. law schools currently enjoy a robust regulatory monopoly in support of a unified three-year J.D. degree, there are increasing economic and political pressures for segmentation and deregulation, and modest if not radical changes are imminent.[22] Regulatory changes also are brewing in a number of other countries, as the unified graduate model of legal education, typified by the U.S. J.D., bumps up against the polycentric undergraduate model, typical outside of the United States.[23] A number of countries recently have changed or are considering changing their system of legal education, with movement both toward[24] and away[25] from the unified graduate model. Thus, U.S. law schools are part of a broader context for rethinking the bases and timing of specialization and segmentation in legal education. Within this context, law schools' organizational strategies may play a significant role in shaping the future quality and distribution of legal services.

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21. *Id.* at 7 (arguing that U.S. law schools should shrink the boundaries of the unified J.D. degree, while continuing to develop specialized pre- and post-J.D. training).

22. *See id.* at 16 (predicting "the erosion of monopoly protections and the opening of diverse new markets for law and law-related training"); *see also* John O. McGinnis & Russell D. Mangas, Op-Ed., *First Thing We Do, Let's Kill All the Law Schools*, WALL ST. J., Jan. 17, 2012, at A15 (suggesting that law be an undergraduate degree); Clifford Winston & Robert W. Crandall, Op-Ed., *Time to Deregulate the Practice of Law*, WALL ST. J., Aug. 22, 2011, at A13 (calling for an end to occupational licensing and the requirement of formal legal training); *Unlocking the Law: Deregulating the Legal Profession*, TRUTH ON MARKET, http://truthonthemarket.com/unlocking-the-law-symposium/ (last visited Apr. 21, 2012) (discussing various proposals for the deregulation of law practice, including changes in licensing requirements).

23. *See* Flood, *supra* note 1 (reviewing regulatory developments in the United Kingdom, Canada, Australia, India, China, and Europe).

24. *See id.* at 1 (predicting "an inexorable move in the world towards the Americanization of legal education, in the form of the widespread adoption of the J.D. degree over the LL.B."); Setsuo Miyazawa, Kay-Wah Chan & Ilhyung Lee, *The Reform of Legal Education in East Asia*, 4 ANN. REV. L. & SOC. SCI. 333, 334 (2008) (examining the adoption of U.S.-style legal education in China, Japan, and South Korea); Mayumi Saegusa, *Why the Japanese Law School System Was Established: Co-optation as a Defensive Tactic in the Face of Global Pressures*, 34 LAW & SOC. INQUIRY 365, 366–67 (2009) (examining the creation of graduate law schools in Japan); James Hathaway, *New Markets for the U.S. Model (Australia)*, FUTURE ED CONF., N.Y.L. SCH. (Apr. 9, 2010), http://nyls.mediasite.com/mediasite/SilverlightPlayer/Default.aspx?peid=b4264245a60f42f8bf0939ecac8d34b21d (6:27) (describing the move to a graduate program at Melbourne Law School).

25. *See* Annalise Riles & Takashi Uchida, *Reforming Knowledge? A Socio-Legal Critique of the Legal Education Reforms in Japan*, 1 DREXEL L. REV. 3, 48–49 (2009) (arguing that there are economic and political benefits of Japan's retention of polycentric, undergraduate legal training alongside its new U.S.-style, graduate model); *Licensing and Accreditation Task Force Report to Convocation*, LAW SOC'Y UPPER CAN. 29 (Sept. 25, 2008), www.lsuc.on.ca/media/convsep08_licensing.pdf (discussing downward pressure on educational and licensing requirements in Ontario); Sophia Sperdakos, *The Regulators Weigh In*, FUTURE ED CONF., HARV. L. SCH. (Oct. 15, 2010), http://www.law.harvard.edu/programs/plp/pages/future_ed_conference.php (6:01) (follow "The Regulators Weigh In [Video]" hyperlink) (discussing the benefits of limited licensing for specialized legal jobs).

So far, there has been little research on law schools' organizational alliances or their outcomes for lawyers, clients, and schools.[26] This Article begins such research and identifies issues for future study. Part I examines emerging alliances between U.S. law schools and other training providers, and speculates about likely future patterns. Part II considers the implications of such alliances for the structure of U.S. legal education. The Article concludes by calling on law schools and regulators to invest in tracking alliances, in order to guard against market failures in legal education.

I. PATTERNS OF ORGANIZATIONAL ALLIANCE BY U.S. LAW SCHOOLS

There are no centralized sources for tracking alliances between U.S. law schools and other training providers. Although the ABA regulates and requires reporting on foreign exchange relationships,[27] joint degree programs,[28] and changes in organizational structure (such as mergers),[29] it does not publish the data;[30] and the ABA does not track law school training alliances with employers. Thus, mapping the emergence of law school alliances requires the aggregation of press releases, news coverage, law school marketing materials, and anecdotal reports.

What follows is a preliminary analysis, offered mainly to suggest directions for more systematic assessment. That being said, even a preliminary analysis of law school alliances points to familiar sources of stratification in legal education, as well as potential new sources of segmentation among law schools.

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26. *But see* James R. Faulconbridge & Daniel Muzio, *Legal Education, Globalization, and Cultures of Professional Practice*, 22 GEO. J. LEGAL ETHICS 1335, 1337 (2009) (arguing that professional closure based on education is undergoing important changes due to the expanding role of global law firms in vocational education).

27. ABA, SECTION OF LEGAL EDUC. & ADMISSION TO THE BAR, STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 111–20 (2011) [hereinafter ABA STANDARDS], *available at* http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2011_2012_aba_standards_cfa_of_study_at_foreign_institution.authcheckdam.pdf (explaining the regulatory framework for U.S. J.D. students who study abroad in the Criteria for Student Study at a Foreign Institution); *see also* Adelaide Ferguson, *Mapping Study Abroad in U.S. Law Schools: The Current Landscape and New Horizons*, NAFSA: ASS'N INT'L EDUCATORS (May 2010), http://nafsa.org/uploadedFiles/NAFSA_Home/Resource_Library_Assets/Networks/CCB/MappingStudyAbroadLaw.pdf (mapping "the landscape of study abroad in U.S. legal education").

28. ABA STANDARDS, *supra* note 27, at 29, *available at* http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2012_standards_chapter_3.pdf.

29. *Id.* at 87, *available at* http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2011_2012_aba_standards_rules_of_procedure.authcheckdam.pdf (requiring approval of any "major change in the organizational structure of an approved law school," including mergers and acquisitions in Rule 20, Major Change in the Organizational Structure of a Provisionally or Fully Approved Law School).

30. *See* Ferguson, *supra* note 27, at 25 n.14 (urging the ABA to publish the number of J.D. students who study abroad).

For instance, much of law schools' alliance activity mirrors patterns of stratification and segmentation among large corporate law firms.[31] The very top law schools are focused primarily on expanding their markets: both horizontally, through alliances with elite law schools and business schools in other countries;[32] and vertically, through alliances with multinational law firms and clients to provide executive education and other types of post-graduate training.[33] Thus, like elite law firms, elite law schools are competing for "global"[34] status and the educational equivalent of "bespoke"[35] or "high-margin"[36] work (i.e., the best students, taught in face-to-face, resource-intensive settings, training for highly profitable and/or high-status work).

Outside this top group, emerging law school alliances are aimed primarily at market protection and/or consolidation: horizontally, through mergers and more limited partnerships with other law schools;[37] and vertically, through alliances with graduate and, increasingly, undergraduate programs to provide accelerated J.D.-LL.M. and B.A.-J.D. degrees.[38] Some law schools are also experimenting with training alliances with solo and small firm practitioners, hospitals, and courts.[39] Third- and fourth-tier law schools, especially, are seeking new forms of alliance in order to reposition themselves within a contracting and increasingly segmented market, raising interesting possibilities for industry change from below.

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31. *See* Bernard A. Burk & David McGowan, *Big But Brittle: Economic Perspectives on the Future of the Law Firm in the New Economy*, 2011 COLUM. BUS. L. REV. 1, 110 (arguing that "law schools will, and to a significant degree already do, exhibit a stratification pattern analogous to the one emerging among elite firms").

32. *See infra* notes 50–86 and accompanying text.

33. *See infra* notes 87–95 and accompanying text.

34. On large law firms' competition for global status, see Carole Silver, *The Variable Value of U.S. Legal Education in the Global Legal Services Market*, 24 GEO. J. LEGAL ETHICS 1, 2 n.4 (2011) (discussing large law firms' "ubiquitous" use of the term "global"); Matt Byrne, *Introducing the Sweet Sixteen*, LAWYER (May 10, 2008), http://www.thelawyer.com/introducing-the-sweet-sixteen/132761.article (introducing the label "Sweet Sixteen" to refer to "the group of firms we believe are currently leading the transatlantic market for the provision of top-end transactional legal services"); Press Release, Law360, Law360 Ranks Global 20 Law Firms (May 17, 2011), *available at* http://www.prnewswire.com/news-releases/law360-ranks-global-20-law-firms-122003533.html (ranking the top "global" law firms).

35. RICHARD SUSSKIND, THE END OF LAWYERS? RETHINKING THE NATURE OF LEGAL SERVICES 29–32 (2008) (arguing that legal services tend to evolve from "bespoke" to "commoditized" services through the use of information technology).

36. Peter D. Zeughauser, *Stuck on You*, AM. LAW. (Oct. 1, 2011), http://www.law.com/jsp/tal/PubArticleTAL.jsp?id=1202516510513&slreturn=1 (discussing large law firms' competition for work characterized by high profit margins); *see also* Jordan Furlong, *The Stratified Legal Market and Its Implications*, LAW.21.CA (Mar. 25, 2011), http://www.law21.ca/2011/03/25/the-stratified-legal-market-and-its-implications/ (distinguishing between three categories of corporate legal services, based on price sensitivity); Bill Henderson, *How the Cravath System Created the Bimodal Distribution*, EMPIRICAL LEGAL STUD. BLOG (July 18, 2008, 2:14 AM), http://www.elsblog.org/the_empirical_legal_studi/2008/07/how-the-cravath.html (discussing the increasing segmentation of large law firms according to their ratio of "marquee" work).

37. *See infra* Part I.B.1.

38. *See infra* Part I.B.2.

39. *See infra* Part I.B.3.

Outside the top group, however, most law schools are grappling with multidimensional changes in the legal services market and a variety of potential bases for market alliance and specialization.[40] Many law schools face increasing pressure to move away from their traditional strategy of diversification—providing a variety of specialized courses, clinics, concentrations, and degree programs within (or on top of) a formally unified J.D. curriculum—and toward a strategy for institutional and market specialization.[41] This is, of course, a longstanding issue in U.S. legal education: the value of unified versus specialized training in a diverse legal market.[42] But law schools are under increasing pressure to hone their strategic missions and choose partners for the market-to-be. Thus, the following outline, albeit preliminary, points to the growing importance of law school alliances for shaping future patterns of specialization and segmentation in the profession.

A. Race to the Top: The Competition for Global Status and High Margin Work

Many U.S. law schools have longstanding and well-developed international programs, including exchange relationships with foreign law schools.[43] New York University established its Hauser Global Law School Program in 1995,[44] including training partnerships between "academics, government, NGO lawyers, and practitioners" at law schools in Latin

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40. *See* Chambliss, *supra* note 20, at 12 (discussing competing sources of segmentation in the profession).

41. *Trouble in the Middle: Is Time Running Out for Business Schools that Aren't Quite Elite?*, ECONOMIST, Oct. 15, 2011, at 71 (reporting a similar strategic dilemma for business schools).

42. *See* ALFRED ZANTZINGER REED, TRAINING FOR THE PUBLIC PROFESSION OF THE LAW 57–59, 406–18 (1921) (rejecting the possibility of a unified bar and calling for the segmentation of legal training along functional lines); ABA SECTION ON LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP 86 (1992) [hereinafter MACCRATE REPORT] (discussing the "ideal of a unitary profession"); *Root Report*, *supra* note 19, at 681 (arguing that all areas of legal practice require "substantially the same intellectual preparation").

43. *See Foreign Study*, SEC. LEGAL EDUC. & ADMISSIONS TO B., ABA, http://www.americanbar.org/groups/legal_education/resources/foreign_study.html (follow "Foreign Winter and Summer Intersession Programs," "Semester Programs," and "Cooperative Programs" hyperlinks) (last visited Apr. 21, 2012) (providing a list of foreign exchange programs by school); Christopher J. Gearon, *Law Schools Go Global*, U.S. NEWS & WORLD REP. (Mar. 29, 2011), http://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2011/03/29/law-schools-go-global (reporting steady growth in the number of law students studying abroad). In 2008–09, 114 ABA-accredited law schools sponsored a total of 334 study abroad programs. Ferguson, *supra* note 27, at 6.

44. *About the Hauser Global Law School Program*, N.Y.U. SCH. L., http://www.law.nyu.edu/global/abouthauser/index.htm (last visited Apr. 21, 2012). *See generally* Norman Dorsen, *Achieving International Cooperation: NYU's Global Law School Program*, 51 J. LEGAL EDUC. 332, 332 (2001) (discussing NYU's 1995 "global law school" initiative); John Sexton, *Structuring Global Law Schools*, 18 DICK. J. INT'L L. 451 (2000) (describing the program).

