

Law School & the Possible Recovery of America's Legal Profession

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This research aims to depict recent trends in law school enrollment across the United States and attempts to document data concerning U.S. law schools before, during, and after the financial crisis of 2008-2009, as well as analyzing the effects these trends have had on the American legal profession.

American undergraduate education has garnered a lot of attention in recent months. Senator Bernie Sanders in particular made student debt a keystone issue in his presidential bid, rallying large numbers of young people behind his efforts to reform higher education financing. Following that campaign—and independent of any political affiliation or agenda—collegiate-level education continues to be a popular subject for debate.

Interestingly enough, law schools have largely avoided such a public discussion, but unknown to much of the public, a drastic reshuffling of the legal field in the United States has been in the works for some time, partly due to the same issues being debated for undergraduate education. In fact, problems in law schools and the legal field as a whole have led many potential law school students to question whether law is worth pursuing. This uncertainty in legal education may have far-reaching consequences, affecting not only law school students, but also the general populace.

Background

Attorneys are a staple in modern society. By necessity, laws are written with complex language, guarding against loopholes and abuses. As a result, lawyers and legal scholars serve as the crucial liaison between the government and the regular citizens. Law schools are therefore a necessary step for the development of this

aspect of society. Law schools test and educate future legal professionals beyond simple book learning, creating a class of legal workers that are far more versatile and useful to society (Stone). Within the United States, the legal profession and law school are, to some degree, indispensable. It follows, therefore, that significant movement in the legal education system could produce serious ripples in the legal profession, possibly leading to societal disruptions.

Such a movement occurred shortly after the financial crisis of 2008-2009. The watershed moment for law schools nationwide occurred in 2009-2010; however, this massive shift in the market was long in the making. Due to rising tuition and debt of law school students, lawyers often refuse lower-paying positions, rejecting jobs representing the poor, while also increasing competition at high-level firms. This leads to an increased scarcity of legal services for the disadvantaged while also artificially increasing the unemployment rate for attorneys. Although the legal market has begun to recover (according to 2015-2016 data), several of the crucial issues facing the legal profession and law schools remain in 2017.

Data

Potential applicants to law schools are often skeptical regarding the economic viability of a law degree, but the demand for attorneys continues to grow at an

insatiable rate. The poor in the United States sorely need competent attorneys. Referring to statistics from the Legal Services Corporation, *The New York Times* reported that up to “80 percent of the legal needs of the poor go unmet” (Bronner, “Right to Lawyer”). Although the economics of attending law school could be debated, the necessity of lawyers in America is simply indisputable. This need for attorneys is only exacerbated by the decrease in law school applicants and matriculants (Bronner, “Law School Applications”).

While demand for legal aid for the poor remains high, the legal profession is in the midst of a massive market realignment, leaving even fewer attorneys to tend to the needs of the underprivileged. *Figure 1* displays a graph of LSATs (Law School Admission Tests) administered over recent years. LSATs serve as an indicator of law school attendance and of interest in law school. The LSAT acts similarly to the ACT or SAT tests for undergraduate education. From 2005–2010, the graph seems to reflect growth in the field. Not only is the derivative, or slope, of the graph about that point positive, but the graph is concave up. This means that in addition to the rate of change for LSATs administered from 2005–2010 being positive, the rate of change of *the rate of change* is positive too (this is known as the “second derivative” of the first graph). Since the slope of the first graph is positive and concave up, the growth resembles an exponential function, which was good news for law students. All of this changed, however, in the middle of 2009 and 2010 because the financial crisis of 2008–2009 hit the legal field hard, albeit after a brief delay. The graph remains concave up after the point of inflection in 2009–2010, but in a bad way. The graph sharply and rapidly declines about that point. This downward trend only stopped in the 2015–2016 data. Since then, the downward trend has evened out (as the slope of the graph approached zero). There even appears to be some level of recovery as the slope of the graph becomes positive once again.

The crash affected the legal field in a dramatic, sudden way; however, the economic fragility of law students was gradual. Tuition has been increasing over the years, mirroring the much-talked-about trend in undergraduate education, as demonstrated in the *Figure 2*.

