

U.S. Legal Education-Structures and Trends

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1. Lawyers, Law Students and Law Applicants

Discussion of professional law practice in the United States commonly begins with the brute fact of the remarkable numbers of lawyers in modern America. The size of the American legal profession far exceeds that of other industrialized societies, including, most dramatically, the case of Japan. In 1950, there were about 220,000 lawyers in the U.S. By 1960, there were 285,000; ten years later, 355,000; 542,000 in 1980; and about 850,000 in the mid-1990s. (At this rate of growth, the profession should reach one million members very soon.) The increase has far out-distanced the more general rate of population growth. In 1960, there were 627 Americans for each lawyer. By 1990, the ratio stood at 310 Americans for each lawyer.

Of course, not all these trained lawyers are practicing lawyers. In the United States, a legal qualification has long been viewed as the route to a variety of public and professional careers, as well as the vehicle of social and economic advancement. But law school is the common starting-point for all these careers. Here, too, the increase over the last half-century has been equally striking. In 1963, nearly 21,000 students began their legal education at the 135 law schools accredited by the American Bar Association (ABA). In 1999, a total of over 43,000 students entered the first-year of law school at 182 accredited institutions. In 1964, about 9,600 professional degrees were awarded. In 1999, about 39,000 professional degrees (J.D.) were issued.

Demand, as measured by the number of applicants to law school, significantly outstrips the supply of law school places. Since the 1970s, the number of those seeking admission to law school has frequently more than doubled the number of admission opportunities. In 1991, the number of applicants to law school peaked at over 99,000. In 1999, there were over

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72,000 applicants for the 43,000 available places at accredited schools. In the case of the most elite U.S. law schools (by which I refer, roughly, to the group of law schools commonly identified in unofficial surveys as comprising the nation's top 25 institutions), the admissions process is far more competitive. Law schools within this elite cohort generally admit at most one-third of their applicant pool, and more often admit less than one-quarter of their applicants. (The most competitive admission is at Yale Law School, where in 1999 less than 10% of the total applicant pool gained admission to first-year class of 185 members)

The Boalt Hall School of Law at the University of California, Berkeley (where I teach, and which forms the basis of much of my discussion here) falls comfortably within this category of elite institutions. In the year 2000 admissions cycle, we admitted 17% of our 5244 applicants to form a first-year law class of 270 students. Along with other information, the law school admission process utilizes two quantitative measures of an individual applicant's academic strengths: the score on a uniform Law School Admissions Test (the LSAT); and the student's cumulative performance in his or her undergraduate degree program (the undergraduate Grade Point Average or GPA). In the case those entering Boalt Hall in 2000, the mean LSAT score stood at the 94th percentile of all exam takers. The mean undergraduate GPA score was correspondingly high.

In addition to their academic strengths, the Boalt Hall first-year class of 2000 displayed other noteworthy features. 64% of the class were women (this was a record figure, but it continued the pattern since 1995 of women forming the majority of entering students). The median age of the entering students was 24. 13% of the class was aged between 30-39. 16% of the class already had earned advanced graduate degrees: 27 with M.A.'s; 12 Ph.D.'s; and 2 medical physicians (M.D.'s).

The severity of the selection process at an elite law school, such as Boalt Hall, has a pervasive impact on the institution's academic orientation and educational program. The institution is effectively shielded from short-term trends in the size and quality of the law school applicant pool. Between 1991-98, for example, the nationwide pool of law school applicants declined significantly, from a high of 99,300 (in 1991) to a low of 71,700 (in 1998). At Boalt Hall, the decline was less dramatic and limited to the period 1993-97. But even in the year that saw the fewest number of applicants (4717 in 1997), the law school still admitted only 21% of all applicants. (The last time Boalt Hall admitted more than 25% of its applicant pool was in 1969.)

For the student at the elite law school, the admission's process constitutes the most competitive hurdle in the steps toward entry into the profession. Once they begin their law studies, only a handful of Boalt Hall students leave without completing the three-year program of study for the J.D. degree. Following graduation, the vast majority of these new J.D.'s take a 6-8 week preparation course for a state bar exam (the cost of these commercial Bar Review courses currently runs at about \$2,300). Of the over 200 Boalt graduates who took the California Bar exam in July 2000, 94%

were successful (the general pass rate for first-time exam takers of the California exam is about 65%). Of the 270 students who graduated Boalt Hall in 1998, and for whom employment information is available, 260 (96%) were employed. Of these, 176 (68%) worked in law firms; another 30 (12%) held judicial clerkships; 24 (9%) held government jobs; and 14 (5%) worked in public interest positions. The median salary for the members of the 1999 graduating class in full-time employment was \$93,000 per year.

