

Is Law School Worth the Cost?

Brian Z. Tamanaha

Legal educators defending the value of legal education like to extoll the non-economic value of a degree. Erwin Chemerinsky, dean of the University of California, Irvine, School of Law, for example, criticized my book, *Failing Law Schools*, because it “looks at the value of a law degree in too much of monetary concerns.” The law dean declared, “It’s not just monetary. . . . There are all sorts of exciting things you can do with a law degree.”¹ Paul Berman, the former dean of George Washington University Law School, argued that a cost-benefit analysis is “only a crude measure that ignores the intrinsic value of education in personal, intellectual, spiritual and emotional growth.”²

A legal education brings a wealth of non-monetary benefits, including knowledge, personal enrichment and many other things that cannot be measured by a crude cost benefit analysis. These intangibles might be priceless. That said, most people who attend law school expect to end up with a decent standard of living that exceeds what they would have attained without the degree. They expect, at the least, that law school will not lead to their impoverishment. To determine whether these expectations are being met requires that we focus on what a law degree costs and the opportunities law graduates get in return.

Tuition, Debt and Jobs

The value question is particularly urgent in light of the abysmal job market for lawyers. The primary organization that tracks employment results for law graduates in conjunction with law schools has described this as the worst market for legal employment in decades: many graduates fail to land jobs as lawyers; unprecedented numbers of graduates take part-time jobs and temporary jobs;

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1. Rachel M. Zahorsky, Law Prof’s Ideal, Affordable Law School Not Possible in Reality, Chemerinsky Says, A.B.A. J., Aug. 22, 2012, available at http://www.abajournal.com/lawscribbler/article/law_prof_ideal_affordable_law_school_not_possible_in_reality_chemerinsky/.
2. Paul Berman, Thinking About Law School Tuition, Blog of The Dean of Geo. Wash. U. L. Sch., Aug. 8, 2011 (copy on file with the author).

many earn relatively low salaries.³ Only 55 percent of law graduates in 2011 had obtained permanent full-time lawyer jobs within nine months of graduation.⁴ Employment for law graduates has been abysmal since 2009 and, for the past decade at least, roughly a third or more of law graduates nationwide have not obtained jobs as lawyers.⁵

Job prospects for law graduates are not likely to improve any time soon. The Center for the Study of the Legal Profession at Georgetown University Law Center recently issued a report concluding that hiring of new graduates will remain suppressed in coming years, even if the economy picks up. Because of cost competition among firms and pressure from clients to trim bills, law firms have become more efficient, relying more heavily on paralegals, outsourcing and contract workers, substantially cutting back on the number of positions for new law graduates.⁶ The U.S. Bureau of Labor Statistics estimates about 22,000 lawyer openings annually through 2020 (counting departures and newly created jobs). Yet law schools yearly turn out more than 40,000 graduates.⁷

This bleak job market coexists with astronomically high tuition. At about a dozen law schools today, tuition exceeds \$50,000. The price has been escalating rapidly, far above the rate of inflation: average tuition at private law schools in 2001 was \$22,961—just a decade later, in 2011, it had reached \$39,184.⁸ In 2012 Columbia Law School was the most expensive with an estimated out-

3. See James G. Leipold, Nat'l Assn. for Law Placement, *Truth or Dare: The New Employment Market*, NALP Bull. 1-3 (Oct. 2012), available at <http://www.nalp.org/uploads/1012NALPBulletinExecDir.pdf>.
4. See Joe Palazzolo, *Law Grads Face Brutal Job Market*, Wall St. J., Jun. 25, 2012, available at http://online.wsj.com/article/SB10001424052702304458604577486623469958142.html?mod=rss_economy.
5. See Brian Z. Tamanaha, *Failing Law Schools* 114-18 (Univ. of Chicago Press 2012).
6. See James W. Jones, Milton C. Regan, Lisa H. Roher & Mark Medice, 2013 Report on the State of the Legal Market 8-14 (2013), available at <https://www.law.georgetown.edu/continuing-legal-education/executive-education/upload/2013-report.pdf>.
7. See U.S. Dept. of Labor, Bureau of Labor Statistics, *Employment Projections*, Table 1.7, available at http://bls.gov/emp/ep_table_107.htm, (projecting 21,880 openings annually through 2020); Deborah Jones Merritt, *Labor Day, Inside the Law School Scam*, Sept. 1, 2012, available at <http://insidethelawchoolscam.blogspot.com/2012/09/labor-day.html>; Deborah Jones Merritt, *More Bad News from the BLS, Inside the Law School Scam*, Sept. 5, 2012, available at <http://insidethelawchoolscam.blogspot.com/2012/09/more-bad-news-from-bls.html>. Defenders of the value of a law degree regularly point out that, according to BLS, the unemployment number for lawyers is 1.5 percent. See Message from Dean Martin J. Katz, *Why Now is the Time to Apply to Denver Law*, available at <http://www.law.du.edu/index.php/admissions/learn/choosing-denver-law-myths-v-facts>. The problem with citing this statistic is that the BLS bases this figure only on people who worked as lawyers and then became unemployed and remain unemployed. Thus recent graduates who do not land lawyer jobs to begin with, or who were laid off from a lawyer position and took any other kind of work to pay the bills, are not factored into the unemployment rate for lawyers.
8. See Amer. Bar Assn., *Law School Tuition 1985-2011*, available at http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/ls_tuition.authcheckdam.pdf.

