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The South African Community Service Experience in
Licensing Attorneys

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**AN ALTERNATIVE MODEL TO UNITED STATES
BAR EXAMINATIONS: THE SOUTH AFRICAN
COMMUNITY SERVICE EXPERIENCE IN
LICENSING ATTORNEYS**

Peggy Maisel*

INTRODUCTION

This Article examines the system of educating and licensing attorneys in South Africa to determine whether that country's experience can provide guidance to jurisdictions in the United States that are considering proposals to reduce or eliminate the importance of bar examinations. The analysis set out here is supplemented by a companion article, providing a first-hand account of the South African system by Ms. Thuli Mhlungu. Ms. Mhlungu was educated and sought admission to the bar during the last years of apartheid and the early years of the new democratic regime.¹

Examining the situation in South Africa makes particular sense because South Africa is a country whose tortured history parallels the United States' history in many ways. Further, the South African system (1) has always required some form of practical training prior to admission as an attorney;² (2) expanded the way to fulfill the practical training requirement ten years ago to include two alternatives being considered in the United States—community service apprenticeships and practical training courses; and (3) suffers from societal problems similar to those of the United States,

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1. See Thuli Mhlungu, *Educating and Licensing Attorneys in South Africa*, 20 GA. ST. U. L. REV. 1005 (2004).

2. The process for licensing attorneys in South Africa has some key aspects in common with the one used in Canada, as described by Andrea A. Curcio in her seminal article on the need to find alternatives to the bar. See Andrea A. Curcio, *A Better Bar: Why and How the Existing Bar Exam Should Change*, 81 NEB. L. REV. 363, 398-401 (2002). There are crucial differences, however, with the system in post-apartheid South Africa, especially the community service requirement. These differences make it useful to look in depth at the South African experience as is done in this Article and also Ms. Mhlungu's article. See generally Mhlungu, *supra* note 1.

including under-representation of people of color within the legal profession and inadequate resources to provide access to justice for indigent persons.

Any analysis of how helpful a consideration of the South African history of bar licensure can be for jurisdictions in the United States initially requires an understanding of the structure of that country's bar, its system of legal education, the historical method it used for licensing law graduates, and the racial composition of its bar. Part I of this Article sets out this historical framework. After providing that historical information, Part II discusses the post-apartheid changes to bar admissions, the rationale for those changes, and how successful they have been. Part III examines key issues jurisdictions in the United States will face if they try to institute a parallel system. Finally, Part IV offers a suggestion for how U.S. jurisdictions might try to duplicate the successes achieved in South Africa.

I. THE HISTORY OF THE SOUTH AFRICAN SYSTEM OF ATTORNEY ADMISSION

A. The Legal Profession

In contrast to the unified system in the United States, South Africa follows the British system of a divided bar. In the South African and British systems, there are both attorneys and advocates. Attorneys, who constitute approximately 87% of the profession, represent clients in all aspects of legal practice, including trials in the lower courts.³ They are usually general practitioners, working in firms or sometimes independently, and they consult clients directly, draft legal documents, and sometimes "brief" advocates for litigation. With advanced study, attorneys may qualify in specialized areas, like conveyancing.

The High Court must admit attorneys and advocates to practice. At the national level, the Law Society of South Africa regulates the attorneys' profession; at the regional level, four provincial law

3. See David J. McQuoid-Mason, *The Delivery of Civil Legal Aid Services in South Africa*, 24 *FORDHAM INT'L L.J.* S111 (2000) [hereinafter McQuoid-Mason, *Civil Legal Aid*].

societies regulate the profession. The Attorneys Act 53 of 1979, as amended, specifies the admission requirements for attorneys.⁴ They are required to become members of the law society of the province in which they are practicing.⁵

Advocates, who are “briefed” by attorneys, appear before the Supreme and Constitutional Courts and any lower court. Advocates are specialized litigators who are not approached directly by clients and must practice alone. Both attorneys and advocates are required to obtain an L.L.B. degree, but advocates and attorneys then take separate post-graduate routes. Advocates are required to serve a four-to-six month period of pupillage with a practicing advocate. They must also pass an examination set by the Bar Council. Senior advocates may be elevated to the status of “senior counsel” when they “take silk,” and traditionally judges have come from their ranks. The General Council of the Bar, a national body, and a number of local societies of advocates situated in major cities that house the high courts regulate the conduct of advocates.⁶ The Admission of Advocates Act 74 of 1964 regulates their admission.

The functions of the two branches of the legal profession are gradually merging despite the continued existence of a divided bar.⁷ Currently, there are approximately 15,000 practicing attorneys in South Africa and about 2500 advocates who serve 46 million people.⁸

4. Admission requirements for attorneys are described in depth later in this Article. See discussion *infra* Part I.C.

5. “A major change in the Law Societies occurred in March 1998 when, after two years of negotiations, the Association of Law Societies, the National Association of Democratic Lawyers and the Black Lawyers Association came together to form a unified Law Society of South Africa (LSSA).” PEGGY MAISEL & LESLEY GREENBAUM, FOUNDATIONS OF SOUTH AFRICAN LAW 211 (Butterworths ed., 2002).

6. Attorneys are required by statute to be members of a law society, which exercises professional control over them. Advocates are not required to be members of a professional society. Some advocates now practice without being subject to the control of any regulatory authority other than the High Courts. Attorneys are obligated by statute to pass an admission exam before they can be admitted to practice, whereas advocates are required to pass the bar exam only if they want to be a member of one of the constituent bars of the General Council of the Bar.

7. The Right of Appearance in Courts Act No. 62 of 1995 provides that attorneys with three years experience may apply for the right of appearance in the Supreme and Constitutional Courts.

8. David J. McQuoid-Mason, Administration and Organization of Legal Aid in South Africa (Aug. 26, 2003) (unpublished paper, on file with Author) [hereinafter McQuoid-Mason, unpublished paper].

This Article focuses on attorneys because their work most closely parallels that of attorneys in the United States.

B. Legal Education

At first glance, South African legal education would also appear to differ from that in the United States because, similar to the educational system in the United Kingdom and other Commonwealth countries, law school begins at the undergraduate level (thus bypassing the prerequisite of a liberal arts education).⁹ This difference is not significant for purposes of this Article, however, because the focus is on how law students in the two countries are prepared for the practice of law.

