

2010

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Recommended Citation

Jayanth K. Krishnan, *The Joint Law Venture: A Pilot Study*, 28 BERKELEY J. INT'L LAW. 431 (2010).
Available at: <http://scholarship.law.berkeley.edu/bjil/vol28/iss2/3>

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The Joint Law Venture: A Pilot Study

Jayanth K. Krishnan*

I.

INTRODUCTION

The current economic downturn has forced large law firms in the United States to scale back their hiring practices, lay off employees, and reconsider their overall business structure.¹ One prominent scholar has argued “that the bubble has permanently burst on the traditional BigLaw [or big law firm] model.”² As such, the ramification of the economic crisis is that regional and local law firms will play a more prominent role in the delivery of legal services.³ The idea is that because they incur lower costs (in terms of salaries and fees) and are generally more attentive to client needs, these smaller firms are likely to receive greater amounts of work that otherwise would have been given to the elite law firms.⁴

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1. For a detailed listing of firms that have been suffering under the present economic crisis, see David Lat’s blog, *Above the Law*, <http://abovethelaw.com/2009/06/13/> (last visited Mar. 6, 2010), and the *Layoff Tracker* on legal professions blog *Law Shucks*, <http://lawshucks.com/layoff-tracker/> (last visited Mar. 6, 2010). Both blogs have been maintaining copious data on the number of layoffs occurring at law firms in Britain and the United States.

2. See posting of Professor William Henderson to *Brian Leiter Law Reports*, <http://leiterlawschool.typepad.com/leiter/2009/04/the-upheaval-in-the-market-for-new-lawYERS-at-the-big-law-firms-temporary-or-permanent.html> (Apr. 30, 2009). See also John P. Heinz, *When Law Firms Fail*, 43 SUFFOLK U. L. REV. 67 (2009); Larry E. Ribstein, *The Death of Big Law* (University of Illinois Law & Economics Research Paper LE 09-025, 2009), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1467730.

3. See Henderson, *supra* note 2.

4. *Id.*

This pilot study will seek to add a more international dimension to the analysis. As big law firms in the United States have struggled, so too have their counterparts in Britain. The result is that many large law firms in both countries are focusing on markets that until now have remained untapped. For example, in October 2008, mega-firm DLA Piper opened an office in Kuwait, noting that the country's strong economic presence within the Gulf Cooperation Council served as the impetus for this move.⁵ Similarly, a partner from a high-powered British firm recently commented that places like "Jakarta and Vietnam are the hot markets now where [Western] lawyers can mint money."⁶ And a report by the Bloomberg news group notes that the slumping global economy "has encouraged . . . firms led by Cleary Gottlieb; Skadden, Arps, Slate, Meagher & Flom, and Dewey & LeBoeuf to accelerate foreign expansion programs . . ."⁷

That American and British law firms are "going international" is not a new development.⁸ However, because these law firms have not experienced such hard-hitting economic conditions in more than a generation, the manner in which they are looking to create business in other countries merits scholarly attention. One method law firms are using to enter newer markets is the establishment of what is called the joint law venture, or JLV. The structure of this entity is straightforward. An American firm, for instance, decides it wants to expand into country X. While X allows foreign lawyers to conduct international transactions within its borders, it has stringent licensing requirements that effectively bar American (and all other foreign) lawyers from practicing X's domestic laws. Yet the American firm has been eyeing country X precisely because it sees potential for earning a great amount of money from the local business sector. As a result, the American firm contacts, develops a relationship with, and eventually enters into a joint law venture with a local firm in X. The JLV is a legally distinct body that now has the ability to practice the laws of country X through its locally licensed lawyers.⁹

5. See Press Release, DLA Piper, Joint Venture Agreement Announced between Leading Kuwaiti Law Firm and DLA Piper (Oct. 8, 2008), available at <http://www.dlapiper.com/global/media/detail.aspx?news=2821>.

6. Interview with anonymous partner of an elite law firm (June 9, 2009).

7. See Lindsay Fortado, *Law Firms Find Work Abroad as U.S. Mergers Hit a Low*, BLOOMBERG, Apr. 10, 2008, <http://www.bloomberg.com/apps/news?pid=20601109&sid=aAwMFWmJgaM&refer=home>. A November 2008 article affirmed this position during a time when the U.S. economy was arguably at one of its lowest points. See John Bringardner, *U.S. Law Firms Expanding Abroad*, N.Y. TIMES, Nov. 23, 2008, <http://www.nytimes.com/2008/11/23/world/americas/23iht-lawyers.1.18063294.html>.

8. See Jayanth K. Krishnan, *Globetrotting Law Firms*, 23 GEO. J. LEGAL ETHICS (forthcoming 2010).

9. For enlightening work on the subject of joint law ventures in Japan, see Bruce E. Aronson, *The Brave New World of Lawyers in Japan*, 21 COLUM. J. ASIAN L. 45 (2007); Bruce E. Aronson, *Elite Law Firm Mergers and Reputational Competition: Is Bigger Really Better? An International Comparison*, 40 VAND. J. TRANSNAT'L L. 763 (2007). David Wilkins, who is cited extensively later in this study (see *infra* notes 25 and 31), has also discussed joint ventures, but in a different vein (noting the emerging relationships between lawyers and their clients). See, e.g., David B. Wilkins,

In theory, then, the JLV appears an optimal route for the American law firm to pursue. Theoretically, the local firm in country X also benefits. It has an opportunity to gain international contacts, learn skills and “best practices” from the American counterparts, and link itself to a highly prestigious U.S. firm. Therefore, it seems as though the JLV is a win-win strategy for both sides.

But is it really? Below, I preliminarily test this theory by considering a country that has been a major hub for JLVs over the past decade. The wealthy Asian country of Singapore, with a population of 4.8 million, is a significant financial center, where business elites from states like Japan, China, Indonesia, and Malaysia interact with one another as well as with economic players from India, the Middle East, Europe, and North America. Since becoming fully independent in 1965, Singapore has made economic development a primary goal, achieving gross domestic product and per capita income numbers that are among the highest in the world.¹⁰ As part of its development plan, Singapore has aggressively liberalized its economy, including its legal services sector. For decades, Singapore has granted foreign law firms admission into the country but prohibited them from practicing Singaporean law.¹¹ Then, about ten years ago, the government sought to expand the scope under which foreign law firms could work. Upon consultation with lawyers from the United States and Britain, as

Team of Rivals? Toward a New Model of the Corporate Attorney/Client Relationship, in 62 CURRENT LEGAL PROBLEMS 478 (Colm O’Cinneide ed., 2009); David B. Wilkins, *Do Clients Have Ethical Obligations to Lawyers?*, 11 GEO. J. LEGAL ETHICS 855 (1998). For other studies of relevance, see David A. Gantz, *Doi Moi, the VBTA, and WTO Accession, The Role of Lawyers in Vietnam’s No Longer Cautious Embrace of Globalization*, 41 INT’L LAW. 873 (2007); Jeff Coburn, *All for One: Strategic Alliances Are Good for Business, Clients*, 17 (5) LEGAL MGMT. 46 (1998); Jonathan Barsade, *The Effect of EC Regulations Upon the Ability of U.S. Lawyers to Establish a Pan-European Practice*, 28 INT’L LAW. 313 (1994); Roger J. Goebel, *Professional Qualification and Educational Requirements for Law Practice in a Foreign Country: Bridging the Gap*, 63 TUL. L. REV. 443 (1989). While she does not focus on the subject of joint law ventures (notwithstanding a mention in n. 30), Carole Silver, in a 2007 study, discusses how globalization has led American law firms to emphasize the importance of recognizing what she terms “[t]he rise of local players.” See Carole Silver, *Local Matters: Internationalizing Strategies for U.S. Law Firms*, 14 IND. J. GLOBAL LEGAL STUD. 67, 77-89 (2007). For a discussion on joint relationships in terms of law firms and legal outsourcing companies, see Jayanth K. Krishnan, *Outsourcing and the Globalizing Legal Profession*, 48 WM. & MARY L. REV. 2189 (2007); Mary C. Daly & Carole Silver, *Flattening the World of Legal Services? The Ethical and Liability Minefields of Offshoring Legal and Law-Related Services*, 38 GEO. J. INT’L L. 401 (2007); Mimi Samuel & Laura Currie Oates, *From Oppression to Outsourcing: New Opportunities for Uganda’s Growing Number of Attorneys in Today’s Flattening World*, 4 SEATTLE J. FOR SOC. JUST. 835 (2006). For work on joint ventures between law firms and non-legal entities, see John S. Dzienkowski & Robert J. Peroni, *Multi-Disciplinary Practice and the American Legal Profession: A Market Approach to the Delivery of Legal Services in the Twenty-First Century*, 69 FORDHAM L. REV. 83 (2000); Gregory Steven Swan, *The Political Economy of Interprofessional Imperialism: The Bar and Multidisciplinary Practice, 1999-2001*, 21 J. LEGAL PROF. 151 (2000).

10. For data that bears this point out, see World Economic Outlook Database, Apr. 2009, International Monetary Fund, <http://www.imf.org/external/pubs/ft/weo/2009/01/weodata/index.aspx>.

11. Interview with anonymous lawyer from a well-known Singaporean firm (June 9, 2009). For brief background on this point, see Warren B. Chik, *Brief Notes: Recent International Developments in Singapore*, 7 SINGAPORE J. INT’L & COMP. LAW 267 (2003).

well as its own domestic bar, the Singaporean government began allowing for the establishment of the JLV in the late 1990s, believing it would positively serve all parties involved. And indeed, between 2000 and 2009, eleven JLVs were created between elite foreign law firms and local Singaporean firms.

Yet to date, no sustained work has evaluated how effective these JLVs have functioned in Singapore. Therefore, during part of the summer of 2009, I spent time in the country conducting fieldwork on this subject. As I quickly learned upon my arrival, more than half of these eleven JLVs have since disbanded. I also learned that in 2007, the government formally adopted a new set of procedures (that came into force in early 2009) intended to facilitate the liberalization of the legal services sector.¹² With these facts as my starting points, I set out to understand why many of the JLVs had not lived up to their theoretical accolades – and how those that remain standing have managed to do so. Employing the well-accepted empirical method of semi-structured interviews,¹³ I met with nine high-ranking lawyers representing six of the eleven JLVs. Subsequently, upon my return to the United States, I conducted phone interviews with three other lawyers respectively representing three additional, separate JLVs. I also engaged in follow-up email exchanges with several of these respondents and conducted interviews with lawyers in Singaporean, U.S., and U.K. firms that have affirmatively decided not to opt for the joint entity.¹⁴ The data gathered reveal a telling account, detailed below, illustrating some pluses – but also many pitfalls – that have accompanied the JLV. It is for these reasons that I will argue that American and British law firms should think seriously before pursuing the JLV route in the future – not just in Singapore, but even perhaps more broadly in other markets where they are already present or are contemplating entering.

This project proceeds in the following manner. Part Two reviews those studies that have discussed the structure of law firms over the years. In addition, I draw on works by business and economics scholars who have explored international joint ventures and explain how their studies can apply to my research and help fill an important gap in the legal professions' scholarship.

12. For background on what occurred, see Singaporean Government Ministry of Law website, http://notesapp.internet.gov.sg/_48256DF20015A167.nsf/LookupContentDocsByKey/GOVI-79LDRE?OpenDocument.

