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US Law Schools: Looking for Answers In All the Wrong Places

On a very regular basis we see reports on the state of how many people are taking the LSAT, applying to law school, actually enrolling in law schools, comparing applicants’ LSAT and GPA credentials with students from previous years, as well as how law schools’ graduates fared in the job market. This latter category has become a bit more complex and slightly more honest, including paying attention to whether the jobs were subsidized by the law schools in an effort to improve the placement statistics, required a law degree and bar passage, or if an advantage was created for people who had received a law degree.

This entire process of “casting bones” to interpret whether law schools have weathered the storm of declining demand for their educational services is mainly a bunch of unproductive “navel gazing”. This is because it fails to look closely at what is happening in the world external to the parochial focus of law schools in terms of specific tiers of the legal profession, the dramatic and increasing shrinkage in jobs of many kinds—including law—alternative ways to obtain “law knowledge” and legal services, flat or declining wages over an extended period, the rise of the “gig” economy, and the aging of the American population and the significant financial and employment pressures under which Millennials are now functioning.

Added to these considerations is the rapid development of Artificial Intelligence systems and robotics [AI/robotics] not only for use by lawyers and law firms, but by businesses, governments and potential clients. Use of these technologies is eliminating human jobs, and therefore potential clients, in large numbers and the situation is projected to become far worse, as is discussed below. These are the factors most relevant to the demand for law schools’ educational services by applicants and for law school graduates by potential employers. Failure to understand this is why most people trying to understand what will be the future of American law schools are looking at the wrong things.

**The Future of Employment: How Susceptible Are Jobs to Computerisation?**

In their groundbreaking 2013 report, *The Future of Employment: How Susceptible Are Jobs to Computerisation?*, Oxford University scholars Carl Frey and Michael Osborne set out their concerns about the distinction between the effects of Artificial Intelligence and robotics (AI/robotics) and computerization contrasted with historical technological shifts. The differences are stark.

[T]echnological progress has two competing effects on employment (Aghion and Howitt, 1994). First, as technology substitutes for labour, there is a destruction effect, requiring workers to reallocate their labour supply; and second, there is the capitalisation effect, as more companies enter industries where productivity is relatively high, leading employment in those industries to expand. Although the capitalisation effect has been predominant historically, our discovery of means of economising the use of labour can
outrun the pace at which we can find new uses for labour, as Keynes (1933) pointed out.

Frey and Osborne add an explanation that indirectly helps explain what is going on with US law school applications and student quality. It also relates to the steady flattening and decline of earnings for many lawyers, particularly those trying to survive as solo practitioners.

*The reason why human labour has prevailed relates to its ability to adopt and acquire new skills by means of education (Goldin and Katz, 2009). Yet as computerisation enters more cognitive domains this will become increasingly challenging (Brynjolfsson and McAfee, 2011). Recent empirical findings are therefore particularly concerning. For example, Beaudry, et al. (2013) document a decline in the demand for skill over the past decade, even as the supply of workers with higher education has continued to grow. They show that high-skilled workers have moved down the occupational ladder, taking on jobs traditionally performed by low-skilled workers, pushing low-skilled workers even further down the occupational ladder and, to some extent, even out of the labour force.*

A result of these changes has produced a situation where: “It is likely to be the first time in industrialised history, save for periods of war or natural disaster, that the incomes of young adults have fallen so far when compared with the rest of society.” The McKinsey Global Institute warns that: “should the “slow growth” conditions of the past decade persist, up to 80% of income segments could face flat or falling incomes over the next decade. McKinsey determined there was a possibility that increased automation would result in 30-40% of households seeing no advance in their incomes even if economic growth accelerated. Richard Dobbs, a senior partner at McKinsey, said: “This new research from MGI shows the emergence of a corrosive phenomenon in advanced economies: households experiencing flat or falling incomes compared with people like them in the past.”

### How Bad Is It?

David Autor, an economics professor at the Massachusetts Institute of Technology, says that as the United States economy is being “hollowed out”: “New jobs are coming at the bottom of the economic pyramid, jobs in the middle are being lost to automation and outsourcing, and now job growth at the top is slowing because of automation. ... Nowhere are these advances clearer than in the legal world.”