America, Africa, and Asia.[45] Georgetown University Law Center has had a Global Law Scholars program since 2000,[46] and draws upon an international consortium of eleven law schools in its London study abroad program.[47] *U.S. News & World Report* has been ranking law schools' international programs since 1991.[48]

As with law firms, however, the globalization of the corporate legal services market has led to a new "global" category of law schools,[49] with the top schools in each domestic market moving to claim a global position, in part through strategic alliances with other elite, "global" schools.[50] For instance, Harvard Law School has formal exchange agreements with more than half a dozen foreign law schools,[51] most of which are also aiming to expand their profile in the global economy.[52] In 2009, Harvard teamed up

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45. *Reaching Out to Global Partners*, N.Y.U. SCH. L., http://www.law.nyu.edu/global/globalpartnerships/index.htm (last visited Apr. 21, 2012). According to its website, these global partnerships "go well beyond the scope of other law school exchange programs and research activities to create long term institutional partnerships." *Id.*

46. *Global Law Scholars*, GEO. L., http://www.law.georgetown.edu/gls/ (last visited Apr. 21, 2012).

47. Ferguson, *supra* note 27, at 11.

48. Ted Gest, *In Law, The Case for Change*, U.S. NEWS & WORLD REP., Apr. 29, 1991, at 75 (ranking the top five U.S. law schools in international law as Harvard, Columbia, Yale, Georgetown, and Michigan); *see also International Law Top Law Schools*, U.S. NEWS & WORLD REP. (2011), http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/international-law-rankings (ranking the top five schools as NYU, Columbia, Georgetown, Harvard, and Yale).

49. *See* Chen, *supra* note 13 (announcing a new global ranking of law schools); David Van Zandt, *Globalization Strategies for Legal Education*, 36 U. TOL. L. REV. 213, 218 (2004) (discussing the emergence of "premiere" global law degrees at both the J.D. and post-J.D. levels).

50. *See* John B. Attanasio, *Partnerships, Joint Ventures and Other Forms for Building Global Law Schools*, 18 DICK. J. INT'L L. 483, 486 (2000) (discussing the importance of individual faculty initiatives in building organizational alliances between schools); Sexton, *supra* note 44, at 453 (discussing the development of the NYU program).

51. Harvard Law School has exchange relationships with the University of Sydney Law School, the Fundação Getulio Vargas (FGV) Schools of Law in Brazil, the University of Chile School of Law, Fudan University Law School in Shanghai, Institut d'Etudes Politiques de Paris (Sciences Po), the University of the Witwatersrand School of Law in Johannesburg, and the University of Geneva Faculty of Law, as well as with the University of Tokyo and the Graduate Institute of International and Development Studies in Geneva. *Handbook of Academic Policies, Additional Academic Opportunities (J.D. and Graduate Programs)*, HARV. L. SCH., http://www.law.harvard.edu/academics/handbook/rules-relating-to-law-school-studies/2011-12-additional-academic-opportunities.html (last visited Apr. 21, 2012). Harvard also recently established a joint J.D.-LL.M. program with the University of Cambridge in England. *Harvard Law School and the University of Cambridge J.D./LL.M. Joint Degree Program*, HARV. L. SCH., http://www.law.harvard.edu/academics/degrees/special-programs/study-abroad/joint-degree-program.html (last visited Apr. 21, 2012).

52. *See, e.g.*, David M. Trubek, *Reforming Legal Education in Brazil: From the Ceped Experiment to the Law Schools at the Getulio Vargas Foundation* 6 (Univ. Wis. L. Sch., Legal Studies Research Paper Series, Paper No. 1180), *available at* http://ssrn.com/abstract=1970244 (discussing the creation of Brazil's prestigious FGV Law Schools focusing on "global" law and lawyering); Emilie Biland, From Business to Law: A French Business School within the Legal Job Market, Annual Meeting of the Law & Society Association, San Francisco (June 2011) (unpublished paper) (on file with author) (discussing the creation of graduate law programs at Sciences Po); Rachel Vanneuville, The Role of Lawyers in the Reshaping of French Contemporary Higher Legal Education, Annual

with Jindal Global Law School (JGLS)—"India's First Global Law School"[53]—to host two conferences on the globalization of legal education and the legal profession, the first of which was held in New Delhi.[54] Harvard hosted another conference on global legal education at Harvard in March 2012.[55] In 2010, Harvard Law School's Program on the Legal Profession launched a collaborative research initiative on the globalization of law and legal education in India, China, and Brazil.[56]

Yale Law School likewise has extensive alliances with foreign law schools, particularly in China and India. Yale Law School's China Law Center has offices at both Yale University and Peking University Law School in Beijing, and "works extensively with . . . China's leading law schools at Peking University, Renmin University, Tsinghua University, China University of Politics and Law, [and] Shanghai Jiaotong University."[57] In 2008, Yale University launched an ambitious "India Initiative,"[58] leading to new alliances between Yale and various Indian schools. In 2010, Yale cosponsored a conference on globalization with JGLS, which JGLS officials say will form "the basis of a formal engagement."[59] Yale already has formal alliances with the Indian Institute of Technology and the Indian Institute of Management.[60]

Other U.S. law schools, too, are contending for global status through organizational alliances with foreign law schools. In 2009, Indiana University Maurer Law School, which has a formal alliance with JGLS, launched its "Center on the Global Legal Profession," with the aim of

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Meeting of the Law & Society Association, San Francisco (June 2011) (unpublished paper) (on file with author) (discussing alliances between Sciences Po and large Parisian law firms).

53. JINDAL GLOBAL L. SCH., http://www.jgls.org/JG_Default.aspx?this=3 (last visited Apr. 21, 2012).

54. *International Collaboration*, JINDAL GLOBAL L. SCH., http://www.jgls.org/jg_cms.aspx?this=1&mid=257&cid=168 (last visited Apr. 21, 2012).

55. *See Global Legal Education Forum (2012)*, HARVARD L. SCH. SJD ASS'N, http://hlsorgs.com/sjd/legal-ed-forum/ (last visited Apr. 21, 2012).

56. *Globalization, Lawyers, and Emerging Economies (GLEE)*, PROGRAM ON LEGAL PROF., HARV. L. SCH., http://www.law.harvard.edu/programs/plp/pages/glee.php (last visited Apr. 21, 2012) (listing collaborating researchers and schools).

57. *See Centers and Programs, The China Law Center*, YALE L. SCH., http://www.law.yale.edu/academics/internationallawcentersprograms.htm (last visited Apr. 21, 2012).

58. *See Yale India Initiative*, YALE MACMILLAN CENTER, http://www.yale.edu/macmillan/southasia/indiainitiative.htm (last visited Apr. 21, 2012) (linking press reports).

59. Kian Ganz, *Jindal Global Law School Strengthens Bonds with Yale as Second Year Admissions Positive*, LEGALLY INDIA (Nov. 1, 2010), http://www.legallyindia.com/201011011466/Law-schools/jindal-global-law-school-strengthens-bonds-with-yale-as-second-year-admissions-positive (quoting O.P. Jindal Global University Vice-Chancellor Raj Kumar). JGLS has been especially active in pursuing international alliances with elite law schools. In addition to Harvard and Yale, JGLS lists "international collaborations" with Indiana University Maurer School of Law, the University of Michigan Law School, and University of Texas at Dallas School of Management. *See Leading International Collaborations of Jindal Global Law School*, JINDAL GLOBAL L. SCH., http://www.jgls.org/jg_cms.aspx?this=3&mid=167 (last visited Apr. 21, 2012). JGLS also lists collaborations with more than half a dozen elite schools outside the United States. *Id.*

60. Ganz, *supra* note 59 (stating that Yale recently signed collaboration agreements with the two schools).

giving Indiana law graduates "a seat at the table."[61] American University School of Law has exchange relationships with twenty-five foreign law schools; Columbia University Law School has exchange relationships with fourteen foreign schools; and Fordham University School of Law has exchange relationships with eight foreign schools.[62] Based on ABA data, thirty percent of "cooperative programs" between U.S. and foreign law schools—that is, those involving more than twelve students within a consecutive three-year period[63]—involve law schools ranked among the top twenty-five in *U.S. News and World Report*.[64]

U.S. law schools are also increasingly forming alliances with foreign law and business schools to provide tailored LL.M.—and increasingly J.D.—training to foreign students. U.S. law schools traditionally have had an advantage in the LL.M. market,[65] because LL.M. study allows foreign lawyers to sit for the New York bar exam.[66] However, New York recently tightened the LL.M. standards for foreign lawyers,[67] and some evidence points to increasing brand consciousness among foreign lawyers seeking a U.S. degree.[68] Moreover, other countries are reforming (or contemplating

61. *IU Maurer School of Law Launches Center on the Global Legal Profession*, IND. U. (Aug. 11, 2009), http://newsinfo.iu.edu/news/page/normal/11602.html.

62. Ferguson, *supra* note 27, at 12.

63. ABA STANDARDS, *supra* note 27, at 114–15, *available at* http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2011_2012_aba_standards_cfa_of_study_at_foreign_institution.authcheckdam.pdf (defining cooperative programs in Criteria for Student Study at a Foreign Institution).

64. Ferguson, *supra* note 27, at 12; *see also Cooperative Study Abroad Programs*, SEC. LEGAL EDUC. & ADMISSIONS TO B., ABA, http://www.americanbar.org/groups/legal_education/resources/foreign_study/cooperative_programs.html (last visited Apr. 21, 2012).

65. More than 100 U.S. law schools offer the LL.M. degree, typically as a one-year, stand-alone, source-based program. *See Overview of LL.M and Post J.D. Programs*, A.B.A. SEC. LEGAL EDUC. & ADMISSIONS TO B., http://www.americanbar.org/groups/legal_education/resources/llm-degrees_post_j_d_non_j_d.html (last visited Apr. 21, 2012). Some programs attract both U.S. and foreign law graduates, whereas others are aimed exclusively at the graduates of foreign law schools. *See* Silver, *supra* note 34, at 17–18. The LL.M. degree is the most common U.S. law degree among foreign law graduates. *Id.* at 5.

66. *See* Flood, *supra* note 1, at 7–8 (discussing the advantages of a U.S. LL.M.); Silver, *supra* note 34, at 18–20 (examining the role of U.S. LL.M.s as an element of global professional capital). There is no entrance exam for the LL.M. and no standardized curriculum. The only standards to which "nearly all LL.M. programs for foreign law graduates adhere" are those defined by New York's rule on bar eligibility. Silver, *supra* note 34, at 19.

67. The old rule required 20 semester hours of credit in an approved U.S. law school. Silver, *supra* note 34, at 19 n.67. The new rule requires 24 hours of credit, and tightens the standards for duration, content, and teaching methods in various ways. *See* N.Y. COMP. CODES R. & REGS. tit. 22, § 520.6 (2011), *available at* http://www.nybarexam.org/Rules/Rules.htm#520.6; *Foreign Legal Education*, N.Y. STATE BOARD B. EXAMINERS, http://www.nybarexam.org/Foreign/ForeignLegalEducation.htm (last visited Apr. 21, 2012).

68. *See* Silver, *supra* note 34, at 10–11 (discussing the importance of elite credentials in the hiring practices of international law firms); Van Zandt, *supra* note 49, at 217–18 (stating that "the general LL.M. degree actually may become a commodity" and that "American law schools are seeing increasing competition from U.K. and Australian law schools").

reforming) their licensing systems to compete with the relative ease of access offered by the American system.[69]

Top U.S. law schools have responded to the increasing competition for foreign lawyers by offering more tailored LL.M. programs[70] in alliance with elite law and business schools. For instance, New York University and the National University of Singapore offer a dual LL.M. program for global business lawyers, with study in Manhattan, Singapore, and Shanghai.[71] ("One Year, Two LL.M. Degrees, Three Cities."[72]) The National University of Singapore bills itself as "Asia's Global Law School."[73] Northwestern Law School offers a dual LL.M. program in law and business in partnership with Northwestern's Kellogg School of Management,[74] as well as an accelerated summer LL.M. program,[75] both aimed at business lawyers educated outside of the United States. Among the eighty-two U.S. and foreign law schools listed by the *Financial Times* as offering LL.M. programs,[76] close to 40 percent partner with a business school to deliver joint courses.[77]

U.S. law schools also increasingly offer J.D.-M.B.A. and accelerated J.D.-M.B.A. degrees aimed at foreign students. For instance, Northwestern offers an accelerated, three-year J.D.-M.B.A. with the Kellogg School of Management, which emphasizes its "active alliances" with business schools in Belgium, China, India, Japan, and Thailand.[78] Duke offers an

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69. *See* Silver, *supra* note 34, at 45–46 (discussing the increasing demand in China for U.S.-style, J.D. education and China's efforts to provide it); Joe Palazzolo, *Training for Lawyers? The U.K. Is Asking "Why Bother?,"* WALL ST. J. (Nov. 21, 2011, 11:52 AM), http://blogs.wsj.com/law/2011/11/21/training-for-lawyers-the-u-k-is-asking-why-bother/ (discussing the "bottleneck" created by the two-year training contract requirement in the United Kingdom).