2. *Law School Accreditation*

The figures discussed thus far concerning law school applicants and law school graduates was limited to the domain of "accredited" law schools. Let me explain further what is meant by an "accredited" school.

The U.S. Department of Education has authorized the American Bar Association's Section of Legal Education and Admission to the Bar to serve as the nation's accrediting authority for professional legal education. Qualifications for admission to the bar are determined at the level of state government, usually by the judicial branch. In every state, law school education forms a principal requirement for entry into legal practice; and in 42 of the 50 states, graduation from an ABA accredited law school satisfies the state's legal education requirement. (In a few states-California is the chief example-it is possible to satisfy the legal education requirement for bar admission by graduating from an in-state law school that lacks ABA accreditation; about half of such non-accredited institutions are located in California.) Thus, in addition to its several other goals, the ABA accreditation process furnishes an important element of national coordination in a state-based structure of professional organization. Students are not restricted to attend law school in a particular state where they intend to qualify for practice. Law schools need to satisfy a single standard of accreditation, rather than having to adjust to separate state educational requirements.

There are now 182 accredited law schools in the U.S. All but 12 of these received accreditation before 1980. 80 of these schools received accreditation before 1931, in the years immediately following the first introduction of ABA accreditation in 1923. The substantive requirements for accreditation are formulated as the ABA's Standards for Approval of Law Schools; these were most recently revised in the mid-1990s. The standards cover in great detail a wide-ranging set of features of the modern law school. This includes such matters as the administrative organization of the school (both internally and, where relevant, in relation to the university of which the law school is a part); the composition of the faculty and the processes governing faculty promotion and tenure; the law school's physical facilities and financial operations; the school's admissions procedures and provisions of services for students; the size and budget of the law library; and especially, the goals and effectiveness of the program of legal education. They also articulate norms and policies guiding the mission of legal education; such as

the provisions promoting the diversity of the profession (as these relate to admissions procedures), and the rule that the law school curriculum include a required course in professional ethics and responsibilities.

For schools seeking ABA accreditation, these standards constitute a demanding and costly set of requirements. Once accreditation is secured, however, law schools are under little risk of losing the credential. Nonetheless, the involvement of ABA Section of Legal Education and Admission to the Bar remains active. Every seven years, the ABA Section organizes for each school an extensive on-site inspection, which covers all aspects of the school's operations relevant to the accreditation standards. The school, itself, is required to generate a lengthy "self-review" for this sabbatical evaluation; and the ABA inspection committee later produces its own survey, summarizing its findings and listing specific recommendations for improvements. In addition, accredited schools submit to the ABA an annual report that again covers those aspects of the school's operations most relevant to the accreditation standards. The annual surveys, in turn, form the basis of the elaborate statistical surveys of U.S. legal education routinely produced by the ABA Section of Legal Education and Admission to the Bar. As a result, most of what is most easily known about contemporary legal education is specific to the accredited law schools. Reliable and comparative information about the unaccredited schools is much less readily available.

The purpose of law school accreditation, the ABA has long maintained, is not to mandate one single type of law school or to limit the supply of law school opportunities. (Criticism of the process, political as well as scholarly, frequently centers on both these charges.) Rather, the goal is to maintain the standards of the bar by insuring the quality of legal education. Nonetheless, the current ABA accreditation standards specify a quite particular version of a law school and its educational program; a version of legal education, moreover, that did not attain its institutional dominance until the mid-20th century. Prior to this, there existed in the U.S. a much wider range of law-teaching institutions, including a great number of urban "proprietary" schools, which enjoyed rapid growth in the first decades on the 20th century. These schools offered a popular form of legal instruction, based on large class-sizes and a small number of part-time faculty whose primary function was to teach basic legal rules. Such institutions were centered in urban areas, and served immigrant and lower-income populations with inexpensive part-time and evening programs of instruction. Historically, the ABA-along with another important professional organization, the Association of American Law Schools (AALS)-opposed this alternative form of educational institution. In its place, it advocated the kind of law school that has come effectively to monopolize U.S. legal education. In this model, access to professional training is limited to those who already have earned an undergraduate degree. The basic law school program requires three years of full-time study, with only a smaller number of opportunities for part-time students. The law school is equipped with permanent facilities and resources, such as a dedicated law library. And the law school curriculum is the

primary responsibility of a full-time and permanent faculty, for whom law teaching (and not law practice) is the primary professional role.