of-pocket cost totaling \$81,950, including tuition (\$53,636), living expenses (\$19,894), health insurance (\$2,981), books, computer and supplies (\$3,520), and miscellaneous fees (\$1,133).⁹ About half of the law students at Columbia receive scholarships,¹⁰ leaving the other half to pay full list price. The unlucky half of the entering class of 2012 will spend about \$245,000 each to obtain their Columbia law degrees. New York Law School is the tenth most expensive law school in America, at an annual cost of \$74,986.¹¹ It will cost NYLS law students without scholarships more than \$220,000 each to obtain their degrees. At many law schools around the country the full cost of a law degree, even for students on scholarship, runs from \$150,000 to \$200,000 and higher.

Increasing tuition immediately results in rising debt levels for law students, about 90 percent of whom borrow to finance their legal educations. The average debt of private law school graduates went from \$70,147 in 2001 to \$124,950 in 2011. At public law schools over the same period, average debt increased from \$46,499 to \$75,728.¹² Debt has been increasing annually by alarming amounts in recent years—at private law schools jumping from \$91,506 (2009), to \$106,249 (2010), to the \$124,950 figure in 2011.¹³ And keep in mind that these figures exclude undergraduate debt, which averages around \$25,000,¹⁴ and they do not count the interest accrued on debt while in school.

A few examples will illustrate the severity of the debt and job situation for law graduates. The average student debt at the ten most indebted law schools for the graduating class of 2011 is listed below (again, the figures exclude undergraduate debt and the interest accrued on the loans), followed by the percentage of the class in debt.¹⁵ After the dash, highlighted in bold is the

9. See Jennifer Poland, The 10 Most Expensive Law Schools in America, *Business Insider*, Oct. 5, 2012, available at <http://www.businessinsider.com/the-10-most-expensive-law-schools-in-america-2012-9?op=1>. All of the following costs are taken from Poland's article.
10. The 2011 Official Guide to Law Schools, the most recent information available, indicates that in the academic year 2010-2011, 49.1 percent of students received scholarships. See LSAC, ABA-LSAC Official Guide to ABA-Approved Law Schools 229 (2011). The median grant amount was \$10,250.
11. Poland, *supra* note 9.
12. Average Amount Borrowed for Law School 2001-2010, A.B.A., available at http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/avg_amnt_brwd.authcheckdam.pdf.
13. *Id.*
14. See Tamar Lewin, Student Loan Borrowers Average \$26,450 in Debt, *N.Y. Times*, Oct. 18, 2012, available at <http://www.nytimes.com/2012/10/18/education/report-says-average-student-loan-debt-is-up-to-26500.html?hpw>.
15. The debt and percentage in debt numbers are available at Whose Graduates Have the Most Debt?, *U.S. News & World Rep.*, available at <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/grad-debt-rankings>. I have excluded John Marshall from the list because of an evident error in the numbers reported for the school.

percentage of the graduates at each law school who had obtained permanent full-time jobs as lawyers nine months after graduation.¹⁶

California Western School of Law \$153,145 (89 percent)—**39.3 percent**

Thomas Jefferson School of Law \$153,006 (94 percent)—**26.7 percent**

American University (Washington College of Law) \$151,318 (80 percent)—**35.8 percent**

New York Law School \$146,230 (82 percent)—**35.5 percent**

Phoenix School of Law \$145,357 (92 percent)—**37.4 percent**

Southwestern Law School \$142,606 (80 percent)—**34.6 percent**

Catholic University of America (Columbus School of Law) \$142,222 (92 percent)—**43.7 percent**

Northwestern \$139,101 (73 percent)—**77 percent**

Pace University \$139,007 (87 percent)—**36 percent**

Whittier College \$138,961 (89 percent)—**17.1 percent**

Atlanta's John Marshall Law School \$138,819 (91 percent)—**40.9 percent**

Debt levels have been rising rapidly; just one year later, for the class of 2012, average debt at Thomas Jefferson was up to \$168,800, and at California Western up to \$167,867, with the schools beneath going up as well. These numbers, combined with available salary data, paint a devastating picture. At all but one of these law schools, less than half the class had obtained permanent full-time jobs as lawyers.