70. Van Zandt, *supra* note 49, at 217 (noting the trend toward more tailored LL.M. programs). For a list of LL.M.s offered by U.S. law schools by subject area, see *Post-J.D. Programs by Category*, A.B.A SEC. LEGAL EDUC. & ADMISSIONS TO B., http://www.americanbar.org/groups/legal_education/resources/llm-degrees_post_j_d_non_j_d/programs_by_category.html (last visited Apr. 21, 2012).

71. *LL.M. Singapore*, N.Y.U. SCH. L., http://www.law.nyu.edu/llmjsd/llmsingapore/index.htm (last visited Apr. 21, 2012).

72. *LL.M. & J.S.D.*, N.Y.U. SCH. L., http://www.law.nyu.edu/llmjsd/index.htm (last visited Apr. 21, 2012).

73. NAT'L U. SING. L., http://law.nus.edu.sg/ (last visited Apr. 21, 2012).

74. *Graduate Program in Law and Business (LLM/Kellogg)*, NW. UNIV. SCH. L., http://www.law.northwestern.edu/academics/llmkellogg/ (last visited Apr. 21, 2012). Graduates of the program are awarded an LL.M. degree and a certificate in business administration.

75. *Accelerated Summer LLM Program*, NW. UNIV. SCH. L., http://www.law.northwestern.edu/llm/accelerated/ (last visited Apr. 21, 2012).

76. Adam Palin, *LL.M. Courses 2011: Growth Area*, FIN. TIMES (Nov. 25, 2011), http://www.ft.com/intl/cms/s/2/7bdf70fe-1641-11e1-a691-00144feabdc0.html#axzz1igbcyJnH; *see also LLM 2011 Listing*, FIN. TIMES, http://rankings.ft.com/lawschools/llm-2011-listing (last visited Apr. 21, 2012) (listing LL.M. courses offered by eighty-two schools in eighteen countries).

77. Palin, *supra* note 2.

78. *J.D.-M.B.A. Program: Global Experience*, NW. UNIV., http://www.kellogg.northwestern.edu/jdmba/academics/globalexperience.htm (last visited Apr. 21, 2012).

accelerated J.D.-M.B.A.[79] and a J.D.-Master's in Global Business Law with Institut d'Etudes Politiques de Paris ("Sciences Po"), which qualifies students to sit for the French national bar exam.[80] Yale offers a three-year J.D.-M.B.A. as part of the Yale Law School Center for the Study of Corporate Law.[81] Many law schools also offer business law certificates as part of their J.D. or LL.M. programs.[82]

Finally, U.S. law schools increasingly offer Executive LL.M.s and other short forms of executive education in alliance with foreign law and business schools.[83] For example, Northwestern offers Executive LL.M. programs in partnership with IE Law School in Madrid, KAIST School of Innovation and Hallym School of Graduate Studies in Seoul, and Tel Aviv University.[84] Washington University in St. Louis recently launched a joint, twelve-week Executive LL.M. Program with Korea University.[85] St. Gallen University outside Zurich offers an Executive Master of Business Law that utilizes a "flying faculty," with nine one-week modules "in locations such as St. Gallen (Universität St. Gallen), Shanghai (Fudan University), Tokyo (Waseda University), Austin, Texas (University of Texas), Cambridge, Massachusetts (Harvard Law School), Luxembourg (seat of ECJ) and New York (NYU School of Law)."[86]

In addition to geographic expansion through alliances with foreign law schools, elite law schools also have begun a process of vertical expansion, reaching further into post-graduate training through alliances with large law firms and clients. For instance, a number of top U.S. law schools offer tailored (firm-specific) executive education for corporate lawyers.[87]

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79. *JD/MBA & Accelerated JD/MBA*, DUKE UNIV. SCH. L., http://www.law.duke.edu/admis/degreeprograms/jd-mba (last visited Apr. 21, 2012).

80. *JD/Masters in Global Business Law*, DUKE UNIV SCH. L., http://www.law.duke.edu/admis/degreeprograms/jd-globalbusiness (last visited Apr. 21, 2012).

81. *Accelerated Integrated J.D.-M.B.A.*, YALE L. SCH., http://www.law.yale.edu/cbl/JDMBA.htm (last visited Apr. 21, 2012).

82. *See, e.g.*, *Professional LL.M. Program*, BERKELEY L., http://www.law.berkeley.edu/5652.htm; *Advanced Professional Certificate in Law and Business*, N.Y.U. L., http://www.law.nyu.edu/llmjsd/advancedprofessionalcertificateprograms/advancedcertificateinlawandbusiness/index.htm (last visited Apr. 21, 2012); *Business Law Certificate Program*, TEX. TECH U. SCH. L., http://www.law.ttu.edu/acp/academics/certificate/business/ (last visited Apr. 21, 2012).

83. V. Wish, *Executive LL.M Programs: Offering Flexibility, Not Short Cuts*, LLM GUIDE (July 22, 2010), http://www.llm-guide.com/article/514/executive-llm-programs-offering-flexibility-not-shortcuts (reporting increasing alliances among business schools to offer "joint, executive-style M.B.A programs" and speculating that law schools will follow suit with "international, executive" LL.M.s).

84. *Executive LL.M. Programs*, NW. UNV. SCH. L., http://www.law.northwestern.edu/academics/llmexec/ (last visited Apr. 21, 2012).

85. *Washington University (WUSTL) and Korea University Launch Executive LL.M.*, LLM GUIDE (June 8, 2010), http://www.llm-guide.com/article/505/washington-university-wustl-and-korea-university-launch-executive-llm.

86. *Universität St. Gallen*, LLM GUIDE, http://www.llm-guide.com/university/236/universitaet-st-gallen (last visited Apr. 21, 2012).

87. *See, e.g.*, *Executive Legal Training Programs*, UC BERKELEY SCH. L., http://www.law.berkeley.edu/10796.htm (last visited Apr. 21, 2012) (offering year-round customized training programs for "lawyers, general counsel, corporate executives, government officials and other professionals"); *Programs*, EXEC. EDUC., HARV. L. SCH.,

Harvard was one of the first U.S. law schools to offer such training, building on a program developed at Harvard Business School.[88] Initially, the program was aimed at law firm managing partners and other executive-level lawyers, who paid as much as $12,000 each to attend a customized, two-week program taught by Harvard law and business faculty.[89] Recently, however, Harvard has expanded its post-graduate training ambitions to include "cradle to grave" professional development for corporate lawyers.[90] In May 2011, Harvard launched a professional development program for mid-level associates at Milbank, dubbed "Milbank@Harvard."[91] Harvard also has teamed up with Goodwin Procter and Pfizer to deliver various forms of tailored post-graduate training.[92]

Other top law schools also have launched executive education programs with the aim of forming post-graduate training alliances with particular law firms. Georgetown University Law Center recently signaled its plans to offer executive education, with the appointment of James Jones, former chair of the Hildebrandt Institute,[93] the research arm of Hildebrandt International (now Hildebrandt Baker Robbins[94]), a legal consulting firm. In May 2011, JGLS announced an alliance with White & Case to provide firm-specific executive and continuing legal education.[95]

Thus, at the top of the market, U.S. law schools are allying with elite foreign law schools, business schools, and large law firms to provide increasingly customized training for global business lawyers. This pattern of alliance mirrors that of the top law schools in Asia, Canada, the U.K., and Europe, which also offer tailored graduate and post-graduate business

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http://www.law.harvard.edu/execed/programs.html (last visited Apr. 21, 2012) (describing both "open enrollment" and "focused" programs); *Executive Education*, NW. UNIV. SCH. L., http://www.law.northwestern.edu/executiveed/ (last visited Apr. 21, 2012) (offering custom programs aimed at nonlawyer executives in law firms, accounting firms, and corporations).

88. *See 2007 Annual Report Program on the Legal Profession*, HARV. L. SCH. 8, http://www.law.harvard.edu/programs/pdfs/2007_PLP.pdf (reporting Ashish Nanda's appointment as Faculty Chair of Executive Education). Nanda previously was on the Harvard Business School faculty. *Id.*

89. *See* Leigh Jones, *Training Leaders a Top Priority: Merged Firms Bring New Challenges*, NAT'L L.J. (July 18, 2005), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=900005432992, *available at* LexisNexis.com, Nat'l L.J. Database Doc. No. 900005432992 (describing law firm management training programs at Harvard Business School, University of Pennsylvania's Wharton School of Business, and Northwestern University's Kellogg School of Management).

90. Wilkins et al., *supra* note 3, at 1–2.

91. *See* Henderson, *supra* note 3 (describing the program); *Programs*, *supra* note 87.

92. Wilkins et al., *supra* note 3, at 4–6.

93. *See* Press Release, Georgetown Law, James Jones Named Senior Fellow at Center for the Study of the Legal Profession (Dec. 13, 2011), http://www.law.georgetown.edu/news/releases/December.12.2011.html (announcing Jones' appointment and his focus on executive education).

94. Zach Lowe, *Hildebrandt, Baker Robbins to Merge*, AMLAW DAILY (Dec. 4, 2009, 1:45 PM), http://amlawdaily.typepad.com/amlawdaily/2009/12/hildebrandt-baker-robbins-to-merge.html.

95. *White & Case Develops Educational Programs for Indian Law School*, 3 GEEKS & L. BLOG (May 24, 2011), http://www.geeklawblog.com/2011/05/white-case-develops-educational.html.

training.[96] Taken together, these developments suggest the emergence of a global corporate market for legal education, and increasing segmentation between "global" and other schools.

This is not to say that the top U.S. law schools are focused only on the corporate market and have no other educational mission. Like U.S. law schools generally, top law schools traditionally have aimed to prepare J.D. graduates for a variety of private- and public-sector careers. Empirically, however, global corporate practice is peopled with the graduates of elite U.S. law schools,[97] and top schools send over half of their J.D. graduates into corporate practice.[98] Thus, elite law schools have many ready partners and suitors seeking alliance to increase their own access to the global corporate market.

B. Alliance Strategies Among Non-elite Schools

While the very top law schools have a clear target for market alliance and specialization, and can count on continuing demand for the costly, tailored training they offer, law schools outside this top group face a contracting and increasingly segmented market, and thus a more complex strategic challenge. On the one hand, law schools face growing pressure to deliver "practical" training, through resource-intensive clinics, skills courses, and other forms of experiential learning.[99] Yet, for most schools, a diverse portfolio of specialized, resource-intensive programs is increasingly unsustainable,[100] and all evidence suggests that cost pressures on law schools will only increase.[101]

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96. *See* Della Bradshaw, *Learning the Law Business*, FIN. TIMES (Nov. 25, 2011, 4:28 PM), http://www.ft.com/intl/cms/s/2/772ee59e-1641-11e1-a691-00144feabdc0.html#axzz1p0m6Ju4J.

97. *See* Silver, *supra* note 34, at 10–11 (discussing the importance of elite U.S. credentials in the hiring practices of international law firms).

98. *See* William D. Henderson & Andrew P. Morriss, *What Law School Rankings Don't Say About Costly Choices*, NAT'L L.J. (Apr. 14, 2008), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1207904889498, *available at* LexisNexis.Com, Nat'l L.J. Database Doc No. 900005508485 (reporting employment outcomes for 2005 law graduates); *see also Employment Trends for Law School Grads*, NAT'L L.J. (Apr. 14, 2008), http://www.law.com/pdf/nlj/20080414employment_trends.pdf. In 2005, most top ten law schools sent more than 50 percent of their graduates to the nation's largest 250 law firms, whereas law schools ranked twenty-six or lower sent fewer than 20 percent. *Id.*

99. *See generally* MACCRATE REPORT, *supra* note 42; William M. Sullivan et al., *Educating Lawyers: Preparation for the Profession of Law Summary*, CARNEGIE FOUND. FOR ADVANCEMENT TEACHING, 6 (2007), http://www.carnegiefoundation.org/sites/default/files/publications/elibrary_pdf_632.pdf (identifying the lack of "direct training in professional practice" as a major limitation of U.S. legal education); John Caher, *N.Y. State Bar Asks ABA to Support "Practice Ready" Law School Education*, N.Y. L.J. (Aug. 5, 2011), http://www.law.com/jsp/law/article.jsp?id=1202509595910&NY_State_Bar_Asks_ABA_to_Support_Practice_Ready_Law_School_Education; Press Release, N.Y. State Bar Ass'n, N.Y. State Bar Resolution Calls for Practice Ready Lawyers (Aug. 9, 2011), http://www.nysba.org/AM/Template.cfm?Section=About_NYSBA&template=/CM/ContentDisplay.cfm&ContentID=53626 (calling on law schools to provide more practical training). The resolution was adopted by the ABA at its annual meeting in August 2011. *Id.*

100. *See* U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-10-20, HIGHER EDUCATION: ISSUES RELATED TO LAW SCHOOL COST AND ACCESS (2009), *available at* http://www.gao.gov/

On the other hand, market specialization is risky and potentially unsustainable, too. There are few organized training partners outside of the bespoke corporate market, and those that exist tend to be unwilling (or unable) to subsidize law school training. Moreover, it is not obvious what role(s) law graduates will play in emerging "commodity"[102] corporate and "unbundled"[103] consumer markets. Traditional skills training is based on a model of individualized lawyer-client interaction that itself is likely to change significantly in the coming years.[104] Thus, most law schools (like their students) face a rapidly changing market without a blueprint for how to respond.