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As the middle class population shrinks and there is increasingly limited space at the top of the employment and wealth pyramids where do the displaced people go? An obvious answer is “down” the socio-economic scale. Another answer is they do not go to extremely expensive law schools that no longer provide a “ticket to ride” up the “status and reward ladder”. Far beyond the issue of “micro” trends of how many applicants take the LSAT, apply to US law schools, actually matriculate into those law schools, and receive decent paying traditional jobs after graduating that allow them to repay the mountain of debt accumulated during their educational process, are the “macro” questions of what is occurring in terms of the demand for legal services, the decaying “paying ability” of those seeking those services, and the creation of alternative means for delivering law knowledge and some legal services. There are ongoing inroads on traditional legal services stimulated by Artificial Intelligence applications by which non-lawyers can obtain previously esoteric knowledge about law.

London’s Guardian details a report by the McKinsey Global Institute [MGI] on the flattening and decline of employment earnings in many developed countries, a decline that was initially generated by the dangerous economic collapse of 2008-2009. Part of the analysis emphasized the great uncertainty now being faced by millions of Millennials and many others in different demographic groupings. A lasting result of the 2008-2009 global near collapse in our economy has been fear and uncertainty about jobs and our future. Uncertainty about income maintenance, jobs, and the costs and survival of health care and pensions has become a troubling psychological issue for millions of workers in the US, the southern EU countries and the UK. In such a state it is not surprising that fewer people are willing to take on $100,000 or more in educational debt for a legal education at a time when jobs in the field are atrophying. McKinsey reported:

[B]etween 65% and 70% of people in 25 advanced countries saw no increase in their earnings between 2005 and 2014. The report found there had been a dramatic increase in the number of households affected by flat or falling incomes and that today’s younger generation was at risk of ending up poorer than their parents.4

**Lawyers and Recent Law Graduates as “Roadkill” Through Large Scale Job Loss**

In any industry, dominant competitors seek productivity gains by reducing costs and by controlling the market sectors from which they extract profits. Lawyers and law firms engaged in the private practice of law have the same incentives as any other profit making enterprise relative to the costs of labor and the ability to achieve greater efficiency of operations through AI applications and the Internet. Warren Buffett recently admitted that

4 [https://www.theguardian.com/business/2016/jul/14/up-to-70-per-cent-people-developed-countries-seen-income-stagnate](https://www.theguardian.com/business/2016/jul/14/up-to-70-per-cent-people-developed-countries-seen-income-stagnate), “Up to 70% of people in developed countries ‘have seen incomes stagnate’: New report calculates that earnings did not rise for more than half a billion people between 2005 and 2014”, Larry Elliott, 7/13/16.
capitalist production always moves toward efficiency and the reduction of costs, including labor. He added that due to the dramatic replacement of human workers with AI/robotic systems the US needed to move toward what has been called a Universal Basic Income (UBI) program because millions of people were going to lose their jobs and become “roadkill” that required substantial governmental support for living expenses. The same point regarding UBI and AI/robotics job destruction is made by Tesla’s Elon Musk, Microsoft’s Bill Gates, Princeton’s Charles Murray, and others.

A disturbing reality is that quite a few recent law graduates have achieved “roadkill” status as the private law practice sector has adopted efficiency measures made possible in part by AI applications, and made necessary in part because the law schools sent too many graduates into law over the past two decades. Adoption of AI/robotics means eliminating human workers and enhancing productivity by achieving greater efficiency and reducing expenses and eliminating a host of other problems incurred through use of human workers.

Law school applications and enrollments have been on a dramatic downward trend line for at least six years and with the AI/robotics developments there is no reason to expect a reversal. Law firms are increasingly using computers to perform data management and research tasks that do the “grunt” work previously done by associate lawyers whose services are no longer needed for discovery, case management, research of “gofer” work because the AI systems can do the work faster, better and less expensively. The lower costs and greater efficiencies can then contribute to partners’ returns and profits.