Many graduates who landed lawyer jobs, furthermore, failed to earn enough to make the monthly payments on their debts. The median starting salary of 2011 graduates in private law jobs was \$60,000.¹⁷ The standard monthly payment on \$150,000 of debt is more than \$1,700. On a debt of \$125,000 (the average among private law school grads) the monthly payment is more than \$1,400.¹⁸ To manage monthly payments this large (after taxes, rent and other basic expenses) requires a salary in excess of \$100,000, an income obtained by fewer than 15 percent of graduates nationwide.¹⁹ The current structural

16. These numbers are from the chart produced by Law School Transparency (LST), which obtained the underlying numbers from ABA data on employment results for the class of 2011. Job Characteristics, Law School Transparency, *available at* <http://www.lstscoreports.com/?r=other>. "Permanent employment" includes all jobs with a duration of at least one year, which includes judicial clerkships. When calculating the percentage of these jobs, LST subtracts new graduates who enter "solo practice," because this is a tenuous economic path for new graduates to take. *Id.*

17. See Nat'l Assn. of Law Placement, *Employment for the Class of 2011—Selected Findings (2012)*, *available at*, <http://www.nalp.org/uploads/Classof2011SelectedFindings.pdf>.

18. Loan Calculator, FinAid, *available at* <http://www.finaid.org/calculators/loanpayments.phtml> (using a conservative blended interest rate of 7.25 percent, which combines Stafford loans (6.8 percent) and Graduate Plus loans (7.9 percent)). The monthly payment on the standard ten-year plan at this rate is \$1,761; on \$130,000 it is \$1,526. *Id.*

19. The earnings for the class of 2011 can be estimated based on the information provided by the

mismatch between cost and economic return is reflected in the stunning fact that a law graduate with average debt who earns the median salary cannot afford to make the monthly loan payments on the standard ten-year repayment program. Thousands of recent law graduates will be compelled by financial necessity to enter a new federal program called Income Based Repayment, created to assist people in financial hardship because of student debt.

The stark reality beneath these aggregate statistics become more visible through information supplied to the ABA by law schools on job results for the class of 2011 nine months after graduation.²⁰ At Whittier Law School, of a graduating class of 123 students, only 21 landed long-term, full-time jobs as lawyers nine months after graduation (long-term jobs have a duration of at least one year and include judicial clerkships). The largest employment setting for Whittier grads in lawyer jobs was in firms with two to ten lawyers. These are typically the lowest paid positions, with salaries in the \$50,000 to \$60,000 range, far below what is required to manage the average \$139,900 debt. Or consider New York Law School, whose graduates had average debt of \$146,000. Only 183 graduates in a class of 515 had landed full-time, long-term jobs as lawyers, the largest group placed in firms of two to ten lawyers. At American University's law school (Washington College of Law), usually ranked around 50th, only 167 of 467 graduates that year landed long-term, full-time lawyer jobs (average debt more than \$150,000). At Thomas Jefferson, with average graduate debt of more than \$150,000, only 63 graduates in a class of 236 had landed full-time, long-term jobs as lawyers, most of them in firms of two to ten lawyers.

In the face of these poor outcomes for many law graduates, legal educators continue to insist on the value of a law degree. This is apparently a matter of unshakable faith for Thomas Jefferson's Dean Rudy Hasl:

There's been a great deal of coverage in the national press that has underestimated the value of a law degree and caused potential applicants to question whether they should make the investment in a legal education. I remind students that what law schools are providing is a set of skills that are valued in our society and that will ultimately lead to a meaningful employment opportunity. To try to measure that by what job you have on graduation, or

National Association of Law Placement in NALP, Class of 2011 National Summary Report 1-2 (July 2012), *available at* http://www.nalp.org/uploads/NatlSummChart_Classof2011.pdf. There were 44,495 J.D. graduates that year, about 40 percent of whom obtained jobs in private law firms (17,666). The larger law firms pay the highest salaries. Firms with 500 or more lawyers hired 2,856 graduates; firms with 25 to 500 lawyers hired 891; firms with 101 to 250 lawyers hired 1,010—for a total of 4,757 lawyers. In addition, 888 graduates were hired in firms with 51 to 100 lawyers, for a median salary of \$88,000. Adding half of this number to the above total is 5,201 lawyers, or 11.7 percent. This is an estimate because it is possible that a number of graduates in smaller law firms also earned above \$100,000, although this is unusual, and will not show up in the salary data. I have rounded the number up to 15 percent to give the outer bounds.

20. The ABA provides specific job data on each school set forth in this paragraph on separate pdfs., *available at* <http://employmentsummary.abaquestionnaire.org/>.

even nine months later, doesn't make sense. I tell students you're investing in something that provides you the ability to shape your career. That could be in business, in the political arena or in traditional law-firm settings.... I'm optimistic that we're producing graduates who will be quite attractive to firms and have a great future ahead of them.²¹

Hasl offered no job data in support of his optimism. His assertions ignore the reality that the longer a person is unemployed the harder it is to get a job, that a graduate who does not have a job in law within nine months of graduation will in a few short months face competition from a slew of new graduates, that building a great career outside of law often depends on getting a solid first job that helps graduates on their way. Contrary to his claims about great careers in non-legal settings, the available data show that recent law graduates who end up in non-"JD required" jobs (JD Advantage, Other Professional, and Non-Professional) earn less and exhibit far greater dissatisfaction than graduates in lawyer jobs.²²