This section surveys emerging strategies for organizational alliance and specialization within this context, and speculates about likely future patterns. As this survey suggests, there are no easy answers, especially for incumbents of traditional markets in denial about the implications of change. Some analysts have given up on law schools' ability to respond strategically to changes in market conditions[105]—at least law schools run

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new.items/d1020.pdf (reporting that law schools' investment in small-scale, resource-intensive clinics and skills courses is a key factor driving up law school tuition); Jon Dubin, *Clinical Design for Social Justice Imperatives*, 51 SMU L. REV. 1461, 1468 n.36 (1998) (summarizing criticism of the MacCrate Report for "failing to sufficiently acknowledge the cost burdens" associated with its call for skills training).

101. *See* Burk & McGowan, *supra* note 31, at 105 (predicting that "[e]ven after the economy improves . . . [there will be] significantly fewer highly compensated entry-level large-firm jobs"); William D. Henderson & Rachel M. Zahorsky, *The Law School Bubble: How Long Will It Last if Law Grads Can't Pay Bills*, A.B.A. J., Jan. 2012, at 30 *available at* http://www.abajournal.com/magazine/article/the_law_school_bubble_how_long_will_it_last_if_law_grads_cant_pay_bills/ (discussing the implications of likely curbs on federal student lending); Nathan Koppel, *Law School Loses Its Allure as Jobs at Firms Are Scarce*, WALL ST. J., Mar. 17, 2011, at A4 (reporting an 11.5 percent drop in applications to law school from 2010 to 2011).

102. *See* SUSSKIND, *supra* note 35, at 28–33 (explaining the movement toward commodity work); Furlong, *supra* note 36 (defining "commodity" work as work traditionally provided by large law firms that can be provided at a significantly lower cost by contract lawyers, lawyer staffing companies, or legal process outsourcing companies).

103. *See* Mansfield & Trubek, *supra* note 4, at 379 (describing emerging models for limited and unbundled legal assistance); Jessica K. Steinberg, *In Pursuit of Justice? Case Outcomes and the Delivery of Unbundled Legal Services*, 18 GEO. J. ON POVERTY L. & POL'Y 453, 454 (2011) (discussing increasing efforts to deliver limited and unbundled legal services as a "conscious and deliberate access to justice strategy").

104. *See* Chambliss, *supra* note 20, at 24 (discussing the increasing importance of legal expert systems); Paul Lippe, *A Professional Renewal: Why Great Lawyers of the New Age May Be "System Designers,"* A.B.A. J. (June 8, 2011, 2:43 PM), http://www.abajournal.com/legalrebels/article/professional_renewal_in_the_new_normal/ (quoting David Johnson, who predicts an increasing role for lawyers as "system designers"); *see also* Larry E. Ribstein, *Practicing Theory: Legal Education for the Twenty-First Century*, 96 IOWA L. REV. 1649, 1667–69 (2011) (discussing lawyers' emerging role as "information engineers").

105. *See* David Barnhizer, *Redesigning the American Law School*, 2010 MICH. ST. L. REV. 249, 253; *see also id.* at 252 ("[I]t seems delusional to contemplate a situation in which traditional law faculties will collectively decide on coherent and effective strategies that will inevitably alter their workplace conditions and focus. . . . It is outside forces and external institutions that will force the process.").

by faculty under a collegial (or "partnership") model.[106] Clearly, however, the market is changing, and law schools capable of strategic action will have a market advantage. A more important question is whether law schools, collectively, can deliver high-quality, affordable training outside of the bespoke corporate sector.

1. Collaboration, Consortia, and Mergers

One potential market strategy for non-elite law schools is closer collaboration with other U.S. law schools around particular subject areas, distance learning platforms, or other institutional interests. Yet there is little history of institutional collaboration between U.S. law schools to provide J.D. training. Although law schools collaborate on particular courses,[107] advocacy projects,[108] and recruiting events,[109] and law school reformers increasingly call for collaboration and cost-sharing among schools,[110] for the most part, sustained training alliances between U.S. law

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106. *See* George B. Shepherd & William G. Shepherd, *Scholarly Restraints? ABA Accreditation and Legal Education*, 19 CARDOZO L. REV. 2091, 2111 (1998) (comparing the partnership model of faculty governance to a proprietary model).

107. *See, e.g.*, LAWWITHOUTWALLS, http://www.lawwithoutwalls.org/about/ (last visited Apr. 21, 2012) (a part-virtual, collaborative seminar involving six U.S. law schools as well as foreign law and business schools, sponsored by University of Miami School of Law); *Consortium*, EDUCATING TOMORROW'S LAW., http://educatingtomorrowslawyers.du.edu/schools/ (last visited Apr. 21, 2012). Educating Tomorrow's Lawyers (ETL) is a curricular consortium of twenty law schools aimed at implementing "more integrated approaches to legal education," in the spirit of the Carnegie Report. *About ETL: Our Mission*, EDUCATING TOMORROW'S LAW., http://educatingtomorrowslawyers.du.edu/about-etl/our-mission/ (last visited Apr. 21, 2012). William Sullivan, the principal author of the Carnegie Report, is the Director of ETL. *About ETL: Welcome from Bill Sullivan*, EDUCATING TOMORROW'S LAW., http://educatingtomorrowslawyers.du.edu/about-etl/welcome-from-bill-sullivan/ (last visited Apr. 21, 2012).

108. *See, e.g.*, Gabrielle Lessard, *Introduction: The Interuniversity Poverty Law Consortium*, 42 WASH. U. J. URB. & CONTEMP. L. 57 (1992) (consortium focused on linking poverty law scholarship, teaching, and advocacy); *The Law School Consortium Project*, U. MD. FRANCIS KING CAREY SCH. L., PROGRAMS & CENTERS, http://www.law.umaryland.edu/programs/clinic/initiatives/lscp/index.html (last visited Apr. 21, 2012) [hereinafter *LSCP*] (consortium focused on providing resources to solo and small-firm practitioners, as means for increasing consumer access to legal services); Michael L. Perlin, *Online, Distance Legal Education as an Agent of Social Change*, 24 PAC. MCGEORGE GLOBAL BUS. & DEV. L.J. 95, 99–106 (2011) (online program and consortia focused on mental disability law).

109. *See, e.g.*, *Commonwealth Law School Consortium Spring Interview Program*, WM. & MARY L. SCH., http://law.wm.edu/careerservices/employers/springjobfair/index.php (last visited Apr. 21, 2012) (consortium of Virginia law schools that sponsors annual recruiting events); MASS. L. SCH. CONSORTIUM, http://www.maconsortium.org/ (last visited Apr. 21, 2012) (consortium of Massachusetts law schools that sponsors recruiting and professional development events); NAT'L L. SCH. CONSORTIUM, http://www.law.arizona.edu/career/nlsc/index.cfm (last visited Apr. 21, 2012) (consortium of nine public law schools that sponsor a national recruiting conference).

110. *See* Matasar, *supra* note 9, at 1623–24 (identifying cooperation between law schools as a key strategy for lowering the costs of legal education); Rachel M. Zahorsky, *Law Schools Need to Partner Up to Help Deflate Rising Tuition, Dean Says*, A.B.A. J. (Mar. 29, 2011, 9:04 AM), http://www.abajournal.com/news/article/law_schools_need_to_partner-up_to_help_deflate_rising_tuition_Dean_Says (discussing calls for "[s]hared faculty appointments, facilities, and technology"); *see also* Anne Trubek, *'Wither' the Liberal Arts College*, MILLER-MCCUNE (Sept. 27, 2011), http://www.miller-mccune.com/education/

schools have been stymied by unstable funding and/or competition between schools.

For instance, in the late 1980s, a group of law faculty organized the Interuniversity Poverty Law Consortium, aimed at establishing a network of law schools to promote poverty law teaching and advocacy.[111] Funded by the Ford Foundation, the consortium began with three law schools in 1989[112] and later expanded to include thirty schools.[113] The consortium focused primarily on linking poverty law teaching and scholarship to poverty law advocacy,[114] in part through peer exchanges between schools.[115] These peer exchanges prompted advocacy projects and the first-ever poverty law casebook.[116] Once the Ford money ran out, however, the consortium languished. The last edition of the consortium newsletter, *Consorting*, was issued in 1994.[117]

A similar effort, the Law School Consortium Project (LSCP), was launched in 1997, with grants from the Open Society Institute's Program on Law & Society.[118] Founded by four law schools and later expanded to seventeen,[119] "[t]he LSCP was conceived as an experiment to design, evaluate, and promote programs that extend the educational and professionalism missions of law schools beyond graduation to provide training, mentoring, and other support to solo and small-firm lawyers."[120] Its central focus was the development of practitioner networks to provide resources to solo and small-firm lawyers committed to serving low and moderate-income clients. But the grants ran out and, in 2009, the LSCP "went into a state of rest."[121] According to a description of the project on the University of Maryland Law School website, "Local and regional LSCP initiatives continue to work together on an ad-hoc basis, furthering the mission and goals of LSCP and networking to increase access to justice."[122]

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wither-the-liberal-arts-college-36476/ (discussing calls for liberal arts colleges "to band together to ensure their collective survival" through tuition and curricular consortia).

111. *See* Louise G. Trubek, *Introduction to the Symposium on New Approaches to Poverty Law, Teaching, and Practice*, 4 B.U. PUB. INT. L.J. 235, 235 (1995) (describing the history of the consortium).

112. *Id.* The initial members were Harvard Law School, UCLA, and the University of Wisconsin Law School. *See* Lessard, *supra* note 108, at 57–58.

113. Trubek, *supra* note 111, at 236.

114. *Id.* at 235–36. As Trubek describes it, "Each member conducted a project on poverty law through a case-study method at her own school. The Project Group met periodically to discuss their work, analyze their success and share their resistances. A volume of nine of these case studies was published in 1992." *Id.*

115. *Id.* at 236 (describing eleven peer exchanges between ten law schools in 1993–94).

116. *Id.* at 242.

117. *Id.* at 235 n.3; *see also* Lessard, *supra* note 108, at 61–62.

118. *See LSCP*, *supra* note 108.

119. *Id.* (follow "Membership" hyperlink). The founding members were CUNY Law School, Northeastern University School of Law, St. Mary's University School of Law, and the University of Maryland School of Law. *Id*.

120. *Id.* (follow "History of the LSCP" hyperlink).

121. *Id.* (stating that the LSCP had "achieved its goal of establishing successful practitioner networks to assist solo and small-firm lawyers serving low and moderate-income individuals and communities nationwide").

122. *Id.*

More recently, law schools have attempted to form consortia to advance distance learning initiatives, with disappointing results. In 2011, as part of the culmination of the Future Ed project, a year-long contest of ideas for innovation in legal education,[123] New York Law School announced the formation of a "discussion group" to consider the development of a shared platform for distance learning and the creation of legal games and software, and invited other law schools to join.[124] Five other deans agreed to discussions and were listed in the initial press release,[125] but the effort floundered almost immediately when schools were reluctant to put up funds. Richard Matasar, who led the initiative, has since left his position as Dean and President of New York Law School to become Vice President for University Enterprise Initiatives at New York University.[126]

One possible solution to the funding problem is corporate ownership and the development of proprietary consortia. For instance, the InfiLaw System is a consortium of independent, for-profit law schools aimed at establishing "student-centered, ABA-accredited law schools in underserved markets."[127] The consortium includes Florida Coastal School of Law, Phoenix School of Law, and Charlotte School of Law, all of which are ABA-accredited.[128] Member schools operate as independent institutions, managing all admissions and academic programs, while InfiLaw administers non-academic functions and advises members about best practices and opportunities for innovation.[129] InfiLaw is backed by Sterling Partners, a private equity firm "with approximately $4 billion of assets under management."[130] Some observers predict the emergence of additional

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123. *See Future Ed: New Business Models for U.S. and Global Legal Education*, N.Y.L. SCH., http://www.nyls.edu/centers/harlan_scholar_centers/institute_for_information_law_and_policy/events/future_ed (last visited Apr. 21, 2012) (describing the project and linking to conference programs and proposals).

124. *See* Martha Neil, *6 Law Schools Form Global Group to Discuss Legal Tech Collaboration, Invite Others to Join*, A.B.A. J. (Apr. 18, 2011, 12:56 PM CDT), http://www.abajournal.com/news/article/6_law_schools_form_global_group_to_discuss_legal_tech_collaboration_invite_/.