13. Robert Dingwall, *Accounts, Interviews and Observation*, in *CONTEXT AND METHOD IN QUALITATIVE RESEARCH* 51-64 (Gale Miller & Robert Dingwall eds., 1997); Herbert M. Kritzer, *Stories from the Field: Collecting Data Outside Over There*, in *PRACTICING ETHNOGRAPHY IN LAW: NEW DIALOGUES, ENDURING METHODS* 143-59 (June Starr & Mark Goodale eds., 2002); Shirley Harkness & Carol A.B. Warren, *The Social Relations of Intensive Interviewing: Constellations of Strangeness and Science*, in *21 SOCIOLOGICAL METHODS & RESEARCH* 317-39 (Feb. 1993).

14. At times, the nature of my interviews with these individuals touched upon professionally delicate matters. Based on my consultation with my university's human subjects institutional review board, which granted me full approval to conduct my research, I promised all of my respondents that their identities would be kept confidential. For that reason, throughout the course of this study, I withhold the names of my interviewees and the firms for which they work in my citations.

Part Three briefly covers Singapore's meteoric economic rise and the political environment in which this growth has occurred. From there, I describe the nature of the Singaporean legal profession and how the American and British presence and the JLV fit within this landscape. Part Four then presents the findings of my fieldwork and interviews, which cast doubt on the theory that JLVs are necessarily an ideal vehicle for Western law firms to expand into newer markets. Finally, Part Five assesses where to go from here by offering the beginnings of alternative models that suggest how law firms may globalize in the future, given the challenges presented by the joint law venture.

II.

SURVEYING THE LITERATURE AND IDENTIFYING THE GAPS

Notwithstanding Erwin Smigel's work from nearly forty years ago or Paul Hoffmann's 1973 work, *Lions in the Street*, little was written about the structure and business model of American law firms until after 1979.¹⁵ It was then that Steven Brill launched *The American Lawyer*, a monthly magazine that has developed into a leading publication that tracks various aspects of the legal profession, including how law firms function.¹⁶ Within its "Firms" section, the magazine discusses current work, management issues, employment, and the overall legal environment in which lawyers are operating.¹⁷ One of its most well known features is its ranking of the top law firms in the United States on the basis of gross profits, profitability per partner, and salaries of full-time and summer associates.¹⁸

The American Lawyer has spawned other similar types of publications. The American Bar Association, for instance, has a weekly e-mailing that, among other items, contains data, news, and human interest stories on what is happening in the law firm world.¹⁹ And numerous blogs cover this sector of the legal profession with great interest.²⁰

With more information available on law firm practices, academic studies

15. See ERWIN O. SMIGEL, *THE WALL STREET LAWYER: PROFESSIONAL ORGANIZATIONAL MAN?* (1964); PAUL HOFFMANN, *LIONS IN THE STREET: THE INSIDE STORY OF THE GREAT WALL STREET LAWYERS* (1973). For a discussion of this point, and an ensuing account of the development of the scholarly literature, see Eli Wald, *The Other Legal Profession and the Orthodox View of the Bar: The Rise of Colorado's Elite Law Firms*, 80 U. COLO. L. REV. 605 (2009).

16. For background and content of this magazine, see AMERICAN LAWYER.COM, <http://www.law.com/jsp/tal/index.jsp>. See also Wald, *supra* note 15, at n.419.

17. See AMERICAN LAWYER.COM, <http://amlawdaily.typepad.com/amlawdaily/work/index.html>.

18. *Id.*

19. See, e.g., ABA JOURNAL WEEKLY NEWSLETTER, <http://abajournal.com/weekly/>.

20. See, e.g., Above the Law, <http://www.abovethelaw.com/>; Law Shucks, <http://lawshucks.com/layoff-tracker/>; The Legal Profession Blog, http://lawprofessors.typepad.com/legal_profession/; Empirical Legal Studies Blog, <http://www.elsblog.org>.

soon emerged as well. For example, in 1988, Robert Nelson published *Partners with Power*, which revealed a transition by corporate law firms towards more specialized, non-litigation oriented practices.²¹ A few years later, Marc Galanter and Thomas Palay wrote *Tournament of Lawyers*, arguing that the structure of large law firms could be explained by the race to partnership, which led to a need to hire more associates and would ultimately lead to even larger firms.²² In 2008, Galanter, this time together with William Henderson, followed up on that study by noting that although the race-to-the-partnership thesis was still both relevant and applicable, this tournament had consequences that the original model had not initially foreseen.²³ Namely, the obsession with growth and economic profitability led firms to shun other worthwhile causes, such as the need for racial and gender diversity, *pro bono* cases, and mentoring younger lawyers.²⁴ According to Galanter and Henderson, the existing structure of big law firms effectively only allowed for a culture that valued “the bottom dollar” – and little else.

In between *Tournament of Lawyers* and that 2008 article, other studies examined this point and, more broadly, the subject of how firm structure and culture intersected.²⁵ For example, a number of authors found that gender equity, in terms of salaries or promoting women to partners, was simply not part of law firm culture.²⁶ Other work cited arcane cultural norms, along with

21. See Robert L. Nelson, *PARTNERS WITH POWER: THE SOCIAL TRANSFORMATION OF THE LARGE LAW FIRM* (1988). For a concise summary of the works that came out post-1980, see JOHN P. HEINZ ET AL., *URBAN LAWYERS: THE NEW SOCIAL STRUCTURE OF THE BAR 12-13* (2005); Wald, *supra* note 15, at 612-20.

22. See MARC GALANTER & THOMAS PALAY, *TOURNAMENT OF LAWYERS: THE TRANSFORMATION OF THE BIG LAW FIRMS* (1991). Note that HEINZ ET AL. also discuss this work and that there were challenges to the Galanter-Palay thesis, see *supra* note 21, at 12 (citing Robert L. Nelson, *Of Tournaments and Transformations: Explaining the Growth of Large Law Firms*, WIS. L. REV. 733 (1992)); Kevin A. Kordana, *Law Firms and Associate Careers: Tournament Theory Versus Production-Imperative Model*, 104 YALE L.J. 1907 (1995)). See also Wald, *supra* note 15, at 612-20.

23. See Marc Galanter & William D. Henderson, *The Elastic Tournament: The Second Transformation of the Big Law Firm*, 60 STAN. L. REV. 1867 (2008).

24. *Id.* For another study that has examined the issue of how law firm practice setting and structure affects similar types of issues, see Stuart Scheingold & Anne Bloom, *Transgressive Cause Lawyering: Practice Sites and the Politicization of the Professional*, 5 INT'L. J. LEGAL PROF. 209 (1998).

25. Again, for a detailed account of this development, see Wald, *supra* note 15, at 612-20. For a study of norms, culture, and partnerships, see EMMANUEL LAZEGA, *THE COLLEGIAL PHENOMENON: THE SOCIAL MECHANISMS OF COOPERATION IN A CORPORATE LAW PARTNERSHIP* (2001) (also discussed in HEINZ ET AL., *supra* note 21, at 13). See also Marc Galanter & Simon Roberts, *From Kinship to Magic Circle: The London Commercial Law Firm in the Twentieth Century*, 15 INT'L J. LEGAL PROF. 143 (2008).

26. See, e.g., Timothy O'Brien, *Why Do So Few Women Reach the Top of Big Law Firms*, N.Y. TIMES, Mar. 16, 2006, <http://www.nytimes.com/2006/03/19/business/yourmoney/19law.html>; Fiona M. Kay & John Hagan, *Raising the Bar: The Gender Stratification of Law Firm Capital*, 63 AM. SOCIOLOGICAL REV. 728 (1998) (discussing how such barriers exist beyond U.S. firms and in Canadian firms, too); Fiona M. Kay, *Flight From Law: A Competing Risks Model of Departures*

hidden and overt biases, as barriers deterring lawyers of color from rising to the upper echelons within big law firms.²⁷

There has been less comparative work, but certain structural observations are still worth mentioning. John Flood, for example, is at the forefront of documenting how the increase in international business transactions has affected the organizational structure of law firm practice in Britain and beyond.²⁸ On China, research explores how Western law firms have been entering the Chinese market, learning from local counsel, and providing best-practices skills to their domestic counterparts – all as a process of the “boundary blurring”²⁹ of legal services. In India, previous work has shown that the present fight over whether foreign lawyers should be permitted access to the domestic market has resulted in both Western and Indian firms restructuring how they operate in order to meet

from *Law Firms*, 31 LAW & SOC’Y REV. 301 (1997); Jo Dixon & Carol Seron, *Stratification in the Legal Profession: Sex, Sector, and Salary*, 29 LAW & SOC’Y REV. 381 (1995); Elizabeth Chambliss, *Organizational Determinant of Law Firm Integration*, 46 AM. U. L. REV. 669 (1997). For important earlier studies, see also John Hagan, *The Gender Stratification of Income Inequality Among Lawyers*, 68 SOCIAL FORCES 835 (1989); Carrie Menkel-Meadow, *The Feminization of the Legal Profession: The Comparative Sociology of Women Lawyers*, in LAWYERS IN SOCIETY: VOL. 3 COMPARATIVE THEORIES (Richard Abel and Philip Lewis eds., 1989); CYNTHIA FUCHS EPSTEIN, ACCESS TO POWER – CROSS NATIONAL STUDIES OF WOMEN AND ELITES (1981). Note most of these pieces are also discussed in HEINZ ET AL., *supra* note 21, at 12-13. See also Wald, *supra* note 15, at 611-616. In addition, in 2006 (later updated in 2008), Keith Buckley, Associate Librarian and Lecturer in Law at Indiana University, compiled a “Bibliography on Law Firms and Gender.” For a wealth of informational readings, see <http://firms.law.indiana.edu/research/Gender.pdf>.

27. David Wilkins’ work is perhaps the most prominent scholarship in this area. For a sample of his writings on this topic, see David B. Wilkins, *Two Paths to the Mountaintop? The Role of Legal Education in Shaping the Values of Black Corporate Lawyers*, 45 STAN. L. REV. 1981 (1993); David B. Wilkins, *Doing Well by Doing Good? The Role of Public Service in the Careers of Black Corporate Lawyers*, 41 HOUS. L. REV. 1 (1998); David B. Wilkins and G. Mitu Gulati, *Reconceiving the Tournament of Lawyers: Tracking, Seeding, and Information Control in the International Labor Markets of Elite Law Firms*, 84 VA. L. REV. 1582 (1998) (also discussed in HEINZ ET AL., *supra* note 21, at 14; Marc Galanter and Thomas M. Palay responded to this piece in *A Little Jousting about the Big Law Firm Tournament*, 84 VA. L. REV. 1683 (1998)); David B. Wilkins and G. Mitu Gulati, *Why Are So Few Black Lawyers in Corporate Law Firms? An Institutional Analysis*, 84 CAL. L. REV. 493 (1996). Keith Buckley has also compiled a detailed “Bibliography on Race and the Legal Profession.” For another set of valuable readings, see <http://firms.law.indiana.edu/research/Race.pdf>.

28. See, e.g., John Flood, *Globalization and Large Law Firms*, in THE NEW OXFORD COMPANION TO LAW (Peter Cane & Joanne Conaghan eds., forthcoming); John Flood, *Lawyers as Sanctifiers: The Role of Elite Law Firms in International Business Transactions*, 10 INDIANA J. GLOBAL LEGAL STUDIES 35 (2007); John Flood, *Resurgent Professionalism? Partnership and Professionalism in Global Law Firms*, in REDIRECTIONS IN THE STUDY OF EXPERT LABOUR (Daniel Muzio, Stephen Ackroyd, & Jean-Francois Chanlat eds., 2007); John Flood & Fabian P. Sosa, *Lawyers, Law Firms, and the Stabilization of Transnational Business*, 28 N.W. J. INT’L. L. & BUS. 489 (2008). For work that has discussed the more general role of lawyers in society and the legal profession in other parts of Europe and in Japan, see also HERBERT JACOB, HERBERT M. KRITZER, DORIS MARIE PROVINE & JOSEPH SANDERS, COURTS, LAW, AND POLITICS IN COMPARATIVE PERSPECTIVE (1996).