Flat or depressed wage levels contribute to the problem. One study concluded that in the United Kingdom: “On current forecasts average earnings will be no higher in 2022 than they were in 2007. Fifteen years without a pay rise. ... This is completely unprecedented.”

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Robert Ambrogi, 12/20/16, “The 10 Most Important Legal Technology Developments of 2016”.


Workers in Britain are on course to suffer an unprecedented 15 years of lost earnings growth and have been warned to prepare for a third successive parliament of austerity by a leading thinktank. Analysing Philip Hammond’s spring budget, the Institute for Fiscal Studies (IFS) said that after suffering a lost decade of earnings growth, households were now about to be hit by big welfare cuts. Paul Johnson, the thinktank’s director, highlighted permanent scars to the UK economy from the global financial crisis and said that almost a decade on the prospects for income and earnings growth remained weak. “On current forecasts average earnings will be no higher in 2022 than they were in 2007. Fifteen years without a pay rise. I’m rather lost for superlatives. This is completely unprecedented,” he said at the IFS’s traditional post-budget day briefing. Johnson said the latest economic outlook from the government’s independent forecaster, the Office for Budget Responsibility, implied that in the wake of the financial crisis the UK had suffered permanent losses to productivity – a measure of output per hour. “All of the productivity – and with it earnings
The same kind of wage depression has been the norm in the US even while costs of living have escalated. When we consider the implications of this fact it suggests that the ability of ordinary people and small businesses to pay expensive fees to lawyers has not grown even while the number of lawyers seeking those fees has increased significantly.

**Will 50% of US jobs disappear by 2030?**

Predictions of human job loss to AI/robotics cross a wide spectrum and pose serious concerns for human societies. I hope the most sweeping predictions listed below about the elimination of human employment are overstated. But that could be because I have children and grandchildren whose futures I am concerned about and want the analyses to be wrong. They are, however, the best predictions being made by some top-level experts. The sad fact is that unless the predictions of lost employment are so grossly “over the top” that they are entirely outside reality, we are in serious trouble not only in the US, the UK, and EU but globally. If the predictions are even fifty percent accurate we have a set of problems with which we are unlikely to be able to deal. A sampling of those predictions includes projections that:

1. 50% of US jobs will disappear by 2030. [Fast Forward 2030: The Future of Work and the Workplace] or 50% of US jobs will be gone by 2025. [2 Billion Jobs to Disappear (Globally) by 2030].
2. 5,000,000 US manufacturing jobs have already been lost since 2000.
3. 12,000,000 US jobs will disappear by 2026. [Robots Set to Disrupt White-Collar Work, 2016].
4. 500 million jobs in the world’s 25 richest economies will be lost to AI/robotics.
5. 50 percent of today’s work activities will be automated by 2050—give or take 20 years. Robots will take over most of the world’s jobs by 2045.
6. The unemployment rate in the eurozone reached 10% in 2009, “and has been stuck in double digits ever since. On average, more than one out of five young people in the labour force are unemployed, but in the worst hit crisis countries, almost half of people looking for work can’t find jobs.” (From Nobel Laureate in Economics, Joseph Stiglitz).
7. The McKinsey Global Institute has warned that if the “slow growth” conditions of the past decade continue, up to 80 percent of people in developed economies could see flat or falling incomes for most workers even as the cost of goods and services continues to increase.
8. MIT researchers report a large-scale “hollowing out” of the US middle class with many sliding down on the socio-economic ladder.
9. The US is bankrupt. We are not only “between a fiscal rock and a hard place”- - we are “being crushed beneath the rock”. David Walker, a former US growth — we would normally expect has been lost forever. This remains the big story of the last decade — a decade without growth, a decade without precedent in the UK in modern times,” he said.
Comptroller-General has warned that an honest analysis of the US national debt, including large scale off-budget borrowing, makes that debt obligation closer to $65 trillion rather than the $18 trillion when he addressed the topic in 2015 or the current official figure of $19.9 trillion. Given that the US is adding between $1.2 and $1.5 trillion annually to its national debt, there is no way it will ever be paid off. This debt dilemma increases the likelihood that government loans for graduate non-STEM related degrees such as law will be on the chopping block.