Many legal educators defending the value of a law degree, like Hasl, have made supremely confident statements without pointing to data to back their claims,²³ at most offering a few anecdotes about past grads who did well outside of law (invariably graduates a generation or two earlier when tuition and debt were far lower) and steadfastly ignoring or downplaying the undeniably bleak debt and jobs numbers. The real problem, they contend, lies with "hysterical" critics.²⁴ "Much of the alarm about the value and quality of accredited legal education is distorted and exaggerated," said Stephen Sheppard, associate dean at the University of Arkansas Law School.²⁵ The criticisms of law schools, he insisted, have "been initiated by unhappy law students, drop outs and graduates, along with critics in the law faculties who have their own axes to grind."²⁶

21. Katherine Mangan, *America's Longest-serving Dean Defends the Value of a Law Degree*, *Chron. of Higher Ed.*, Nov. 5, 2012, available at <http://chronicle.com/article/Americas-Longest-Serving-Law/135512/>.
22. See Deborah Jones Merritt, *JD Other, Inside the Law School Scam*, Nov. 6, 2012, available at <http://insidethelawschoolscam.blogspot.com/2012/11/jd-other.html>.
23. See, e.g., Lawrence E. Mitchell, *Law School is Worth the Money*, *N.Y. Times*, Nov. 28, 2012, at A31, available at <http://www.nytimes.com/2012/11/29/opinion/law-school-is-worth-the-money.html>. In an interview, Mitchell said he was confident that graduates are doing well after a few years, despite the poor immediate results, although he admitted that he had no concrete information from the career services office to support this belief. See Interview with Lawrence E. Mitchell, *Dean: There's No Oversupply of Lawyers*, *Bloomberg TV*, available at <http://www.bloomberg.com/video/dean-there-s-no-oversupply-of-lawyers-ko6bkAfOQtOcWZ3wPISi9w.html>.
24. Mitchell, *supra* note 23.
25. Erin Fuchs, *One Law School Dean Tells Us the Real Reason No One Wants a JD Anymore*, *Business Insider*, Feb. 10, 2013, available at <http://www.businessinsider.com/stephen-sheppard-paul-campos-brian-tamanaha-law-school-bubble-2013-2> (quoting Stephen Sheppard).
26. *Id.* Sheppard's dismissal of the critics as a few disgruntled graduates and law professors is

There are many unhappy law students and recent law graduates—and they are growing in number. Surely their view about the value of a law degree must matter. One cannot help but wonder what the 70 percent of Thomas Jefferson 2011 grads who had not landed long-term, full-time jobs as lawyers nine months after graduation, carrying an average law school debt of \$153,000, would say to the question “Is law school worth the cost?” What would the 45 percent of law grads nationwide who found themselves without full-time lawyer jobs after investing three years in law school and tens of thousands of dollars say about the value of law school? What would the many law graduates who end up in the Income Based Repayment program because of high debt and insufficient salaries say about whether law school was worth the cost?

In light of the genuine hardship faced by today’s law graduates, legal educators who continue to pitch the value of law school have an obligation to engage in an honest and candid evaluation based on actual information, not merely declarations of faith.

Figuring Out the Economic Return of on a Law Degree

When deciding whether to make the leap into law school, prospective students assume that, though the price of entry to the profession is high, it will pay off through a career of higher earnings. This is also what legal educators assume, as articulated by George Washington’s Dean Paul Berman:

A legal education prepares students for a lifetime, not just the first year out. And for most students, that means a career of 50 years or more. . . . Thus, if one is doing a cost-benefit analysis of legal education (which itself is only a crude measure that ignores the intrinsic value of education in personal, intellectual, spiritual and emotional growth), that cost-benefit analysis needs to include career trajectories over a much larger time span. And while I recognize that recent grads feel particularly pinched in trying to make loan payments, I still believe that the relevant factor in thinking about whether getting a legal education is “worth it,” requires a longer time horizon than we usually see in discussions of this kind. For example, even if a graduate’s income increased only \$25,000 per year as a result of having a law degree rather than not having it, the graduate would have recovered his or her investment in only about a decade. The non-economic benefits, while harder to quantify, only add to the benefit side of the ratio, leading, I believe, to the clear conclusion that coming to law school—even one with a high tuition—is an investment that will pay life-long benefits.²⁷

This encapsulates the basic reasoning of buyers and sellers of legal education—and there is evidence to support it.

belied by the “Statement of Concerned Colleagues,” expressing concern about the high debt and poor job results of current law graduates. The statement is signed by dozens of prominent legal educators, including a half dozen past presidents of AALS, as well as by Judge Richard Posner, among other concerned people inside and outside of legal education. The public issuance of this statement is forthcoming, 2013 (copy on file with the author).