125. Press Release, N.Y. Law Sch., Six Law School Deans Form a Discussion Group on Ways to Collaborate on More Effective Use of Technology in Legal Education (Apr. 18, 2011), http://www.nyls.edu/news_and_events/releases/dean_discussion_group/. The six schools were Australian National University College of Law, IIT Chicago-Kent College of Law, the University of Miami School of Law, New York Law School, the University of the Pacific McGeorge School of Law, and Southwestern Law School.

126. *Rick Matasar from Dean of New York Law to NYU*, FAC. LOUNGE, (Jan. 9, 2012), http://www.thefacultylounge.org/2012/01/rick-matasar-from-dean-of-new-york-law-to-nyu.html.

127. INFILAW SYS., http://www.infilaw.com/ (last visited Apr. 21, 2012).

128. *About Us*, INFILAW SYS., http://www.infilaw.com/infilaw/node/1 (last visited Apr. 21, 2012). In 1999, Florida Coastal School of Law became the first for-profit law school accredited by the ABA. Phoenix School of Law was accredited in 2007. Charlotte School of Law was accredited in 2008. *ABA Approved Law Schools*, A.B.A. SEC. LEGAL EDUC. & ADMISSIONS TO B., http://www.americanbar.org/groups/legal_education/resources/aba_approved_law_schools/in_alphabetical_order.html (last visited Apr. 21, 2012).

129. *About Us*, *supra* note 128.

130. *Id.*

proprietary consortia, as well as the sale of some existing university law schools to corporations.[131]

Merger is another "collaborative" solution for independent and/or cash-strapped law schools, as historic[132] and recent examples suggest. In addition to the direct economic benefits of shared infrastructure, affiliation with a name university tends to buoy the reputation of independent law schools and improve graduates' employment prospects.[133] For instance, in 1995, facing declining enrollments, the Detroit College of Law affiliated with Michigan State University and, in 1997, the law school relocated to the Michigan State campus in East Lansing.[134] In 2004, the law school changed its name to Michigan State University College of Law.[135] Although the law school remains administratively and financially independent, applications have "zoomed" since the move, and students view the affiliation with a state university as a significant boost to their careers.[136]

Dickinson School of Law is another example of a merger with reputational benefits. In 1997, "[i]n the face of increasing demand for high-cost technology, for costly, labor-intensive clinical education, and high-quality faculty,"[137] the Dickinson School of Law in Carlisle, Pennsylvania—then listed in the unranked third tier by U.S. News & World Report,[138]—decided to merge with Pennsylvania State University, 100 miles away.[139] Applications to "Penn State Law" increased nearly thirty percent in 2000, the year that the merger was complete.[140] In 2008, the law

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131. *See, e.g.*, Barnhizer, *supra* note 105, at 298–99 (stating that financial pressure may lead both public and private university law schools to enter "'public-private' partnership arrangements in which they sell their law schools to corporations to operate for profit or enter management contracts with private companies to run existing law schools").

132. ROBERT STEVENS, LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S 5 (1983) (discussing mergers between proprietary law schools and universities in the 1820s).

> The private law schools were interested in the affiliation largely because it gave prestige and because, in most states, only universities were empowered to give degrees. Why the universities were interested in the arrangement was less clear. Perhaps it gave them greater influence among the local elite . . . . The arrangements certainly cost the universities nothing.

Id.

133. *See* Michael Ariens, *Law School Branding and the Future of Legal Education*, 34 ST. MARY'S L.J. 301, 338–43 (2003) (discussing the rebranding of independent law schools through mergers with universities).

134. *See Merger to Bring Law School to Michigan State Campus: The Detroit College of Law Will Be Brought to the East Lansing University*, GRAND RAPIDS PRESS, Feb. 28, 1995, at A9.

135. *MSU Law School Name Change Reflects Integration and Collaboration*, MICH. ST. U., http://news.msu.edu/story/491/ (last visited Apr. 21, 2012).

136. Ariens, *supra* note 133, at 339–40.

137. Charles Thompson, *Dickinson Trustees Felt Now Was the Time; Changes in Legal Business Helped Prompt Merger with Penn State*, HARRISBURG PATRIOT, Jan. 19, 1997, at B3 (quoting Dickinson President Robert Frey).

138. Ted Gest, *Top Schools*, U.S. NEWS & WORLD REP., Mar. 10, 1997, at 76.

139. Jacques Steinberg, *Penn State Merges with Dickinson Law*, N.Y. TIMES, Jan. 22, 1997, at B4.

140. Ariens, *supra* note 133, at 341.

school opened a second location in a new building on the Penn State campus in State College.[141] In 2012, "Pennsylvania State University (Dickinson)" was ranked 76 by U.S. News.[142]

Of course, universities may be cash-strapped, too, making planners wary. In 1998, South Texas College of Law in Houston proposed an affiliation with Texas A&M University,[143] but was denied by the Texas Higher Education Coordinating Board.[144] Merger talks also stalled between Nashville School of Law and Tennessee State University, due to the law school's concerns about "the state's persistent budget troubles."[145] In 2010, the San Diego Union reported that U.C. San Diego and California Western Law School had entered preliminary negotiations to merge or affiliate under one name,[146] but talks were suspended fifteen months later due to concerns about the state's fiscal crisis.[147]

Notwithstanding these examples, law school merger activity will likely increase as the market continues to tighten. Merger activity has increased significantly among law firms seeking a sustainable platform, especially regional mergers in Sun Belt markets such as Los Angeles, Houston, and Charleston, South Carolina.[148] Law schools, too, can be expected to seek an expanded presence in these markets through merger and branching,[149]

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141. *Visit Penn State Law*, PENN ST. L., http://law.psu.edu/prospective_students/visit_penn_state_law (last visited Apr. 21, 2012).

142. *Best Law Schools*, U.S. NEWS & WORLD REP. (2012), http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-rankings (follow page "4" hyperlink).

143. Lydia Lum, *Putting South Texas on the Map*, HOUS. CHRON. (July 25, 1998), http://www.chron.com/CDA/archives/archive.mpl/1998_3071604/putting-south-texas-on-the-map.html; Lydia Lum, *South Texas Law Students Back A&M/Name Recognition Will Aid Their Careers*, HOUS. CHRON. (Mar. 26, 1998), http://www.chron.com/CDA/archives/archive.mpl/1998_3043708/south-texas-law-students-back-a-amp-m-name-recogni.html.

144. Lydia Lum, *Board Rejects A&M Alliance with Law School; Latest Blow in Quest for Program*, HOUS. CHRON. (July 17, 1998), http://www.chron.com/CDA/archives/archive.mpl/1998_3069830/board-rejects-a-amp-m-alliance-with-law-school-lat.html.

145. *Law School, Tennessee State End Merger Negotiations*, BLACK ISSUES HIGHER EDUC., May 9, 2002, at 20, *available at* 2002 WLNR 5204786. The merger negotiations were "required by the settlement of a desegregation lawsuit against Tennessee's higher education system." *Id.* Tennessee faced a $350 million shortfall in the fiscal year ending June 30, 2002. *Id.*

146. *Yet Another Law School Merger? UC San Diego, Meet Cal Western*, FAC. LOUNGE (Jan. 29, 2010), http://www.thefacultylounge.org/2010/01/yet-another-law-school-merger-ucsd-meet-cal-western.html (stating "there is talk of entering into a Michigan State / Detroit College of Law agreement which allows for a single name, but separate corporate entities").

147. Pauline Repard, *UCSD, Cal Western Talks for Law School Suspended*, U–T SAN DIEGO NEWS (Apr. 6, 2011), http://www.utsandiego.com/news/2011/apr/06/ucsd-cal-western-merger-talks-law-school-called/.

148. *See* Brian Baxter, *Report: Law Firm Merger Boom to Continue in 2012*, AMLAW DAILY (Jan. 4, 2012), http://amlawdaily.typepad.com/amlawdaily/2012/01/mergers-2012.html (reporting that law firm merger activity increased 65 percent between 2010 and 2011, and predicting that the trend will continue).

149. Thomas M. Cooley Law School will open a new branch campus near Tampa in May, 2012. Sean O'Reilly, *America's Largest Law School Breaking Ground for a New Campus in Riverview*, ABC ACTION NEWS (Sept. 20, 2011), http://www.abcactionnews.com/dpp/news/region_south_hillsborough/riverview/america's-largest-law-school-breaking-ground-for-florida-campus-in-riverview.

as well as the start-up of new proprietary schools.[150] Meanwhile, merger talks are on the table even at state university law schools, such as Rutgers University in Camden, New Jersey.[151] Thus, while U.S. law schools have shown little appetite for institutional collaboration to deliver basic (J.D.) training, law schools, like law firms, may be headed for more radical changes in ownership and organizational form.

2. Accelerated Degrees

Another emerging market strategy among non-elite as well as elite law schools is the development of accelerated degrees.[152] As is the case among elite law schools, many of these initiatives are aimed at the LL.M. market in specialty areas such as business and tax. Accelerated programs allow students to begin LL.M. study while pursuing a J.D. degree, to save time and tuition costs—and, ideally, to give students a leg up in the employment market.[153] For instance, Boston University offers an accelerated J.D.-LL.M. program in taxation, reporting that "[e]mployers seeking help in the tax area are increasingly citing the degree as a prerequisite, and students often find that the broad range of tax issues explored in the Graduate Tax Program cannot be learned on the job."[154] Three law schools, Dayton University School of Law,[155] Northwestern,[156] and Southwestern Law

150. Charleston School of Law, a for-profit law school, opened in Charleston, South Carolina in 2003 and became fully ABA-accredited in August 2011. Robert Behre, *Charleston School of Law Receives Accreditation*, POST & COURIER (Aug. 5, 2011), http://www.postandcourier.com/news/2011/aug/05/charleston-school-law-receives-accreditation/. Lawyers and developers also recently floated a plan for a new, independent law school in Daytona Beach, Florida, arguing that "the area is ripe for a law school." Eileen Zaffiro-Kean, *Law School Possible at Old Daytona Police Building*, DAYTONA BEACH NEWS-J. (Mar. 28, 2012, 12:30 AM), http://www.news-journalonline.com/news/local/east-volusia/2012/03/28/law-school-possible-at-old-daytona-police-building.html.

151. *See* Joe Green, *New Jersey Lawmakers Await Plan on Merger of Rowan, Rutgers-Camden*, GLOUCESTER COUNTY TIMES (Jan. 27, 2012, 4:00 AM), *available at* http://www.nj.com/gloucester-county/index.ssf/2012/01/new_jersey_lawmakers_await_pla.html (discussing Governor Christie's endorsement of a proposal to merge Rutgers-Camden with Rowan University as part of an overhaul of the state's higher education system); Joe Cooney, *Rutgers Law Students Decry Merger Plan*, COURIER-POST (Jan. 31, 2012), *available at* 2012 WLNR 2108610 (reporting students' concerns about the reputational costs of losing the Rutgers name).

152. Shawn P. O'Connor, *Law Admissions Lowdown: Look for These 3 Law School Trends in 2012*, U.S. NEWS & WORLD REP. (Jan. 2, 2012), http://www.usnews.com/education/blogs/law-admissions-lowdown/2012/01/02/look-for-these-3-law-school-trends-in-2012 (discussing the trend toward accelerated degrees).

153. *But see* Karen Sloan, *Big Firms Don't Care About Your LL.M., Recruiter Warns*, NAT'L L.J. (Jan. 10, 2012), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202537948154 (stating that, except in the area of tax, LL.M.s do not help and may actually hurt the job prospects of U.S. law graduates, because they "may signal uncertainty about their career paths or attempts to avoid the reality of a difficult job search").

154. *Accelerated LL.M. in Taxation*, B.U. SCH. L., http://www.bu.edu/law/prospective/jd/dual/taxation.html (last visited Apr. 21, 2012).

155. *Earn Your J.D. in 2 Years*, U. DAYTON SCH. L., http://www.udayton.edu/law/academics/jd_program/two_year_option.php (last visited Apr. 21, 2012).

School,[157] also offer stand-alone, accelerated J.D. degrees, allowing students to compress three years of study into two years and three summers.

As part of this trend, a number of law schools have begun to partner with other graduate programs to develop accelerated, post-graduate degrees. For instance, as discussed above, many U.S. law schools partner with their university's business school to offer accelerated J.D.-M.B.A.s.[158] Some law schools also have begun to partner with outside institutions to offer accelerated J.D.-M.A. programs in new specialty areas. For instance, New York Law School recently announced an alliance with the John Jay College of Criminal Justice to provide a dual J.D.-M.A. program in law and forensic psychology.[159] The program allows students to complete both degrees in four years instead of five.[160] Northeastern University School of Law recently introduced four-year J.D.-M.A. degrees in Sustainable International Development, in partnership with Brandeis University,[161] and in Environmental Law and Policy, in partnership with Vermont Law School.[162]

Non-elite law schools are also increasingly partnering with undergraduate schools to provide accelerated B.A.-J.D. degrees. Such programs, referred to as "three plus three" programs, allow students to combine some requirements of the bachelor's degree with the requirements of J.D. study so as to complete both degrees in six years instead of seven. Typically, students receive their bachelor's degree after the first year of law school. At least sixteen law schools offer three plus three programs, all but three of which are ranked below the top fifty by *U.S. News & World Report*.[163]

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156. *Accelerated J.D.*, NW. UNIV. SCH. L., http://www.law.northwestern.edu/academics/ajd/ (last visited Apr. 21, 2012) (stating that it is "the first top tier law school to offer an accelerated JD program").

