

# The Real Cost of Law School Tuition

## Why Increasing Canadian Law School Tuition is an Access to Justice Issue

Janna Mitchell, JD Candidate (2019) College of Law

### ABSTRACT

Access to justice has been labeled “the most pressing justice issue of today,” a “crisis” and an “epidemic” within our society. It is a topic of growing and significant interest and concern to those involved in the legal community and those outside of it. It can be argued that the current state of our justice system is not acceptable for a profession whose core morals are said to be bringing justice to all people. The increasing need to address the access to justice crisis is, at its foundation, rooted in the need to provide justice to everyone - and not just the fortunate few.

My research assessed the legal background surrounding access to justice issues within the context of legal education and soaring tuition rates. My research will provide that high rates of law school tuition hinders access to justice, and ultimately undermines the legal profession. My research will discuss and address how high tuition rates negate a certain demographic of individuals from attending law school, therefore creating a profession which is becoming less diverse and less representative of our country's population, (as only certain people can afford to attend law school). Students graduating with high rates of law school debt will not take jobs such as legal aid, as they simply cannot afford to. Instead, students needing to take higher-paying jobs often end up in corporate firms (and often outside of our own province). Further, my research will discuss how a competitive market between law schools raising their tuition is neither productive nor positive atmosphere for the Canadian legal system.

However, Canadian law schools are recognizing this disparity, and using innovative methods to combat this problem. For example, this can be demonstrated through income contingent loan programs or providing other creative solutions to overcome the tuition barriers such as shortening the law program to two years or calling upon the provincial government to provide debt forgiveness to graduates practicing law in rural areas.

In conclusion, I will argue that high rates of tuition must be lowered to address the access to justice issue. If high rates of tuition cannot be lowered, scholarships and bursaries must be increased to address this gap. Alternatively, or in addition to, the provincial government must play a more active role in mitigating this crisis and the culture surrounding law school admissions requirements must change.



### ACCESS TO JUSTICE DEFINED

There is not one single definition for what ‘access to justice’ fully encompasses as it is complex and multifaceted in nature. Ultimately, access to justice may be understood as the collective effort to provide holistic remedies to legal problems free from discrimination of age, gender, and socio-economic status among other things. Access to justice may be best understood in five broad categories or conceptions, which have been characterized as “waves”. These five waves are outlined as follows: 1) Access to lawyers and courts; 2) Institutional redesign; 3) Demystification of law; 4) Preventative law; and 5) Proactive access to justice.

It is apparent that attaining justice for all, and providing access to it, is not a simple task. Adding to the labyrinth of complexity is the confusion surrounding what exactly ‘justice’ really means, as the term is difficult to express in one encapsulated passage applicable in all circumstances. One should be cautious with “equating access to justice” to “access to the system”. In order to appreciate what access to justice means, one must take a closer look at the histories behind, and understanding of justice. In its most simplistic sense, justice can perhaps be interpreted as the fairness and protection of rights and the punishment of wrongs – in other words, justice is a sense of what is good or bad, or right and wrong. Justice can be seen as the way in which we understand the world around us, and how we both morally and ethically organize ourselves as human beings. For example, many of the everyday choices that we make are influenced by what is just and what is not, what is good or what is bad, what is fair and what is unfair. Further, the waters of justice tend to get muddied, especially when it is certain that not everyone’s definition of justice is the same, as every person has an idea of what is fair.

### NEOLIBERALISM AND THE MODERN DAY

#### LAW SCHOOL

There has been a wide embrace of neoliberal policies supported by governments which has ultimately led to decreased government funding for universities. Neoliberalism supports the idea that students should bear much of the cost of schooling themselves without help from funding or other initiatives. These same policies underlie rational for other cutbacks (such as to legal aid and other public interest organizations) ultimately meaning that there are fewer jobs of this nature available, increasing all types of access to justice issues in the process. Neoliberalism can be understood as a socio-economic theory that holds the social good is maximized by unregulated market behaviours. As such, it privileges the interests of private property owners and multi-national corporations over the interests of society, attempting to bring all action under the rule of force of the market. In the context of education, neoliberalism directly and negatively affects students as there is decreased state support of higher education resulting in increased tuition and fees for students. According to neoliberal guru, Milton Friedman, “high fees are justified for those likely to earn high incomes on graduation.” However, law students are not guaranteed jobs, let alone incomes high enough to counter the debt accrued from their years of legal studies.