27. Berman, *supra* note 2.

A much trumpeted study issued by the Census Bureau in 2002 confirmed that education produces a “big payoff,” which increases with each level of attainment, the biggest boost of all going to professional degrees.²⁸ A 2011 follow-up study by the Pew Research Center reinforced these findings. Graduates with professional degrees (lumping together medical degrees and law degrees), it estimated, average \$1.2 million more in life earnings than workers with bachelor’s degrees.²⁹ When estimating the value of a law degree, Pew subtracted lost earnings of \$96,000 for three years in law school (the typical annual earnings of recent social science graduates is \$32,000), and another \$75,000 for the cost of law school. The report, unfortunately, was unable to provide a separate breakdown for lawyers’ earnings, and the authors acknowledged that the \$1.2 million figure is skewed upward by the higher salaries of doctors. Nonetheless, they concluded that it was reasonable to assume that the life earnings from a law degree “far exceeds” the cost (out of pocket and opportunity) of acquiring it.³⁰

Another recent study, by the Georgetown Center on Education and the Workplace, came to the same conclusion (although with different numbers): “No matter how you cut it, more education pays. . . . The 33 percent of bachelor’s degree holders that continue on to graduate and professional schools have even more prosperous futures ahead.”³¹ This study estimates the average lifetime earnings of lawyers and judges at \$4,032,000. That’s far above elementary school teachers (\$2,292,000), accountants (\$2,422,000) and managers (\$3,094,000) with bachelor’s degrees; compared to other professional degree holders, lawyers earn the same as dentists (\$4,032,000) but less than pharmacists (\$4,420,000) and doctors (\$6,172,000).³²

Law school appears to pay off quite nicely. The reports, however, add several notes of caution to this optimistic picture. The Pew report acknowledged that tuition varies greatly and that the higher price of private colleges eats into gains.³³ This alters the picture significantly because the \$75,000 estimate of the out of pocket cost of law school (tuition and living expenses) is too low for all private schools and dozens of public schools. Non-scholarship students at private law schools will pay more than double that—more than \$200,000 at a

28. Jennifer Cheeseman Day & Eric C. Newburger, U.S. Census Bureau, *The Big Payoff: Educational Attainment and Synthetic Estimates of Work-Life Earnings*, Current Population Reports (July 2002), available at <http://www.census.gov/prod/2002pubs/p23-210.pdf>.

29. Paul Taylor et al., Pew Research Center, *Is College Worth It?* 91 (May 16, 2011), available at <http://www.pewsocialtrends.org/2011/05/15/is-college-worth-it/>.

30. *Id.* at 109.

31. Anthony P. Carnevale, Stephen J. Rose & Ban Cheah, Georgetown University Center on Education and the Workforce, *The College Payoff: Education, Occupations, Lifetime Earnings 20* (2010), available at <http://www.g9.georgetown.edu/grad/gppi/hpi/cew/pdfs/collegetpayoff-complete.pdf>.

32. *See id.* at 17, 19.

33. Taylor et al., *supra* note 29, at 84.

number of schools. A more accurate estimate of the cost (including lost wages) of law school at these institutions is closer to \$300,000.

Furthermore, the reports note, the average life-time earnings calculated are not representative of the prospects for everyone. Both studies projected life-time earnings based on 40-year careers of full-time work. As they recognize, only about half of men work this long and a “small share” of women do. People work fewer years because of illness, temporary unemployment, early retirement, etc.³⁴ Projected earnings for professional women are 25 percent lower than men because of pay differentials and because women tend to be out of the workplace for longer periods (usually for child rearing).³⁵

We know from this that Dean Berman’s back of the envelope figuring of the worth of attending law school is unrealistic in projecting a 50-year return.³⁶ Female law students in particular would be prudent to anticipate a much shorter career span. A study tracking the careers of lawyers found that “women are far more likely than men to be unemployed or to work part-time.”³⁷

Anyone thinking about the economic return on a law degree, furthermore, must consider the chance of being laid off or of not landing a lawyer job at all, both of which are significant possibilities. Comparisons to the expected earnings of dentists and doctors cannot be taken straightforwardly. Nearly all the students who complete those educational programs can count on landing in those professional categories with attendant economic returns. Because of oversupply, law students cannot assume that they will become lawyers. To put the point another way, when viewed *ex ante*: a medical degree translates into doctor earnings but a law degree (based on past rates) gets a two-thirds chance of obtaining lawyer earnings—at top schools over 90 percent, at bottom schools below 50 percent.

One caveat both reports emphasize has particular significance when trying to estimate the return on a law degree: “there is wide variation in earnings within educational levels, which means that the highest earners of a lower educational level earn more than the typical worker at a higher level of education attainment.”³⁸ A well paid manager, for instance, earns more than a low paid lawyer. Pew calculated that the mean annual wage (over a lifetime) of a worker with a bachelor’s degree is \$71,912.³⁹ The mid-career median salary of workers with a bachelor’s in political science—a common major for law

34. Carnevale, Rose & Cheah, *supra* note 31, at 22.

35. *Id.* at 10.

36. Dean Berman is not alone among deans in projecting an unrealistically long career. Richard Matasar also cited a 40-50 year career. Richard A. Matasar, Law School Costs, Educational Outcomes, and a Reformer’s Agenda, N.Y. Law School Blog (July 19, 2011), *available at* http://www.nyls.edu/news_and_events/matatars_response_to_nytimes.

37. Ronit Dinovitzer et al., Amer. Bar Foundation and NALP Foundation, After the J.D. II: Second Results from a National Study of Legal Careers 15 (2009).