With regard to legal education, at least one U.S. jurisdiction has found that the core law school curriculums in the United States and in South Africa are similar. The New York State Board of Law Examiners decided for the first time in 2002 that graduates of South African law schools, at least those who graduated subsequent to post-apartheid reforms in 1997, should be eligible to sit for the New York Bar Examination without further study in the United States.¹⁰ At issue was whether the law school course of study in South Africa is "substantially equivalent" to that of an ABA-approved law school as required by Rule 520.6(b)(ii) of the Rules for the Admission of Attorneys and Counselors at Law of the New York State Court of Appeals.¹¹ The New York State Board of Law Examiners answered

9. South African law students do take non-law related courses in their first year of law school along with one introductory law course. Beginning in their second year, they take only law courses. The absence of a liberal arts education is true for all professions in South Africa; for example, students may enter medical school right after high school.

10. "An applicant who has studied in a foreign country may qualify to take the New York State bar examination by submitting to the New York State Board of Law Examiners satisfactory proof of the legal education required by this section." RULES FOR THE ADMISSION OF ATTORNEYS AND COUNSELORS AT LAW OF THE NEW YORK STATE COURT OF APPEALS R. 520.6(a). A South African law graduate petitioned and was permitted to sit for the February, 2003 New York bar examination.

11. See RULES FOR THE ADMISSION OF ATTORNEYS AND COUNSELORS AT LAW OF THE NEW YORK STATE COURT OF APPEALS R. 520.6(b)(1)(i)-(ii).

in the affirmative. However, the situation is more complicated for those who graduated prior to that date.¹²

To arrive at its decision, the New York authority had to find that applicants from South Africa met four requirements:

- (1) Their course of study in the foreign law school must have been of equivalent *duration* to one in an ABA-approved law school;

12. Under apartheid, there were separate law schools for the different race groups. There are currently 20 law schools in South Africa. The government is merging some previously black universities with previously white institutions. For example, the University of Natal and the University of Durban-Westville merged in January, 2004. Prior to 1994, the law schools were classified in the following way:

Black Universities:

University of Fort Hare
University of the North
University of Zululand
University of the Western Cape
Vista University
University of Venda
University of the Transkei (UNITRA)
University of Durban-Westville
University of the North West

White Universities (Afrikaans Language):

University of the Orange Free State
University of Port Elizabeth
University of Pretoria
University of Stellenbosch
Potchefstroom University for CHE
Rand Afrikaans University

White Universities (English Language):

University of the Witwatersrand
University of Natal
Rhodes University
University of Cape Town

Correspondence University:

University of South Africa

The legal education at each of these institutions varied. The medium of instruction was different. The background in terms of race and culture was different. The legal jurisprudence taught at these schools probably differed. However, since 1994, all law schools in South Africa have been open to students of any racial group, and the profile of the students and faculty has changed dramatically. While formerly Afrikaans law schools may still teach law courses in Afrikaans, they must also offer these courses in English to students who do not speak or want to study in Afrikaans. Legal textbooks are published in English and are only published in Afrikaans if there is a large enough market. The use of English in legal education and the elimination of courses in Roman law and Latin reinforce the fact that English common law jurisprudence is the foundation of the South African legal system.

- (2) The law school must have been recognized as *qualified and approved* by the competent accrediting agency in the country;
- (3) The jurisprudence in that country must be based on English common law; and
- (4) The course of study must have been the *substantial equivalent* of a legal education provided by an approved law school in the United States.¹³

New York found that the applicants met these requirements because beginning in 1997, South Africa (1) instituted uniform educational qualifications for the practice of law in the form of a four-year L.L.B. degree;¹⁴ (2) established more uniform curriculum requirements intended to standardize the legal education offered by the 20 South African law schools;¹⁵ and (3) proposed closer regulation of the profession through a South African legal council.¹⁶

13. See RULES FOR THE ADMISSION OF ATTORNEYS AND COUNSELORS AT LAW OF THE NEW YORK STATE COURT OF APPEALS R. 520.6.

14. The first step in the transformation of the legal profession was the introduction of a single qualifying degree for admission to legal practice as a lawyer. The Qualification of Legal Practitioners Amendment Act of 1997 amended the Admission of Advocates Act of 1964 and the Attorneys Act of 1979 by introducing a four-year undergraduate L.L.B. degree as the minimum academic qualification for admission to practice either as an advocate or as an attorney in South Africa. All of the 20 law schools in the country have now introduced this degree. The principal motivation for the introduction of a single academic qualification was the desire to move away from a situation in which there are perceived to be different classes of practicing lawyers, and some are perceived to be better qualified than others. *Discussion Paper on Transformation of the Legal Profession*, The Policy Unit Department of Justice and Constitutional Development 3.1.1 (1999).

15. Even after 1997, the L.L.B. curriculum of the 20 law schools is not perfectly uniform because each has the responsibility of setting its own curriculum. However, in 1998, the law school deans agreed to require certain core courses as part of the four-year L.L.B. degree, including at least 50 hours in professional law subjects similar to the U.S. law school first-year courses (criminal law, property, delict (torts), constitutional law, contracts, evidence, civil procedure) and other courses such as jurisprudence, family law, and business organizations. With regard to the regulation of standards of education, it is important to also note that the legal profession is obliged, in terms of the South African Qualifications Authority Act of 1995, to establish one or more Standards Generating Bodies to accredit qualifications for legal practice as part of the National Qualifications Framework. This Standards Generating Body has already been established, and committees are tasked with setting standards for the L.L.B. curriculum. *Discussion Paper on Transformation of the Legal Profession*, The Policy Unit Department of Justice and Constitutional Development 9 (1999).

16. See The Law Society of South Africa, *Final Draft of the Legal Practice Bill*, Feb. 2002, at <http://www.derebus.org.za/archives/2002Feb/index.htm> (last visited Apr. 18, 2004) [hereinafter *Legal Practice Bill*]. The bill provides for (1) the establishment of the South African Legal Practice Council, (2) the requirements for registration and enrollment as a legal practitioner, (3) admission of persons as

Given this concerted effort to achieve greater uniformity, potential differences could be disregarded by the New York authority. Indeed, it recognized that, in the United States, ABA-accredited law schools are not homogeneous in the overall educational content or quality of courses. For example, in Louisiana, the state law school devotes substantial course offerings to civil law doctrine and jurisprudence.