Tuition rates are often displayed as exponential functions; however, these are largely the *nominal* tuition rates. These nominal tuition rate increases seem to be daunting, approaching unpayable levels—and tuition rates are increasing and burdening law students more and more heavily; however, it would be fallacious not

to adjust for inflation. Once adjusted for inflation, it is much more apparent that although tuition continues to rise in cost, the rate of increase is more linear than exponential.

Even though real tuition is only increasing in a linear fashion, the rate of increase is still alarmingly steep. Legal education continues to get drastically more expensive over time. The tuition rate in 1985 was an average of \$2,006 for public law schools with residency, \$4,724 for public law schools without residency, and \$7,526 for private universities (“Tuition Tracker”). By 2013, even utilizing the 1985 dollar as an inflation baseline, the rates had massively increased to \$4,343 for public law

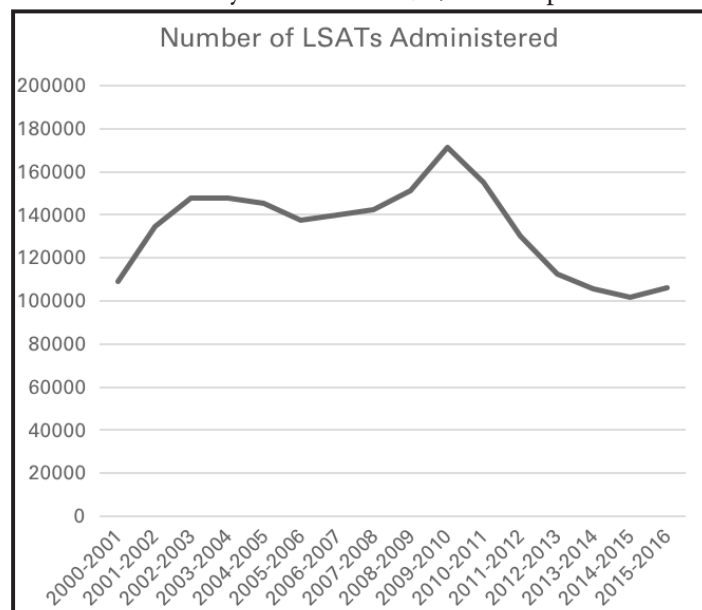


Figure 1
Source: "LSAC Volume Summary."

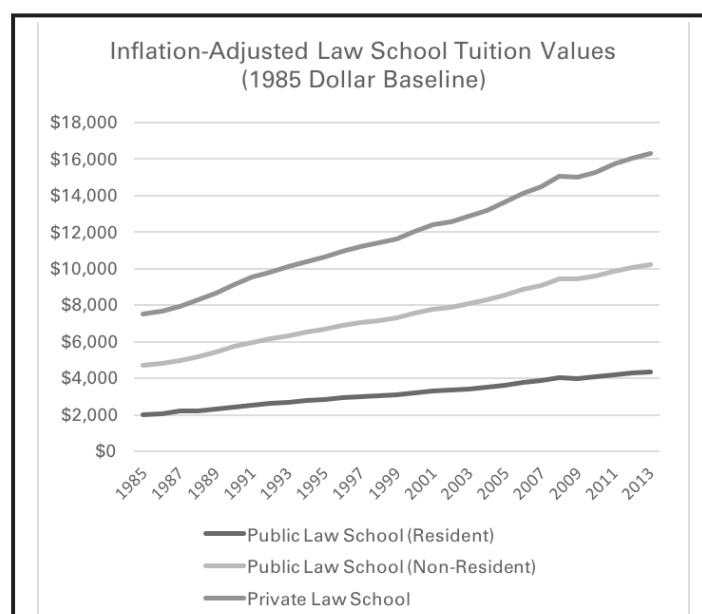


Figure 2
Source: "Tuition Tracker."

schools with residency, \$10,228 for public law schools without residency, and \$16,294 for private universities. The rates (in 1985 dollars) only fell one year: 2009. This is less of a reflection on the reduction of tuition rates, however, and more of a testament to the scale of the recession, which smashed the inflation rate of the time. The cost of law school is going up, and debt levels for students are rising at a frightening pace. Some experts have gone as far as to refer to the student debt situation as “ballooning” (Liberto).