10. The Congressional Budget Office (CBO) has warned repeatedly over the past several years that the US faces a serious fiscal crisis that will hit within the next decade if we do not make the hard decisions required to deal with our national debt, and that failing to make needed decisions in the next few years risks our fundamental economic health. Again, I see little chance that loans for a law school education will survive for very long.

**Millennials as the “Middle Precariat”**

The upshot of all this is that the class of young people typically labeled “Millennials” feel less “middle class” than previous generations. Such potential applicants and law degree seeking attendees on whom law schools have relied are now faced with difficult and uncertain choices about the career paths they should follow. It is easy to say that new skills are needed but it is equally clear that our educational systems are not ready for the challenge.

Nor is the legal profession able or willing to absorb new graduates at traditional levels due to the overproduction of graduates pumped out from law schools over the past several decades and the reduction in the need for new lawyers doing labor-intensive tasks both because of the AI/robotics efficiencies noted earlier and the declining pool of potential clients able or willing to pay for legal services. This latter fact relates to technological developments that have provided lawyers with labor saving and efficiency multiplying capabilities that allow higher individual productivity for lawyers and reduce the need for “research drones” and “gofers”. As has been noted elsewhere concerning larger corporate clients who provide a significant part of the revenue stream for major law firms, those businesses have become much more sophisticated in determining what they need from law firms, doing quite a bit of their legal work “in house”, and starting to audit and challenge the firms about fees and costs.

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The Pew Foundation reports: “Millennials have surpassed Baby Boomers as the nation’s largest living generation, according to population estimates released this month by the U.S. Census Bureau. Millennials, whom we define as those ages 18-34 in 2015, now number 75.4 million, surpassing the 74.9 million Baby Boomers (ages 51-69). And Generation X (ages 35-50 in 2015) is projected to pass the Boomers in population by 2028.”
The combination of these factors makes Millennials’ options “precarious” to the point some have referred to them as “The Precariat” and “Middle Precariat” to symbolize their dilemma. The concept of “Precariat” is explained.

The word Precariat [those in precarious positions] was popularized ... to describe a rapidly expanding working class with unstable, low-paid jobs. What I call the Middle Precariat, in contrast, are supposed to be properly, comfortably middle class, but it’s not quite working out this way. There are people like [a] Floridian couple who both have law degrees – and should be in the prime of their working lives – but can’t afford a car or an apartment and have moved back in with the woman’s elderly mother. Many of the Middle Precariat work jobs that used to be solidly middle class. Yet some still only earn roughly what they did a decade ago even though maintaining a middle-class life style is now 30% more expensive than it was 20 years ago. The jobs held by those in this socio-economic tier are also increasingly shaky, composed of short-term contract or shift work.8

"If machines are capable of doing almost any work humans can do, what will humans do?"

Artificial Intelligence and Robotics (AI/robotics) strikes again.

The Middle Precariat also may be threatened by the rise of the robots, like their working-class peers. The numbers confirm this: in 2014, only 64% of law school graduates had jobs that required bar passage. In 2013, unemployment was at 11.2% with underemployment numbers even higher. (By contrast, in 1985, more than 81% had full-time legal jobs and only 7% were not working at all.) 9

Moshe Vardi, professor at Rice University, delivered a talk to the American Association for the Advancement of Science exploring the critical question: "If machines are capable of doing almost any work humans can do, what will humans do?" 10 Vardi, like quite a few

8 https://www.theguardian.com/commentisfree/2016/jul/07/middle-class-struggle-technology-overtaking-jobs-security-cost-of-living", ‘Middle class’ used to denote comfort and security. Not anymore: The apps and robots celebrated by Silicon Valley wunderkinds are helping make previously white-collar lives ever more precarious”, Alissa Quart, 7/7/16.