C. Post-Graduate Steps to Attorney Licensing

To gain admission as an attorney, South Africa has always required the completion of two years of "articles of clerkship" in addition to law school graduation and the passage of a limited bar examination.¹⁷ "Articles" as this form of practical training has been called, is basically an apprenticeship during which a practicing attorney, with at least three years of experience, is expected to prepare the law school graduate for the practice of law. The graduate and the practicing attorney sign a contract that contains an exchange of promises: The graduate or "candidate attorney" pledges to use diligence, honesty, and confidentiality, while the supervisor or "principal" agrees to provide proper instruction in the areas of legal practice, ethics, and understanding. The candidate attorney must keep a diary of the training she receives. This diary must be available both to the principal and to the law society in the province where they are located. The law society at least nominally oversees the process and is the authority that ultimately certifies the new attorney. Finally, the principal agrees to use her best efforts to assist the attorney in gaining admission, assuming successful completion of the period of articles.¹⁸

The stated rationale for this system is to have better-prepared attorneys. However, because the legal profession historically has been comprised overwhelmingly of white attorneys in a racially segregated legal system, and because candidate attorneys had to find

legal practitioners in the courts, (4) registration of paralegal practitioners, and (5) matters connected therewith.

17. See Attorneys Act 53 of 1979. The limited bar exam covers four subjects: civil procedure, administration of estates, bookkeeping, and ethics.

18. A copy of the contract is available at <http://www.lawsoc.co.za/examinations/articles/contract.htm> (last visited Apr. 19, 2004).

the lawyer or law firm that would offer them articles, this practice had the practical effect of keeping non-white law graduates from obtaining admission.¹⁹ Indeed, as recently as 2003, nearly ten years after South Africa's first truly democratic elections in 1994, about 85% of the legal profession in South Africa remained white²⁰ (although this is finally beginning to change) in a country where 85% of the population is black.²¹

II. CHANGES MADE AS APARTHEID FELL

Significant changes were made to the system for admitting attorneys to the bar during 1993, the last year of the transition period leading to the election of Nelson Mandela as President of South Africa. The most important of these, for the purposes of this Article, was the creation of alternatives to the system of articles. While the traditional method remained an option, law graduates could also qualify for admission to the bar upon the completion "to the satisfaction of . . . [the appropriate provincial law] society" of either (a) a four-month course at an approved practical training school *and* one year of community service *or* (b) two years of community service.²² Community service was defined as being "in the full-time employment of a law clinic" certified by the council of the law society in the province in which that law clinic operates as meeting the requirements prescribed by that council for the operation of the

19. While the number of non-white law graduates was never in proportion to their numbers in society, a significant number did graduate from the segregated law schools listed *supra* note 12.

20. See McQuoid-Mason, *Civil Legal Aid*, *supra* note 3, at §120.

21. By the middle of 2003, the population for South Africa was estimated to be 46.4 million. Africans are in the majority (nearly 36.9 million). These estimates have been derived using census data reported in 2003.

Race	Male	Female	Total
African/Blacks	17,562,179	19,352,105	36,914,284
Colored	1,979,934	2,151,162	4,131,096
Indian/Asian	556,278	583,819	1,140,097
White	2,051,917	2,192,429	4,244,346
Total	22,150,308	24,279,515	46,429,823

22. The Attorneys Act 53 of 1979 § 2 (1)(a)(B) was amended by The Attorneys Amendment Act 115 of 1993, § 2, to allow aspiring attorneys to perform community service approved by the society concerned.

clinic. In other words, the four provincial law societies certify that law clinics are engaged in public interest work so that candidate attorneys serving articles in these law clinics are deemed to be performing community service.²³

The soon-to-be-elected African National Congress ("ANC") government sought these changes because it knew its regime would require both an integrated bar and judiciary, plus a significant supply of qualified law graduates of color to fill government positions. The provisions of the statute relating to the community service alternative were crucial because those provisions would allow black law graduates to satisfy the practical experience requirement and thereby gain admission to the bar by some means other than the extremely rare occurrence of securing articles in a white law firm or one of the few black law firms.

From the beginning, the new statute achieved the intended result because it is primarily law graduates from previously disadvantaged groups (basically people of color, predominantly black) who are utilizing the community service option. Thus, by 1996 to 1997, of the 150 candidate attorneys who had availed themselves of this option, 60% were from these groups and 49% were women.²⁴ More recent figures show an even better record in this regard; in 2003, 83 of the 99 candidate attorneys doing community service in rural areas were from previously disadvantaged groups.²⁵ For this development to have a significant impact, however, the numbers of community service opportunities had to greatly increase. This did occur throughout the 1990s, in part as a result of an additional pressure on the new government.

Shortly after taking office, the ANC-led government was presented with an unexpected but compelling reason to expand the community

23. The Legal Practice Bill of 2002, § 30, provides a new structure for regulation of the legal profession and the accreditation of public interest legal centers. "Any voluntary association may apply to the National Council in the prescribed manner for accreditation to render legal services or any specialized legal services as a public interest legal center." *Legal Practice Bill*, *supra* note 16. A final draft of this bill was proposed by the Law Society of South Africa, but it has not yet been enacted.

24. See McQuoid-Mason, unpublished paper, *supra* note 8, at 11. The sum is greater than 100% because women of color are counted in both categories.

25. See Interview with Thuli Mhlungu (Mar. 4, 2004) (on file with Author).

service option. When the Constitutional Court found that both the Interim Constitution²⁶ and the Final Constitution²⁷ provided that indigent criminal defendants had the right to counsel "if substantial injustice would otherwise result,"²⁸ a crisis erupted in the government-funded legal aid system, precipitated by the increase in demand for indigent representation, primarily in criminal cases. Indeed, from 1990 to 1998, requests for service rose 709%, with 83% of those requests involving criminal defendants.²⁹ Beyond the sheer numbers, responding to those requests placed a particularly acute burden on the financial resources of the new government because legal aid at that time was provided primarily through the expensive method of hiring private attorneys under a system known as "Judicare." Maintaining this system was simply untenable for the new regime, given the increased demand.