157. *Two Year J.D.: SCALE*, SW. L. SCH., http://www.swlaw.edu/academics/jd/scale (last visited Apr. 21, 2012) (stating that "Southwestern established the first two-year J.D. program in the country").

158. *See J.D.-M.B.A. Programs*, WHAT DOES MBA STAND FOR?, http://www.what-does-mba-stand-for.com/jd-mba-programs/ (last visited Apr. 21, 2012) (providing a list of J.D.-M.B.A. and accelerated J.D.-M.B.A. programs at 133 schools).

159. Karen Sloan, *New York Law and John Jay to Offer Joint Degree in Law and Forensic Psychology*, NAT'L L.J. (Nov. 28, 2011), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202533681232.

160. *See id.*

161. *JD/MA in Sustainable International Development with Brandeis University*, NE. U. SCH. L., http://www.northeastern.edu/law/academics/curriculum/concurrentdualdegree/jdma.html (last visited Apr. 21, 2012).

162. *Northeastern Law Partners Up to Create Dual Degree Programs*, NAT'L JURIST (Oct. 5, 2009, 1:57 PM), http://www.nationaljurist.com/content/northeastern-law-partners-create-dual-degree-programs.

163. *See Accelerated JD Program*, WIKIPEDIA, http://en.wikipedia.org/wiki/Accelerated_JD_program (last visited Apr. 21, 2012) (listing schools that offer an accelerated J.D. degree, and linking to more information about each school's program). Law schools offering three plus three programs in partnership with undergraduate schools are Albany Law School, IIT Columbia Law School, Creighton University School of Law, Florida Coastal School of Law, Fordham University School of Law, Georgia State University College of Law, Hamline University Law School, Hofstra Law School, IIT Chicago-Kent College of Law, Rutgers School of Law–Camden, Seton Hall Law School, Southwestern Law School, Tulane Law School, University of Pennsylvania Law School, University of St. Thomas School of Law,

One law school has even created its own, two-year feeder college aimed at students who have not completed a traditional undergraduate degree.[164] The single-subject college, the American College of History and Legal Studies (ACHLS), is billed as a "sister school" to the Massachusetts School of Law, and intended "for students with two years of community college, people who dropped out of a traditional four-year college, or people who are returning to school following a long absence."[165] Tuition at the college is modest, only $10,000 per year,[166] with full-tuition scholarships for students who enroll for their junior year in 2012.[167] ACHLS students with a GPA of 2.3 or higher are automatically eligible for admission to the law school, and may opt into the law school's three plus three program, combining their second year at the college with the first year of law school.[168]

The move toward accelerated J.D. degrees in alliance with undergraduate schools suggests a potential new source of segmentation within U.S. legal education, between an entry-level undergraduate-oriented J.D. (or LL.B.) degree and a more specialized graduate J.D. (or J.D.-plus) degree. Such a split has many potential advantages in a diverse legal market in which, currently, most J.D. graduates incur $100,000 or more in educational debt.[169] A number of commentators have called for shortening or even eliminating the J.D. requirement for admission to the bar,[170] and many

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and Willamette University College of Law. Only Columbia (4), Fordham (29), and University of Pennsylvania (7) are ranked among the top fifty law schools in 2012 by *U.S. News & World Report*. *See Best Law Schools*, *supra* note 142.

164. *See* Karen Sloan, *Massachusetts School of Law Finances Feeder College*, NAT'L L.J. (Apr. 29, 2010), http://www.lawjobs.com/newsandviews/LawArticleFriendly.jsp?id=1202454467152&slreturn=1 (discussing the creation of the two-year college).

165. *Id.*; *see also* AM. C. HIST. & LEGAL STUD., http://achls.org/ (last visited Apr. 21, 2012) (advertising "articulation agreements with community colleges in both New Hampshire and Massachusetts").

166. Sloan, *supra* note 164.

167. *ACHLS Announces Free Tuition to Qualified Students Who Start Their Junior Year at ACHLS in 2012-13*, AM. C. HIST. & LEGAL STUD., http://achls.org/content/tuition-and-scholarships/Free-College-Tuition.html (last visited Apr. 21, 2012).

168. Sloan, *supra* note 164. The Massachusetts School of Law is accredited by the New England Association of Schools and Colleges, and graduates are eligible to take the Massachusetts and Connecticut bar exams. *See* Sacha Pfeiffer, *Mass. School of Law Urges US to Reduce Clout of Bar*, BOS. GLOBE (Dec. 5, 2006), http://www.boston.com/business/globe/articles/2006/12/05/mass_school_of_law_urges_us_to_reduce_clout_of_bar/ (discussing the school's ongoing battle for ABA accreditation and noting that "[the school] has also spent much of its existence" contesting the ABA's "'monopolistic' accreditation policies").

169. Debra Cassens Weiss, *GAO Puts Blame on US News Rankings for High Law School Tuition*, A.B.A. J. (Oct. 27, 2009), http://www.abajournal.com/news/article/why_you_can_blame_us_news_instead_of_the_aba_for_high_law_school_tuition/ (reporting that the average debt for private law school graduates was $91,506 in 2007–08, and the average debt for public law graduates was $71,436); *see also* Debra Cassens Weiss, *Average Debt of Private Law School Grads Is $125K; It's Highest at These Five Schools*, A.B.A. J. (Mar. 28, 2012), http://www.abajournal.com/news/article/average_debt_load_of_private_law_grads_is_125k_these_five_schools_lead_to_m (reporting that the average educational debt for private law school graduates was nearly $125,000 in 2011–12).

170. *See* Chambliss, *supra* note 20, at 19 (arguing that the United States should move toward a two-year J.D., while continuing to develop specialized pre- and post-J.D. training);

countries outside the United States offer law as an undergraduate degree.[171] Ultimately, re-sequencing basic versus specialized legal training may be a better approach to restructuring U.S. legal education than the further segmentation of J.D. programs according to the characteristics of initial employers.[172]

Currently, ABA accreditation standards limit the potential for accelerated J.D. training to the "three plus three" and "two year/three summer" models described above,[173] and most states require bar applicants to have graduated from an ABA-accredited law school (or to have passed a bar exam in another state).[174] However, market developments are likely to increase demand for regulatory changes as well as new forms of pre-law credentialing,[175] and most law schools have market incentives to diversify beyond the J.D. degree.[176] Thus, the move to accelerate J.D. training should be viewed as evidence—and a harbinger—of increasing downward pressure on U.S. legal education and licensing requirements.

3. Alliances with Local Market Constituents

A third market strategy among non-elite law schools is the formalization of training alliances with solo and small firm practitioners and other local market constituents, including (most notably) hospitals and courts. These typically small-scale alliances take many forms, most of which grow out of the clinical movement in legal education and suffer from the same resource limitations as law school clinics. Like clinics, however, they suggest potential training partners outside of the corporate market, and potential strategies for subsidizing "local" legal training.

For instance, a number of law schools have sought formal alliances with solo and small firm practitioners by providing tailored continuing legal

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McGinnis & Mangas, *supra* note 22 (suggesting that law be an undergraduate degree); Aric Press, *Fixing Law School*, AMLAW DAILY (Sept. 7, 2011), http://amlawdaily.typepad.com/amlawdaily/2011/09/fixing-law-school.html (calling upon the ABA to end the "six-semester tyranny" and provide more "freedom to experiment").

171. *See supra* notes 23–25 and accompanying text.

172. *See* Chambliss, *supra* note 20, at 3 (arguing for rethinking the sequencing of U.S. legal education, to create more flexible entry and exit points at various stages of specialization).

173. ABA STANDARDS, *supra* note 27, http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2012_standards_chapter_3.pdf (Standard 304, establishing the minimum period of academic instruction required for graduation; and 305, regulating credit for field placement programs and other study outside the classroom); *see also* Christopher T. Cunniffe, *The Case for the Alternative Third-Year Program*, 61 ALB. L. REV. 85, 87–94 (1997) (discussing the history and justifications for the ABA's duration and location requirements).

174. *Comprehensive Guide to Bar Admission Requirements*, NAT'L CONF. B. EXAMINERS & A.B.A. SEC. LEGAL EDUC. & ADMISSIONS TO B. 8 chart 3 (2012), http://www.ncbex.org/assets/media_files/Comp-Guide/CompGuide.pdf.

175. *See* Chambliss, *supra* note 20, at 16–20 (discussing downward pressure on legal education and licensing standards).

176. *See* Barnhizer, *supra* note 105, at 309 (stating that "many people want to possess legal knowledge even if they don't want to practice law"); Matasar, *supra* note 9, at 1621–22 (discussing the market for training certificates and ancillary degrees).

education (CLE), either in traditional, face-to-face formats or in partnership with online CLE providers. Pace Law School, for instance, has developed a customized CLE program in legal writing in collaboration with small firm practitioners, who in turn are encouraged to mandate employees' completion of the program.[177] Likewise, Villanova has created a Writing in Practice Partnership with local practitioners, as well as customized CLE training for specific employers.[178] In 2011, New York Law School launched a partnership with Lawline.com, a major provider of online CLE materials run by a 2006 New York Law School graduate.[179]

Such programs are designed to foster closer bonds with alumni and potential employers by addressing the post-graduate training needs of "small- to medium-sized regional employers."[180] CLE partnerships also may create an important revenue stream for the law school, and a platform for potential expansion into the online legal information market.[181] In many respects, such initiatives parallel elite law schools' initiatives to provide executive education. Moreover, CLE training is mandatory for lawyers in most jurisdictions.[182] Thus, law school alliances to provide CLE training are well positioned to capitalize on built-in market demand.

Another emerging form of alliance between law schools and solo and small firm practitioners are "solo practice incubators": in-house law firms created and supported by law schools to serve low- and middle-income clients and to help recent graduates learn how to start their own practices. In the past five years, at least four law schools have launched solo practice incubators, including the City University of New York School of Law, the University of Missouri-Kansas City School of Law, the University of Maryland School of Law, and Pace Law School.[183] In a related development, the University of Utah S.J. Quinney College of Law is piloting an alliance with a standalone, "low bono" law firm, in an arrangement intended to "mirror the clinical configuration of the University's medical school and adjoining hospital."[184]

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177. *See* Littman & Mooney, *supra* note 4, at 2–3 (describing the program). Lawyers who complete the program receive five hours of CLE credit and a Legal Writing Skills Certificate. *Id.* at 3.

178. *Id.* at 5–7.

179. Press Release, N.Y. Law Sch. & Lawline.com, New York Law School Announces Online Legal Learning Alliance with Lawline.com (Apr. 8, 2011), *available at* http://www.prweb.com/releases/2011/4/prweb8285352.htm.

180. Littman & Mooney, *supra* note 4, at 6.

181. Press Release, *supra* note 179 (stating that the goal of the alliance is to "bring online legal learning resources to law students," as well as to develop "short, targeted segments" for a popular audience).

182. *See ABA Center for Continuing Legal Education*, ABA, http://www.abanet.org/cle/mandatory.html?gnav=global_cle_mcleinformation (providing details of each state's CLE requirements).

183. *See* Karen Sloan, *Pace Solo Incubator Will Assist Low-Income Clients*, NAT'L L.J. (Nov. 15, 2011), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202532527024.

184. *Utah Law School Offers 'Low Bono' Services with Recent Graduates*, SALT LAKE TRIB. (Nov. 18, 2011, 8:09 PM), http://www.sltrib.com/sltrib/news/52938370-78/law-services-legal-low.html.csp.

The incubator model is reminiscent of fee-generating law clinics, which at least one law school has used successfully to offset the high costs of clinical training.[185] This model has renewed appeal in an increasingly cost-conscious market, with reformers clamoring for hands-on training. The question is to what extent such programs are scalable, or capable of attracting sustained subsidies from external constituents. Whatever their benefits, solo practice incubators and "low bono" law firms cannot, on their own, produce enough revenue to substantially reduce or subsidize the costs of traditional J.D. education.[186] Instead, such initiatives need organizational partners—or patrons.