9 https://www.theguardian.com/commentisfree/2016/jul/07/middle-class-struggle-technology-overtaking-jobs-security-cost-of-living”, ‘Middle class’ used to denote comfort and security. Not anymore: The apps and robots celebrated by Silicon Valley wunderkinds are helping make previously white-collar lives ever more precarious”, Alissa Quart, 7/7/16.

others who have been looking closely at the future of human employment in an Artificial Intelligence/Robotics world, concluded half the world’s workers will be replaced by machines within the next 30 years, and that this will wipe out middle-class jobs and exacerbate income and wealth inequality. As David Rotman states:

[T]echnological progress is eliminating the need for many types of jobs and leaving the typical worker worse off than before...“It’s the great paradox of our era,” [Eric Brynjolfsson] says. “Productivity is at record levels, innovation has never been faster, and yet at the same time, we have a falling median income and we have fewer jobs. People are falling behind because technology is advancing so fast and our skills and organizations aren’t keeping up.” 11

A recent analysis highlights the dilemma of job loss and job replacement facing those fitting into the “Millennial” category, an age demographic from which many potential law school applicants have traditionally been drawn. 12 The conclusions were:

A new study from Gallup entitled “3 Trends That Will Disrupt Your Workplace Forever,” by Andrew Dugan and Bailey Nelson reports that 37% of millennials are at high risk of losing their job to automated machinery compared with 32% of the two older generations who are predicted to suffer the same fate. The Gallup study concludes: Millennials are the generation most vulnerable to the threat of A.I. and automation as they are disproportionately more likely to hold positions that [will] one day be replaced by this new technology. ... Jason Dorsey, Millennial expert and chief strategy officer at the Center for Generational Kinetics, told Forbes: “The jobs at risk of being replaced by A.I. are not just the entry-level jobs that people typically assume, but rather the repetitive white-collar jobs such as in accounting and financial services. “The result is that Millennials more than any other generation in today’s work force are at direct risk of having their careers forever altered by A.I.” 13

Part Time Jobs, Short Term Jobs and the Illusory “Gig” Economy

The problem for newer law graduates is that Artificial Intelligence applications are “force multipliers” that allow individual workers to dramatically extend what they can do. There are important effects on legal employment from the development of AI systems that greatly multiply the efficiency and capability of lawyers. In a finite market or work universe where demand for services or products is relatively static rather than highly elastic, such as


paying clients for lawyers and the number of governmental law jobs, a dramatic increase in individuals’ productivity replaces the need for other human workers who had previously been engaged in that field of work. This is a particular problem for lawyers and their firms engaged in the private practice of law for profit.

The evolving technologies of law include the fact that a job that took ten people only a decade or so ago might now require only one or two individuals. Research, filing, fact investigation, drafting, case organization and monitoring, “gofer” legwork and the like provided a very large base of activity for what lawyers did, particularly new ones. Now virtually all of these activities have been replaced to a significant degree by AI systems and applications. Given what is available, if lawyers are not using the AI capabilities they are opting to operate inefficiently and with higher than necessary costs and lower professional quality. Also given the vast expansion in access to “law information” and forms made available by the Internet and companies such as LegalZoom, non-lawyers can now find answers to questions for which they previously would have had to seek the advice of a lawyer. A description of LegalZoom.com tellingly explains that it: “is an online legal technology company that helps its customers create an array of legal documents without having to necessarily hire a lawyer.”14

This means that, at best, the market demand for lawyers’ services by paying clients is static even while the number of lawyers seeking paying clients has grown. Lawyers in private practice therefore have to find ways to reduce costs while maintaining or increasing revenues. AI applications and enhanced Internet and other communications capabilities are efficiency tools. Along with these capabilities, lawyers are using paralegals to perform many of the tasks that newer law graduates had been doing at considerably less cost and with a significant degree of experience and maturity on the part of the experienced paralegals. Many paralegals do a very professional and sophisticated job so it is not surprising that they have increasingly important roles in law practices to the point they block entry-level opportunities for new law graduates.

