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US Law Week

Making the Path to a Law Degree More Accessible for Everyone

By A. Benjamin Spencer

Opinion

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US Supreme Court Justice Neil Gorsuch recently asked if a law degree should require seven years of college and mountains of debt. William & Mary Law School Dean A. Benjamin Spencer answers that question and provides solutions for knocking down the barriers to a legal education.

As the cost of higher education—and associated student loan debt—continue to mount, consumers and observers rightly voice concern about its value.

Legal education is no exception. Indeed, Justice Neil Gorsuch recently wondered, “Does it really require seven years of collegiate education to become a competent lawyer?”

The answer to that question clearly is no.

Yes, the education provided by traditional law schools—which typically takes three years after an undergraduate program—provides a sound foundation for becoming a legal counselor and advocate, as well as outstanding transferrable skills and a path to licensure. Attorneys who have taken the traditional path to legal practice in the US are well-positioned to serve.

That said, we should not fool ourselves into supposing that this well-worn path is the exclusive or necessarily the best route to becoming a lawyer.

Many countries place principal responsibility for legal education on a partnership between the undergraduate programs at universities and the practicing bar.

For example, in England, qualifying as a solicitor is possible through three years of undergraduate study—the academic phase of legal training—followed by two years of qualifying legal work experience—the vocational phase of legal training—with passage of a qualifying examination required between the two phases and at the end.

Can It Work in the US?

It's worth asking whether such a model could be replicated in our country. To some extent, a similar model exists in some states that permit college graduates to prepare for the bar examination through an apprenticeship program, without attending law school.

Virginia affords this opportunity through its Law Reader program. A bachelor's degree—notably any bachelor's degree except a bachelor of laws—is a prerequisite, followed by a prescribed course of study under the direction of a supervising attorney over three years. California, Vermont, and Washington have similar programs.

But such programs attract only a handful of applicants, and not all as famous as Kim Kardashian, who is completing California's apprenticeship program. Thus, these programs do not truly serve as a major pipeline for practicing attorneys.

Reasons for Low Turnout

Why is this the case?

Most likely, restrictions on the number of apprentices whom attorneys can supervise. For example, Virginia's limit is one apprentice per supervising attorney.

Other factors include the length of the apprenticeship—three or four years in the states permitting apprenticeships—and the paucity of practitioners capable of guiding apprentices through the numerous subjects in the program all contribute to the small uptake.

This latter point may be the most salient: American legal apprenticeships combine the academic and vocational components of legal education into a single experience, one that very few practicing attorneys are positioned to deliver.

Possible Solutions

Is there a way to make this alternate path more viable? Yes, if universities, state bar examination authorities, and law firms unite to make it work.

If universities were to offer undergraduate majors in law—as does the University of Arizona—and bar examination authorities were to accept some or much of that education as credit toward the course requirements for the apprenticeship program, it might be possible to reduce the academic component of American legal apprenticeships.

More practicing lawyers might be willing and able to serve as supervising attorneys if they were less responsible for overseeing the apprentice's academic course of study. Further, with that change, bar examination authorities might be more willing to permit attorneys to supervise more than one apprentice.

Another reform would be even more potent.

Bar examination authorities could permit the entire academic component of the apprenticeship to be completed through a one-year “conversion” course taught by law schools. Such a path has existed in England, where those who completed non-law undergraduate degrees could complete a graduate diploma in law in one year.

More recently, England has moved to a system that allows anyone with an undergraduate degree to sit for stage one of the Solicitor Qualifying Examination, then complete a two-year apprenticeship before taking a skills-focused stage two of the SQE. Both non-law and law undergraduates take advantage of preparation courses for both stages of the SQE.

Imagine if state bar examination authorities permitted the academic component of apprenticeships to be satisfied by a one-year program offered by law schools, to be followed by a two-year practice-focused apprenticeship and passage of the bar exam. Then law schools would be encouraged to develop such programs and law firms might be willing to accept apprentices or law clerks on two-year training contracts.

Gorsuch’s musings raise the need for actual reform that will create a viable, alternate path to the practice of law that is more affordable. For this to happen, bar examination authorities, legal education leaders, and members of the practicing bar must come together to discuss these alternative paths that can deliver solid legal training without plunging legal aspirants into punishing debt.

More importantly, strengthening alternative paths to legal practice will ensure that the profession is accessible to people from all walks of life, which will enhance the pursuit of justice that matters so much.

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