

## 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 1800's, nearly all JD graduates have practiced law upon graduation. Even ten years after graduation, while some may have moved on to careers in business, teaching, politics, government service, etc., the great majority of American law graduates still practice law. This simple fact distinguishes them from graduates of 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 (ABA) 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 on Legal Education sets and monitors law school adherence to a complex set of standards dealing with a wide range of issues including financial resources, law school law libraries, facilities, curriculum, admissions, students, and faculty status/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 professors; judge moot court competitions, etc. Attorneys are also the principal source for law school fund raising.

The second area of impact is on American law school curriculum and pedagogy. Because such an extremely high percentage of students will practice law upon graduation, 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.

There is a constant, on-going dialogue between the practicing bar and the law schools as to how effective law schools are in preparing their graduates for the practice of law. The majority of American lawyers practice in small (less than 10 lawyers) law firms 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 of law such as how to draft specific documents such as a contract or a will, or the actual process of 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 at American law schools is nearly identical: 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 take advantage of elective courses to partake of a wide-range of law school courses from Federal Income Tax to Law and Literature. Most American law students, however, to the great dismay of many of their professors, 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 a limited number.

In recent decades, American law school curriculum has expanded to include 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 law schools also offer courses that allow law students to read and study foreign legal materials in their original language such as French, Spanish, Japanese, and Chinese and an even greater number of law schools offer courses on the law of particular countries such as Mexico, Germany, China, and Japan.

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

Thus, in a typical first-year course such as Contract Law, the students prepare for class by reading 5-6 appellate decisions from a variety of courts on the same topic such as contract formation. During the course of the class, the professor 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, the lawyer 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), these honors programs are seen by the practicing lawyers who hire the students as indicia of special talent and skill, thus they are very popular among students seeking employment with top law firms.

Clinical legal education is relatively new in American legal education and can be seen as representing the influence of the practicing bar's concern that, in the past, law students were not receiving 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 law faculty. Clinical legal education is very expensive. Many American law school 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 less than 10 students.

An area of mutual impact is American law school tuition and the related issue of student debt. Contemporary American legal education is very expensive. In 1999 the average private law school tuition was \$20,709 and the most expensive tuitions were nearly \$28,000. This was not always the case. However, at least since 1985, a number of factors including 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 law school faculty and staff have driven up tuition costs nation-wide. For example, from 1985-1995 public and private tuition costs increased an average of 10% a year. Tuition increases have now slowed to around 5% a year.

In order to pay for these increased tuition costs, more law students are incurring greater levels of student debt. They are generally willing to take on higher debt levels because of the generally good prospects for placement upon graduation. While the national average law school debt is around \$22,000, more and more law 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 those law firms paying the highest salaries (a few members of this year's graduating class will be earning as much as \$160,000 a year – the average salary being around \$60,000) and not be financially able to accept jobs in the public sector such as with government agencies or non-profit public interest groups which typically pay the lowest salaries.

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 accredits 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 state 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 that came on line 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. This relationship 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 ultimate transition

from law student to lawyer. By and large, however, the relationship has been to the betterment 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.