Hospitals are one possible partner for some types of clinical training.[187] The National Center for Medical-Legal Partnerships counts 235 medical-legal partnerships based in hospitals and community health centers,[188] and forty participating law schools.[189] Such partnerships take a variety of forms but share a core mission of improving public health by delivering integrated medical and legal services to "vulnerable individuals, children, and families."[190] This shared mission has facilitated the rapid replication of the medical-legal partnership model, as well as access to a potentially broad range of funding and resources.[191]

Courts are another potential partner for training alliances in specialized practice areas, especially those increasingly involving self-representation by litigants, such as family courts. For instance, several law schools have developed clinics to support and evaluate the effects of "unbundled" legal services in family law cases, with the goal of providing law students with training in limited assistance relationships, as well as assessing the value of different levels of assistance.[192] Such efforts fill a growing need for evidence-based assessment of full-service versus other models of legal

185. *See About the Fee Generating Model in Clinical Legal Education*, IIT CHI-KENT C. L., http://www.kentlaw.edu/academics/clinic/fee.html (last visited Apr. 21, 2012). *See generally* Richard A. Matasar, *A Commercialist Manifesto: Entrepreneurs, Academics, and Purity of the Heart and Soul*, 48 FLA. L. REV. 781 (1996) (defending the fee-generating model from criticisms of commercialization).

186. *See* Nic Dunn, *Law Group Offers Low Bono Help*, DAILY UTAH CHRON. (Nov. 22, 2011), http://www.dailyutahchronicle.com/?p=2559714 (stating that the Utah program's "initial capacity will be limited" and there is currently no physical office).

187. *See* Mansfield & Trubek, *supra* note 4, at 374 (discussing medical-legal partnerships).

188. *See About Us*, NAT'L CENTER FOR MED.-LEGAL PARTNERSHIP, http://www.medical-legalpartnership.org/about-us (last visited Apr. 21, 2012) (defining the mission of medical-legal partnerships).

189. *See Law Schools*, NAT'L CENTER FOR MED.-LEGAL PARTNERSHIP, http://www.medical-legalpartnership.org/mlp-network/law-schools (last visited Apr. 21, 2012).

190. *See About Us*, *supra* note 188.

191. Mansfield & Trubek, *supra* note 4, at 374–76.

192. *Id.* at 379 (discussing the Family Court Assistance Project at the University of Wisconsin Law School). The University of Florida Levin College of Law has launched a similar initiative. *See Family Law* Pro Se/*Unbundling Clinic*, U. FLA. LEVIN C. L., http://www.law.ufl.edu/clinics/civil/prose/.

representation,[193] and may be a means for attracting government and/or foundation funding.[194]

In the end, however, specialized clinics serving vulnerable and low-income clients are likely to face increasing challenges of scaling and sustainability.[195] Although low-income clinics are (more or less) viable as part of unified system of J.D. education, in which most students who pay tuition never participate in a clinic, it is unclear how such clinics will be funded in an increasingly segmented market, with diminishing cross-subsidies between corporate and other employers and clients. As others have noted, "there is a big difference between unmet legal needs and legal demand."[196] Thus, as Part II argues, further segmentation of J.D. programs according to the resources of employers and clients is not a viable long-term strategy for U.S. law schools, individually or collectively. Instead, law school deans and regulators face increasing pressure to look beyond the needs of incumbent organizational clients and develop educational strategies for a more diverse—and less regulated—legal services market.

II. IMPLICATIONS

Perhaps the most obvious implication of the patterns outlined above is the increasing pressure on U.S. law schools for market differentiation and specialization. At the top of the market, U.S. law schools are seeking to brand their positions within the global economy by forming alliances with elite foreign law schools, business schools, and corporate law firms and clients. Schools outside of this market are moving to establish alternative niches through formal alliances with solo and small firm practitioners, CLE providers, and other organizations serving low- and middle-income consumers, as well as through the development of accelerated and/or specialty degrees. Schools at all levels are increasingly emphasizing the "practical" (i.e., immediate market) value of the training they offer rather than the rigor or value of "professional" legal training per se. Clearly, then, we can expect increasing—and increasingly formal—differentiation and specialization by U.S. law schools in years to come.

The *bases* for law school specialization, however, currently are very much in play. U.S. law schools, like U.S. lawyers, traditionally have been differentiated primarily according to the type of client served—particularly

193. Mansfield & Trubek, *supra* note 4, at 379.

194. *See, e.g.*, D. James Greiner & Cassandra Wolos Pattanayak, *Randomized Evaluation in Legal Assistance: What Difference Does Representation (Offer and Actual Use) Make?*, 121 YALE L.J. (forthcoming 2012), *available at* http://ssrn.com/abstract=1708664 (reporting "the results of the first of a series of randomized evaluations of legal assistance programs," funded by the ABA Litigation Research Fund); Steinberg, *supra* note 103, at 482 (reporting the results of a study of traditional versus unbundled legal assistance in eviction proceedings).

195. *See* Richard A. Matasar, *The MacCrate Report from the Dean's Perspective*, 1 CLINICAL L. REV. 457, 488–91 (1994) (arguing that, given the high costs of clinical education, the fee-generating approach is the only way to offer quality in-house live-client clinical opportunities to a large number of students).

196. Barnhizer, *supra* note 105, at 257.

their access to large corporate employers and clients. The introduction of the *U.S. News & World Report* law school rankings, coupled with the rapid growth of large law firms in the 1980s and 1990s, has led to a progressively rigid and commodified ranking of law schools, in which schools are differentiated primarily by quantifiable inputs (first year student credentials) and outputs (associate positions in Am Law 200 law firms), rather than by the substance, methods, or quality of training they offer.[197]

This system worked well enough (for law schools) as long as students could afford tuition and/or imagine paying off law school loans with sizable large firm salaries.[198] Since 2008, however, the global recession and contraction of the large firm associate market have exacerbated and made more transparent the costs of this highly stratified but otherwise undifferentiated system, to the point that plaintiffs' firms are targeting non-elite law schools in class action lawsuits for consumer fraud.[199] Access to corporate employers and clients—which, in the bubble years, extended to nearly 25 percent of all U.S. law school graduates[200]—is increasingly limited to the top graduates of the very top schools[201] and likely to remain so "indefinitely."[202] Other law schools, increasingly urgently, need to come up with an alternative plan.

But what does Plan B look like for U.S. law schools? Collectively, it undoubtedly includes some downsizing and market consolidation.[203] Some law schools will fail, others will merge, and others will shrink (by surprise or design) to adjust to the loss of large law firm jobs and the penumbra they provided. But no dean ever got appointed by proposing to shut down the law school, and downsizing does not address the pressure for market

197. *See* Henderson & Morriss, *supra* note 98 (discussing the distorting effects of the *U.S. News* rankings); *see also* Michael Sauder & Ryon Lancaster, *Do Rankings Matter? The Effects of U.S. News & World Report Rankings on the Admissions Process of Law Schools*, 40 LAW & SOC'Y REV. 105, 131–32 (2006) (discussing the increasing commodification of law school rankings and their distorting effects on law school reputation).

198. *See* Henderson & Zahorsky, *supra* note 101.

199. *See* Karen Sloan, *Plaintiffs' Firms Target Another 20 Law Schools, Alleging Fraud*, NAT'L L.J. (Mar. 14, 2012), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202545575181&Plaintiffs_firms_target_another__law_schools_alleging_fraud (announcing attorneys' intention to file class action lawsuits against twenty law schools for fraud, in addition to the fourteen such lawsuits already filed). All but two of the filed and contemplated law suits are against law schools outside the top fifty, as ranked by *U.S. News & World Report*. *Id.*

200. Henderson & Zahorsky, *supra* note 101.

201. *See* Burk & McGowan, *supra* note 31, at 110; Karen Sloan, *Elite Firms Seem to Have Lost Their Appetites*, NAT'L L.J. (Feb. 27, 2011), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202543428334&slreturn=1 (discussing the increasing concentration of large firm associate hiring from the very top schools).

202. Burk & McGowan, *supra* note 31, at 105*; see also* Henderson & Zahorsky, *supra* note 101 (predicting enormous and lasting structural change). One consultant predicts that over twenty-five percent of the 65,000 non-partner positions at the nation's largest law firms will be cut or re-categorized over the next five to seven years. *See* Debra Cassens Weiss, *17,500 BigLaw Jobs Are at Risk Due to Cost Pressures, Consultant Says*, A.B.A. J. (Sept. 27, 2010), http://www.abajournal.com/news/article/17500_biglaw_jobs_are_at_risk_due_to_cost_pressures_consultant_says/.

203. *See* Burk & McGowan, *supra* note 31, at 107 (arguing that some "contraction in the number of [U.S. law schools] seems probable and likely would be efficient").

differentiation. Moreover, reducing the size and number of law schools in response to the corporate downturn does not address the need for affordable legal training in other markets. Thus, unless the U.S. J.D. mission is to be defined entirely by the staffing needs of large law firms, downsizing alone is not a viable individual or collective strategy for U.S. law schools.

Many reformers also call for increasing investment in "practical" training, and many law schools have responded in some fashion, as discussed above. However, the call for practical training raises the question, training for what? Practical training requires some vision of the practice of law—whether it be a unified, functional vision of research, writing, negotiation, and advocacy; a substantive vision of a niche practice (such as tax, health care, family law, and the like); or an entrepreneurial vision based on emerging markets in legal information engineering—yet much of the current clamor for practical training dodges this issue. Read closely, the call for "practical" training tends to be a proxy for other reform agendas, such as a critique of legal scholarship or non-elite law schools, rather than a coherent strategy for law school investment.

Ultimately, then, neither downsizing nor the call for practical training suggest a strategic direction for law schools. Instead, as Part I indicates, law schools' market strategies will likely be organized around two axes: a horizontal axis, on which J.D. programs will compete for specialized niches within the entry-level employment market; and a vertical axis, on which law schools will compete to offer accelerated non-J.D., J.D., and J.D.-plus credentials. This section analyzes the possibilities for further differentiation on each axis, and speculates about likely future developments.

A. Specialization by Initial Employer

Much of the current movement toward specialization by employer is organized around the traditional divide between large corporate law firms and solo and small firm practice, and some call for a more explicit segmentation of law schools around this divide. For instance, Randolph Jonakait argues that there is a "sharp and unbridgeable chasm" between the careers of "graduates of high-prestige law schools [who] primarily work on the corporate side," and the graduates of "local law schools" who primarily represent individuals,[204] and that "'[i]ntelligence,' at least as indicated by LSAT scores, has become more concentrated at the highest ranked schools."[205] According to Jonakait, personal services lawyering requires different skills than corporate lawyering, in that "[p]ersonal-client attorneys seldom face legally complex matters, and seldom write briefs or memoranda, but, unlike corporate attorneys, they must be able to deal with difficult human problems and relations."[206] Jonakait therefore urges local law schools to focus on skills training for the personal client sector, and to

204. Jonakait, *supra* note 14, at 864.
205. *Id.* at 880.
206. *Id.*

abandon efforts to place their students at large law firms where they are "unlikely to become partners."[207]

Brian Tamanaha likewise argues that given corporate law firms' preference for elite law school graduates, non-elite law schools "ought to develop a different model of education that better matches the jobs and careers of their graduates,"[208] such as decreasing investment in scholarship[209] and limiting the number of students admitted.[210] According to Tamanaha, writing in 2007, law school "is still a good investment for graduates of elite law schools, who are in line for lucrative (albeit life-draining) corporate law jobs. The same cannot be said for graduates of non-elite law schools."[211]

There are, however, a variety of problems with these two-tier proposals on both functional and normative grounds. First, even if we imagine a profession that is neatly divided between private practice for corporate versus individual clients—that is, not counting criminal practice, government service, public interest practice, academia, consulting, or the myriad other settings in which modern lawyers practice (or might soon practice)—it is debatable whether these two types of practice require functionally different skills. Is it true that lawyers for individuals "seldom face legally complex matters"?[212] Or is it simply that individual clients are less likely to be able pay for such services? Is it true that corporate practice does not involve "human problems and relations"?[213] Certainly most corporate lawyers would debate this. In fact, elite law schools are scrambling to develop J.D. and executive education courses on emotional intelligence, problem solving, and law office management[214]—some of the very skills that Jonakait identifies as necessary for solo and small firm practice.[215]

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207. *Id.* at 883. In fact, local law school graduates are significantly more likely than the graduates of the top 14 law schools to make partner in large law firms. *See* Debra Cassens Weiss, *Do Elite Law Grads Disdain Longtime BigLaw Work? Stats Suggest Lower-Tier 'Strivers' Stick Around*, A.B.A. J. (Mar. 12, 2012), http://www.abajournal.com/news/article/do_elite_law_grads_disdain_longtime_biglaw_work_stats_suggest_lower-tier/.

208. Tamanaha, *supra* note 14.

209. Brian Tamanaha, *Why the Interdisciplinary Movement in Legal Academia Might Be a Bad Idea (For Most Law Schools)*, BALKINIZATION (Jan. 16, 2008), http://balkin.blogspot.com/2008/01/why-interdisciplinary-movement-in-legal.html (stating that knowledge of the social sciences, in particular, is "irrelevant to the practice of law").

210. *See* Brian Tamanaha, *Wake Up, Fellow Law Professors, to the Casualties of Our Enterprise*, BALKINIZATION (June 13, 2010), http://balkin.blogspot.com/2010/06/wake-up-fellow-law-professors-to.html.

