

FINANCIAL ASPECTS

Paying for a law degree: trends in student borrowing and the ability to repay debt

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There is a dire threat to professional education arising from the cumulative effects of developments indicated by recent data on cost trends in legal education, including interest costs, repayment mechanisms, the issue of forgone wages; an examination of placement data and the ability to repay and refinance college indebtedness and the development of a relationship between college costs, credit cards, and consumer finance. Financing postgraduate studies will become just as substantial a transaction for many students as purchasing their first home. This certainly does not bode well for higher education's traditional inequity-reducing powers.

The tuition costs for legal education have increased by a factor of at least seven since 1975 and across all sectors. Debt loads will only get worse, especially when combined with undergraduate loan obligations that were postponed during subsequent schooling but come due after the six or nine month forbearance period. In 1995 nineteen law schools had tuition costs of \$20,000 or more; by 1997 seventy had passed this mark (nearly a third of the 180 law schools). Also in 1997, fifty law schools reported total estimated costs of attendance (tuition plus living expenses) in excess of \$30,000 for the school year.

Then there is the interest due on borrowed money. For federally subsidised loans repayment is deferred while the recipient is in school, which means that students can keep adding to their indebtedness by additional borrowing. Income-contingent options, while an important tool in some instances, similarly run up a huge total repayment.

In 1995-96, the median law first-year salary was \$40,000. Of law graduates responding to placement surveys, 87 percent had found full-time employment within six months of graduation, down from

the 1990 level of 92 percent. Another 6.4 percent found part-time work. Of those in full-time work, 11 percent held nonlegal jobs (this includes persons previously employed who attended part-time law programs). Thus 70.7 percent found full-time legal positions. All of this is cyclic and today's stronger economy has improved job prospects. Even so, it is a complex system of borrowing/debt/repayment that is premised upon eventual employment as an end result of completing law school or other professional programs.

Many applicants to law school and other professional schools have credit profiles that are not promising – what with enormous loan indebtedness, lack of collateral traditionally required for borrowing large sums of money, small earnings from part-time or summer work in low-paying jobs, and, increasingly, substantial credit card debt. Not only are credit cards easily available to college students; increasingly colleges and universities allow students to pay tuition bills with approved credit cards. Student loans were originally designed to be less commercial alternatives for student consumers, who often had no legal recourse to credit, collateral, or the other commercial prerequisites for borrowing large sums of money. Now, however, credit cards have become, in a sense, less commercial, and are freely hawked and aggressively pitched to college students.

This increasing complexity of higher education finance raises serious questions about the continued availability of credit for students, particularly postgraduate professional students. Increasing legislative attention to default rates may preclude some professional schools from participating in government or private-sector programs.

Professional schools, which in the past have had only modest due-diligence obligations, may discover that a number of their students or potential students are unable to secure student loans and probably cannot meet their tuition payments and enrol in school. Schools may start using creditworthiness as a criterion for admission. The need-blind admission wall

carefully erected over the last two decades has begun to show cracks. If such drastic admissions practices expand, they will preclude further schooling for a number of academically qualified candidates whose earlier economic behaviour was imprudent.

It is clear that at no previous time has the entire range of college financing options been so extensive or yeasty. The funny thing is that, despite all the problems identified, and all the unknowns, this may be the golden age of financial aid. Most of the governmental tools are in place, and the private sector has reached out to fill the remaining need. If students can gear their lifestyles to more modest means and develop good savings and debt management habits, this might very well prove to be the high-water mark for professional school financing.

GENDER ISSUES

The glass ceiling for women in legal education: contract positions and the death of tenure

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On the surface, it appears that the status of women in legal education is gradually improving. A more careful examination proves otherwise. Women got in the door of legal education, but many have found themselves in the basement of a redesigned building. A new bottom level composed of non-tenure-track contract teachers has been added. It is disproportionately occupied by women faculty.

Librarians, clinicians and legal writing teachers are now well-established categories in legal education. All three, regardless of their importance to the educational mission of law schools, are at the bottom of the legal education hierarchy. And all three groups are predominantly female. Similar patterns exist in all three fields. Men, a minority in each field, are over-represented in the higher-status tenured or tenure-track positions within these fields. Women occupy the less desirable non-tenure-track contract positions.