29. See Sida Liu, *Globalization as Boundary-Blurring: International and Local Law Firms in China*, 42 LAW & SOC’Y REV. 778 (2008).

the demands of globalization.³⁰ And some scholars have joined together to discuss various aspects of legal culture and globalization in Latin America and “Latin Europe,” with bits and pieces relating to the legal profession and the types of work influential lawyers are doing in these regions.³¹

All of this literature clearly has enhanced the understanding of the institutional and cultural structures of law practice. But it is by no means without gaps. As Eli Wald has argued, even with the diverse array of studies that exist, in some sense a “standard story”³² has emerged regarding the structure and growth of law firms, which has narrowed the discourse. Yet in turn, it also provides a nice opportunity to consider this subject from a different perspective. To that end, a survey of the relevant legal professions’ scholarship reveals that, notwithstanding a few studies,³³ there has been little critical academic examination to date of the extent to which law firms are engaging in the specific practice of forming international joint law ventures.

This lack of literature is somewhat conspicuous, given the reports (cited in the Introduction) that law firms from the West are entering into these relationships and that academics from other disciplines have looked at the joint venture model in other business contexts for some years. In 2009, Sameer Vaidya published an article reviewing the scholarship on joint ventures.³⁴ Working from the definition of joint ventures by Oded Shenkar and Yoram Zeira,³⁵ Vaidya notes that the research has been divided into several discrete

30. See Krishnan, *supra* note 8.

31. See LAWRENCE M. FRIEDMAN & ROGELIO PEREZ-PERDOMO, *LEGAL CULTURE IN THE AGE OF GLOBALIZATION: LATIN AMERICA AND LATIN EUROPE* (2003). By “Latin Europe,” the authors mean Italy and Spain.

32. See Wald, *supra* note 15, at 612-20 (analyzing how this standard story does not explain the set of firms in Colorado that he studied, which has achieved great profitability and elite status through the practice of nepotism).

33. See, e.g., Krishnan, *supra* note 8. Also, as stated, *supra* note 9, David Wilkins has discussed law firm joint ventures in his work but from a different perspective. See, e.g., David B. Wilkins, “If You Can’t Join ‘Em, Beat ‘Em!” *The Rise of the Black Corporate Law Firm*, 60 *STAN. L. REV.* 1733, 1764 (2008) (tracing how, in certain situations, majority white firms in the United States, at the behest of minority politicians, made “it clear that the only way the firm would be able to win city business was to find a suitable minority joint venture partner . . . that would be cut in on some of this work”). See also Wilkins, *Team of Rivals?*, *supra* note 9. For a discussion of joint ventures between law schools and law firms, see Chad P. Brown & Bernard M. Hoekman, *WTO Dispute Settlement and the Missing Developing Country Cases: Engaging the Private Sector*, 8 *J. INT’L ECON. L.* 861, 879 n.31 (2005).

34. Sameer Vaidya, *International Joint Ventures: An Integrated Framework*, 19 *INT’L. BUS. J.* 8 (2009).

35. Namely, that it is a “separate legal organizational entity representing the partial holdings of two or more parent firms in which the headquarters of at least one is located outside the country of operation of the joint venture. This entity is subject to the joint control of its parent firms each of which is economically and legally independent of the other.” Oded Shenkar & Yoram Zeira, *Human Resources Management in International Joint Ventures: Directions for Research*, 12 *ACAD. MGMT. REV.* 546 (1987).

areas.³⁶ Some studies have looked at the motivations behind the formation of joint ventures.³⁷ Others have focused on the structure of management, such as how leaders are selected and who wields control.³⁸ Still others have concentrated on issues of trust between those involved in the joint venture.³⁹ Finally, there has been scholarship on who holds better bargaining strength, access to resources, and best practice procedures in joint venture dealings.⁴⁰

According to Vaidya, with joint venture collaborators often having different motives for entering into the relationship – along with frequently non-integrated management structures, stark salary differentials, lack of trust, and disparate levels of power between the foreign and domestic partners – it is unsurprising that the literature shows that such entities “have had a high rate of failure, [with] . . . many of them break[ing] up.”⁴¹ At the same time, however, even in this current economic climate, Vaidya and others hasten to state that there is little doubt that the vehicle of joint ventures is here to stay.⁴² The question is whether *international JLVs* – about which there is a lack of any sustained data – suffer from infirmities similar to those found with other joint ventures. This article addresses that inquiry below, but first it examines an environment in which several JLVs have taken place – Singapore.

36. See Vaidya, *supra* note 34, at 9.

37. See *id.* at 9-10 (citing KATHRYN HARRIGAN, STRATEGIES FOR JOINT VENTURES (1985); Bruce Kogut, *Joint Ventures: Theoretical and Empirical Perspectives*, 9 STRATEGIC MGMT. J. 319 (1988)).

38. See Vaidya, *supra* note 34, at 9-14 (citing John B. Cullen et al., *Japanese and Local Partner Commitment to IJV's: Psychological Consequences of Outcome and Investment in IJV Relationship*, 26 J. INT'L BUS. STUD. 91 (1995); Paul W. Beamish, *Joint Ventures in LDCs: Partner Selection and Performance*, 2 MGMT. INT'L REV. 60 (1994); Shenkar & Zeira, *supra* note 35; Benjamin Gomes-Casseres, *Joint Ventures in the Face of Global Competition*, SLOAN MGMT. REV. 17 (Spring 1989); Benjamin Gomes-Casseres, *Joint Ventures in the Face of Global Competition*, 22 J. INT'L BUS. STUD. 41 (1991)).

39. See Vaidya, *supra* note 34, at 11-12 (citing Robert M. Morgan & Shelby D. Hunt, *The Commitment-Trust Theory of Relationship Marketing*, 58 J. MARKETING 20 (1994); Anoop Madhok, *Revisiting Multinational Firms' Tolerance for Joint Ventures: A Trust-Based Approach*, 26 J. INT'L BUS. STUD. 117 (1995); Cullen et al., *supra* note 38; Ann V. Llana & Esteban Garcia-Canal, *Distinctive Features of Domestic and International Joint Ventures*, 38 MGMT. INT'L REV. 49 (1998)).

40. See Vaidya, *supra* note 34, at 11-12 (citing Andrew C. Inkpen & Paul W. Beamish, *Knowledge, Bargaining Power, and the Instability of International Joint Ventures*, 22 ACAD. MGMT. REV. 117 (1997); A. Yan & B. Gray, *Bargaining Power, Management Control, and Performance in the United States-China Joint Ventures: A Comparative Case Study*, 37 ACAD. MGMT. J. 1478 (1994); Wesley M. Cohen & Daniel A. Levinthal, *Fortune Favors the Prepared Firm*, 40 MGMT. SCI. 227 (1994)).

41. Vaidya, *supra* note 34, at 10. See also Suet-Fern Lee & Mark Tan, *Joint Ventures in China – Lessons to be Learned from Danone Versus Wahaha*, 30 COMP. L. Y.B. INT'L BUS. (2008) (discussing a French company and a Chinese company that engaged in a food joint venture).

42. See Vaidya, *supra* note 34, at 14. See also AIMIN YAN & YADONG LUO, INTERNATIONAL JOINT VENTURES: THEORY AND PRACTICE 247-48 (2001) (looking specifically at joint venture structures, the authors “argue that an understanding of the key driving and restraining forces for [why there is] joint venture restructuring is pivotal”).

III.

BACKGROUND ON THE SINGAPOREAN CONTEXT

A. *Political Stability and Economic Success*

Singapore enjoys one of the highest standards of living in the world.⁴³ Its arrival at such an economic pinnacle is beyond the scope of this study, but Singapore's achievements have been discussed at length elsewhere.⁴⁴ Certain basic points are worth noting, however, before proceeding to an examination of the country's legal profession and a discussion of joint ventures. For example, Singapore has long had a strong English-language influence, stemming mainly from the fact that as early as 1819 it was settled by the British East India Company, then led by Sir Thomas Stamford Raffles.⁴⁵ In 1867, Singapore formally became a British colony, and notwithstanding a four-year period of Japanese control during World War II, British rule lasted until the 1950s.⁴⁶ For a brief time thereafter, beginning in 1963, Singapore merged with Malaysia, but in 1965 it withdrew and became an independent state with Lee Kuan Yew presiding as prime minister.⁴⁷

There has been no more pivotal political figure in Singapore post-1965 than Lee Kuan Yew. His People's Action Party (PAP) has held overwhelming majorities in every session of Parliament, and it prevailed once again in the most recent election in 2006.⁴⁸ As Lee himself has written, the PAP's key platform has been to provide Singaporeans with security *and* economic prosperity – the latter accomplished by making the country's infrastructure among the best in the world, creating value-added goods for export, and opening its borders to foreign investment.⁴⁹ And although there have been various financial hurdles along the

43. See World Economic Outlook Database, *supra* note 10.

44. See, e.g., HENRI GHESQUIERE, SINGAPORE'S SUCCESS: ENGINEERING ECONOMIC GROWTH (2007); TILAK ABEYSINGHE & KEEN MENG CHOY, THE SINGAPORE ECONOMY: AN ECONOMETRIC PERSPECTIVE (2007); HAFIZ MIZRA, MULTINATIONALS AND THE GROWTH OF THE SINGAPORE ECONOMY (1986); R.P. LEBLAC, SINGAPORE: THE SOCIO-ECONOMIC DEVELOPMENT OF A CITY STATE: 1960-1980 (2008); SUDHA V. MENON, SINGAPORE ECONOMY: AN OVERVIEW (2008).

45. See MAURICE COLLINS, RAFFLES: THE DEFINITIVE BIOGRAPHY (1966).

46. See C.D. COWAN, NINETEENTH-CENTURY MALAYA: THE ORIGINS OF BRITISH POLITICAL CONTROL (1961). See also HIROSHI SHIMIZU & HITOSHI HIRAKAWA, JAPAN AND SINGAPORE IN THE WORLD ECONOMY: 1870-1965 (1999).

47. Initially, the British allowed limited self-rule in the early 1950s. But in 1959, Singapore achieved full self-rule that saw the People's Action Party (PAP) emerge victorious in elections for the national legislative assembly. Note that in that 1959 election, Lee Kuan Yew was elected prime minister as well. Political scientist Diane Mauzy has written extensively on Singapore, the PAP, and Lee Kuan Yew. See Diane Mauzy, *Electoral Innovation and One Party Dominance in Singapore*, in HOW ASIA VOTES (John Hsieh & David Newman eds., 2001); DIANE MAUZY & ROBERT MILNE, SINGAPORE POLITICS UNDER THE PEOPLE'S ACTION PARTY (2002).

48. See Mauzy, *supra* note 47; MAUZY & MILNE, *supra* note 47, at 38-50. For a more recent account of the PAP's dominance, see LEBLAC, *supra* note 44; MENON, *supra* note 44.