3. *Financing Law School Education*

If the demand for legal education significantly exceeds the supply of law school places, this is not the result of the cheapness of the professional J.D. degree. Full-time study at the kind of law school historically endorsed by the ABA was always a costly undertaking. But in the period of the past 25 years, the increase in the costs of legal education has been especially dramatic. In 1975, the median tuition cost at a private law school stood at \$2,525 per year. In 1995, the median tuition had risen to \$16,930 (an increase of 570%); in 1999, the figure was \$20,940. In 1975, the median tuition cost at a public law school stood at \$700 per year for resident students, and at \$1,664 per year for non-resident students. By 1995, these tuitions had increased to \$4879 for residents (an increase of 597%) and to \$11,656 for non-residents (an increase of 600%). In 1999, the figures stood at \$6,752 for residents and \$15,151 for non-residents.

These numbers, of course, refer only to tuition costs, and exclude general living-expenses while at law school. These expenses are more difficult to generalize, given the substantial regional variation in living-costs across the U.S. In the mid-1990s, the average living-expense for students was calculated to be \$10,196. Utilizing this figure, a student who graduated from a private law school in 2000, paid (approximately) an estimated \$105,000 for the J.D. degree. At the most expensive private schools, the estimated total figure would stand at \$132,000.

The case of my own law school confirms these national trends, but also reveals some of the more particular dynamics concerning tuition costs at public universities. Generally in the U.S., "public" universities refer to institutions where government funding provides for the basic budget. In charging tuition, these public institutions standardly distinguish between resident (that is, in-state) students and non-resident students. Private universities, by contract, rely on privately-raised endowments and funding. In practice, the contrast between the two kinds of institutions becomes more blurred. All universities in the U.S., including private universities, rely on government funding, though much of this takes the form of indirect federal subsidies. At the same time, in recent years state governments have reduced their support for public universities, so that these institutions now increasingly rely on private fundraising and support.

Tuition costs at Boalt Hall were transformed over the past decade, mostly as the result in a decrease in the state's subsidy for professional educational programs at the University of California. In 1990, law school tuition was \$1,960 per year for a California state resident, and \$7,876 per year for a non-resident. In 1999, the resident tuition had increased to \$10,865 per year and the non-resident tuition to \$20,669 per year. The greater part of this increase was due to the introduction of a special fee for professional

degree programs that currently stands at \$6000 per year. Under this regime, students at law school pay a specific fee above the general U.C. Berkeley tuition, and the bulk of the funds generated from this fee are returned to the school. The funds thus raised are dedicated to specific purposes: student fellowships; library budget; and student services. The overall consequence of these changes is to make the cost of non-resident tuition at Boalt Hall roughly the same of the median cost of private law school tuition. (The tuition gap re-emerges is the comparison is made from median private school tuition to elite private school tuition.) After the first year of school, virtually every law student moves on to the resident tuition rate of \$10,865 per year; and here Boalt Hall remains a relative bargain. The resident tuition rate is lower than the corresponding rate at other elite public law schools (such as Michigan University and the University of Virginia); and very much lower than tuition at comparable elite private universities. The tuition at Stanford University Law School is \$26,358 per year, and at University of Southern California Law School is \$26,552 per year (to take examples of two leading private schools within California).

The financing of this costly training, at both public and private law schools, involves a variety of methods. A number of federal-and state-funded financial aid and work-study programs are available; as are scholarships awarded by the law schools and universities themselves. These funds often are awarded on the basis of financial need, or to increase educational opportunities among under-represented racial and ethnic groups. In contrast to the practices in Ph.D. programs in the natural and social sciences, there is no tradition of providing top students with multi-year fellowships, covering full tuition and living-costs. Instead, the financing of law school education increasingly depends on federally supported loan programs. Again, there are a variety of student loan programs available, but the most important of these are two: the Stafford Loan Program and the Direct Loan Program.