Of the three categories, librarians have existed in law schools the longest. The American Bar Association considers librarians to be administrators and does not count them as faculty, even if they hold tenured or tenure-track status in a law school, teach law school courses, and participate fully in faculty governance.

In 1998, there were 930 librarians in law schools in the US, 65.3 percent women and 34.7 percent men. Of the 930, 235 were higher-status teaching librarians and 695 were lower-status non-teaching librarians. Men disproportionately held 46 percent of the higher-status teaching librarian positions. Of the 323 total male librarians, 33.4 percent were teaching librarians; of the 607 total female librarians, only 20.9 percent were teaching librarians. Within the teaching librarian category, men had a majority of the most coveted jobs - tenured or tenure-track positions within a law school.

After librarians, clinicians are the longest-established recognised group in law schools. The ABA's statistics show that in 1998 a slim majority - 50.4 percent - were women. As with librarians, men disproportionately occupied the coveted higher-status tenured and tenure-track positions.

Legal writing teachers are the newest category of teachers in law schools. In the old days legal research and writing was taught by the librarian, usually a woman. Then schools moved to have legal research and writing taught by graduate law students, adjuncts, or upper-level law students. Now they have discovered they can get women with excellent credentials to teach legal research and writing full time in non-tenure-track positions. The ABA's statistics show that in 1998 there were 508 full-time legal writing teachers in American law schools, 69.7 percent of them women. In this overwhelmingly female field, men disproportionately occupied almost half (46.5 percent) of the coveted tenured positions.

Statistics from both the ABA and the AALS document the swift movement away from tenured and tenure-track positions and toward contract positions that

are overwhelmingly filled by women. Women make up 69.7 percent of all legal writing teachers and 50.4 percent of all clinicians. According to the ABA's statistics, the percentage of women full-time teachers has been stuck below 30 percent, ranging from 23.8 percent in 1988 to 29.3 percent in 1998. The slight increase in the percentage of women full-time teachers during this ten-year time period can be attributed to the increased hiring of clinicians and legal writing teachers, who are overwhelmingly women.

The AALS statistics are more detailed and are broken down by rank and title. In 1997-98 women were 19.7 percent of all full professors, 44.2 percent of associate professors, and 51.1 percent of assistant professors. Although the number of women in associate and assistant professor positions would seem to bode well for the future, women fare worse than men in achieving tenure. Women again predominated in the lowest-status category: they were 66.9 percent of a combined category of lecturers and instructors.

Women make up over 40 percent of law school graduates and over 40 percent of those awarded research doctorates. But just as women have begun to amass the credentials necessary to enter the professoriate, colleges and universities are changing the way they operate. Both white women and women of colour will be allowed to teach but in non-tenure-track contract positions that pay less, carry less status and do not guarantee academic freedom. The same will be true for the minority males just beginning to break into higher education. If the trends toward more non-tenure-track positions and more part-time positions continue, women and minority males will find themselves welcome in academia but relegated to the lowest levels of college and university hierarchies. Such a result would be bad for those persons from traditionally discriminated-against groups and also bad for American higher education.

The combination of a labour shortage and increased demand means that working conditions and wages have to improve, not deteriorate. Colleges and uni-

versities, including law schools, will have to compete not only with each other but also with private industry to hire highly educated and highly skilled people. Few highly qualified thirty-somethings will accept the low pay and low status of a non-tenure-track contract position, with its lack of security and academic freedom. Women will seek other options, especially now that the Internet can neutralise the lack of mobility that may currently disadvantage some of them.

INDIVIDUAL SUBJECTS/ AREAS OF LAW

Globalisation, international law and the academy

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As globalisation emerges to become the new organising principle of society at large, international law appears to be a primary beneficiary. International legal academics should benefit in turn. Change itself tends to magnify the possible contribution of social scientists (including legal academics) to the extent they are trained to detect patterns across time and context. To the extent that the importance of international law increases on the ground, so too will the importance of international legal scholars, within and outside the academy.

That would reverse a long decline in the prestige attached to the subject. Reflecting its inconsequence on the ground, international law has been held in something approaching contempt in both the law schools and other disciplines.

In the face of these developments, the first formidable task for international legal academics is a mapping exercise. Much valuable work has already been undertaken by both political scientists and legal academics, to describe the dynamics of popular decision-making contexts subject to the new influence of non-state actors. What remains necessary are cross-sectoral and cross-institutional analyses