The response was the creation of three different salaried lawyer schemes that handled cases at considerably lower cost than under the Judicare system. A two-year pilot public defender program created in 1990 was the first of these. It was so successful in reducing costs (by 25% as compared to cases handled by private attorneys), in increasing the numbers of persons represented, and in increasing the success rate that, by 2002, there were public defender offices in 40 regional magistrate courts, providing representation in 8800 criminal cases a year.³⁰

In 1999, the body administering legal aid in South Africa, the Legal Aid Board ("LAB"), expanded this concept by creating staff attorney-based offices called "Justice Centres," which differed from public defender offices in that they also handled a limited number of civil cases and employed less expensive candidate attorneys and paralegals in addition to staff attorneys. By 2001, these Centres were located in 31 metropolitan areas and handled close to 100,000 cases

26. S. AFR. INTERIM CONST. (1993); Act 200 of 1993.

27. S. AFR. CONST. (1996); Act 108 of 1996.

28. S. AFR. CONST. § 35 (1996).

29. See McQuoid-Mason, *Civil Legal Aid*, *supra* note 3, at S120.

30. See McQuoid-Mason, unpublished paper, *supra* note 8, at 8-10.

per year.³¹ According to the 2002 to 2003 Annual Report of the LAB, provision of legal services to the poor doubled to 202,424 cases, and there were 44 Justice Centres.³²

At the same time it was creating the Justice Centres, the LAB began a pilot project by funding staff at five university-based law clinics. This pilot has been equally successful. Like law school clinics in the United States, these clinics have the added purpose of providing practical experience and training for law students. However, unlike their U.S. counterparts, they employ candidate attorneys to assist with both the supervision and the representation of clients. The LAB-funded clinics, where candidate attorneys perform community service, have been able to reduce the cost per case to less than 50% of that in the Judicare system.³³

Beyond reducing costs and increasing numbers, what is more significant both in terms of this Article and of the government's first goal of increasing the number of attorneys of color is that the Justice Centres, university-based clinics, and other community service offices³⁴ employ growing numbers of candidate attorneys to work under the supervision of the staff lawyers. In rural areas, candidate attorneys are funded to work for local private attorneys, where they exist. Thus, each staff lawyer in these organizations generally supervises up to ten candidate attorneys (the ratios are lower in the university-based law clinics where the candidates help supervise the law students).³⁵ The most recent figures from April, 2004 indicate that the LAB employs 447 candidate attorneys at its 58 Justice Centres nationally, and show that the LAB supported the training of 24 candidate attorneys through its cooperation partners during the 2003 to 2004 fiscal year (April through March).³⁶

31. *See id.* at 11.

32. Legal Aid Board Annual Report 7 (2002/2003).

33. *See* McQuoid-Mason, unpublished paper, *supra* note 8, at 11.

34. In addition to the Campus Clinics, the LAB sponsored candidate attorneys at some non-profit public interest law firms, most notably the Legal Resources Centre ("LRC"). The LRC is more than 20 years old and is South Africa's largest public interest law firm. It employs 15 to 20 candidate attorneys at its five regional offices and trains them in public interest law and litigation.

35. *See* McQuoid-Mason, unpublished paper, *supra* note 8, at 11.

36. *See* Interview with Anne Moro, Operations Manager Communications Legal Aid Board (Apr. 7, 2004) (on file with Author).

Overall, the community service option created by the 1993 legislation met both of the goals it was created to achieve, while at the same time continuing to provide a practical training experience for law school graduates. One commentator noted that “[t]he South African experience is that state-funded law clinics provide extended legal services at a moderate cost to needy members of the public, and at the same time develop fields of expertise, practical experience and career opportunities for aspiring lawyers.”³⁷

III. REPLICATING SOUTH AFRICA’S SUCCESS IN THE UNITED STATES

A. *The Need*

Logically, there would be no need to assess the alternative system of attorney licensing used in South Africa unless there is agreement that the current system in the United States is not working. Recognition of the latter seems to be steadily growing,³⁸ as evidenced in part by the holding of this Symposium. Indeed, after publication of the thorough and convincing critique of U.S. bar examinations by Professor Andrea Curcio,³⁹ the point seems no longer open to dispute. As Professor Curcio notes, the rationale for bar examinations in this country, which, other than a character review, is to protect the public from incompetent lawyers.⁴⁰ Yet, she correctly argues that there is no evidence that state bar examiners can even determine what constitutes “competence,” and they are even less able to develop a written test to measure it.⁴¹ Instead, they continue to administer an examination that “is a poor measure of who is ready to practice law

37. See McQuoid-Mason, unpublished paper, *supra* note 8, at 12.

38. See Curcio, *supra* note 2; Daniel R. Hansen, Note, *Do We Need the Bar Examination? A Critical Evaluation of the Justifications for the Bar Examination and Proposed Alternatives*, 45 CASE W. RES. L. REV. 1191 (1995); Joan Howarth, *Teaching in the Shadow of the Bar*, 31 U.S.F. L. REV. 927 (1997); Deborah J. Merritt et al., *Raising the Bar: A Social Science Critique of Recent Increases to Passing Scores on the Bar Exam*, 69 U. CIN. L. REV. 929 (2000); The Society of American Law Teachers, www.saltlaw.org/barexam.htm.

39. See generally Curcio, *supra* note 2.

40. See *id.*

41. *Id.* at 368-72.

due to the narrow range of skills it tests and the manner in which it tests those skills."⁴²

The most basic flaw in the current system of bar admission is the failure to require that applicants receive training in practical lawyering skills and be assessed on those skills before being permitted to practice law.⁴³ This contrasts sharply with the medical model that requires medical school graduates to serve as interns and often as residents at a teaching hospital before being allowed to practice medicine on their own.⁴⁴ Another serious problem with the current system is that it does not focus on the full spectrum of legal knowledge, which has a limiting effect on law school curriculum,⁴⁵ and it excludes a disproportionate percentage of minority law graduates from becoming members of the bar.⁴⁶ As a result of these

42. *Id.* at 370. Having had occasion to study for the Florida bar exam as I was preparing this Article, I personally experienced an additional reason to criticize the current system that has not been emphasized by other commentators. As I attended the bar review classes, I was struck by how many "practical tips" I received on how to answer questions and to avoid the ways the examiners tried to trick you. For example, I was told there might be more than one correct response to a multiple-choice question, but the examiners wanted you to know the one that was more complete or contained the "better" reason. I also heard that certain rules must be learned for taking the bar exam which contradict what happens in actual legal practice. As I listened to these messages while I was spending hour after hour trying to memorize as much law as I could (knowing full well that I did not need to retain it after the exam—I would rely on research even if I thought I knew something), I found myself feeling more and more cynical about the whole process and ultimately about the legal profession as a whole. Nowhere was there any real mention of "justice," or of values such as the need to assist indigent clients either as a career or through pro bono service. Nor was there concern about how to practice law; it was only how to pass the exam. I am sure for many of those taking the exam right after completing law school, this was a natural extension of that experience where grades and class rank were emphasized as the means to obtaining the highest paying job possible. In any case, I could not help but think that the bar exam, as currently constituted, is the culmination of a process that creates a cynical, me-first attitude in many future attorneys.

43. At most U.S. law schools, students are not required to take any skills or clinical courses focusing on how to effectively represent clients.

44. For a fuller description of the medical licensing model, see David Stern, *Outside the Classroom: Teaching and Evaluating Future Physicians*, 20 GA. ST. U. L. REV. 877 (2004).