49. See LEE KUAN YEW, FROM THIRD WORLD TO FIRST: THE SINGAPORE STORY 1965-2000

way – the 1997 Asian financial crisis, the 2002-2003 outbreak of the SARS disease, and the current worldwide credit crunch and economic downturn – Singapore has remained better off, economically, than most other countries around the world.⁵⁰

Lee Kuan Yew's tenure as prime minister ended with his retirement in 1990. But he remains active in government, even continuing to hold a senior ministerial position as his son, Lee Hsien Loong, serves as Singapore's present prime minister.⁵¹ Politically, various observers have debated the type of system Singapore has had for decades.⁵² Human rights groups, academics, and political commentators, for example, routinely castigate the government for its historically strict regulations of free speech and political opposition and for its harsh criminal statutes and treatment of criminal defendants.⁵³ The state and its backers bristle at such criticism. They note that the country has regular parliamentary elections and strong public and electoral support for the PAP; moreover, given the almost unrivaled standard of living for those who live within its borders, they scoff at those who seek to critique the "Singaporean" way of governance.⁵⁴

(2000). In addition, Singapore played a critical role in promoting regional prosperity, development, and security. For example, in 1967, Lee led the efforts to form the Association of Southeast Asian States (ASEAN), which had (and continues to have) as its main focus economic, political, and military security within the region. See MAUZY & MILNE, *supra* note 47, at 176-83; see generally ROBERT S. MILNE & DIANE MAUZY, SINGAPORE: THE LEGACY OF LEE KUAN YEW (1990); Hong Lysa, *The Lee Kuan Yew Story as Singapore's History*, 33 J. SE. ASIAN STUD. 545 (2002).

50. For data on Singapore's economic and financial health, see World Economic Outlook Database, *supra* note 10. See also SINGAPORE IN THE NEW MILLENNIUM: CHALLENGES FACING THE CITY-STATE (Derek da Cunha ed., 2002); THE ECONOMIST, COUNTRY BRIEFINGS: SINGAPORE – ECONOMIC DATA, <http://www.economist.com/countries/Singapore/profile.cfm?folder=Profile%2DEconomic%20Data> (last visited Mar. 7, 2010); THE HERITAGE FOUNDATION AND WALL STREET JOURNAL, SINGAPORE INFORMATION ON ECONOMIC FREEDOM, <http://www.heritage.org/index/country/Singapore> (last visited Mar. 7, 2010).

51. For a detailed biography of Lee Hsien Loong, see The Cabinet – Mr. Lee Hsien Loong, <http://www.cabinet.gov.sg/CabinetAppointments/Mr+Lee+Hsien+Loong.htm> (last visited Mar. 7, 2010). See also YEW, *supra* note 49; MAUZY & MILNE, *supra* note 47, at xii, 117.

52. For an overview of this debate, see Garry Rodan, *Singapore Exceptionalism? Authoritarian Rule and State Transformation*, in POLITICAL TRANSITIONS IN DOMINANT PARTY SYSTEMS: LEARNING TO LOSE 231-51 (Edward Friedman & Joseph Wong eds., 2008).

53. See Singapore – Amnesty International, <http://www.amnesty.org/en/region/singapore> (last visited Mar. 7, 2010) (critical evaluation of the human rights situation in Singapore). See also Singapore – Human Rights Watch, <http://www.hrw.org/asia/singapore> (last visited Mar. 7, 2010); 2008 Human Rights Report: Singapore, <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119056.htm> (last visited Mar. 7, 2010); Freedom House's Evaluation of Singapore, <http://www.freedomhouse.org/template.cfm?page=363&year=2005&country=6829> (last visited Mar. 7, 2010).

54. See Singapore Government, <http://www.gov.sg> (last visited Mar. 7, 2010) (addressing these points in detail). See also Bryan Caplan, *Democracy in Singapore: How is One-Party Rule Possible?*, LIBRARY OF ECONOMICS AND LIBERTY, Nov. 28, 2008, http://econlog.econlib.org/archives/2008/11/democracy_in_si.html#; YEW, *supra* note 49; Gordon Silverstein, *Singapore: The Exception that Proves Rules Matter*, in RULE BY LAW: THE POLITICS OF

Despite the different positions of those who debate this issue, one point around which consensus appears is that Singapore has been the model for how to attract foreign investment. One reason cited for overseas businesses finding the country so amenable is that “the legal system [for financial entrepreneurs] is efficient and highly protective of private property.”⁵⁵ The following section examines the context under which law and lawyers operate within this system.

B. The Singaporean Legal Profession and the Inviting Environment for Joint Law Ventures

According to 2009 data from the Law Society of Singapore, the country’s statutorily established body in charge of representing the interests of lawyers, there are approximately 3,700 licensed practitioners in the country.⁵⁶ The same data reports 781 registered law firms in Singapore, 685 of which are small practices that have “1 to 5 lawyers.”⁵⁷ Throughout the course of my interviews with both Singaporean and foreign lawyers involved in joint ventures, I repeatedly was told that the conventional wisdom is that over half of these lawyers practice mainly transactional law.

Given the heavy influence of British colonial rule, the Singaporean legal profession continues to retain the nomenclature of “solicitor” and courtroom “advocate” (with the term “barrister” sometimes interchangeably used for the latter). Yet it is important to note that the Singaporean bar is unified, whereby one who is granted a license to practice within the country may do so in court or in transactional settings.⁵⁸ In order to become a practicing lawyer, one typically graduates with an undergraduate degree in law from the National University of Singapore, the main legal educational institution in the country.⁵⁹ Thereafter, the law degree holder will engage in a period known as a “pupillage,” where she will spend six months working under an experienced private or public sector practitioner.⁶⁰ Because the Singaporean bar recognizes law degrees granted from several British, Australian, New Zealand, and Malaysian law schools, these particular law degree holders, depending upon the circumstances, may be

COURTS IN AUTHORITATIVE REGIMES 74 (Tom Ginsburg & Tamir Moustafa eds., 2008) (summarizing the pro-Lee Kuan Yew perspective).

55. THE HERITAGE FOUNDATION AND WALL STREET JOURNAL, SINGAPORE INFORMATION ON ECONOMIC FREEDOM, <http://www.heritage.org/index/country/Singapore> (last visited Mar. 7, 2010).

56. See The Law Society of Singapore, Annual Report 2009, http://www.lawsociety.org.sg/about/annual_report/2009/src/Lawsoc_Annual_Report_2009.pdf (last visited Mar. 7, 2010).

57. *Id.* at 36. See also Tzi Yong Sam Sim, *A Guide to the Singapore Legal System and Legal Research*, GlobaLex, Feb. 2007, available at <http://www.nyulawglobal.org/globalex/Singapore.htm>.

58. The Law Society of Singapore, *supra* note 56; Tzi Young Sam Sim, *supra* note 57.

59. *Id.* See Tzi Yong Sam Sim, *supra* note 57 (noting the recent arrival of Singapore Management University (in 2007), which “offer[s] a 4 year law or 5 year joint-degree courses”).

60. Singapore Board of Legal Education: Outline, http://www.lawsociety.org.sg/LSS_TEST/ble/c2_pupillage.htm (last visited Mar. 7, 2010).

exempt from undertaking a pupillage.⁶¹

The vast majority of private lawyers in Singapore are in small law practices, and most of these practices have emerged in the post-1965 independence era. Others, however, have longer histories – and a handful of firms are larger, more prestigious and profitable, and have experimented with the JLV model. Upon my request, the Attorney General of Singapore had his staff provide me with the complete history and list of JLVs in the country. Table 1 (*see next page*) highlights this information.

Of the Singaporean firms in Table 1 that have participated in JLVs, four – Drew & Napier, Rodyk & Davidson, Shook Lin & Bok, and Allen & Gledhill – trace their roots back nearly a century or more.⁶² Lee & Lee has existed since 1955, as has another firm not listed in Table 1, Rajah & Tann, which had a more informal alliance, rather than an official joint venture, with the Wall Street firm Weil, Gotshal & Manges.⁶³ And another, Colin Ng, is now over two decades old.⁶⁴ (The other Singaporean firms in Table 1 have emerged within the past fifteen years.⁶⁵) One additional point to remember is that while the first JLVs were established in 2000, foreign firms were present within the country for years before – although their practices were limited to non-Singaporean law.⁶⁶

61. *Id.* at provision no. 5. *See also* The Law Society of Singapore, Section F http://www.lawsociety.org.sg/ble/f_aas15.htm (last visited Mar. 7, 2010); Alexander F.H. Loke, *The Past, Present and Future of Legal Education in Singapore*, in *THE SINGAPORE LEGAL SYSTEM* 325 (Kevin Y.L. Tan ed., 1999).

62. For a history of each of these firms, see, e.g., Drew & Napier, Our History, <http://www.drewnapier.com/history-body.htm> (last visited Mar. 7, 2010); Rodyk & Davidson, History, <http://www.rodyk.com/page/About/1> (last visited Mar. 7, 2010); Shook Lin & Bok, The Firm, <http://www.shooklin.com/firm.htm> (last visited Mar. 7, 2010); Allen and Gledhill, About Us, <http://www.allenandgledhill.com/aboutus.html> (last visited Mar. 7, 2010).

63. *See* Lee & Lee, Brief History, <http://www.leenlee.com.sg/en/about-us/brief-history.html> (last visited Mar. 7, 2010). For information on Rajah & Tann's alliance with Weil, Gotshal & Manges, see Rajah & Tann, History, <http://www.rajahtann.com/RajahTannCMS/misc.aspx?mid=1&aid=5> (last visited, Mar. 07, 2010); *Weil Gotshal Ramps Up Modest Asia Strategy*, ALB LEGAL NEWS, July 22, 2004, <http://asia.legalbusinessonline.com/law-firms/weil-gotshal-ramps-up-modest-asia-strategy/1188/21021>.

64. Colin Ng, Our History, <http://www.cnplaw.com/en/index.asp> (last visited Mar. 7, 2010).

65. We will be discussing Wong & Leow, TSMP, and Central Chambers below, shortly.

66. There is some dispute as to exactly when foreign firms first came into Singapore. One report states that this occurred in 1992. Conrad Raj, *Colin Ng's Pact with White & Case Likely to Break-Up*, SINGAPORE PRESS HOLDINGS, 2002, <http://www.lawonline.com.sg/News/Law%20JV.htm>. But the foreign firms themselves dispute this date. For example, Baker & McKenzie, on its site, says that it has operated in Singapore for “nearly 30 years.” Singapore – Locations – Baker & McKenzie, <http://www.bakermckenzie.com/Singapore/> (last visited Mar. 7, 2010). Linklaters notes that it has been in Singapore for two decades. Linklaters in Singapore, <http://www.linklaters.com/Locations/Pages/Singapore.aspx> (last visited Mar. 7, 2010).

Table 1⁶⁷

Foreign Law Firm	Singapore Law Firm	JLV Status
Freshfields (U.K.)	Drew & Napier	2000-2007 (Disbanded)
Clifford Chance (U.K.)	Wong Partnership	2003-2009 (Disbanded)
Orrick (U.S.)	Helen Yeo/Rodyk & Davidson	2000-2003 (Disbanded) ⁶⁸
Allen & Overy (U.K.)	Shook Lin & Bok	2000-2009 (Disbanded)
Shearman & Sterling (U.S.)	Stamford Partnership	2001-2002 (Disbanded)
White & Case (U.S.)	Colin Ng & Partners	2001-2002 (Disbanded)
Linklaters (U.K.)	Allen & Gledhill	2001-Present
Lovells (U.K.)	Lee and Lee	2001-Present
Baker & McKenzie (U.S.)	Wong & Leow Partnership	2001-Present
Allens Arthur Robinson (Australia)	TSMP Law Corporation	2007-Present
Dacheng (China)	Central Chambers	2009-Present

In terms of the working relationships within the JLVs, as one foreign lawyer told me, “the big elephant in the room is how lawyers, who are trained in the [Western] rule-of-law tradition, function in this environment.”⁶⁹ On the one hand, according to this individual and several others with whom I met, given Singapore’s long-standing commitment to open markets, foreign capital, and multinational investment, lawyers working in these areas have been allowed to go about their business with little interference from the government.⁷⁰ The establishment of the JLV was in part an attempt by the government to promote greater international legal transactions, whereby lucrative international clients would view Singapore as the hub where such legal work could be done.