The Stafford Loan Program was introduced in 1965, but its use by law students chiefly dates from the period after 1978 when the program's rules of eligibility were widened. Under present terms, virtually all law students qualify for the program. The Stafford Loan Program enables students to borrow up to \$8500 per year in a "subsidized loan" and another \$10,000 per year in an "unsubsidized loan". Repayment of the loan begins six months after graduation; the length of time for repayment varies from 10-30 years according to the amount of indebtedness; and the variable interest rate on the loan is capped at 8.25%. In the case of the "subsidized loans", the interest on the loan during the period the student remains in school is paid by the federal government; in the case of "unsubsidized loans", the interest is charged to the borrower. The Direct Loan Program has the same structure and allows for the same level of borrowing. It was introduced in the mid-1990s as part of the Clinton administration's program to increase opportunity for university education. Unlike the Stafford Loan Program which draws its funding from private lenders, the Direct Loan Program utilizes federal funds. Part of its purpose was to drive down the interest rates on all student loans, as well as

to increase the pool of available loans.

The importance of these loan programs to contemporary legal education in the U.S. is easily seen in the recent levels of borrowing. In the academic year 1994-95 (as reported in a survey published in 1997), law students borrowed a grand total of \$1.282 billion in federal loans (most of this money coming under the Stafford Loan Program). In this year, there were some 82,191 students in private law schools and some 46,798 students in public law schools. The total tuition costs paid by all these students in this academic year is estimated at about \$1.4 billion. According to this estimate, funds from federal loans covered over 90% of the law school tuition nation-wide. In that year, law students constituted less than 1% of the total student population in higher education in the U.S. But they consumed about 5.5% of the federal loans.

The overall and long-term impact of the amount of debt being accumulated by U.S. law students remains to be seen. Given that students can begin law school already in debt to these programs for their undergraduate education, there is serious worry that the repayment of the cumulative debt by the end of law school may be beyond the resources of even the well-paid starting lawyer. Equally pressing is the fear that loan-indebtedness will force the current generation of graduates into only the most lucrative forms of professional practice. In response, several schools have initiated special "loan forgiveness" programs whereby those graduates who go into lower-paying public law jobs have their debts forgiven or reduced. However, the funding and availability of such programs is severely limited. The current ABA Standards for Approval of Law Schools now includes the provision that "a law school shall take reasonable steps to minimize student loan defaults, including the provision of debt counseling" (Standard 510).

4. *Professional Placement*

Like other law schools, Boalt Hall routinely distributes information about the success of its graduates in obtaining desirable law firm positions and judicial clerkships. The same information is standardly used by outside bodies in ranking the law school against other institutions. The natural tendency is to view this achievement as largely a product of the quality of Boalt's students and the excellence of its curricular program. Both elements are, of course, critical. Still, it is worth noting briefly other, less academic features of the law school program that also facilitate successful entry into the legal profession.

The law school calendar is organized into two 15-week semesters; together they comprise an academic year that runs from mid-August through to early-May. No classes or instruction occurs during the summer months. This summer hiatus enables law students to spend up to 12 weeks at the end of their first-and second-year of law school acquiring work experience that enhances their credentials for later employment. Many, especially in the summer following the second-year of law school, obtain well-paid

"summer associate" positions at large, corporate law firms; and this summer employment serves to introduce these students to the form of professional practice most Boalt students undertake after graduation. First-year students begin the process of finding a summer position only a few months after they have started their law studies. During the autumn semester each year, classes are suspended for one week, so that students can travel for job interviews without disrupting their studies. This scheduling arrangement is unique to the law school; no other department at U.C. Berkeley observes the closure.

Boalt Hall also supports a large Office of Career Services that employs a full-time staff of five. The Office maintains a library of job listings and professional opportunities, and advises students about the various kinds of professional careers that are available following graduation. In addition, the Office is responsible for helping students prepare for the hiring process. Workshops are held on interviewing skills and resume writing. Colloquia are organized at which alumni and other practicing lawyers describe current hiring processes in the principal areas of legal practice. Each autumn, Office of Career Services manages a massive recruitment program that brings prospective employers to Berkeley to interview law students. In its most recent installment, representatives of close to 400 law firms, corporations and government agencies participated in the program. The representation was national in scope, though most of the interviews were conducted by private law firms based in California.

5. *The Law School Curriculum at Boalt Hall*

A. First Year and Required Courses

The broad aim of the professional (J.D.) degree program at Boalt Hall is to provide a general education in the law. This is achieved through classes covering the major substantive areas of law, such as contracts, torts, and crimes. It involves a style of pedagogy that aims to provide a conceptual training in legal analysis and reasoning, as well as the acquisition of professional research and writing skills. And it includes specific classes on professional responsibility and ethical lawyering.

As is the case at many other major law schools, the organization of the curriculum comprises a highly structured program of required first-year courses. The first year is then followed by a much less structured program of study, where the individual student chooses from a great number of available classes. These second- and third-year classes differ significantly in teaching style and academic content.