38. Carnevale, Rose & Cheah, *supra* note 31, at 6.

39. Taylor et. al., *supra* note 29, at 98.

students—is \$77,300.⁴⁰ These figures approximate the 25th percentile wage of all wage and salaried lawyers, according to the Bureau of Labor Statistics.

Lawyers who end up in the bottom quartile of lawyer earnings, in hindsight, could have saved the money they spent on law school and earned the same amount with a bachelor's degree in business, engineering, social science, science and computers. The holders of these degrees have average or above average earnings for workers with bachelor's degrees (liberal arts degrees have earnings a bit below average and education degrees have significantly lower earnings than other bachelor's degrees).⁴¹ Law students are a smart and motivated bunch so it is reasonable to assume that they would have gotten the average earnings of their fellow bachelor's degree holders.

Hindsight is too late, however. An analysis by a prospective student of whether attending law school is financially worthwhile (setting aside the non-economic gains of being a lawyer) must be made before deciding to attend.⁴² This *ex ante* analysis must discount the desired economic results by the chance a person has of obtaining those results when graduating from a particular law school. Much of this is shrouded in uncertainty.

Estimating the Odds that a Law Degree Will Pay Off

A prospective student can make a rough reckoning of the odds of landing in the bottom quartile of lawyer earnings by thinking about two factors: corporate law hiring patterns and the bi-modal distribution of pay. Law graduates divide into distinct groupings, a smaller group with corporate law jobs with salaries around \$140,000 to \$160,000, a larger group that earns between \$45,000 and \$60,000, and the remainder scattered between.⁴³ Outside the top 20 or so law schools only the top 10 percent of the class have a chance of landing corporate law jobs.⁴⁴ At lower ranked schools only the top 5 percent have a chance and at many of these schools a handful of graduates at most land well-paying corporate law jobs. Most of the remaining graduates will either land in the lower grouping of lawyer pay, with starting salaries below \$65,000, or they will not get a lawyer job at all. The lowest paid positions (excluding solo practice) are in firms of two to ten lawyers. The earnings of lawyers in this range will increase modestly—about ten years out average earnings peak and remain flat thereafter⁴⁵—but many in these positions will end up in the bottom quartile of lawyer earnings.

40. See Herwig Schlunk, *Mamas Don't Let Your Babies Grow Up to Be...Lawyers 2* (Vanderbilt Law and Economics, Working Paper No. 09-29), available at <http://ssrn.com/abstract=1497044>.

41. Taylor et. al., *supra* note 29, at 92, 94.

42. An excellent example of how this might be done in economic terms is Schlunk, *supra* note 40.

43. For an explanation of this salary distribution, see Tamanaha, *supra* note 5, at 112-14.

44. See Nat'l L. J., *The Go-To Law Schools* (February 25, 2013), available at http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202589186825&rss=rss_nlj&slreturn=20130123150250.

45. Carnevale, Rose & Cheah, *supra* note 31, at 5.

This projection is consistent with the findings of two studies that tracked the earnings of lawyers over time. An extensive study of lawyers in Chicago found that the initial job a graduate obtains has career-determining consequences: those who obtain corporate legal positions tend to remain on the higher earning track that services institutional clients, while those who do not initially obtain these positions tend to have lower earnings, serving individual clients and occupying lower paid government positions.⁴⁶ The bar breaks out into two distinct hemispheres, with little career movement between them. Lawyers in the corporate law firm hemisphere mostly graduated from prestigious law schools and were doing well financially. Lawyers in the hemisphere of small firms and government jobs graduated from lower ranked local law schools and their median income had declined in real terms in the previous 20 years.⁴⁷ Although the study ended in the mid-1990s, the stark division it found within the profession remains.

A current study sponsored by the American Bar Association, the After the J.D. project, follows the careers of several thousand graduates of the class of 2000. The latest snapshot was taken in 2007, after seven years in practice, when lawyers were entering strong earning years. (This was completed just before the recession nailed the legal market.) The study found that graduates of top ten law schools had average earnings of \$162,000 (including bonuses), far above all other groups; graduates from law schools ranked 11th to 50th averaged \$107,000 to \$108,000; graduates from the 51st to 100th ranked schools, as well as from third-tier schools (roughly the next 50), averaged \$92,000; and fourth-tier graduates averaged \$83,000.⁴⁸

At top ten schools it doesn't matter how low a student graduates in the class—all have earnings above \$120,000. Outside the top ten law schools, however, grades are significant, with top ranked students earning the most and bottom students earning much less, in the \$60,000 to \$70,000 range.

The study's findings reinforce common knowledge: graduates from top schools place well and "graduates of less prestigious schools who performed very well in law school were also employed in some of the most lucrative settings."⁴⁹ "Lawyers graduating from law schools in the middle and lower tiers of the law school status hierarchy were more likely to work in smaller firms, in state and local government, and in the business sector, where salaries tend to be somewhat lower."⁵⁰ The 50th percentile earnings of state and local government lawyers seven years out ranged between \$60,000 and \$70,000;

46. John P. Heinz, Robert L. Nelson, Rebecca L. Sandefur & Edward O. Laumann, *Urban Lawyers: The New Social Structure of the Bar* (Univ. of Chicago Press 2005).

