

The Impact of the Close Relationship Between American Law Schools and the Practicing Bar

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Since the first American law school opened its doors in the late 1800s, nearly all graduates have practiced law upon graduation. Even ten years after graduation, while some may have moved on to careers in business, teaching, government service, and so on, the great majority of American law graduates still practice law. This simple fact distinguishes them from first-degree-in-law graduates around the world and also has had a profound impact on American legal education.

The first aspect of this impact is the close relationship between the American Bar Association and American law schools. Because of its rightful concerns about maintaining the quality of legal education, the ABA has served as the primary accrediting agency for American law schools since the beginning of American legal education. The ABA's Section of Legal Education sets and monitors law school adherence to a complex set of standards dealing with a wide range of issues including financial resources, libraries, facilities, curriculum, admissions, students, and faculty status and governance.

American law schools also maintain very close ties with practicing attorneys because they are the almost exclusive employers of law school graduates. These ties manifest themselves in several ways, such as having attorneys serve on law school advisory boards, participate in mentoring programs for law students, work as adjunct faculty, and judge moot court competitions. Attorneys are also the principal source for law school fundraising.

The second area of impact is on the law school curriculum and pedagogy. Because such an extremely high percentage of students will practice law, much of their legal education focuses on providing them with some of the specific skills they will need to be effective lawyers. These skills include legal reasoning, legal research, written and oral communication, problem-solving, and practical legal skills. More recently there has also been an emphasis on certain values deemed important for American lawyers such as professional ethics, civility, a commitment to service, and leadership.

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There is a constant ongoing dialog between the practicing bar and the law schools as to how effective the schools are in preparing their graduates for the practice of law. The majority of American lawyers practice in small law firms (fewer than ten lawyers) and often do not have the luxury of having the time to train recent law school graduates in the more practical aspects of the practice—how to draft a contract or a will, or how to file a document with the court, or the day-to-day aspects of law office management. For them in particular and for the growing number of recent graduates opening their own law offices soon after graduation, there is a need for more practical training in law school.

The first-year curriculum is nearly identical at all American law schools: legal writing and research, contract law, property law, criminal law, torts, and civil procedure, with some law schools also introducing aspects of constitutional law. In the second and third year, most courses are elective. Some students partake of a wide range of courses from Federal Income Tax to Law and Literature. Most students, however, to the great dismay of many of their teachers, tend to focus on those courses which will help prepare them for the state bar exam they must pass in order to practice law. For them, there is still some room for electives, but only for a limited number.

In recent decades American law schools have added a wide variety of courses that greatly enrich the curriculum, such as Race Culture and Law, Feminist Legal Studies, and Law and Economics. As a result of the impact of globalization, a growing number of schools also offer courses that allow students to read and study foreign legal materials in their original language, such as French, Spanish, Japanese, and Chinese. An even greater number of schools offer courses on the law of particular countries, such as Mexico, Germany, China, and Japan.

Law school pedagogy is also affected by the fact that most graduates practice law upon graduation. It is rare to see an American law teacher lecturing in the classroom, particularly in the first-year classes. The pedagogy generally combines what is called the case method and the Socratic method in an effort to train students in what is considered to be the most important legal skill—legal reasoning.

Thus, in a typical first-year course such as Contracts, the students prepare for class by reading five or six appellate decisions from a variety of courts on the same topic, for example contract formation. During class, the teacher uses the Socratic method to probe the students' understanding of the different facts, law, and legal reasoning used by the different judges. In the future, when practicing law and faced with a new case, they will be able to recognize the relevant facts of the new case, determine and interpret the law that might be applicable, and then apply that law to the facts to predict the outcome.

Two other parts of the curriculum influenced by placement are clinical legal education and honors programs such as law review and moot court teams. Honors programs have been a part of American legal education for some time. In addition to the special skills training they provide (such as advanced writing and oral advocacy skills), they are seen by the practicing

lawyers who hire the students as evidence of special talent and skill, and so they are very popular among students seeking employment with top law firms.

Clinical legal education is relatively new in American law schools. It can be seen as representing the influence of the practicing bar's concern that, in the past, law students were not acquiring enough practical skills while in law school. Through law school clinics, typically available in the second and third year, law students represent real clients in real cases, under the close supervision of faculty. Clinical legal education is very expensive. Many other courses, particularly in the first year, are still taught in large sections (up to 125), which is very cost effective. Clinical courses, because of the need for close faculty supervision, are quite small; enrollments are often fewer than ten students.

An area of mutual impact is American law school tuition and the related issue of student debt. Contemporary American legal education is expensive. In 1999 the average tuition at a private law school was \$20,709 per year, and the most expensive tuitions were nearly \$28,000. This was not always the case. But at least since 1985 a number of factors—the new costs of providing more extensive clinical legal education, new technology (hardware, software, and the related support services), expanded services for students, smaller-sized courses (due to the increased number of elective courses), and increased salary needs for faculty and staff—have driven up tuition costs nationwide. From 1985 to 1995 public and private tuition costs increased an average of ten percent a year. Tuition increases have now slowed to around five percent a year.

To pay for these increased tuition costs, more law students are incurring greater levels of debt. They are willing to take on higher debt levels because of the generally good prospects for employment upon graduation. While the national average law graduate's debt is around \$22,000, more and more students are now graduating with debt well in excess of \$100,000.

These higher debt levels, in turn, have an impact on placement. Students with high debt are more likely to seek a position with the law firms paying the highest salaries and to be financially unable to accept jobs in the public sector—with government agencies or nonprofit public interest groups, for example, which typically pay the lowest salaries. While the average starting salary is around \$60,000, a few members of this year's graduating class will be earning as much as \$160,000 a year.

The high salaries are a result of the high demand for lawyers. For better or worse, American society's heavy reliance upon law has resulted in an ever increasing body of law and regulations and thus an increased demand for lawyers. The greatest growth in the number of American law schools took place in the 1970s, but since then, on average, the ABA has accredited at least one new law school each year.

In fact, the demand for legal education is so strong that in those states in which it is possible to sit for the bar examination and practice law upon passage, without having graduated from an ABA-accredited law school, there are a growing number of unaccredited law schools. This includes America's first virtual law school, which came online last year and offers legal education through the Internet.

The relationship between the practicing bar and law schools has been close since the beginning of formal legal education. It is sometimes strained by such things as the two parties' differing views on the relative importance of practical legal education and who should bear the brunt of the burden of the training required for the transition from law student to lawyer. By and large, however, the relationship has been to the benefit of both parties and to the general public as well, because the practicing bar and the law schools work together to promote quality legal education with an emphasis on professionalism and public service.