To receive a J.D. degree at Boalt Hall, a student must earn 85 units of academic credit over a three-year period of full-time study (in most cases, 1 unit of academic credit represents 1 hour per week of class-time instruction over the course of a 15-week semester). In the first year, students complete 31 units of class study. Two of the required classes are designed to familiarize law students with some basic skills of professional practice: a

course on Legal Research and Writing; and a Moot Court Program, where students prepare legal briefs and rehearse oral argument in a simulated court setting. Both classes involve small-group instruction, and frequent written assignments. (More advanced courses in both these subjects are offered in the second- and third-year curriculum). In the second semester, students also choose a class among several "elective courses". Some of these are professionally oriented. More typically, these electives offer perspectives on the law drawn from outside the spheres of legal practice, as in the case of classes on "Courts and Social Policy" or "Race and American Law".

The center-piece of the first-year curriculum, however, is a set of six classes covering substantive areas of law: Civil Procedure; Contracts; Criminal Law; Constitutional Law; Property; and Torts. For each class, the basic instrument of study is a legal "casebook". The casebook organizes and presents the major doctrines found in a given body of law through a selection of leading appellate cases and judicial decisions. The casebook heavily edits this case material, and annotates it with editorial commentary and selections from scholarly publications. The basic form of class instruction is the "Socratic method". Classes meet 3 or 4 times per week; and for each meeting students are assigned to prepare specific cases from the casebook. The instructor, utilizing a fixed seating chart, calls on individual members of the class to summarize the case and to analyze the reasoning contained in the lawyers' arguments and the judicial decision. Much of the discussion of the case takes the form a series of further questioning by the instructor, drawing on the students to clarify the court's reasoning or to challenge its arguments and conclusions.

This form of legal instruction—casebook and Socratic method—entered the pedagogy of U.S. law schools in the late nineteenth century. It is the kind of law teaching that is most commonly associated with American legal education, and the kind of law class one expects to see represented in popular films or novels. The reasons offered in defense of this method have shifted over the decades. The defense most often made these days is that the close reading and critical discussion of a limited number of appellate cases serves to sharpen the student's analytical skills and command of legal reasoning; that this method especially serves to teach the novice "how to think like a lawyer". The pre-eminence given to these analytical skills in the traditional law school curriculum, and the resulting neglect of other professional skills, is the frequent object of attention in critical discussions of modern law school pedagogy. But there is a consensus that teaching "how to think like a lawyer" remains at least one of the basic goals of professional training.

The traditional first-year law class also offers other kinds of benefits. Beginning law classes are generally large. (At my law school, the usual first-year class contains 90 students; some are larger, though students also are provided with one "small section" class of 30.) Teaching by the Socratic method makes possible a much greater level of student concentration and involvement than in the typical lecture course. The expectation that students will come to class well prepared and able to discuss the assigned materials

is purposely tested and generally achieved. In addition, the casebook's focus on legal doctrine and judicial reasoning suits the specific condition of the U.S. legal order, where there is so much substantive law, spread throughout separate state and federal jurisdictions. A first-year Property class, for example, that sought to teach the rules of property law of the 50 U.S. states, as well as the federal property rules, would be doomed to failure. A class that focuses on more abstract legal analysis and legal doctrine is feasible.

B. Second-and Third-Year Curriculum

Following the first year of study, law students face two more specific requirements. They take a class on professional responsibility in the second year (selecting from a group of courses that satisfy this general requirement); and they must complete a major written paper, comparable in scale and length to the typical Law Review "Student Note". Most students undertake this writing requirement in the context of a taught seminar, but it is possible to complete the paper in an independent tutorial with a member of the faculty.

Beyond these specific requirements, Boalt Hall students face a remarkable range of curricular choice. In a given academic year, well over 100 classes are offered. Many of these, such as courses in Corporations or Criminal Procedure, continue the pattern of first-year education: they introduce major substantive areas of the law, and utilize the casebook and Socratic method of instruction. But a larger number of offered courses involve quite specialized areas of study, often taught in a seminar format. Here the class size is usually under 25, and the frequency of meeting is once or twice a week. The faculty instructor introduces, but does not systematically orchestrate the class discussion. Students in a seminar are likely to write papers, rather than take final exams. The content of these classes vary widely. Many take up quite specialized areas of legal practice: classes on immigration law, international trademarks, pensions and employee benefits. Others involve philosophical and sociological themes that are explicitly distanced from professional approaches: classes on law and anthropology; law and literature; law and psychology.