47. *Id.* at 291, 315-20.

48. See Dinovitzer et al., *supra* note 37, at 44.

49. *Id.* at 42.

50. *Id.*

for solos the 50th percentile was \$80,000, and for firms of two to 20 lawyers, it was \$90,000.⁵¹

These are decent sounding sums—until one considers debt. For anyone with \$100,000 in debt, all of the average earnings listed above for lawyers seven years after graduation, top ten schools aside, would qualify for the Income Based Repayment program. This tells us that, at current average debt levels, lawyers will have trouble managing their loan payments well into their careers. Anyone with the average private law school debt of \$125,000 who makes much below \$80,000 (the 20 percent upper limit for loan payments) will be in virtually mandatory IBR territory absent the support of a spouse with significant earnings. A debt calculator created by the University of Michigan Law School, to offer one concrete example of the severe financial crunch graduates face, found that a graduate with \$110,000 debt, living in Dallas, earning \$70,000, would spend 55 percent of her net income on rent and loan payments under the extended 25 year repayment plan (the standard ten-year repayment is not feasible).⁵² Thanks to loan forgiveness provided under the public service income based repayment program, only government and public service lawyers need not worry (if they make the qualifying ten years of payments).⁵³

Debt also worsens the already tough road for brave (or desperate) law graduates who hang out a shingle—typically the lowest earners of all. Finding paying clients who will entrust cases to a fresh-faced rookie with little experience is hard enough. The more immediate hurdle is setting up a workspace. Sharing an office reduces cost but there is still some rent to pay, along with bar fees, legal research fees and basic work supplies. This is on top of normal living expenses. For graduates in this position, sending in the monthly loan check will be practically impossible. Those who enter the IBR program will be required to pay nothing, or very little, until their businesses get off the ground, which may take years, while the size of their debt grows.

When legal educators insist that it is a mistake to focus too much on starting salaries because the degree pays off over a long career, they fail to appreciate the concrete impact of debt. Starting salary matters mightily because it is crucial to make loan payments from the beginning of a career. Once in the income-based program, it is not easy to exit because large debt quickly becomes massive when not paid down on the ten-year schedule. If the initial job a law graduate obtains is insufficient to cover the monthly loan payments, the debt

51. It bears mention that the survey is likely skewed in that graduates who are doing well are more likely to respond to surveys of this kind.

52. See Karen Sloan, Nat'l L. J., Michigan's 'Debt Wizard' Offers Law Students a Glimpse of Their Futures (Feb. 28, 2013), available at http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202590407066&Michigans_Debt_Wizard_offers_law_students_a_glimpse_of_their_futures.

53. See U.S. Dept. of Education, Public Service Loan Forgiveness, Federal Student Aid, 1 (March 14, 2012), available at <http://www.studentaid.ed.gov/repay-loans/forgiveness-cancellation/charts/public-service>.

will be a career long financial yolk. Not paying down the loan on schedule also increases the cost of law school by adding to the amount paid back in the end, reducing the economic return of the degree.

The After the J.D. study confirmed another well-known phenomenon. There is a high level of lawyer mobility, with more than 60 percent of lawyers changing jobs within the first seven years.⁵⁴ After a few years, a significant number of graduates leave the best paying jobs. “Megafirms,” the study found, “are a temporary holding place for many new graduates, and as they build their careers they scatter into a range of settings both within and outside of the private sector.”⁵⁵ Lawyers who leave corporate law firms often take pay cuts. When calculating long-term economic return, it is false to assume that lawyer pay continues to rise over time.

For any prospective law student trying to figure out the likely economic return on a degree, especially a student who borrows \$100,000 or more to pay for his or her education, it comes to this: what is one’s chance of landing a job at a firm on the *National Law Journal’s* top 250 list? This is a crass and reductionist observation that ignores the non-economic benefits of obtaining a legal education. It also ignores the multitude of other rewarding settings in which one could be a lawyer or use the law degree in worthwhile ways. But this is what high tuition has wrought. In an age of \$100,000-plus debt, people ignore the bottom-line financial reality at their peril. Only prospective students unalterably committed to public service work after law school can eschew the NLJ 250 route because, if they are fortunate enough to land one of these jobs, their unpaid debt will be forgiven after ten years. Competition for public service law jobs matches that of NLJ 250 jobs. Aside from the innate attractions of the work, it is the best way to get out from under a mountain of debt for anyone who does not land a corporate law job.

The Implications of IBR

Legal educators have recently begun to tout the income based repayment program as the solution to the value problem (the new version is called Pay as You Earn).⁵⁶ IBR allows current graduates to make monthly loan payments based on their income—set at 10 percent of income above 150 percent of the poverty rate—and forgives the remaining balance after 20 years. This program applies only to federal loans and only to recent graduates, so it does not help previous graduates struggling under heavy debt but it does ease the situation of current law graduates who fail to obtain income sufficient to manage their debt.

54. *Id.* at 54-60.

55. *Id.* at 25.

56. See Philip G. Schrag, *Failing Law Schools—Brian Tamanaha’s Misguided Missile*, *Geo. J. Leg. Ethics* (forthcoming 2013).