On the other hand, as Gordon Silverstein has suggested, while there may be

67. Information provided to the author by the Singapore Office of the Attorney General, June 22, 2009. Note that the dates in Table 1 were also compiled from different sources, including lawyers in the respective firms. Also, certain foreign law firm names were shortened in order to fit inside the above table. These include Freshfields Bruckhaus Deringer and Orrick, Herrington & Sutcliffe.

68. Note that Orrick originally entered into a joint venture with the Singaporean firm Helen Yeo, but Helen Yeo merged with the Singaporean firm Rodyk & Davidson.

69. Anonymous interview (June 10, 2009).

70. *Id.* Interviews with lawyers (June 9, 2009; June 11, 2009).

continued “international investor confidence”⁷¹ and one may argue that Singapore has a “judicial system that is efficient, effective, consistent, and reliable,”⁷² the state imposes pervasive constraints that are simply irreconcilable with how many Westerners view freedom and democracy.⁷³ Silverstein discusses how the state has restricted judicial review and used the courts to clamp down on political opposition and criticism of public policy decisions.⁷⁴ But, he explains, by justifying these actions as necessary for keeping international capital flowing into the country and preserving order and prosperity for Singaporean citizens, the state is generally able to retain its control over, and acceptance by, local and foreign players.⁷⁵

This last point is especially worth noting. Lawyers engaged in sophisticated transactions and relationships, like JLVs, are among those that acquiesce to the Singaporean system – staying fully aware of what is tolerated and what is not. For them, so long as foreign investment remains privileged and they are able to continue benefitting financially, their “confidence,” to use Silverstein’s word, will stay high. As one foreign lawyer commented, “we know there are definite restrictions here – this isn’t the U.K. or the U.S. But we find ways to work around them in order to keep making . . . [the money] we’re making.”⁷⁶

The next section looks more closely at the financial and business interactions between foreign and local Singaporean lawyers. It evaluates how the JLV model has fared over the past decade and concludes that the hopes for it that were present in 2000 have simply not come to fruition.

IV.

AN EMPIRICAL ANALYSIS OF THE JOINT LEGAL VENTURE

A. Background

As Table 1 highlights, five pairs of JLVs exist in Singapore today: Linklaters (U.K) and Allen & Gledhill, Lovells (U.K.) and Lee and Lee, Baker & McKenzie (U.S.) and Wong & Leow, Allens Arthur Robinson (Australia) and TSMP Law Corporation, and Dacheng (China) and Central Chambers. Before the advent of the JLV, while foreign firms could be in Singapore and perform legal services for clients on an international level, they were barred from providing advice or services to clients on local Singaporean matters. To a certain extent, this preclusion was understandable; after all, the Singaporean bar,

71. See Silverstein, *supra* note 54, at 74-75.

72. *Id.* at 75.

73. *Id.* at 74.

74. *Id.* at 74-75; 86-92.

75. *Id.* at 86-101.

76. Anonymous interview (June 11, 2009).

government, and Law Society had an interest in ensuring that only those with accredited legal credentials were able to practice Singaporean law.⁷⁷ But this justification was undermined by the curious extension of this prohibition to properly-licensed Singaporean lawyers who were employed by foreign firms.⁷⁸

Therefore, as a means of trying to gain more complete access to the wealthy Singaporean market, foreign lawyers began talks with the government, the Law Society, and various Singaporean law firms during the late 1990s.⁷⁹ Eventually the different sides arrived at an agreement that in theory would continue to promote the government's goal of remaining open to foreign investment, protect the interests of Singaporean law firms, and allow foreign law firms a greater possibility of developing domestic client relationships.⁸⁰ What emerged was the JLV model, which created a new separate legal entity comprised of lawyers and staff from a foreign law firm working in conjunction with lawyers and staff from a domestic law firm.⁸¹

On paper, the benefits for the foreign law firm that participated in the JLV were quite significant. For example, while the ratio of foreign and Singaporean partners in the JLV had to be comparable,⁸² the foreign firm was under no obligation to bring onto its payroll any of the Singaporean JLV lawyers.⁸³ In fact, to a certain extent, the JLV simply served as an umbrella under which the foreign and domestic firms worked. Each kept its own "books," including payroll. But as explored in detail below, this lack of full integration led to many Singaporean JLV lawyers feeling like second-class citizens, resentful that the pay they received – albeit determined by their own firm's compensation system – was much less than their foreign counterparts'. In addition, by being part of

77. Singaporeans explained this point to me during interviews conducted on June 9, 2009 (anonymity requested.)

78. Lawyers mentioned this complaint during interviews on June 9, 2009, June 11, 2009, and July 12, 2009 (anonymity requested.)

79. For background information, see Report of the Committee to Develop the Singapore Legal Sector, September 2007, 1-2, [http://notesapp.internet.gov.sg/_48256DF200173A1F.nsf/LookupMediaByKey/GOVI-79LDSM/\\$file/Justice%20V%20K%20Rajah%20report.pdf](http://notesapp.internet.gov.sg/_48256DF200173A1F.nsf/LookupMediaByKey/GOVI-79LDSM/$file/Justice%20V%20K%20Rajah%20report.pdf) (last visited Mar. 7, 2010). See also Government Accepts Key Recommendations of Justice V.K. Rajah's Committee on the Comprehensive Review of the Legal Services Sector, December 7, 2007, http://notesapp.internet.gov.sg/_48256DF20015A167.nsf/LookupContentDocsByKey/GOVI-79LDRE?OpenDocument [hereinafter Reports].

80. Report of the Committee to Develop the Singapore Legal Sector, *supra* note 79; Reports, *supra* note 79.

81. Reports, *supra* note 79.

82. See Report of the Committee, Enclosure 2, *supra* note 79, at 108 (noting that "if JLV is constituted as a partnership, the number of equity partners in the [foreign law firm] and resident in Singapore shall not at any time be greater than the number of equity partners in the Singapore law firm"). It is important to keep in mind that there was no ratio requirement in terms of the number of lawyers (associates) who were part of the JLV.

83. *Id.* at 111 (noting explicitly that "[a Singapore law firm] lawyer in the JLV may not become an equity or profit sharing partner in the foreign law firm. If he does so, he will be regarded as a [foreign law firm] lawyer in the JLV.").

the JLV, the foreign firm now could practice “banking law, finance law, corporate law, and any other area of legal or regional work as may be approved by the Attorney General.”⁸⁴ And perhaps most importantly, the JLV effectively gave the foreign firm access to the domestic market, since now the foreign firm would have a partnership with a licensed Singaporean firm that could solicit and offer services to those highly sought-after Singaporean clients.⁸⁵

Still, the interests of the Singaporean firms were accounted for as well. First, once a foreign firm entered into a JLV, it was barred from operating a separate “foreign firm-only” practice within the country.⁸⁶ The converse was not true; the Singaporean firm was allowed to maintain a separate practice of its own. Second and related, written into the government’s plan was a stipulation that the foreign law firm in a JLV was not allowed “to share in the profits of the constituent [i.e. partnering] [Singapore law firm] . . . [and that] the foreign law firm’s share of the JLV’s profits”⁸⁷ was restricted to money that came from “those areas of legal practice permitted to the JLV.”⁸⁸ Third, litigating in court and practicing real estate law – two profitable and respected sectors of the Singaporean legal profession – were specifically kept within the exclusive domain of locally-licensed counsel,⁸⁹ thereby increasing these lawyers’ importance within the JLV.

Fourth, Singaporean lawyers told me that another incentive to joining a JLV was the opportunity to gain exposure to the “best practices” of elite international law firm lawyers, many of whom had been trained at the top schools and came from legal hubs like London, New York, and Washington, D.C.⁹⁰ Fifth, although they were barred from being a part of the foreign firm’s equity partnership structure, the Singaporean lawyers in a JLV were allowed to play an integral role “in the [foreign law firm’s] regional management team.”⁹¹ This option provided Singaporean lawyers with the ability to make contacts and develop relationships with international clients who otherwise may have been out of reach. Finally, there was a belief that entering into a JLV with a

84. *Id.* at 107.

85. *Id.* at 110 (noting that the “JLV may practise in areas of legal practice mutually agreed between the constituent [Singapore law firm] and the [foreign law firm], who may also agree among themselves on the parameters of the practice areas; and JLV shall not practise Singapore law except through a Singapore lawyer who has in force a practising certificate and is practising in the constituent [Singapore law firm] of the JLV, or a foreign lawyer registered to practise Singapore law in the JLV under section 130I of the Legal Profession Act or in the constituent [Singapore law firm] of the JLV under section 130J of the same Act”).

86. *Id.*

87. *Id.* at 107.

88. *Id.* So, in other words, if the JLV made money from other sources, in which the foreign law firm could not be involved, the foreign law firm could not claim access to that money.

89. *Id.*

90. This statement was made during interviews with such lawyers on June 9, 2009 (two separate telephone interviews); June 15, 2009; and July 5, 2009 (anonymity requested).

91. See Report of the Committee, Annex C, *supra* note 79, at 111.

prestigious foreign firm would only enhance the reputation of the Singaporean firm, which concomitantly with the above points would lead to greater profit margins for the latter as well.⁹²

Therefore, there has been a list of benefits for parties to the JLV. Did the hopes pan out as expected? For some, yes; for others, no. The next section examines the positive results.

B. *The Upside – And Why Relationships Matter*

Most joint ventures that exist today formed in a similar manner. Typically, a foreign firm arrives or already has a presence in Singapore and then creates a JLV with a well-established, well-reputed local firm. So, for instance, Linklaters, the elite magic circle London-based firm, which had been in Singapore for nearly twenty years, entered into a JLV in 2001 with the highly regarded, century-old Singaporean firm Allen & Gledhill.⁹³ That same year, Lovells, another prestigious U.K. firm, formed a JLV with Lee & Lee, a full-service Singaporean firm that was started in 1955 by three local lawyers, one of them the former prime minister, Lee Kuan Yew.⁹⁴

Two other existing JLVs that were created more recently have had like characteristics. In 2007, Australian legal powerhouse Allens Arthur Robinson joined forces with the “boutique corporate and commercial”⁹⁵ Singaporean firm, TSMP. While TSMP itself only emerged in 1998, it was founded by a former partner at the elite Singaporean firm of Drew & Napier and who was also once the Dean of the Law Faculty at the National University of Singapore.⁹⁶ And in 2009, the large Chinese law firm Dacheng established a JLV with Central Chambers,⁹⁷ a Singaporean outfit that, while only seven years old, consists of highly experienced lawyers, some of whom have been in practice for nearly three decades.⁹⁸

The only present-day JLV that stands apart, in terms of how it was created,

92. See interviews, *supra* note 90.

93. The Linklaters website discusses this relationship. See Linklaters in Singapore, <http://www.linklaters.com/Locations/Pages/Singapore.aspx> (last visited Mar. 6, 2010).

