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ScamLaw and the Macroeconomy

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Posted by Alan Meese

As I read through Campos' various posts, I couldn't help but wonder "would Campos have created "SCAMLAW and/or would we be having this discussion, if the economy were at full employment?" Imagine a four percent annual real growth rate, with unemployment at five percent. BIGLAW, MEDIUM LAW, SMALL LAW --- all would be hiring more attorneys, at higher (real) salaries than firms are currently paying. State and local governments --- maybe even the national government --- would be flush with tax revenue and thus able to hire more attorneys themselves. Opportunities for inside counsel at corporations would multiply. States would cease cutting public university budgets, and private giving to universities (including law schools) would rise, thereby reducing the emphasis on tuition as a source of revenue. Some students at some schools would still be taking on significant debt, but they would have the wherewithal to pay it off.

Of course, we are not at full employment. We are instead in a deep and sustained economic downturn. The current recovery, if it is one, is anemic. Numerous recent law school graduates are suffering the consequences, like millions of other Americans who never went to law school but instead took on debt to start a business, earn an MBA or go to Dental School, for instance. (Tuition at the Tufts Dental School's D.M.D. program is \$59,540 per year, for a four year program.) Plus, there is no end in sight. It's hard to imagine a quarter of 9 percent real GDP growth, as we had in 1983 during the Reagan recovery, or an economy that will grow 26 percent in real terms over the next seven years, as it did from 1983 through 1990.

This "full employment thought experiment" suggests the following lessons, it seems to me.

First, very few occupations thrive or even tread water during the sort of deep recession we are experiencing. (Academia is an exception; we are treading water and thankful to be doing so.) Even if we were to reform legal education along the lines Campos proposes, the next Great Recession (heaven forbid) would still reduce the employment prospects of graduating lawyers and defeat the expectations of many who do obtain employment. Perhaps adoption of Campos-inspired reforms would "cushion the blow," but there would be a blow nonetheless. Those who criticize legal academia should keep in mind that a portion of the pain recent graduates are currently suffering would have occurred even under the optimal system for educating new lawyers, whatever that is.

Second, it's incredibly important to get macroeconomic stabilization policy right. The national government has dropped the ball, and people are suffering as a result. Thousands of individuals who applied to law school in recent years, expecting reasonable employment opportunities when upon graduation, have seen their expectations dashed. Shortcomings in the system of legal education should not obscure the fact that failed stewardship by the national government is partly to blame for the plight of so many aspiring lawyers.

Third (and on the other hand) "sustained economic growth hides a multitude of sins." Campos and some participants in this forum have identified various sins the legal profession and some law schools have supposedly been committing (or abetting) for some time now. These purported sins include state-imposed barriers to entry that raise the cost of becoming a lawyer, reduce the supply of lawyers and raise legal fees, chicanery in reporting "employment" statistics, and financial aid policies that reward dubious conceptions of merit instead of reducing tuition for students of modest means. (By the way, I associate myself with everything Brett McDonnell says about barriers to entry.) Campos also claims that faculty write too much and teach too little, for instance, thereby increasing the cost of legal education or reducing its quality. Law schools and the legal profession were able to deflect criticism while the economy was strong, but the proverbial chickens are coming home to roost. A system built on subsidized debt and expected perpetual growth in legal employment may

not be sustainable.

I welcome this debate, particularly its focus on the barriers to entry bolstered by the ABA's accreditation requirements. It's too bad it took a "Great Recession" to make it happen.

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