### THE NEGATIVE EFFECTS OF INCREASING LAW SCHOOL TUITION

#### 1. Lack of Diversity and Representation

Law schools are essentially the “gate keepers” of our profession. Through tuition and admissions criteria, the College of Law essentially assesses what “type” of candidate the profession requires or looks for. Money is sometimes the sole reason individuals choose not to attend law school, or even apply. Increasing rates of tuition are a deterrent from many diverse and suitable candidates applying to the College of Law and be admitted into the legal profession. Therefore, as tuition rates increase, socio-economic diversity suffers.

#### 2. High Rates of Debt

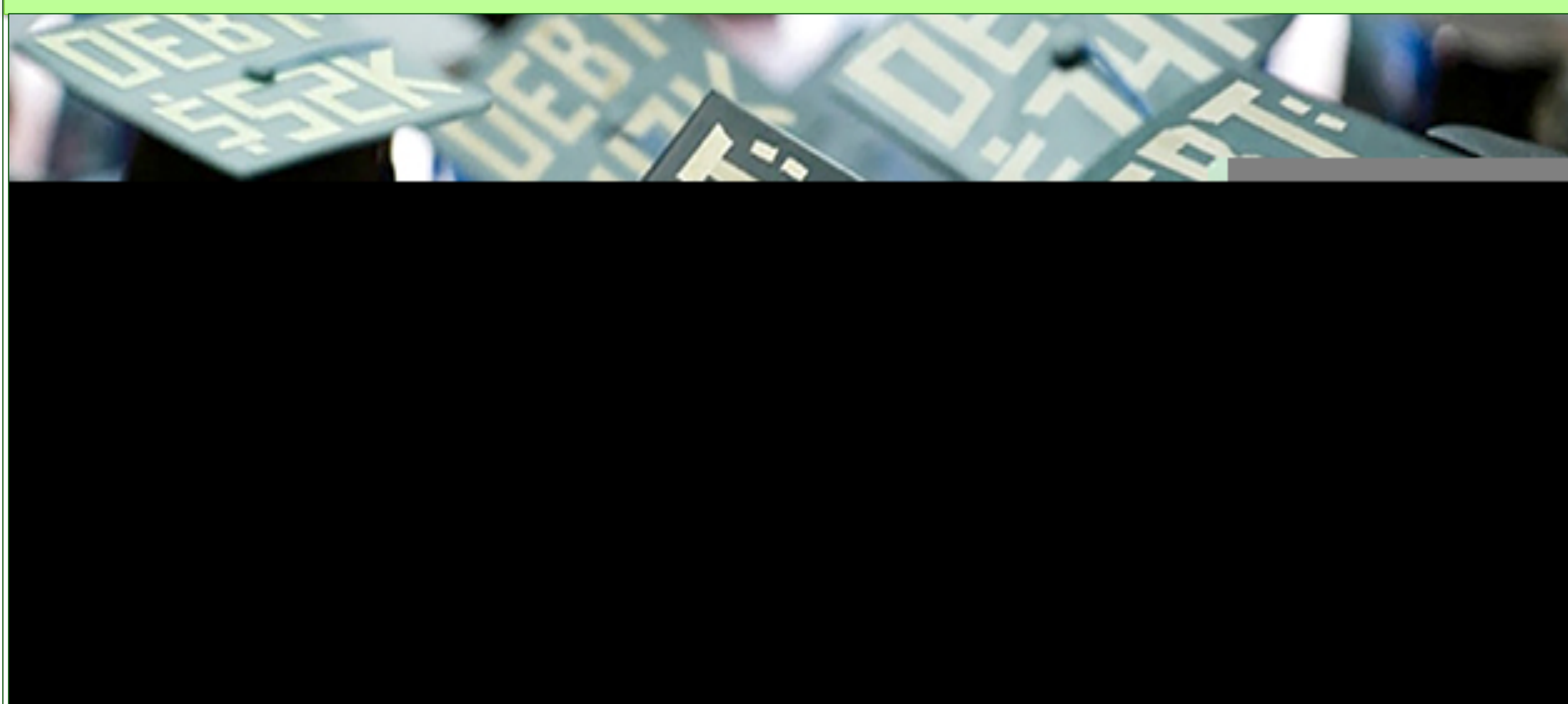
Law students in Canada often graduate with more than \$100,000 in student debt. Many students cannot afford to take jobs at organizations such as legal aid, or smaller firms in rural communities after law school. Many find themselves in the same position of many of their peers, where they would not be able to survive or support themselves or their families if they were to pursue the practice of law on purely altruistic intentions.