94. For a brief history of Lee & Lee, see Brief History, <http://www.leenlee.com.sg/en/about-us/brief-history.html> (last visited Mar. 6, 2010). For a discussion of Lovells' partnership with Lee & Lee, see Lovells Worldwide/Singapore, <http://www.lovells.com/Lovells/Worldwide/Singapore/Singapore.htm> (last visited Mar. 6, 2010).

95. See TSMP's website at http://www.tsmplaw.com/index.php?option=com_content&view=article&id=50&Itemid=57 (last visited Feb. 27, 2010).

96. *Id.*

97. See Rashida Yosufazi, *Firms Form First China-Singapore JV to Target India*, ALB LEGAL NEWS, July 24, 2009, <http://asia.legalbusinessonline.com/news/breaking-news/firms-form-first-china-singapore-jv-to-target-india/36103>.

98. See Central Chambers Law Corporation Website, About Our People, <http://www.centralchambers.com.sg/CentralChambers400/Page/9882/OURLAWYERS.aspx> (last visited Feb. 27, 2010).

is the one started by Baker & McKenzie. About a decade ago, Jon Bauman published a history of this global American mega-law firm.⁹⁹ And other reports have documented the growth of this mammoth enterprise.¹⁰⁰ Relevant to this study, though, is that Baker's JLV in Singapore was not a combination of it and an already existing local firm. Operating under the *Swiss Verein* model, whereby its offices around the world comprise a confederation of sorts that function in an independent manner and in accordance with the laws of the jurisdiction under which each respective branch resides,¹⁰¹ Baker launched the domestic Singaporean firm of Wong and Leow in 1996.¹⁰² Wong and Leow today has some 80 lawyers and is a separate legal entity with its own clients, profits, management structure, and partnership track for associates.¹⁰³ It has, however, worked closely with Baker in a joint venture since 2001, and this relationship – highlighted in legal periodicals, news reports, and in conversations with various lawyers in the country – seems ultimately to define who Wong and Leow is.¹⁰⁴

In spite of the distinct way in which the Baker-Wong JLV emerged, it and the other above-mentioned JLVs remain standing. But why and how? Perhaps most obviously, they have done so because they are profitable. As one lawyer mentioned, “we’re making money – plain and simple. But *why* we’re making money, that’s what interesting.”¹⁰⁵ As this individual and the data gathered from the empirical interviews suggest, several common contributing factors are in play here. A key reason relates to the strong relationships and significant professional trust that exist between the foreign and domestic players

99. See JON BAUMAN, PIONEERING A GLOBAL VISION: THE STORY OF BAKER & MCKENZIE (1999).

100. See, e.g., *Baker & McKenzie Lures 7 Energy Lawyers from T & K*, LAW 360, June 12, 2009, http://www.law360.com/registrations/user_registration?article_id=105765 (registration required); *Law Firms: Legal Advice*, THE ECONOMIST, Aug. 23 2008 at 81. For a host of articles on the Baker business model, see the SAN FRANCISCO BUSINESS TIMES, which has tracked these pieces over the course of the last several years, <http://www.bizjournals.com/sanfrancisco/> (search “Baker & McKenzie”).

101. See BAUMANN, *supra* note 99; Legal 500.com, What the Firm Says, <http://www.legal500.com/firms/50079-baker-mckenzie/offices/10313-zurich/profile> (last visited Mar. 6, 2010).

102. For information on this set-up, see Baker’s website, <http://www.bakermckenzie.com/Singapore/> (last visited Mar. 6, 2010).

103. For background on Wong & Leow and its operations, see <http://www.legal500.com/firms/33424-wong-leow-llc/offices/31590-singapore> (last visited Mar. 6, 2010).

104. Beyond hearing this during my various interviews with Singaporean and foreign lawyers, the close interaction between Baker and Wong & Leow was discussed during my various interviews with Singaporean and foreign lawyers and at *id.*; Baker’s website, *supra* note 102; Legal 500’s website, <http://www.legal500.com/firms/50079-baker-mckenzie/offices/30159-singapore> (last visited Mar. 6, 2010).

105. Telephone interview with lawyer (June 30, 2009) (anonymity requested).

involved.¹⁰⁶ As another Singaporean lawyer stated, “remember, it’s *always* about relationships. We succeed because we can work with them and vice versa.”¹⁰⁷

Not surprisingly, these ties have developed and are nurtured in different ways, depending on the JLV. For some, the relationships began with the local firm’s Singaporean lawyers already having friends within the foreign firm well before entering into the joint venture. In other instances, lawyers in the Singaporean firm worked in the partnering foreign firm at some earlier point and became familiar with the latter’s culture, norms, and ways of doing business. In these cases, the foreign firm’s lawyers naturally came to learn of these Singaporeans – “as professionals and as people”¹⁰⁸ – before deciding whether to pursue the JLV route with the local firm. And of course, that “personalities have simply meshed”¹⁰⁹ following the creation of the joint venture has helped preserve the cohesiveness of these alliances, too.

In addition to working well with, respecting, and liking one another, the foreign and local lawyers of these JLVs also noted that their relationships are strong because each side has realistic expectations. Consider for a moment two separate but related issues. First, in terms of leadership and management, every lawyer in these partnerships with whom I spoke emphasized that their respective joint operation continues because of a lack of, as one respondent remarked, a “colonialist mindset”¹¹⁰ in how the JLV is run. In other words, there is a mutual understanding that while the foreign lawyers have important skills to convey, they also have as much to learn from the Singaporeans. There is a real sense among the Western and domestic lawyers that, given the history of British imperialism in the region, together with the strong values placed on Singaporean culture, identity, and independence, cooperation is necessary in order to administer a successful joint venture of this type. As such, decisions on matters ranging from hiring to promotion to marketing to soliciting client business tend to be made jointly between the foreign and Singaporean leaders of the JLV.¹¹¹

Second, and particularly relating to this last point involving client contacts, the JLVs’ foreign and domestic lawyers appear to have a solid understanding as to how business will be apportioned and files allocated between them, although once again there is variation as to how this takes place.¹¹² For some, where a local client is satisfied with the existing relationship she has with her

106. Telephone interviews with lawyers (June 15, 2009; June 30, 2009; July 12, 2009) (anonymity requested).

107. Telephone interview with lawyer (June 15, 2009) (anonymity requested).

108. *Id.*

109. Telephone interview with lawyer (July 12, 2009) (anonymity requested).

110. Telephone interview with lawyer (June 30, 2009) (anonymity requested).

111. Information gathered during telephone interviews (June 15, 2009; June 30, 2009; July 12, 2009) (anonymity requested).

112. *Id.*

Singaporean firm – a firm that also happens to be in a JLV – these partnering foreign firms’ lawyers told me that they would be unwilling to attempt to rope this business into the joint venture.¹¹³ “The client would have to pay more and may not even need us; and we’ll end-up pissing off [our Singaporean JLV partner],” one foreign lawyer said.¹¹⁴ Now, this same lawyer did say that in situations where the JLV brought value-added services to such a client, like helping on an international deal with which the Singaporean firm had little experience, he then “certainly will make a play – after all that’s the whole purpose of the JLV.”¹¹⁵ But such outreach is accepted and well-understood under these circumstances, this lawyer remarked.

A different type of client-contact understanding exists where there is an implicit acknowledgment that the JLV serves as a base for the foreign law firm to expand its business more regionally, while the Singaporean JLV lawyers serve as the point-persons for work within the country.¹¹⁶ Where each side needs the assistance of the other, then the two will certainly come together; but otherwise, the expectation is that each side has its respective jurisdictional terrain.¹¹⁷ Another successful arrangement can occur when the foreign and domestic lawyers view the JLV, rather than their own respective practices, as the primary setting where client demands are met.¹¹⁸ In this situation, the everyday operations of the joint venture are seamless. And the interactions between the foreign and domestic lawyers are cooperative because both sides understand that the JLV is the main face representing who they are within the country.¹¹⁹

It is important to note that even with these understanding and trusting relationships, issues of conflict still arise within the JLVs. Pay differentials between the foreign and domestic JLV lawyers, inadvertent (and sometimes purposeful) slights, frustrations over practice procedures, and the everyday pressures of staying financially strong are just some of the tensions that can exist. One participant even compared the JLV model to a stressful marriage – noting that, yes, there are good times, but there are also times when one or the other side simply feels like walking away.¹²⁰ However, this person noted that when routine “couple’s counseling”¹²¹ occurs – mainly in the form of evaluating the positive financial returns accompanying the alliance – the decision to remain

113. Information gathered during telephone interviews (June 15, 2009; July 12, 2009) (anonymity requested).

114. Telephone interview with lawyer (July 12, 2009) (anonymity requested).

115. *Id.*

116. Telephone interview with lawyer (June 15, 2009) (anonymity requested).

117. *Id.* This relationship describes one of the observed JLVs.

118. Telephone interview with lawyer (June 30, 2009) (anonymity requested).

119. *Id.*

120. Interview with lawyer (July 12, 2009) (anonymity requested).

121. This was the term that I used during my interview with the lawyer, *id.*, but the lawyer eagerly embraced this phrase, saying it captured the exact sentiment he was trying to convey.

together rather than divorcing carries the day.

But as Table 1 illustrates, a majority of JLVs in Singapore have reached the opposite conclusion. Why? Once again, relationships are the key, but the dissolution of these marriages is the result of a lack of relationships.

C. The Downside – And Why Relationships Matter

Of the six JLVs disbanded since 2000, the three that lasted the shortest periods of time were with American firms, White & Case with Colin Ng, Shearman & Sterling with Samford Partnership (each from 2001-2002), and Orrick with Helen Yeo (that was then absorbed into the Singaporean firm of Rodyk & Davidson) from 2000-2003. The other three involved British firms – Freshfields, Clifford Chance, and Allen & Overy – that had joined, respectively, with the Singaporean firms of Drew & Napier, Wong Partnership, and Shook Lin & Bok. Like those JLVs that continue to exist today, these six that dissolved each started with the primary hope of reaping increased profit margins and expanding client bases.¹²² Yet the troubles that ensued placed too great a burden on these alliances, with the result that each ultimately disbanded.

As the interview data reveal, the main issue dividing these two groups of lawyers was that neither side had the same set of expectations regarding the JLV. And each side felt as though it was being taken advantage of – leading to a situation where there was simply too little trust for these relationships to have any long-term sustainability. First, take the sentiments of and complaints from the foreign lawyers with whom I spoke. One frequent refrain was that the Singaporean firms conveniently forgot how fortunate they were to be linked to a prestigious Western law firm.¹²³ Two foreign lawyers from two different firms used the exact same language in noting the significance of the “branding benefits”¹²⁴ to the Singaporeans participating in the JLV. Each described how, in a society where prestige is of the highest import, the ability to affiliate with the most well-reputed of Western firms brought enormous international status to these Singaporean lawyers, the likes of which they had never seen before.¹²⁵ And with this new reputational position, the Singaporean firms gained access to client networks around the globe, as well as the opportunity to work with some of the most talented and experienced transactional lawyers anywhere.¹²⁶ But these foreign lawyers rarely felt any sense of gratitude or recognition from their domestic affiliates for what they were receiving.¹²⁷

122. Interviews with two separate Singaporean lawyers (June 9, 2009) (anonymity requested); interviews with foreign lawyers (June 9, 2009; June 10, 2009).