211. Tamanaha, *supra* note 14.

212. Jonakait, *supra* note 14, at 864.

213. *Id.*

214. *See, e.g.*, Gillian Hadfield & Anthony Kearns, *Executive Summary, Building Better Lawyers Project*, S. CAL. INNOVATION PROJECT, http://lawweb.usc.edu/assets/docs/contribute/BuildingBetterLawyersOutputFinal_001.pdf (describing a USC Law School initiative focusing on "problem-solving, business integration and judgment"); *Harvard Law School Announces New Professional Development Program with Milbank*, HARV. L. SCH. (Feb. 9, 2011), http://www.law.harvard.edu/news/2011/02/09_milbank-at-harvard.html (covering topics such as management skills and client relations).

215. Jonakait, *supra* note 14, at 887–96.

Further, even if we embrace the distinction between corporate and individual practice, and simply strive to tailor legal education to client interests, it is not obvious what private clients will want from law graduates in the coming years. Many "complex matters" that large law firm associates traditionally have performed in fact have turned out to be subject to automation and commoditization, leading to increased competition from foreign lawyers[216] and non-legal service providers,[217] and a drop in large law firms' demand for new graduates.[218] Corporate clients, likewise, have loudly declared that they do not want to pay for services from first- and second-year lawyers,[219] and some corporate clients have begun to sidestep large law firms altogether for much of their work.[220] Meanwhile, personal services lawyering is increasingly subject to competition from nonlawyer specialists, such as paralegals, claims adjusters, and information technologists.[221] Thus, the traditional divide between corporate and individual legal services is becoming outdated, and soon may be overshadowed by the divide between bespoke and commodity work.

Finally, even if we imagine a return of pre-recession conditions, or at least some significant measure of large firm associate hiring, further segmentation of law schools according to the size and starting salaries of private law firms is not a sustainable strategy for most law schools at the current price point for the J.D. degree. Reducing investment in faculty scholarship might save on tenured faculty salaries, and lower the personnel costs associated with lecture courses, but would do little to lower the costs of skills training. On the contrary, skills programs are more faculty-intensive. Unless law schools rely extensively on adjunct faculty or

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216. *See* Joel Stashenko, *Lawyers Face New Challenges from Global Competition*, N.Y. L.J. (Feb. 4, 2011), http://www.newyorklawjournal.com/PubArticleNY.jsp?id=1202480255104 (reporting the findings of a New York State Bar Association committee on challenges facing the New York legal profession).

217. *See* Furlong, *supra* note 36 (discussing increasing industry competition for what used to be large firm work).

218. *See* Henderson & Zahorsky, *supra* note 101.

219. *See* Paul Lippe, *Welcome to the Future: Are Law Schools "Beached"?*, AMLAW DAILY (Apr. 15, 2010, 6:16 PM), http://amlawdaily.typepad.com/amlawdaily/2010/04/welcome.html (reporting the remarks of Paul Beach, Associate General Counsel of United Technologies, who stated "that his company refused to pay for first- and second-year associate time because it was 'worthless'").

220. *See* Ashby Jones, *Newcomer Law Firms Are Creating Niches with Blue-Chip Clients*, WALL ST. J. July 2, 2008, at B4 (discussing corporate clients' use of lawyer staffing firms in place of large law firms); Debra Cassens Weiss, *HP Decides to Hire New Law Grads Rather than Law Firm Associates*, A.B.A. J. (June 21, 2010), http://www.abajournal.com/news/article/hp_opts_for_training_its_own_in-house_lawyers_hires_four_law_grads.

221. *See* A.B.A. COMMISSION ON NONLAWYER PRACTICE, NONLAWYER ACTIVITY IN LAW-RELATED SITUATIONS: A REPORT WITH RECOMMENDATIONS 10 (1995), *available at* http://www.paralegals.org/displaycommon.cfm?an=1&subarticlenbr=338 (discussing the increasing role of paralegals and nonlawyer specialists in assisting self-represented persons as well as representing persons in state and federal agency proceedings); Ribstein, *supra* note 104, at 1667–69 (discussing the increasing importance of legal information technology); Steinberg, *supra* note 103, at 454 (discussing the expansion of limited and "unbundled" services to increase access to justice for ordinary litigants).

volunteers,[222] a move from scholarly to "practical" training will only drive up tuition.[223] Moreover, students with no hope of immediate entry into high-paying large law firm jobs will be less willing to take on debt to finance their legal educations.

Thus the effect, if not the goal, of further segmentation between "corporate" and "individual" markets would be to channel all the best-credentialed law school applicants into corporate practice and make more explicit elite law schools' identification with, and dependence on, corporate clients. This approach fails to address the cost pressures facing all but a few elite law schools or to provide a sustainable strategy for legal training in other markets.

To be sustainable, law school specialization by initial employer depends on cross-subsidies within (versus across) client markets; subsidized J.D. tuition; or new, lower-cost forms of legal training. Some markets are likely more viable than others as a basis for specialization—for instance, health care, intellectual property, real estate, and tax (just to name a few), in which a variety of entry-level legal jobs at decent salaries likely will be available. But in the absence of new corporate employers for personal services lawyers (such as legal software providers and other types of legal information engineers),[224] or subsidies from other sources (such as government or private foundations), it is unlikely that law schools can sustain specialized J.D. programs focused on the needs of ordinary consumers, much less vulnerable and low-income clients.

B. Accelerated Degrees

Acceleration is currently the dominant strategy for reducing the costs of legal training among both elite and non-elite schools and, as Part I suggests, downward pressure on legal training requirements will likely increase. One possible outcome is increased movement toward, and industry consolidation around, a two-year or other short form of the J.D. degree. While not new, such proposals appear to be gaining momentum,[225] and offer a means for retaining a unified approach to basic J.D. education, while at the same time continuing to develop specialized pre- and post-J.D. training.[226] To the extent that elite law schools move to legitimate a two-year J.D. or other accelerated entry-level credentials, other law schools and law school regulators will be more likely to develop and support them.

Another likely development is the emergence of a variety of para-professional and law-related non-J.D. positions and credentials in specially

222. *See* Stephen Ellmann, *The Clinical Year*, 53 N.Y.L. SCH. L. REV. 877, 889 (2008–2009) (noting that medical schools reported having 137,353 volunteer clinical faculty in 2000–2001).

223. *See* U.S. GOV'T ACCOUNTABILITY OFFICE, *supra* note 100.

224. *See supra* note 104 and accompanying text (discussing the increasing importance of legal expert systems and lawyers' potential role as "information engineers").

225. *See supra* note 172 and accompanying text.

226. *See generally* Chambliss, *supra* note 20 (arguing that U.S. law schools should shrink the boundaries of the unified J.D. degree while continuing to develop specialized pre- and post-J.D. training).

regulated areas. Such positions already exist in areas such as workers' compensation, immigration, patent, and tax,[227] and are being modeled and tested in health care settings and family courts.[228] Specialized training for para-professional and limited assistance positions represents a significant opportunity for market expansion by law schools,[229] as well as an increasingly important regulatory arena.[230]

Enterprising law schools could also develop specialized pre- and non-J.D. programs aimed at emerging markets for legal information technology, such as legal process outsourcing,[231] knowledge management,[232] and the development of legal expert systems.[233] Indeed, to the extent that law schools fail to stake a claim to this market, the legal profession will be ill-equipped to stave off competition from technology companies and other corporate competitors and, for better or worse, will lose its capacity to regulate the quality of legal information technology.[234]

C. Centralization of Law School Management

Of course, any explicit departure from the unified, three-year J.D. degree likely will be met with resistance by incumbents, such as tenured faculty and university administrators, who may be in a position to block proposals for acceleration and/or market specialization. One consequence will be blocked proposals and, potentially, law school failure on an individual or broader basis. Another likely development, however, is the increasing centralization and "professionalization" of law school management—similar to what has occurred in large law firms beginning roughly in the late 1990s.[235] Traditional law schools already exhibit movement to stronger

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227. A.B.A. COMMISSION ON NONLAWYER PRACTICE, *supra* note 221 (noting that "an extensive array of federal and state administrative agencies allow nonlawyers to provide advice to self-representing persons and even to represent parties in agency proceedings").

228. *See supra* notes 187–94and accompanying text.

229. *See supra* note 176 and accompanying text.

230. *See* Chambliss, *supra* note 20, at 25 (calling for increased attention by law schools to the professional responsibilities of lawyers acting outside of the traditional lawyer-client relationship); Laurel S. Terry, Steve Mark, & Tahlia Gordon, *Trends and Challenges in Lawyer Regulation: The Impact of Globalization and Technology*, 80 FORDHAM L. REV. 2661, 2664–67 (2012) (discussing the implications of regulating "lawyers" versus "legal work").

231. *See* Christine Garg & Kara Romagnino, Legal Process Outsourcing Masters of Legal Studies (Spring 2011) (unpublished student project) (on file with author) (proposing the development of a one-year, non-J.D. program for students interested in employment in the legal process outsourcing industry).

232. *See* Tanina Rostain, David Johnson, & Paul Lippe, Proposal, Knowledge Management in Legal Practice—Virtual Externship (2011), *available at* http://dotank.nyls.edu/futureed/2011proposals/09km.pdf (discussing the development of specialized training initiatives for knowledge management in corporate legal departments).

233. *See* Lippe, *supra* note 104 (predicting an expanding market for legal expert system design).

234. *See* Chambliss, *supra* note 20, at 25 (arguing that "law schools have done little to prepare" for the increasing role of information technology in the delivery of law and law related services).

235. *See* Elizabeth Chambliss, *The Professionalization of Law Firm In-House Counsel*, 84 N.C. L. REV. 1515, 1517–20 (2006) (discussing law firms' increasing reliance on full-

centralized management and a decreased reliance on faculty governance in many matters.[236] Moreover, as Part I describes, new for-profit law schools have emerged and are likely to grow in number.[237] Schools with strong centralized management will be more capable of fending off strategic interference from faculty and central university administrators and therefore will have a competitive advantage in staking out new market positions.[238]

CONCLUSION: A CALL FOR TRANSPARENCY AND REPORTING

There is nothing new about most of the law school strategies and initiatives described above; for the most part, they have long been present, at least implicitly, in legal education. Individual law schools and law school faculty have always sought at least informal and small-scale alliances with employers, academic partners, and other sources of jobs, funding, and economic and institutional status.

What is new, however, is the increasing formalization of alliances at the institutional level. Specialization is no longer simply a requirement for individual legal scholars and teachers but, increasingly, a requirement for law schools themselves. Law schools can no longer convincingly claim to have the right program for every student; instead, they are under increasing pressure to stake out a more limited, credible mission. Organizational alliances serve as a means for staking such claims and, in the process, also formalize and consolidate differentiation between schools—both symbolically, as a form of branding, and materially, by reducing cross-subsidies between training for different markets.

Law school regulators should pay close attention to the formal alliances that U.S. law schools pursue. Some likely developments, such as increasing segmentation according to the size and wealth of private clients, will only exacerbate existing inequalities in access to legal training and services and put an end to any credible claim that the U.S. profession serves ordinary consumers. In the absence of other regulatory developments, making such patterns transparent may be one means for combatting this outcome.

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time in-house counsel). *See generally* Elizabeth Chambliss, *New Sources of Managerial Authority in Large Law Firms*, 22 GEO. J. LEGAL ETHICS 63 (2009) (discussing large law firms' increasing reliance on dedicated, centralized management and increasing use of corporate titles, such as Chief Executive Officer).

236. *See* Larry Catá Backer & Bret Stancil, *Global Law Schools on U.S. Models: Emerging Models of Consensus-Based Internationalization or Markets-Based Americanization Models of Global Legal Education* 127 (Consortium for Peace & Ethics, Working Paper No. 2011-3, Aug. 2011), *available at* http://ssrn.com/abstract=1912639 (discussing the "bloating superstructure of administrators" in U.S. law schools); *see also* Daniel B. Rodriguez, *The Market for Deans*, 17 J. CONTEMP. LEGAL ISSUES 121, 129–30 (2008) (discussing the increasing structural and strategic complexity of law school administration and the need to look outside academia for deans).

237. *See supra* note 128 and accompanying text.

238. *See* Barnhizer, *supra* note 105, at 253 (discussing the strategic limitations of faculty governance); Shepherd & Shepherd, *supra* note 106, at 2112 (stating that "[g]iven complete control of a law school, the faculty will tend to exercise their authority in ways that benefit them").

The two axes of law school specialization and differentiation described above—horizontal by initial employer, and vertical through accelerated non-J.D., J.D., and post-J.D. training—suggest a potential framework for tracking the development of law schools' organizational alliances and their effect on the distribution and quality of legal training. Of course, many combinations are possible: U.S. law schools, despite unified standards and competition around a unified ranking, nevertheless vary significantly in their particular strengths and weaknesses as well as the markets in which they operate, and most schools employ a range of strategies for alliances with important constituents. But despite their variety, U.S. J.D. programs face a common and pressing challenge in a competitive market for legal education and training, and would benefit from collective assessment and strategic exchange. Closer attention to the effects of law schools' institutional strategies, and alliances with external providers, is an important first step in this project.