Analysis

Debt deters many potential applicants from seriously considering law school. As Stephen Dash (*Forbes* writer), the New America Foundation, and the Illinois State Bar Association point out, people only take on large amounts of debt with the hope of making more money (Delisle; Jorgenson et al). Consequently, many law graduates hold out for higher-paying positions at major firms rather than take lower-paying positions at local levels. This does two things. Lawyers that refuse lower-paying positions reject jobs representing the poor, which increases competition at high-level firms. This leads to increased scarcity of legal services for the disadvantaged while also artificially increasing the unemployment rate for attorneys.

In 2013, the demand for attorneys, particularly in the public sector, continued to grow rapidly; however, the rates of application and matriculation continued to slacken as lawyer unemployment rates went up. This also dragged the average salary of attorneys down. In turn, this created a vicious loop, each issue further convincing students not to apply to law school. Legal occupations were under severe threat, and a solution was needed badly and quickly.

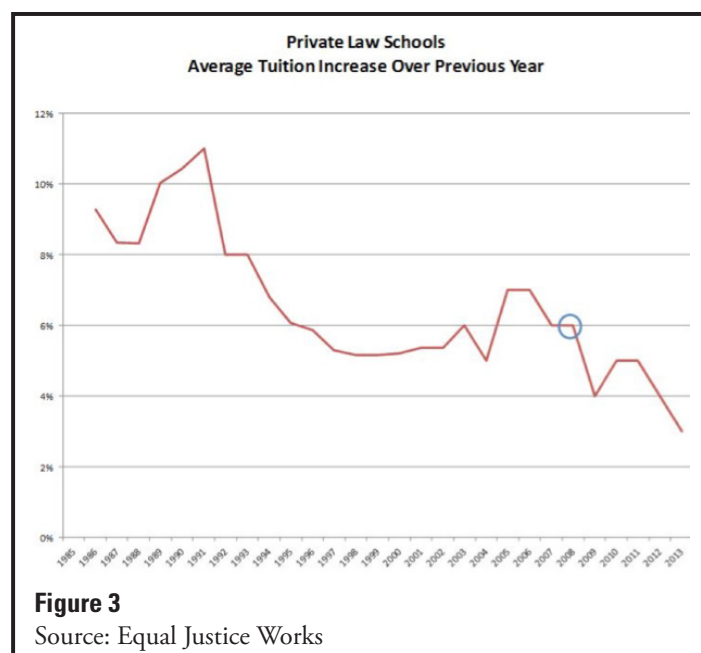
The federal government—prior even to the crash—began attempting to ease the pressure. In 2007, the College Cost Reduction and Access Act (CCRAA) was passed. In essence, the law creates more avenues for higher education debt relief, including the Public Service Loan Forgiveness plan, which stipulates that if a person remains employed in the public sector and maintains regular payments on all loans, the federal government will take steps to reduce that person’s government-issued student loan debt (“The College Cost”) (“Public Service Loan”). In regard to law school, this could help draw some attorneys into the lower-paid, public sector job pool, helping the poor. This would lower student debt for law students while also ameliorating a crucial societal issue. The long-term effects of the CCRAA are still

debated, however. Not long after the law’s passing, the 2008-2009 crash happened, throwing a wrench into any meaningful statistical analysis of the CCRAA’s effects. Analysis of its implications are still mixed, as a result.

Some law schools have taken matters into their own hands. A few have actively manipulated their own tuition rates in an attempt to make their schools more attractive (Krupnick). Figure 3, produced by *The Huffington Post* was based on data from the American Bar Association. The blue circle indicates the point at which the CCRAA was passed. The immediate dip could have more to do with the recession than the law because the law has only been in effect a few years; the trends are not long enough to be definitive. Although slowing the growth of tuition prices helps prevent the problem from escalating too fast, it stops short of actually solving the problem completely. Real tuition continues to climb so long as the rate of increase of law school tuition surpasses the inflation rate.

Separately, a few institutions have lowered their standards for LSAT scores (Kitroeff). As the LSAT is only scored out of 180, a small change could drastically alter the competitiveness of an institution. This, however, occasionally feeds back into other problems. When law schools churn out students with lower LSAT scores (and therefore generally lower legal abilities), those students go out into the highly-competitive world with a lot of debt and fairly low prospects (The Editorial Board) (Liberto).