The fact that long-term stable jobs are drying up both generally and in the legal profession with many surviving jobs increasingly made part-time, shorter-term and without accompanying benefits in what has been called the “gig” economy adds to the uncertainty and insecurity that many are experiencing.15 The youth of this generation, unlike my own

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The MGI said governments had mitigated the impact of the squeeze on incomes through tax cuts and welfare spending, but that even when these were taken into account 20-25% of households were no better off in 2014 than they were in 2005. It noted that people who had seen no increase in their incomes tended to be pessimistic about the future both of themselves and their children, and were likely to be more negative about removing barriers to trade or migration. … The research organisation said the deep slump and the weak recovery after the 2008 financial crisis were the main causes of the phenomenon, but that a
in which we expected to work in one or only a few jobs in our entire work-lives, are said to anticipate frequent movement between employers to the point that they may work for as many as fifteen to twenty separate employers over their work-lives.16

As our economy gets worse this expectation is likely to prove a pipe dream when it is discovered there are far fewer jobs to which to move and there is no job security even if you find employment.17 An apparently unavoidable aspect of what is occurring is the high uncertainty of having work, reduced pay scales, limited access to benefits, inability to know how many compensated hours will be available, or the number of piecemeal jobs you have to patch together to make ends meet. In the United Kingdom, for example, a recent report indicated that 10 million British workers are in what was called “insecure work”, representing one-third of the UK’s total workforce. The report indicated that sixty-one percent of those “insecure” workers are suffering from stress or anxiety because they do not know how many hours they will be working, how much they will earn, or how long they will be employed.18 This level of uncertainty is stressful and unsettling for those subjected to its conditions and increases the likelihood of employee abuse as well as a lack of loyalty between employer and employee.

Consider the Dilemma In Which Potential Law School Applicants Find Themselves

decline in the number of people available for work, more part-time and temporary working, and a decline in the influence of trade unions had also played a part.


Even as job-hopping makes financial sense for Millennials, the Great Recession has actually caused many to stick with their jobs longer than their counterparts a decade ago. The median length of job tenure for 25-34 year olds was 3.2 years in 2012, up from 2.7 years in 2002. Despite being more educated than previous generations, the decline and/or stagnation of median wages in the industries most likely to be hire Millennials means they run the risk of being worse off financially than their parents were. When employers cite this pattern as a reason to hold back investing in young workers, it perpetuates a vicious cycle: Employers hesitate to train young workers because they might leave, giving those workers the impetus to leave and gain the skills that will allow them to advance in their careers elsewhere.


Technology is making “work” far less labor-intensive, even services jobs. A variety of technologies will contribute to this, most visibly robotics (but also artificial intelligence, 3-D printing, and even virtual reality). Think just of all the jobs that will be lost to self-driving trucks and taxis. “Millions of jobs will be lost over the next 10-15 years,” Mr. Gross writes. Not just blue-collar jobs, either, and not just in the U.S. This is a global phenomenon.

While law schools and their faculties often appear unaware of what is going on in our beleaguered economic system with its flat earnings, fewer well paying jobs, and rising prices for goods and services, potential highly qualified law school applicants are not. Those who might otherwise decide to attend law schools are fully aware of the risks of incurring a massive educational debt greater than $100,000 with limited or non-existent ability to repay that heavy obligation. It is a risk/benefit situation that has left many law schools in the "high risk" and "low benefit" category from the perspective of potential applicants.

If you were a Millennial and determined that obtaining a law degree would require incurring more than $100,000 in debt on top of what you might already owe for your undergraduate education and car loan or credit card obligations, and you also understood that the job market for new law graduates was in a long term slump, what would you do? Unless you were a very highly qualified individual who is able to enroll in a top rated law school and have access to one of the shrinking number of "plum" jobs, what should you do?

Law schools need to understand that what is occurring is unique and historical. It is also outside what is generally referred to as Austrian economist and Harvard University professor Joseph Schumpeter's cyclical process of “Creative Destruction" in which after a period of crisis and job loss due to changing technologies, there is a “rebirth" in which large numbers of new jobs are created. Rather than going through a difficult economic and technological cycle such as has occurred in other periods of technological change, we are experiencing a permanent transformation that will leave very large numbers of people chronically or permanently unemployed or underemployed.