45. This concern is based on the belief that law students choose their courses in part based on what will be tested on the bar, often neglecting courses designed to teach practical skills or courses related to social justice issues such as environmental law, poverty law, or civil rights. See Joan Howarth, *Teaching in the Shadow of the Bar*, 31 U.S.F. L. REV. 927 (1997).

46. A six-year study indicates that first-time bar examination pass rates in the United States are 92% for caucasians, 61% for African Americans, 66% for Native Americans, 75% for Latino/Latina, and 81% for Asian Americans. In addition, a larger percentage of African-American applicants who failed on the first attempt did not retake the exam (11% compared to 2% of white examinees). LINDA F. WIGHTMAN, LSAC NATIONAL LONGITUDINAL BAR PASSAGE STUDY 27 (1998).

concerns, pilot projects to test alternatives to the bar examination are being explored in several jurisdictions.⁴⁷

The South African system of public service apprenticeships, sometimes combined with a four month practical training course, provides an alternative route to bar admission that at least at first glance responds to each of the major criticisms of bar examinations in the United States. Thus, through its apprenticeship requirement and practical training schools, the South African system attempts both to improve access to the profession for members of previously disadvantaged groups and to teach and assess a broad range of practical legal skills needed to practice law that are only rarely covered in law school. In addition, because many of the apprentice attorneys provide public service, they help meet one of society's other pressing needs, namely providing greater access to justice for indigent clients.

On the other hand, as Ms. Mhlungu describes in her companion article, the model used in South Africa has serious potential pitfalls in its implementation, both with regard to how to teach a practical training course and in the varying quality of supervision and assessment provided to the candidate attorneys.⁴⁸ Furthermore, as defenders of the current system in the United States argue, such a system must necessarily require substantial resources, both in attorney time and money.⁴⁹

47. For a description of the New York project, see Kristin Booth Glen, *When and Where We Enter: Rethinking Admission to the Legal Profession*, 102 COLUM. L. REV. 1696 (2002) [hereinafter Glen, *Rethinking Admission*], and Kristin Booth Glen, *Thinking Out of the Bar Exam Box: A Challenge and Proposal for Change* (forthcoming) [hereinafter Glen, *Proposal for Change*]. For more information on Arizona's Community Legal Access Bar Alternative, see Sally Simpson & Toni M. Massaro, *Students with "CLAS": An Alternative to Traditional Bar Examinations*, 20 GA. ST. U. L. REV. 813 (2004), and The Community Legal Access BarAlt Proposal, at www.law.arizona.edu/depts/claba/ (last visited Apr. 18, 2004).

48. See generally Mhlungu, *supra* note 1. Very little has been written about the training of candidate attorneys in South Africa, and it is therefore particularly helpful to have Ms. Mhlungu's perspective on her own clerkship experience as well as her experience in training candidate attorneys doing community service at the University of Natal Law Clinic in preparation for admission to the bar.

49. See generally Curcio, *supra* note 2. Another defense of the current system is that by eliminating the bar exam, jurisdictions will not be assured that applicants have the substantive knowledge needed to be a practicing attorney. It seems to me, however, that a much more reliable test for substantive law competency is passage of a law school course on a particular subject as opposed to an examination that tests whether an applicant can memorize enough law to pass the bar exam. Indeed, the common

The remainder of this Part examines key issues jurisdictions in the United States will have to face if they try to institute a South African-type system. The challenge will be to retain the benefits of better prepared lawyers, increase access to the profession, and expand legal services to the indigent while overcoming the problems of how to insure quality supervision and finance the changes. Some recommendations are made at the end of this Article, but the Author recognizes that the decision of what to do must be left to each jurisdiction. What is most important is that they not ignore the problem but instead think creatively and experiment with different ways to achieve the potential benefits of a revised system of admission to the bar.

B. The Role of Traditional Legal Education

Before discussing the use of postgraduate apprenticeships, there needs to be some discussion of the role that traditional legal education should play in providing more practical training for lawyers. Presently, there is a type of circular connection, even a classic "chicken and egg" question, between the bar examination and the predominant mode of education in most law schools. Thus, the former normally tests for what is currently taught in law schools, that is, substantive law, legal analysis, and legal ethics; the law school curriculum emphasizes those subjects that are tested on the bar examination. Admittedly, many law schools now offer a wider variety of subjects, including some in practical skills, but it is

expectation when I took the bar exam was that we all would forget what we had crammed into our heads for the exam the next day. If we needed to know a particular area of substantive law, we would rely on what we learned in law school and update that knowledge or fill in the gaps by doing the necessary research. If a jurisdiction believes knowledge of a particular subject should be required to pass the bar, passing that course in law school should be mandatory.

Admittedly, as mentioned *supra* note 17, and the accompanying text, the South African model does not do away entirely with a bar examination. A four-part examination is still required for admission to the bar, but it is focused on knowledge needed for law practice, rather than the knowledge of substantive legal rules, and the exam may be taken in parts while doing community service. Therefore, the South African bar applicants are taught what they need to know for the bar exam through their practical experience, and there is less chance that they will give up on the profession if they fail a portion of the exam and have to retake it.

normally left to each student to decide whether to enroll in skills courses or clinical opportunities.⁵⁰

What is clear according to studies like the MacCrate Report is that U.S. law graduates do not have the skills and training necessary to represent clients upon graduation from law school.⁵¹ The situation is similar in South Africa because, as discussed earlier, legal education in the two countries is comparable.⁵² As Ms. Mhlungu stated, "I left the university after graduation . . . knowing that I was not ready to practice law."⁵³ One of the biggest gaps is a lack of basic lawyering skills, including legal research, writing, drafting, client interviewing, counseling, negotiation, and trial skills. These studies have been used to encourage changes in law school curriculum to provide more skills training and an increase in clinical legal education opportunities.

Legal educators, however, are undecided about whether it should be their responsibility to include practical lawyering skills as part of the standard curriculum or whether they should continue to rely on "on the job training" to complete that task. One factor favoring proponents of the present system is that some law graduates never practice law. Status quo proponents also, I believe incorrectly, follow a model that assumes that law firms will train their new associates with the skills they need for legal practice. Whatever the reason, the bottom line for purposes of this Article is that there is little reason to

50. Clinical legal education has expanded greatly in the United States since 1970 and in South Africa since the end of apartheid. One difference is that in the United States, certified law students may represent clients in court pursuant to student practice rules. In South Africa, student practice rules were first drafted in 1985 to enable final-year law students, enrolled in law clinics, to appear in criminal cases representing indigent defendants in the district courts. Professor David McQuoid-Mason, at the University of Natal School of Law, drafted the rules based on the American Bar Association Model Rules for Student Practice and submitted them in 1985 to the Association of Law Societies of South Africa for transmission to the Minister of Justice. All branches of the profession and the law schools approved the rules, but The Department of Justice blocked them. The rules have not been introduced by the current Minister of Justice. Professor McQuoid-Mason estimates that if each of the approximately 3000 final-year law students participated in a law clinic and handled ten cases annually, mainly during the summer and winter vacations, they could provide representation for 30,000 criminal defendants each year. See McQuoid-Mason, unpublished paper, *supra* note 8.