The program has two main negative aspects. First, the balance of the loan forgiven at the end of 20 years is treated as taxable income to the borrower.⁵⁷ The joy of their debt cancellation party will be soured by a hefty tax bill that follows. For law graduates whose monthly loan payments under the income-based plan do not cover the interest on the debt, the balance canceled can exceed \$100,000—indeed it can substantially exceed the amount they initially borrowed—bringing with it a tax hit amounting to tens of thousands of dollars.

The second negative aspect is that graduates will be paying their law school loans deep into their careers. People in their late thirties and early forties are laying the foundation for their financial future, trying to make payments toward a mortgage, college savings for children and their own retirements. Paying for law school on top of these other obligations will put them in a financial squeeze, made worse by the frightening specter of facing a huge tax bill in their mid-forties.

Legal educators who argue that a law degree is worth the cost because of the income-based program are papering over an underlying issue: the cost of a law degree is so high relative to income that thousands of graduates would face financial hardship were it not for a government welfare program. People applying to law school expect it to lead to a professional career with a comfortable income. Do they realize that many graduates will be forced by economic necessity to depend on 20 years of government aid to survive financially? Law schools, furthermore, would be foolhardy to depend on a government subsidy to sustain the value of their product—a subsidy that could be restricted or reduced in future budget cuts.

Conclusion

The answer to whether a law degree is worth its cost cannot be answered with a yes or no. It depends on the total cost paid by a given student, the debt accumulated as a result, the law school attended and the economic opportunities obtained at that school. Only with hindsight can the question truly be answered. But that is not helpful for those trying to decide whether applying for law school is a wise decision. For people in this position only gross generalizations can be offered.

At top law schools where the majority of graduates land corporate law jobs and public service jobs the answer is yes. Their law degrees will leave most of them better off financially. The answer is also yes at flagship public law schools priced below \$20,000 a year because the debt students take on will be manageable even in modest paying legal jobs. For the same reason, the degree is worth the cost at many law schools for students who get substantial scholarship discounts that reduce tuition below \$20,000 (although this is riskier at law schools where less than half the class obtain lawyer jobs).

57. For a critical look at the implications of IBR, see Brian Z. Tamanaha, *The Problems with Income Based Repayment, and the Charge of Elitism*, *Geo. J. Leg. Ethics* (forthcoming 2013).

Outside of these broad categories, depending on the cost and the law school being considered, the chance that a law degree is not worth the cost runs from significant to almost certain, particularly for those who must borrow to finance the bulk of their legal educations. A few people in these situations end up as winners (in corporate law jobs or public service jobs), beating long odds, but most do not. And aside from people with strong professional connections, no one knows in advance who the lucky winners will be. Income based repayment helps ease the plights of graduates in dire financial straits because of high debt and low salaries. But this does not alter the fact that many law graduates, especially the high percentage who do not land lawyer jobs, would have been better off had they not attended law schools where they paid high tuition.

A law degree is not worth the cost for many people at many law schools today. This negative assessment will remain true until the costs come down substantially or the return goes up substantially. Legal educators who vouch for the value of a law degree without offering concrete numbers to back up their claims deserve the skepticism that greets all sales agents who are pitching a product for a living.

A study by Michael Simkovic and Frank McIntyre, “The Economic Value of a Law Degree,” recently posted on SSRN, purports to demonstrate empirically that current law graduates can expect \$1 million in lifetime earnings above what they would have earned with a bachelor’s degree—and even law grads in the bottom quartile will earn hundreds of thousands of dollars.⁵⁸ Since it is currently a draft subject to change, I will limit myself to a few brief observations.⁵⁹ The main problem with the study is that it projects the earnings of the past generation of law grads onto the earnings of current and future law grads; extrapolating from past to future earnings might make sense in times of stability, but it is questionable in the current context in which many observers believe the legal market is undergoing a fundamental transformation. A second problem is that the economic premium they identify at the lowest earning law grad quartile is based upon a comparison with the lowest earners among bachelor’s holders—this is a dubious comparison given that law grads are above average in GPAs, test scores, family wealth, and other measures. The third problem is that their study provides aggregate numbers over the pool of law grads, but makes no effort to tie the economic return to particular types of law schools. As I have argued in this essay, the question of whether law school is worth the cost cannot be answered in an across the board fashion. The economic return on a law degree is tied to how much a student pays for the degree and the opportunities provided at a given law

58. Michael Simkovic & Frank McIntyre, *The Economic Value of a Law Degree*, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2250585.

59. For more extensive criticisms, see Brian Z. Tamanaha, *How the Million Dollar Law Degree Study Systematically Overstates Value: Three Choices that Skewed the Results*, Balkinization, July 23, 2013, <http://balkin.blogspot.com/2013/07/how-million-dollar-law-degree-study.html>; Deborah J. Merritt, *Small Samples*, Law School Café, Aug. 2, 2013, <http://www.lawschoolcafe.org/thread/406/>.

school. This study makes a valuable contribution to the discussion, but more must be done before questions about the economic value of a law degree can be answered with confidence.