This range and number of available classes raises the obvious risk that a given law student might pursue a quite random and fragmented program of study after the first year. The law school takes several steps to direct students on to a more purposeful and coherent pattern of class selection. Each year a series of curriculum advising sessions is held, where faculty members describe their own classes as well the broader areas of study to which these classes contribute. A detailed 18-page "Second-and Third-Year Curriculum Advice Guide" is produced and distributed.

Judging from the record of class enrollments, it is possible to identify some 12-15 courses which large numbers of law students treat as necessary parts of their legal education. (The list would include at least the basic class in Corporations; Antitrust; Estates and Trusts; Income Tax; Securities

Regulation; Estates and Trusts; Intellectual Property; Evidence; Appellate Advocacy; Remedies; Criminal Procedure; Federal Courts; and a more advanced course in Constitutional Law.)

In selecting among such classes, students are obviously directed by their anticipated careers in legal practice, choosing between (for example) the cluster of classes in business law (Corporations; Antitrust; Securities Regulation) or those in litigation (Evidence; Appellate Advocacy; Criminal Procedure). They also are guided by the coverage of the bar exam, as it is structured in most states. Although most law students spend 6-8 weeks taking a commercial bar review course in the period immediately following graduation, the conventional wisdom is that they should gain exposure in law school to at least most of the subjects covered in the bar exam. A Boalt student expecting to take the California bar exam, for example, might well decide to rely exclusively on the bar review course to prepare for the section of the exam on California Marital Property. But such a student is unlikely to regard the bar review course as adequate training for the exam sections on constitutional law, corporations, or civil and criminal procedure.

Taken all together, these classes-the required classes of the first year, the class in Professional Responsibility and writing requirement, along with the high-enrollment courses of later years-give one conception of what a "general legal education" now comprises at an elite U.S. law school. However, it is becoming less common to conceive of the second-and third-year curriculum in this way; as a core of classes that continue the structure of the first-year curriculum. Instead, the second-and third-year curriculum is standardly presented in terms of areas of specialization, in which clusters of classes are grouped into broad subject-matter categories. Thus, in the materials Boalt Hall distributes to potential applicants and to first-year students, the upper-class curriculum is organized into a dozen or so overlapping areas, such as business practice; criminal justice; litigation practice; public law and regulation.

Although students are advised to pursue a balanced and well-rounded program of study, they also are encouraged to undertake at least some specialization in their second and third years. Boalt Hall, along with other leading schools, increasingly presents the strength of its academic program in terms of the excellence and depth of specific areas of academic concentration. Publications that review and rank U.S. law schools likewise evaluate the specialized programs major law schools commonly offer. In what follows now, I shall describe more fully these evolving models of law school specialization.

C. Specialized Curricular Programs

One prominent manner in which professional specialization has effected the curriculum at Boalt Hall is in the creation of specific programs of concentration that enable students to pursue a given area of law at an advanced level and to receive a special certificate award for this study. Students in the concentration work intensively with a sub-group of faculty;

in workshops and seminars they also meet leading practitioners and policy experts in a particular field.

Two of the most developed of these curricular concentrations are the Programs in Environmental Law and in Law and Technology. Their structure and conception can be illustrated through the ambitious example of Law and Technology. All students take a required core class, Introduction to Intellectual Property. This is followed by a sequence of five additional classes. These include a specific combination of general law classes (such as Corporations and Antitrust Law), supplemented by more-specialized courses (such as Copyright, Cyberlaw, Telecommunications Law, International Aspects of Intellectual Property Law, Law in the Biotechnology and Pharmaceutical Industries). Students can also earn credit in the concentration by taking designated classes in other programs on the U.C. Berkeley campus.

The curricular concentration is itself supported by a major research center based at the law school, the Berkeley Center for Law and Technology. The certificate program contains an "activity component" where students participate in one of the activities supported by the Center, such as the Berkeley Technology Law Journal or the Samuelson Law, Technology and Public Policy Clinic. Finally, students are required to complete a paper of publishable quality on a law and technology topic. Most students complete this requirement in conjunction with a specific Law and Technology Writing Seminar; and most of their papers are published in an annual issue of the Berkeley Technology Law Journal devoted to a review of recent legal developments in this field.

The successful completion of the certificate program thus involves considerable institutional and faculty resources, as well as substantial levels of student commitment. Although students do not begin their course work until the second year, the activity requirement involves participation in the first year of law school. It is expected that about dozen students each year will complete the full certificate program (many more students, of course, take the classes that are included within the program's coverage). And many applicants to the law school identify the availability of this kind of intense and specialized program as their chief reason for wanting to study at Boalt Hall.