51. See generally "Legal Education and Professional Development—An Educational Continuum," *Report of the Task Force on Law Schools and the Profession: Narrowing the Gap*, 1992 A.B.A. SEC. LEG. EDUC. & ADMISSIONS TO THE BAR.

52. See *supra* Part II.B.

53. See Mhlungu, *supra* note 1, at 1009.

believe that traditional law school education is likely to take up the task of providing more practical skills training for lawyers any time soon. That means that those skills will still have to be acquired elsewhere.

C. Practical Training Courses and Law School Clinics

The new South African system allows for the teaching of some of the skills needed for legal practice in the classroom, as a substitute for one year of serving as an apprentice. This is done through the four-month courses at Practical Training schools, described in Ms. Mhlungu's article.⁵⁴ As Ms. Mhlungu notes, however, the Practical Training Skills course may fail to accomplish its goals because the curriculum is often taught through traditional classroom methods such as lectures.⁵⁵ This alternative has potential, however, if the curriculum consists primarily of simulations and practical exercises, after which the students receive constructive feedback from the instructors. At the end of the course, the students can be assessed as to their ability to complete basic lawyering tasks such as writing a client letter or presenting an oral argument on a motion. According to one commentator, the Canadian system contains a successful model of this course.⁵⁶

In the United States, some of the elements of a practical training course are present in our law school clinics, where classroom work is often part of the clinical experience. Law students, whether participating in an in-house clinic or an externship with a legal office, will participate in a seminar usually taken contemporaneously. The seminar will focus on ethical, substantive, and skill issues in the student's legal practice and have students reflect on their experiences and draw lessons from them. Like the practical training course, the student has a chance to practice actual lawyering skills such as client counseling, and to receive feedback from a supervisor. One advantage is that the student works on a real case rather than a

54. *See id.* at 1009-12.

55. *See id.* at 1010.

56. *See Curcio, supra* note 2, at 407-09.

simulation, a factor that may provide an extra incentive for the student to try to perform at her best. On the other hand, the use of real cases means that educators have less control over what skills may be required in a particular case and the timing of when they occur. Nevertheless, this model has significant potential and forms the basis for a possible system proposed later in this Article.

D. Community Service Clerkships

Part II described the benefits that a postgraduate community clerkship, like the ones in South Africa, can provide as a requirement for becoming a licensed attorney.⁵⁷ While the South African experience also demonstrates that the system of internships must be carefully regulated to ensure that its objectives are met, the potential benefits seem sufficient to warrant that U.S. jurisdictions test the feasibility of adopting a similar system.

1. Providing Practical Experience

The first and most important benefit these clerkships share with other alternatives to the bar exam is that they provide an opportunity both to train prospective lawyers in the practical skills needed to be an attorney and then to assess whether they have achieved competency in those skills. Moreover, clerkships do so even more effectively than the law school clinical experience described above because the intern works full time for at least a year and possibly for two years. Unlike the clinical situation, there is a strong likelihood that candidates will have opportunities to practice and to be assessed on virtually all of the key lawyering skills that would demonstrate competency as an attorney.

Clearly, the primary concerns regarding these internships are securing the resources (time and money) to run them and ensuring

57. As previously noted, South Africa also requires candidate attorneys to pass a four-paper bar examination in order to practice. However, this Attorney's Admission Examination tests only the practical aspects of legal practice. For instance, Paper 4 tests attorney bookkeeping and Paper 3 tests professional ethics. See Law Society of South Africa, *The Attorney's Admission Examination*, 2001, at <http://www.tvilaw.co.za/candidate/syllabus.html> (last visited Jan. 4, 2004) (on file with Author).

uniform, quality supervision. This Article will address the resources question later.⁵⁸ Regarding supervision, it is useful to begin with a review of the traditional system of articles that preceded and still is an alternative to community service clerkships in South Africa. That system utilizes several devices in an attempt to ensure that the training of candidate attorneys is of a high quality. As described earlier, these include the requirements that (1) the principal have practiced for three years, (2) the principal and candidate attorney sign a Contract of Clerkship setting forth the duties and responsibilities of both parties, including the legal skills that must be taught, and (3) the principal supervise no more than three candidate attorneys.⁵⁹

The main problems with this system are in its implementation rather than its concept. Ms. Mhlungu's account of her experience graphically portrays these problems when she describes how, in her first clerkship, she had to learn basic lawyering skills through trial and error with almost no supervision.⁶⁰ The result was that she felt inadequate to do complicated litigation and instead sought to learn how to do transactional work.⁶¹ In her second clerkship experience, Ms. Mhlungu received regular feedback on her work but felt devalued as a person.⁶² Supervision requires skill, interest, and a large commitment of time by each principal. Also, as Ms. Mhlungu indicated, the traditional system of articles was open to problems of racism, sexism, and poor supervision, with candidate attorneys sometimes being exploited as low-cost labor without receiving proper training.⁶³

The community service placements allowed under post-apartheid legislative changes provide for a much better system of supervision. Supervisors in most of these settings spend all or most of their time on supervision and therefore are much less likely to be distracted by the demands of their own caseload. This is particularly true for the

58. *See infra* Part IV.

59. *See supra* Part I.C.

60. *See Mhlungu, supra* note 1, at 1015-17.

61. *See id.* at 1017.

62. *See id.* at 1017-21.

63. *See id.* at 1013-21.

placements at the Legal Aid Board Centres, now called Justice Centres, and the university-based law clinics. There are other public interest legal organizations that also receive placements, such as the Legal Resources Centre offices, where attorney supervisors probably have their own caseload, but because they have a public interest law focus and have many fewer candidate attorneys, supervision there is also much more likely to be taken seriously.⁶⁴

The Legal Aid Board-funded Centres hire attorneys with at least three years of practical experience to supervise ten candidate attorneys in community service internships. In some clinics, there are eight community service interns and two qualified professional assistants supervised by the principal, so the professional assistants can appear in the regional magistrate courts while the new law graduates appear in the district (lower) magistrate courts.⁶⁵

At the university-based law clinics, such as the University of Natal where Ms. Mhlungu is employed, the ratio of principals to community service candidate attorneys is even smaller. For the most part, principals supervise only two or three candidate attorneys because they are also teaching and supervising final-year law students.