Regardless of recent developments, a few facts about law school are apparent. Firstly, law school is extremely expensive. On top of an undergraduate education,



law students endure an additional three years for legal education. Furthermore, real tuition rates—at both undergraduate universities and law schools—are increasing. This puts a significant and ever-increasing financial burden on students. Even by the most recent measures, tuition increases continue to “outpace inflation” (Crittenden). Students only undertake these debts in the hopes that their education will net them a good job, but this is a gamble and, once coupled with job insecurity, is increasingly risky. These factors deter many students from pursuing a legal career, exacerbating the attorney shortage for the poor. Even the College Cost Reduction and Access Act only partially treats the issue. The CCRAA only applies to federally guaranteed education loans. This therefore excludes many other students who have had to turn to other financial options or loans.

This brings us to the present day. The dust from 2008-2009 has settled a bit. The legal field endured a brutal few years. Its reputation as a safe, high-paying profession was dragged mercilessly through the mud. Competition slowly eased as fewer and fewer students applied to law schools. This, however, has led to a revival of sorts. With lower competition, interest in the legal profession is slowly being rekindled (Kitroeff). As shown in *Figure 1*, LSAT administration has finally turned upwards for the first time since the recession, and as the National Association for Law Placement reported in the fall of 2014, entry-level jobs for law students began growing again (“Entry-level Law”). The large-scale shifting in the legal field, in the words of *The Huffington Post*, is a “massive market correction.”

The movement in the legal profession was not a “bubble” in the same way as the housing crisis, though it could be compared to a balloon. By 2008-2009, the balloon was far too full. In the following years, the balloon began to deflate, quickly at first (due to pressure), then more slowly. With the balloon deflated, the legal profession now appears to be in the beginnings of a recovery. The legal field remains more volatile than in past generations, but certainly less so than in 2008-2009. And although parts of the legal education system continue to have issues, the deep cuts of the Great Recession are slowly healing. As these issues are gradually discussed more and more, perhaps a rapid and complete solution can be found. In the meantime, tuition increases continue to slow, but at a rate still exceeding the inflation rate (Crittenden). If, however, the tuition increases begin to dip *below* the inflation rate and real tuition begins to decrease—as is likely in future years—

the situation for law students, the legal profession, and therefore several larger aspects of society will improve.

RECENT TRENDS

In the Legal World

SEPTEMBER 15, 2008

Lehman Brothers goes bankrupt, sending ripples throughout the global economy. This is largely seen as the flash-point for the “Great Recession” (Elliot).

MARCH 15, 2013

Ethan Bronner publishes an article for *The New York Times* entitled, “Right to Lawyer Can Be Empty Promise for Poor” describing the problems with legal service demand for the lower class.

NOVEMBER 3, 2013

Stephen Dash publishes “How Law Schools Will Pull Out Of ‘Death Spiral.’”

APRIL 21, 2014

Matt Krupnick writes “Law Schools Beat Colleges At Lowering Tuition,” documenting the changes law schools are attempting at the time to combat the market pressures.

APRIL 22, 2015

Natalie Kitroeff writes “Five Charts That Show You Should Apply to Law School This Year,” detailing the **potential recovery** of the legal field.

2007

The **College Cost Reduction and Access Act** is passed, establishing the **Public Service Loan Forgiveness** plan.



JANUARY 30, 2013

Ethan Bronner publishes an article for *The New York Times* entitled, “Law Schools’ Applications Fall as Costs Rise and Jobs Are Cut.”

JUNE 22, 2013

The Illinois State Bar Association details the negative effects that law school debt has on legal services rendered.



MARCH 2014

Jason Delisle writes the “Graduate Student Debt Review: The State of Graduate Student Borrowing,” detailing the effects debt has to deter many potential applicants from seriously considering law school.

EARLY 2015

Perspectives on Fall 2014 Law Student Recruiting shows “**Entry-level Law Firm Recruiting Ticks Up.**” Perspectives on Fall 2014 Law Student Recruiting.



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