In many ways, the development of specialized curricular concentrations echoes the familiar pattern of specialization in other professional settings, such as medicine. As law practice itself has become more specialized, so legal education has come to include programs that help to prepare law students for distinct and specialized professional careers. At the same time, the organization of these programs mimics on a reduced scale the kind of training familiar in academic Ph.D. programs. Students thus begin with general course work; this is followed by more specialized seminars, which leads finally to the completion of a research paper.

D. Clinical Legal Education

Specialization of a rather different form is offered the law school's clinical program and courses focusing on law-practice skills. "Skills" courses aim at the development of specific skills, such as Negotiations, Mediation, and Trial Practice, that figure routinely in modern law practice. These classes are small, and most often taught through "simulations" in which small groups of students work collaboratively on simulated cases and problems, under the close guidance of one or two instructors.

"Clinical" education, in contrast, refers to settings in which students work with actual clients. Under the supervision of faculty instructors, students acquire legal skills and professional experience by working on real cases, most often assisting clients who lack the financial resources to pursue their legal claims. While law school clinics provide the opportunity for students to observe the law in action and to learn by doing, clinical education also aims to stimulate critical reflection on the initiated experience of lawyering. Students enroll in a companion law class that covers relevant areas of substantive law and lawyering skills, and that encourages students to relate the clinical experience to their more general legal education.

Live-client clinical education has been an important element in the public discussion of law school pedagogy since the 1960s. An important ABA study of 1992 described the growth of skills-training classes and live-client clinical programs as "the most significant development in legal education in the post-World War II era" (Legal Education and Professional Development-An Educational Continuum (ABA Section of Legal Education), 1992: 6). In 1968, the Ford Foundation initiated a program that provided large financial support for the expansion of law school clinics; and subsequent studies and advocacy by both the ABA and the AALS have emphasized the need, effectiveness and popularity of clinical programs. Clinical education requires considerable instructional support, not only in the supervision of students, but also in the selection of cases conducive to student learning. The amount and forms of clinical education vary from law school to law school. But the settled norm, and an explicit provision in the ABA accreditation standards, is that the curriculum will include opportunities for "live-client of other real-life practice experiences" for at least some law students (ABA Standard 302C).

Over the past 5 years, my own law school has embarked on a substantial expansion of its clinical program. We have created a new in-house clinical facility, the Boalt Hall Center for Clinical Education, and committed to the hiring of a new rank of clinical law professors. When fully implemented over the next two years, the Center will support four clinical programs: the International Human Rights Law Clinic (that provides legal services to those seeking political asylum in the U.S. and assists litigation concerning human rights abuses); the Federal Practice Clinic (that assists in civil rights and criminal litigation before federal courts); the Samuelson Law, Technology and Public Policy Clinic (the first law school clinic of its kind, that aims to

support the public interest dimensions of law and technology practice); and the Death Penalty Clinic (that will assist in capital cases and post-conviction proceedings for those sentenced to death).

In addition to these the clinics organized by the new Center for Clinical Education, students also participate in a near-by public law clinic, The East Bay Community Law Center. The Center was founded by a group of Boalt Hall students and faculty in 1988, and assists a local and indigent population in such areas as housing law and public law benefits. Finally, Boalt students also can undertake clinical training under a field placement program, where they work in approved public interest organizations and government agencies under the direct supervision of practicing attorneys.

In a given semester, about 30-40 Boalt students participate in the field-placement program. Another 10-20 are supervised at The East Community Law Center. Another 40-60 students will be involved in the in-house clinical programs directed by the Law School's own Center for Clinical Education.

E. The Center for Social Justice

One important and explicit goal of law school clinics is to provide legal services to poor and under-served communities. In this respect, clinical education serves the interests of many students who enter law school in the hopes of moving on to careers in public interest law or as advocates of the socially and economically disadvantaged. For such students, the analytical orientation of first-year law classes, and the market dynamics which lead most law students into large firm law practice, seem far removed from the kind of public service careers they hoped an education in law would help prepare them for. In addition to the clinical programs, these students are assisted by the recently-founded Boalt Hall Center for Social Justice. The Center organizes workshops, discussion groups, lectures and conferences that provide institutional supports and guidance for students planning to pursue public interest careers. Students are able to participate in the Center's activities from the start of their law school careers, before they are able to embark on more specialized course work.