Beyond simply spending more time on supervision, because it is their primary responsibility, the supervisors in these settings are likely to become more expert in supervision, which is a skill not taught in law schools. Thus, they probably will discuss it with their peers and seek information and training to improve these skills. One example of peer-sharing, which developed almost immediately after apartheid, is the annual conference of university-based law clinic staff. During the conference, supervisors receive training on adult learning and supervision skills, including giving effective feedback.⁶⁶ Finally, this system allows for the supervision of the supervisors, either through a peer system or by having their more experienced or

64. See *supra* note 34 and accompanying text.

65. McQuoid-Mason, unpublished paper, *supra* note 8, at 2.33.

66. The Author and her partner conducted three of these sessions for university-based attorney supervisors in 1997 through 1999. Since then, approximately 40 university-based supervisors (and often the candidate attorneys) hold multi-day workshops two times a year to learn new skills.

more expert members observe and critique them.⁶⁷ Given the closed and likely supportive nature of these settings, it is also more probable that the supervisors will solicit feedback from the interns they supervise.

2. *Access to the Profession*

Another major reason previously mentioned for considering alternatives to the U.S. bar examinations is that studies show that disproportionate numbers of African-American and Latino law graduates fail the exam, creating a formidable obstacle to their access to the profession.⁶⁸ Part II described how, in South Africa, difficulty in finding a placement to complete the required two years of articles contributed to the exclusion of black candidates from the profession. This problem helped spur the passage of the 1993 amendments to the Attorneys Act 53. The amendments established an alternative route to admission, involving a Practical Training School course and a one-year clerkship of community service or two years of community service. This change is working in South Africa,⁶⁹ and there is reason to believe it could have a similar effect in the United States.

To make this alternative work in the United States, we will have to address various concerns. For example, those who would administer this kind of program must be cognizant of the need to choose those who participate in this program and the compensation provided to them so as not to exclude prospective attorneys because of race or wealth. Wealth is a factor because law graduates with high debt may find it difficult to spend a year at a low-paid clerkship (the Arizona model) or to endure three months with no pay (the New York

67. One key deficiency in the South African system of articles is that there was no oversight of the supervision provided to candidate attorneys by the one body that could have done so, the law societies who have the responsibility for the admission of attorneys to the bar.

68. See WIGHTMAN, *supra* note 46.

69. See *supra* notes 22 & 23 and accompanying text. Unfortunately, there still seems to be a problem for black law graduates who choose the route of doing articles in private law firms. MAISEL & GREENBAUM, *supra* note 5, at 210-11.

model).⁷⁰ Indeed, law graduates in the United States and South Africa who are overloaded with debt upon graduation or who feel the pressure of providing resources to their extended family, or both, are under great pressure to take the highest paying jobs possible, often in the corporate field. Yet, these are the students who may need practical training the most because they had to work part or full-time during law school and therefore had little or no opportunity to participate in a law school clinical program. Race becomes a factor because it is likely that a higher percentage of minority law graduates will be in the lower-income group.⁷¹ It will, therefore, be necessary to compensate interns adequately, partially forgive law school debt, or at least suspend payments and the accumulation of interest during their period of community service.⁷² In that way, participants will at least be in no worse financial shape than when they graduated from law school.

A second issue concerns how private law firms will view job applicants who have completed a public service internship as an alternative to a bar examination. Applicants who take the bar and therefore are available more quickly may be more desirable to firms. It is also unclear how corporate firms and corporate law departments will view applicants who have worked in a public interest setting. A possible result could be segregation in terms of future employment for those law graduates who choose an alternative method to obtain admission to the bar. The solution may be to make community service mandatory, similar to the requirement of service as an intern for medical school graduates.⁷³

70. For a description of the Arizona model, see generally Simpson & Massaro, *supra* note 47, at 817-19. For a description of the New York model, see generally Glen, *Proposal for Change*, *supra* note 47.

71. While I have no data on the debt of law graduates by race, there is significant data on the higher poverty levels among black and Hispanic people in the U.S. population.

72. Programs to partially forgive law school debt for attorneys in public interest practice, called Loan Repayment Assistance Programs ("LRAPs"), existed in 47 law school and four states as of the year 2000. Equal Justice Works, *Financing the Future: The 2000 Report on Law School Loan Repayment Assistance and Public Interest Scholarship Programs*, 2000, at <http://www.equaljusticeworks.org/finance/index.php?view=detail&id=1205>.

73. See Stern, *supra* note 44, at 898.

As Ms. Mhlugu pointed out, in South Africa, with its black-dominated government and its growing black economic elite, there are financial and legal considerations, like access to government contracts, that put pressure on South African firms to employ black law graduates, including those with public interest backgrounds.⁷⁴ The same financial incentives do not exist in the United States, and there are no employment equity requirements equivalent to those in South Africa. U.S. jurisdictions also have no requirement that private law firms provide pro bono or community service. Careful consideration and further study are necessary to ensure that a community service alternative for admission to the bar actually does increase representation of people of color in the profession.

A third issue in the United States that requires further thought is an attorney's ability to transfer her license to a state other than the one in which she was originally admitted. In South Africa, attorneys moving from one province to another, each with its own law society, are granted reciprocity in admission to the local provincial bar. Currently in the United States, a majority of states allow reciprocity to attorneys moving from another state or require them to take a limited bar examination focusing on the state courts and procedure of the new jurisdiction. United States attorneys admitted to the bar through an apprenticeship route would have the skills to practice in other states and should be given reciprocity. As in the present system, a state could ask the attorney to take a limited examination on state courts and procedure.

3. *Access to Justice*

A third benefit of the public service clerkships in South Africa is the improved access to justice for disadvantaged members of society. This has been achieved in two ways. First, the new system has increased the number of attorneys who are exposed to poverty law and development needs and who are educated to provide representation on these issues. Indeed, a large number of candidate

74. See Mhlungu, *supra* note 1, at 1018.

attorneys trained in public interest law firms in South Africa continue to work in legal aid and public interest law after their admission to the bar.⁷⁵ There is no reason to expect a different result in the United States, where use of public interest internships will expose more law graduates to the needs and problems of poor people. It will also allow these graduates to explore whether they want to pursue public interest careers after admission to the bar, or take on pro bono cases in private practice settings.