What I am talking about in the interplay between AI/robotics and the rapid expansion of the technologies into the fields of human work is not the absolute replacement of the "human factor". No one knows at this point how far that will go, but some analysts are warning that the penetration of AI/robotics systems into all levels of human activity—work and otherwise--will go much deeper than is generally thought.19

While law schools lament the disappearance of qualified applicants and are digging deeper into the pool by accepting students with credentials that would have had faculty scoffing at the presumptuousness of the applicants only a few years ago, young people throughout the developed world, including the United States, Australia and Europe, are desperate. Whether we are talking about law or a career in some other employment category, our youth are facing significant and increasing employment uncertainty as jobs disappear, change in character, are more difficult to obtain or hold, and pay even less even while educational and living expenses continue to grow far out of proportion to what the possession of a degree provides not only in terms of useful knowledge outcomes but satisfying, sustainable and sufficiently rewarding jobs.

   “Actors, teachers, therapists – think your job is safe from robots? Think again”. 
Solutions?

It is easy to say that the solution is that we need to create better jobs that provide a sense of growth, social opportunity and openness and career success. Great idea—limited ability to do so. It is also easy for law schools to conclude that the problem is in the educational curriculum and that if they modify the law school curriculum to teach more skills that this will enhance the appeal and professional productivity of individual law schools and bring students flooding back to their classrooms. Law schools make these arguments because the curriculum is pretty much the only thing over which they have any control. Unfortunately, this solution has almost nothing to do with economic reality and that reality is what is driving what is going on with the schools and profession.

The fact is that we just don’t know what jobs will remain, law or otherwise. We also have no idea about the types of jobs that will be newly created or in what numbers. And we aren’t even close to being in control of what is happening, much less understanding it in ways that allow for coherent and effective strategies even if such exist. But one thing we should be certain about is that there will not be anything close to the number of employment positions available for all the people who want to work or who are able to work. This applies full force to law schools and it is time for those institutions to face that fact.

Many US law schools will continue to shrink. Some, thankfully, will finally “bite the bullet” and go out of business, although that will nearly always be driven by the universities in which the schools are located “pulling the plug”. A core of law schools will be fine because there will remain a need for a substantial number of lawyers, just considerably fewer than we had come to expect until recently. The simple truth is that since the 1970s US law schools operated under the terms of an expanding attendance and increasing tuition business model funded by government loans and subsidies. That model is no longer sustainable for the majority of American law schools.

To survive, each law school needs to figure out a new and individualized operational model that includes a combination of reduced scale, lower cost, a changing balance between tenured and other forms of faculty status, and an improved curriculum. They also need to sever the monopolistic “enabling” hand of the American Bar Association that stifles innovation.

One of the challenges for survival in the emerging “new economy” is that new skills are needed. A rather large problem is that we aren’t at all sure about what the new skills are. But even if the various predictions about “hot” jobs are correct there is a strong likelihood to the point of near certainty that there will not be enough human jobs to go around for people with those new skills. This does not even take into account the fact that some quite intelligent people are convinced that AI systems will develop the qualities associated with the preferred skills in the relatively near future.
A continuing problem is that our educational systems are not ready for the challenge, either intellectually or from the perspective of their traditional four-year business model along with heavy reliance on a tenured faculty system that more or less rigidly locks people and subject matter into place. It is probable that the traditional model of the university will in many instances be replaced by more flexible and adaptable designs along with the elimination of tenure for most instructors. Do not be surprised if there is a kind of downsizing “bloodbath” in the next decade in which tenure and job security for academics in many locations is eliminated as a matter of institutional change and survival. This includes the fact that law school could be compressed into a model that involved a one year to one and a half year initial degree program with added on-line post degree requirements accompanied by some much better Continuing Legal Education courses and certifications than are typically offered. The past may be a guide but should never be allowed to be a “dead hand” as it now functions for law schools as a justification for perpetuating a model that never was all that good and now has passed it “use by” date.