6. The Program in Jurisprudence and Social Policy

The educational program at Boalt Hall, as at other elite schools, embodies adjustments and compromises that reflect varied educational ideals and institutional dynamics. The required first-year classes represent the most conventional part of the curriculum, and speak most directly to a traditional ideal of a "general legal education" with its emphasis on the study of appellate cases and the acquisition of analytical skills. When in the late-1960s, the introduction of clinical legal education was proposed and advocated, its supporters frequently saw clinical training as a much-needed alternative to the methods and priorities of traditional case-law teaching. In more recent discussions, clinical education and skills training continue to be presented as a solution to the excessively abstract and remote dimensions of law school

education. Likewise, the introduction of specific concentrations of study in the upper-class curriculum (as in the case of the Programs in Environmental Law, Law and Technology, and other fields) discloses the manner in which contemporary law practice also puts pressure on the earlier ideal of a general legal education. Students specializing in any of these programs may feel that understanding how government agencies set regulatory policy, for example, has become as basic a lawyering skill as learning how appellate judges decide cases.

Seen in this way, the contemporary law school program contains a selective response to the circumstances of modern legal practice. But at the same time, recent trends in legal education also reflect another important dynamic, one centered within the professional legal academy itself. If one traditional model of the law professor was that of a general master of doctrinal analysis whose scholarship was directed at bar and bench, an alternative model of legal academic has been emergent. In this second model, the academic lawyer-in training and in scholarly orientation-is more like faculty in the rest of the academy. Legal scholarship is as much aimed at other scholars and public policy-makers as at law practitioners; and legal research involves the application to law of methodologies developed in other disciplines and departments. The modern law-and-economics movement provides a particularly well-known and powerful instance of this particular trend.

The Boalt Hall School of Law contains a unique manifestation of this general pattern of academic professionalization. Since 1977, the school has maintained its own Ph.D. Program in Jurisprudence and Social Policy (JSP). Although it is quite common for U.S. law schools to offer degrees other than a professional J.D. (such as the one-year LL.M. program that has come chiefly to serve foreign law students); and although many law schools enable their students to combine professional law study with a Ph.D. program in another academic department, the presence of a Ph.D. program within the law school itself is exceptional. The Program is the primary responsibility of 14 faculty members, most of whom have joint-appointments or affiliations with other departments on the U.C. Berkeley campus. Several of these faculty have J.D. degrees, but others received their training entirely in traditional academic disciplines and came to legal scholarship through a non-professional route. (My own training, for example, is in history; before joining the Boalt faculty in 1984, I taught in a history department.) As a group, the JSP faculty comprise about one-quarter of the permanent Boalt faculty.

The basic objective of the JSP Program is to bring to legal scholarship and law teaching a range of perspectives from the social sciences and humanities. Represented among the faculty and within the Ph.D. curriculum are the disciplines of economics, history, philosophy, political science and sociology. About 6-8 students are admitted to the program each year, making for a cohort of about 35 students. About one-third of the students come to the program with professional J.D. degrees; another third are

concurrently enrolled in the Boalt J.D. Program. The dissertations and publications produced JSP students span the full range of contemporary law-and-society scholarship: empirical studies of the social impacts of legislation and regulatory policies; studies of courts and other law-making institutions; comparative investigations of constitutional systems; economic analyses of private law regimes; and historical and philosophical investigations of legal change and legal norms. Most of our graduates move on to teaching careers. Some join the faculty in academic departments, such as political science or sociology; many take up law school faculty positions.

Although there are now various centers for socio-legal study at U.S. universities, there is no general trend to add Ph.D. programs to the law school curriculum, as in the manner at Boalt Hall. What is becoming more common is for scholars entering law teaching to have received graduate training in another discipline (economics, again, is the most common example); and for law faculty, in their teaching and their research, to collaborate with scholars in other departments. These more general patterns also are well-established at U.C. Berkeley, where many of my law colleagues actively participate in research programs and centers (including Law School research centers) that purposefully bring together faculty from law and other fields. An issue that concerned an earlier generation of educational commentators-whether a professional law school really belonged at a research university?-has lost most of its salience. Instead, new issues and challenges emerge. As it equips itself better to share more widely in the research pursued elsewhere in the university, the modern law faculty increasingly attenuates its historical connection with legal practice and the organized bar. And the modern law school in the near-future may no longer be able to take for granted a unified professional culture among its faculty members, based on common educational training, professional experience, and shared scholarly orientations.