123. Interviews with lawyers (June 9, 2009; June 10, 2009) (anonymity requested).

124. Interviews with lawyers (June 9, 2009; June 10, 2009) (anonymity requested).

125. *Id.*

126. *Id.*

127. *Id.*

Moreover, from the foreign lawyers' vantage point, the return on their investment in the JLV was relatively small. For one thing, the goal of making serious inroads into the local market via their Singaporean partners never materialized to the extent that they had hoped.¹²⁸ Sure, in some cases it made little sense to enlist into the JLV clients who were represented by the Singaporean firm, especially if the expertise of the foreign firm was not needed. The foreign lawyers accepted and understood this reality.¹²⁹ But in other cases, particularly with yet-unsigned clients, the foreign lawyers believed that their respective Singaporean JLV partners would at times undermine the joint relationship by seeking to divert potential business into their separate local firms.¹³⁰ (Recall that under the JLV rules, while foreign law firms that entered into these alliances had to give up their separate practices, the Singaporean firms did not.)

Then, on those deals where clients did require the Singaporean and foreign lawyers to work together, the latter told me that the work performed by the domestic counterparts was frequently "sub-par."¹³¹ One such foreign lawyer relayed how he sometimes felt like he was educating two clients – the paying one and his Singaporean JLV colleagues who were scrambling to stay on top of the deal.¹³² Another foreign lawyer stated that from a client services point of view, he often became upset when his international clients who needed domestic work done by the Singaporean lawyers complained of local counsel being unresponsive or unprepared to provide the necessary information.¹³³ Partly for these reasons, certain foreign lawyers even remarked that the Singaporean lawyers, who were being paid less than their foreign colleagues but in accordance with their own Singaporean firm's salary structure, simply did not deserve to be compensated at any higher a rate.¹³⁴

To say that the Singaporean lawyers held a different perspective on why their JLV arrangements failed would be an understatement. Although some variation existed in the responses from this group, a set of common themes

128. *Id.*; see also interview with another pertinent foreign lawyer (June 11, 2009) (anonymity requested).

129. *Id.*

130. *Id.*

131. This was the word used by lawyer interviewed on June 9, 2009 (anonymity requested), but this sentiment was expressed during the other interviews conducted. See *id.*

132. Interview with lawyer (June 11, 2009) (anonymity requested).

133. Interview with lawyer (June 9, 2009) (anonymity requested).

134. Interviews with lawyers (June 9, 2009; June 10, 2009; June 11, 2009) (anonymity requested). The foreign law firms in Singapore generally use the standard "lockstep formula" in allocating salaries. Law firms following a lockstep method compensate their employees on the basis of years of service, so in theory a third-year associate in the London home office would earn the same as a third-year associate in a New York satellite branch. For a discussion of this point, see James D. Cotterman, *Lockstep Compensation: Does it Still Merit Consideration?* LAW PRACTICE TODAY, Aug. 2007, <http://www.abanet.org/lpm/lpt/articles/fin08071.shtml>.

emerged, highlighting the hurt and resentful feelings of not being appreciated in a number of ways. For example, more than one Singaporean lawyer told me that it was only because of the JLV arrangement that some of the foreign firms were able to receive prime office space in the heart of the city at such an affordable rate.¹³⁵ This situation occurred because many of the Singaporean firms had resided in these locations well before 2000 and either had extra room to house their foreign colleagues or negotiated favorable rental agreements for additional space in these office towers on the foreign firms' behalf.¹³⁶

Furthermore, as even some foreign lawyers conceded – and as the Singaporeans vociferously emphasized – had it not been for the domestic JLV lawyers, the firms from abroad could never have started their regional private investment funds practices, which proved extremely rewarding during their time in the alliance. There were other issues as well. Perhaps most significantly, the Singaporeans I interviewed uniformly noted that the lack of economic integration,¹³⁷ particularly JLV compensation, served as a point of contention that simply could not be overcome.¹³⁸ While understanding that the respective firms determined salaries within the JLV (i.e. the foreign firm paid its own lawyers, while the domestic firm did the same), the Singaporeans nevertheless expressed frustration that no agreement was ever reached equalizing the pay-scale. As one Singaporean lawyer commented, “We were working the same horrible hours, on the same tedious projects, and making so much less!”¹³⁹

Many of the Singaporeans also disputed the claim that the foreign side willingly mentored and transmitted best practice techniques to them. It was quite the opposite, according to the domestic lawyers, especially when it came to sharing standard form documents, or “precedent” materials, as they referred to them.¹⁴⁰ The Singaporeans told me, and the foreign counterparts later confirmed, that the latter would zealously guard these papers, perplexing and infuriating the former.¹⁴¹ From the foreign lawyers' viewpoint, these were extremely sensitive work-products, and given that the Singaporeans had their own separate firms and separate clients, it would be irresponsible not to monitor these files closely.¹⁴² For the local lawyers that rationale was mind-boggling. As one Singaporean exclaimed, “We were supposed to be partners! It's true, I

135. Interviews with three separate Singaporean lawyers (June 9, 2009) (anonymity requested).

136. *Id.*

137. Interview with foreign lawyer (June 9, 2009) (anonymity requested); interviews with three separate Singaporean lawyers (June 9, 2009) (anonymity requested).

138. *Id.*

139. Interview with Singaporean lawyer (June 9, 2009) (anonymity requested). This particular lawyer stated that Singaporean salaries were often one-third less than foreign salaries.

140. Interviews with three separate Singaporean lawyers (June 9, 2009) (anonymity requested).

141. Interviews with three separate Singaporean lawyers (June 9, 2009) (anonymity requested); interviews with foreign lawyers (June 9, 2009; June 10, 2009) (anonymity requested).

142. Interviews with foreign lawyers (June 9, 2009; June 10, 2009) (anonymity requested).

needed to learn a lot, and I wanted to. But instead, we kept having to reinvent the wheel!”¹⁴³ This person went on to note that the lack of cooperation by the foreign firm cost valuable time, but as importantly, it contributed to a shattering of trust that severely undermined the joint relationship almost from the start.¹⁴⁴

This absence of trust had domino-like implications. For example, the Singaporean side in several of these JLVs admitted to retaining tight control over previously acquired local clients within their own individual firms, refusing even to explore the possibility of involving the JLV. The Singaporeans emphatically justified their actions on the grounds that client preferences for such sole representation always governed, that the JLV rates for these particular clients were too costly and unnecessary, and that, yes, if the foreign firms could “turf-guard,” then so could the Singaporeans.¹⁴⁵

With unhappiness at a peak between these different JLV partners, several of the foreign firms began looking outside of their unstable arrangements to other local Singaporean lawyers with whom they could engage.¹⁴⁶ (But they did maintain their formal JLV ties with their original, respective Singaporean partners and continued to work with them as needed.) In addition, as the tensions mounted, a provocative refrain gained momentum among the agitated Singaporeans – namely, that the foreign lawyers were acting like the colonial rulers of years past. Charges that the foreign firms were exploiting the inexpensive Singaporean legal labor market for self-serving purposes ran rampant among the disaffected. These sentiments were compounded by the Westerners’ shoddy and condescending treatment of the domestic practitioners.¹⁴⁷ While the foreign lawyers dismissed these accusations as baseless and a convenient excuse for the Singaporeans’ own failure to keep pace with the complex needs of internationally sophisticated clients, the colonialist label had traction and (together with the other above-mentioned events) prompted interested observers to start seriously reevaluating this entire business model.

Witnessing this discontent and feeling pressure from both the foreign and domestic law firms, in August 2006, the government decided that something needed to be done. It called on the eminent lawyer and a sitting justice of the Singaporean Court of Appeal, V.K. Rajah, to conduct a thorough assessment of

143. Interview with Singaporean lawyer (June 9, 2009) (anonymity requested).

144. *Id.*

145. Stoking the ire of the foreign side further was that their Singaporean partners in some instances had clients in other parts of Asia, but because there was no JLV-relationship in these settings, the Singaporeans were even more protective of their client relationships. Interviews with three separate Singaporean lawyers (June 9, 2009) (anonymity requested).

146. Different foreign lawyers engaged in this practice told me this during interviews conducted on June 9, 2009, and June 10, 2009 (anonymity requested).

147. For example, one Singaporean lawyer, during an interview on June 9, 2009, referred to the foreign law firm lawyers as “colonial bastards.” Another, that same day, discussed how culturally insensitive foreign lawyers were.

the JLV situation.¹⁴⁸ The justice brought together an array of interested parties in what came to be called the “Rajah Committee” to study the history, pluses, and shortcomings that had accompanied this law firm merger experiment.¹⁴⁹ In December 2007, after surveying the diversity of opinions, the Committee issued its final report on the JLV, which ultimately caused an important policy shift on the part of the government. The next section examines these findings.

V.

THE RAJAH COMMITTEE REPORT – AND WHERE TO GO FROM HERE

A. *Enhancing the JLV*

It is important to keep in mind that while the Rajah Committee reevaluated the functioning of the JLV, neither it nor the Singaporean government ever sought to scale back the country’s general policy of intense economic liberalization in the legal services sector.¹⁵⁰ Perhaps for that reason, the JLV model, which in principle continued to resonate among various government leaders, remained one to which both the Committee and the state stayed wedded. Thus, those who hoped that Justice Rajah’s reforms would serve as a formal rebuke of the JLV structure were disappointed.

To start, the Committee did not even move away from the language of the “joint law venture” in its reforms when it issued a statement saying that while the original JLV program had experienced difficulties, a new, better, “enhanced JLV” would ameliorate many of the problems that beset the initial model.¹⁵¹ One improvement would be allowing foreign law firms within a JLV directly “to

148. For background on the government’s decision to call on Justice Rajah to conduct a formal inquiry of the JLV situation, see the Singapore Ministry of Law Website, *Government Accepts Key Recommendations of Justice V.K. Rajah’s Committee on the Comprehensive Review of the Legal Services Sector*, <http://app2.mlaw.gov.sg/News/tabid/204/currentpage/8/Default.aspx?ItemId=95>.

149. *Id.*

150. In fact, the Ministry of Law’s discussion of the Rajah Committee report on its website cites the document itself, noting: “The most significant set of proposals made by the Committee concerns the liberalisation of the legal services sector. The Government agrees with the Committee that the legal services sector is a key pillar of the economy. Liberalising the sector will support Singapore’s aim to be a vibrant global city and an attractive venue for talent. Liberalising the legal market will result in three key benefits. First, it will bolster the growth of our banking, financial and other key economic sectors through a full range of competitive cutting edge legal services. Secondly, the legal sector, itself an important component of our economy, will grow and Singapore will establish itself as a premier regional legal centre. Thirdly, we will attract and retain high quality international and local legal talent, which is critical to sustain the legal sector and economy in the long term.” See <http://app2.mlaw.gov.sg/News/tabid/204/currentpage/8/Default.aspx?ItemId=95>.