The second way a system of community service internships improves access to justice is that the system greatly increases the legal resources available to low-income people. The lack of resources to represent members of this segment of the population is a serious problem in both the United States and in South Africa, where there are many more indigent people in need of legal representation than there are free lawyers to represent them.⁷⁶ By improving this situation, jurisdictions in the United States can create more equality in the legal system and achieve a reduction of cynicism and hopelessness among low-income people. The major obstacle to this result is funding.

In South Africa, the Legal Aid budget has grown from 35.2 million Rand in 1991 to 1992 to 312 million Rand in 2001 to 2002.⁷⁷ The move away from the Judicare system to a staff attorney model in providing free legal services has created many new Legal Aid Justice Centres. This move has resulted in the hiring of experienced attorneys who can act as principals to candidate attorneys. The university law clinics have also received major funding from foreign donors to provide free legal services and train law students and

75. "Approximately 45% of LRC graduates have entered into careers focusing on public interest, working for public interest law [organization]s, human rights groups, government agencies, and even the judiciary. The rate at which our graduates chose careers in some fields of public interest law exceeds that of any other comparable [program] in South Africa." Legal Resources Centre, *The Candidate Attorney Project*, at http://www.lrc.org.za/Projects/Projects_Detail.asp?ID=2 (last visited Apr. 19, 2004).

76. The Spangenberg Group has conducted studies throughout the United States on the unmet civil legal needs of low-income persons. These include studies for the New York State Bar Association, the Massachusetts Legal Assistance Corporation, the Ohio State Bar Association, and the Illinois State Bar Association.

77. See MAISEL & GREENBAUM, *supra* note 5, at 219.

candidate attorneys. Nevertheless, even with these new sources of funding, the legal system in South Africa is still straining to adequately fund the community internships.

At present in the United States, there are woefully inadequate resources available to provide civil legal services to the poor.⁷⁸ Creation of a public interest internship program will greatly reduce the person-power problem but will require considerable additional funding because we cannot expect the existing human and capital resources of legal aid and public defender programs to absorb the vast number of new interns. The next Part contains a proposal that attempts to solve this and other concerns.

IV. PROPOSED ALTERNATIVE FOR THE UNITED STATES

Other commentators have both proposed and critiqued potential alternative models to current bar exams.⁷⁹ The primary purpose of this Article was to add to that discussion by describing what the South African experience has to offer. After reviewing the system there and observing both its strengths and pitfalls, this section will propose a general model that would seem to best address most of the concerns raised above: assurance that newly admitted attorneys have practical skills; assurance that the profession does not exclude applicants based on race or wealth; assurance that the private and corporate bars do not disfavor job applicants who complete public service internships; provision of adequate funding for representation of the indigent; and provision of adequate supervision to public service interns.

The alternative that this Article proposes is to replicate the system that the medical profession currently uses by creating "teaching law schools." These law schools would oversee mandatory legal internships in the same way that teaching hospitals oversee medical

78. While there are more funds for criminal representation for indigent defendants, because there is a constitutional right to counsel, many states have started to charge defendants a fee for representation by a public defender. In Minnesota, for instance, this fee varies from \$50 to \$200 depending on the type of case. See Glen, *Rethinking Admission*, *supra* note 47; Massaro & Simpson, *supra* note 47.

79. See, e.g., Curcio, *supra* note 2; see also Glen, *Rethinking Admission*, *supra* note 47.

interns and residents. The practical training could be provided either in-house or through supervised externships or a combination of the two; but in either case, everyone would receive hands-on experience. Further, making the program mandatory for all students would eliminate any bias in favor of those who did not complete public service internships. Additionally, as suggested earlier, race and wealth discrimination would not be an issue if there were debt forgiveness, or at least suspension of debt accumulation.

Perhaps the greatest obstacle would be finding the financial resources to support this system, but some creative possibilities exist. Government is one likely source of revenue, and funding university law centers may be more politically palatable than increasing the funding for the controversial Legal Services Corporation. Restrictions on the type of representation provided would likely accompany the provision of government funds, however, so it should not be the only source. Another possible source is to tap into the traditional fundraising sources of the universities that house these centers. These sources may include foundations and, more importantly, alumni of the programs. Lawyers have never had a great history of giving, but it is possible that they would donate to these centers, perhaps out of gratitude for the practical legal experience they provided. Finally, it is possible to devise a way to extract funds from the private bar to help cover the costs of these centers, under the rationale that the centers would provide some of the training that law firms and corporate law departments have traditionally undertaken. Possibilities include an add-on to court filing fees or, better yet, a special "attorney tax," perhaps tied to income.⁸⁰

As for insuring the quality of the supervision, these centers would have all the advantages described above with regard to the Justice Centres and university law clinics in South Africa.⁸¹ Indeed, attorneys specifically educated and trained to be supervisors, much

80. It is clear that this must be a new source of revenue separate from the Interest On Lawyers Trust Funds Accounts ("IOLTA") presently being collected in virtually all states today. Because the bulk of IOLTA funds already support legal services to indigent clients, nothing is gained by tapping into that source, which is vital to the current legal services programs.

81. See *supra* Part II and accompanying notes.

like the faculties at our teaching hospitals, would conduct the supervision. Similarly, following the pattern of current law clinic externship programs, university staff would oversee the supervision of interns who work off-site in either public interest or government settings such as public defender offices. Thus, if problems arise with particular supervisors, the intern would not be left to her own devices, as was Ms. Mhlungu, but instead would have someone to intervene on her behalf to help correct the situation.

CONCLUSION

There is a growing recognition in the United States that bar examinations need to be eliminated or changed because, among other reasons, they test for only a narrow range of skills needed to practice law, have an unfair impact on the admission of minority attorneys to the bar, and help limit the types of courses law students take while in school. Pilot projects based on community service have been suggested as alternatives to the bar examination in both Arizona and New York. These represent an excellent beginning to the experimentation that should follow to find the best alternatives. Based on a review of the South African community service apprenticeship model, this Article has briefly explored one other alternative for replacing bar examinations. The university law center model was proposed because it helps ensure that, before being admitted to the bar, new attorneys have practical education in the skills and knowledge necessary to represent clients; it reduces the likelihood that law graduates of color will be disproportionately kept out of the profession; and it greatly increases both the awareness of the legal needs of the poor and also the resources devoted to their representation.

The Author hopes that in the next five years, every jurisdiction will begin at least one pilot project to test an alternative method for bar admission. The key is to develop a system that will ensure the admission of law graduates who have the competency to do their job well, are as diverse as the society from which they come, and are committed to providing justice for all of our citizens.