151. See Ministry of Law Website, *Government Accepts Key Recommendations*, *supra* note 148, Enhanced Joint Law Venture Scheme, <http://app2.mlaw.gov.sg/News/tabid/204/currentpage/8/Default.aspx?ItemId=95>. <http://app2.mlaw.gov.sg/News/tabid/204/currentpage/8/Default.aspx?ItemId=95>.

hire Singapore-qualified lawyers to advise on Singapore law.”¹⁵² This was important because before this change, if a Singaporean-licensed lawyer joined a foreign law firm, regardless of whether that firm was part of a JLV, the lawyer lost her privilege to practice Singaporean law. Now, however, such revocation would not occur if the foreign firm was part of an enhanced JLV, and in making this amendment, the Committee hoped that more organic, enjoyable, and productive relationships might develop among the different lawyers within the venture.¹⁵³

The Committee also recommended expanding the JLV’s jurisdiction in one important lucrative area – international commercial arbitration. Prior to 2007, foreign law lawyers were restricted in what they could do arbitration-wise. However, the Committee argued for enhancing the role of foreign lawyers within the JLV by allowing them to

participate wherever arbitration is contemplated: [namely] in the vetting and drafting of Singapore law agreements incorporating arbitration clauses, and [by] advising parties on their legal rights and liabilities in such agreements both before and after the dispute is referred to arbitration.¹⁵⁴

The Committee felt that equalizing what foreign and domestic lawyers could do in arbitration would eliminate the privileged position that the latter had been able to hold within the JLV. The hope again was that with greater seamlessness would come stronger bonds of trust that would help the JLV run in a more cohesive manner.

To punctuate these points further, the Committee concluded by suggesting that not only should the two sets of lawyers share JLV profits more generously,¹⁵⁵ but there should be increased integration in the management and administration of the joint venture.¹⁵⁶ Thus, the recommendations of the Rajah Committee for addressing the problems accompanying the original JLV model centered around promoting greater – not lesser – access to the Singaporean market by foreign law firms. The next section describes how the Committee went one step further in its stated goal of liberalizing the legal services sector by recommending an entirely separate program in which foreign law firms could participate.

152. *Id.*

153. *Id.* (“FLFs [foreign law firms] may hire up to one Singapore lawyer for every foreign lawyer, and the Singapore lawyers should have more than three years’ experience.”).

154. *Id.*

155. *Id.* (“The foreign law firm will be allowed to share up to 49% of the profits of the constituent Singapore law firm in the permitted areas. Apart from this, the EJLV constituents will be allowed to decide whether, and to what extent, to share profits.”).

156. *Id.* (“The partners from the Singapore law firms will be allowed to concurrently hold partnership and administrative positions in the foreign law firms In addition, parties which are interested in a joint venture or which are currently in a joint venture agreement, may suggest any other arrangement beneficial to their particular circumstances. The Minister for Law and the Attorney-General will have the discretion to approve joint venture structures that go beyond the proposed conditions set out above.”).

B. *The QFLF*

Along with suggesting ways to enhance the JLV, the Rajah Committee introduced the Qualified Foreign Law Firm (QFLF) license in its report as well. This QFLF program gave foreign law firms the option of foregoing entrance into a JLV and instead provided them with an opportunity to “practi[c]e Singapore law in commercial areas through [the direct hiring of] Singapore-qualified lawyers.”¹⁵⁷ While remaining firmly committed to the notion that this “new [initiative] would add greater diversity, competitiveness, and vibrancy to the legal market,”¹⁵⁸ the government did continue to prohibit foreign firms from engaging in “criminal law, retail conveyancing, family law, administrative law and all aspects of . . . litigation.”¹⁵⁹ It also restricted the number of foreign law firms that would be able to receive the QFLF license. (The original number was set at five,¹⁶⁰ but it later was expanded to six.¹⁶¹)

In order to win one of these licenses, the foreign firms had to compete with one another.¹⁶² Importantly, as part of the process, they also were required to provide “revenue projections.”¹⁶³ This meant they had to forecast – and agree – that if designated as a QFLF, 50% of their revenue would come from outside of the Singapore market after two years, and 80% would be from “offshore” sources after five years – else their license was subject to revocation by the government.¹⁶⁴

157. *Id.*

158. *Id.*

159. *Id.*

160. *Id.* (noting in section (i) that “[u]p to five FLFs will be given a QFLF license to practise Singapore law through Singapore-qualified lawyers employed by the firm”).

161. See Ministry of Law website, *Award of Qualifying Foreign Law Practice (QFLP) Licenses*, Dec. 5, 2008, http://www.news.gov.sg/public/sGPC/en/media_releases/agencies/minlaw/press_release/P-20081205-1.

162. See *id.*; see also Ministry of Law Website, *Government Accepts Key Recommendations*, *supra* note 148, Enhanced Joint Law Venture Scheme, <http://app2.mlaw.gov.sg/News/tabid/204/currentpage/8/Default.aspx?ItemId=95> (noting at section (ii) that “FLFs will have to compete for the licences by demonstrating a commitment to Singapore. They would be asked for proposals regarding the size and constituency of their local office, the areas of work in which they will engage, and the countries which they will service from Singapore.”).

163. I heard this point from a lawyer on June 10, 2009, as well as from a lawyer (whose firm did not receive a QFLF-license) on June 11, 2009 (anonymity for both requested).

164. According to observers, the idea behind this move was simple: it was a way of pacifying the domestic bar that worried that the QFLF-license would enable the foreign law firms to overtake completely the local market. And the way it would be done, according to those concerned, is as follows: The foreign firms, with all of their resources would come in and cut rates for Singaporean clients to the point where domestic firms simply could not compete. Even though the foreign firms would absorb some initial loss, because of their strength, size, and resources, they could withstand this pressure – at least until the domestic firms folded. At that point, the argument goes, the foreign firms would then jack up their rates, essentially creating a monopoly on such legal services within the country. This “percentage/off-shore QFLF provision” thus served as a check on having such an outcome.

In early 2009, the government named four British firms – Norton Rose, Clifford Chance, Allen & Overy, and Herbert Simon – and two American firms – Latham & Watkins and White & Case – as recipients of five-year QFLF licenses. Lawyers from the firms that failed in their bids reacted with both anger and disappointment.¹⁶⁵ This group conveyed two consistent sentiments. First, government assurances that they could reapply within twelve to eighteen months offered little comfort, given the fact that, as one lawyer stated, “a lot of financial damage will have already been done to us [by those with QFLF privileges] in this time.”¹⁶⁶ Second, the firms expressed frustration that they received no detailed, individualized explanations as to why they lost out. This same lawyer intimated that he thought it was because his firm did not inflate its revenue projections as much as he believed the others who were awarded the licenses had done.¹⁶⁷

Ultimately, because of its recent implementation, it is difficult to know at this point the effects that the QFLF program will have on the Singaporean legal labor market. On the one hand, the fact that foreign law firms can now compete on their own against their domestic counterparts does signal the government’s continued desire to make Singapore an inviting place for international investors. On the other hand, the government’s attention to the demands of its domestic constituency also sends a cue to the foreign firms that the QFLF license has limitations. A foreign lawyer who is currently involved in one of the few ongoing JLVs told me that he saw no real benefit for his firm if it became a QFLF.¹⁶⁸ Especially with the new enhanced JLV in place, he found no reason to “mess with something that is working just fine for us.”¹⁶⁹

VI. CONCLUSION

Positive sentiments towards JLVs (enhanced or otherwise), like those felt by the lawyer quoted above, are clearly not the norm, and whether the enhanced JLV or QFLF license will serve as a better model than the original JLV remains to be seen. Placed in a larger context, the findings of this pilot study offer a starting point for further research on two fronts: 1) the efforts of other governments that are seeking to attract international law firms; and 2) the entrepreneurial initiatives that international law firms are undertaking to enter emerging, thriving, but still for foreign lawyers, restrictive countries. Simply

165. See Ministry of Law website, *Award of Qualifying Foreign Law Practice (QFLP) Licenses*, Dec. 5, 2008, http://www.news.gov.sg/public/sgpc/en/media_releases/agencies/minlaw/press_release/P-20081205-1.

166. Interview with lawyer (June 11, 2009) (anonymity requested).

167. *Id.*

168. Telephone interview with lawyer (July 12, 2009) (anonymity requested).

169. *Id.*

put, so much is unknown, which for the curious scholar serves as ripe terrain for future study. For example, while reports, like those cited in the Introduction, document the presence of JLVs in places like the Middle East and Japan, to what extent empirically is this model regularly used by foreign law firms as a means of gaining access to other potentially profitable, untapped domestic markets? In these other settings, what types of foreign firms use JLVs – traditional, big, elite firms, midsize ones, and/or smaller practices? Once created, how successful have these JLVs been in these other places? Have there been tensions, economic or cultural, like seen in Singapore, within these other JLVs? How, if at all, have JLVs complemented, competed with, or fared against other existing foreign/domestic law firm relationships, such as “best friend” alliances, international referral networks, and the like? All of these questions arise out of this pilot project, and the preliminary findings regarding Singapore hopefully provide a beginning point to which subsequent scholars can refer.

Interestingly, two countries that I am in the process of examining and that are presently using variations of law firm joint ventures are Indonesia and Vietnam.¹⁷⁰ Both have long looked to Singapore for guidance on increasing foreign investment and expanding growth in their respective economies. One foreign lawyer working in Singapore said that he and his firm have been eyeing the Indonesian and Vietnamese markets for some time.¹⁷¹ According to this attorney, leaders in both these countries are convinced that greater foreign investment – including greater investment from foreign law firms – will significantly improve the standards of living in their societies.¹⁷² Working with government policymakers in Jakarta and Ho Chi Minh City, this lawyer further noted that if the two countries continue liberalizing their economic policies accordingly, as he expects, international law firms will have an opportunity to prosper immensely in these places as well.¹⁷³

Another country where the findings of this pilot study will be important is India. Elsewhere, detailed work has demonstrated the present existence of a fierce debate over whether and to what extent foreign law firms should be allowed admission into that country.¹⁷⁴ Today, foreign law firms are barred from entry into India, although their presence is felt in a number of different ways.¹⁷⁵ The evidence adduced from that India project also suggests varied and nuanced positions on the part of multiple constituencies, including international

170. See Directorate General of Tax, Special Regional Office Jakarta, Information for Foreign Investment in Indonesia, <http://www.kanwilpajakhusus.depkeu.go.id/infoInvestment.asp>. For information on Vietnam, see GLOBAL INVESTMENT & BUSINESS CENTER, VIETNAM: BUSINESS LAW HANDBOOK 126-27 (2007).

171. Interview with lawyer (June 9, 2009) (anonymity requested).

172. *Id.*

173. *Id.*

174. Krishnan, *supra* note 8.

175. *Id.*

and domestic law firm lawyers, solo practitioners working in the local Indian courts, government officials, judges, and grassroots activists.¹⁷⁶ There is a sense from those who support liberalizing the legal services sector – and even from some opponents – that if the Indian market eventually opens formally to foreign law firms, the process will have to be gradual, with the joint-venture framework pointed to as a model possibly worth adopting.¹⁷⁷ Given the difficulties encountered in neighboring Singapore, where the domestic opposition has been nowhere near as strong as in India, the findings here should be of interest (and possibly even concern) for those who believe that the joint venture might be the appropriate vehicle for settling the legal services conflict within that country.

Finally, returning to the discussion that began this study, those American and British law firms looking to enter as-yet untapped foreign markets as a means of offsetting the downturn in business in their own home economies may glean useful lessons from the Singapore case. Since certain JLVs have indeed functioned adequately in Singapore, it is not impossible that future ones may do so there as well. The key determinants of their success are whether the arrangement is economically well-integrated, whether there is sufficient cultural sensitivity, and whether both sides are willing to work in good faith with one another while maintaining realistic business expectations. Where these variables are absent or lacking in salience, the evidence above suggests that, more often than not, JLVs will face daunting challenges. In sum, positive, nurturing relationships need the opportunity to develop and thrive because the bottom line is that the success or failure of these law firm joint ventures is ultimately and directly related to how much trust exists among the different working parties.

176. *Id.*

177. *Id.*