#### 3. Law Students are leaving Saskatchewan

The increasing cost of a legal education encourages more and more students to focus on areas of the law that are the most profitable. This motivation to attain higher paying jobs is directly related to combatting debt post-graduation. This incentive often drives students out of the province of Saskatchewan to larger, and higher paying legal markets such as Vancouver, Calgary and Toronto. This creates a series of access to justice problems within our own province as lawyers are leaving Saskatchewan behind.

#### 4. Extreme Competition Between Canadian Law Schools Hinders the Culture of the Profession

Many legal colleges across Canada fear that they are running the risk of falling behind other Canadian law schools if financial resources are not secured and increased (mainly through tuition). Many law schools feel as though they will be at a disadvantage if they do not keep increasing tuition, especially if other schools continue the cycle. Less tuition revenue means less money to hire and pay faculty, to acquire library holdings, to maintain and build new facilities. The competition among Canadian law schools for top rankings, top students, endowment support, and donations is fierce. Simply put, every dollar counts.



### INNOVATIVE METHODS FOR CHANGE

**Scholarships and Bursaries** - help mitigate the damaging toll tuition takes on students. However, as tuition rates increase, the need for extra compensation in order to combat high debt levels grows among students. This ultimately increases the competition of attaining these scholarships and bursaries. The notoriously heavy work load makes it difficult, if not impossible, for students to work in conjunction with legal studies. Summer employment may only pay a fraction of what it costs to attend school. The University of Saskatchewan College of Law allocates approximately \$200,000 of their budget towards student scholarships, while approximately \$300,000 is awarded from outside donors.

**The Provincial Government** - provides student debt forgiveness programs for professions such as nursing and medicine if the student chooses to practice in a rural area in need of healthcare services upon graduation. As many rural and remote communities in Canada lack the primary health care they need, the Government of Canada has been offering Canada Student Loan forgiveness to eligible healthcare workers who seek employment in designated rural or remote communities since 2013. The purpose of this initiative is to help more Canadians get the health care they deserve. This benefit is intended to encourage family doctors, residents in family medicine, nurse practitioners and nurses to practice in under-served rural or remote communities by forgiving a portion of Canada Student Loans. Family doctors and family medicine residents may be eligible for forgiveness of \$8,000 per year to a maximum of \$40,000 over five years. Nurses and nurse practitioners may be eligible for forgiveness of \$4,000 per year to a maximum of \$20,000 over five years. I would argue that similar logic should apply to law students – as the access to justice crisis affects rural areas as much as healthcare and often, these issues are intertwined. The provincial government should enact a similar scheme for law students practicing in rural areas to combat the access to justice crisis.

**Income Contingent Loan Program “ICLP”** - offered by Osgoode Hall Law School, this program provides at least five students annually admission to Law School on an income contingent loan basis. Students who are selected for the ICLP will not pay any tuition while they are law students, but will agree to repay the entirety of their tuition after graduation over a 10-year period, income dependent. The ICLP encourages and enables highly talented and qualified potential law students to apply for admission to Osgoode when they otherwise would not have done so due to incredibly high tuition rates and other barriers. Existence of the program will generate applications from a larger set of individuals who would not have otherwise applied. For those who receive the loan, the ICLP will help them to pursue careers of their choice after law school, without the burden of significant debt and loan repayment obligations impacting their choices. Other income contingent loan programs have been implemented or attempted in legal colleges worldwide.

**Making Law School a Two-year Degree Program** – would help to cut some of the costs associated with pursuing an expensive legal education. By shortening the law program from the traditional three-year degree, the time you are in school and paying other fees such as rent, supplies etc. is significantly lessened. Completing law school in a shorter period of time, gives students the opportunity to start working earlier and therefore paying back students loans more efficiently.

### TUITION REGULATION

Degree Program	2016/2017 Tuition	2017/2018 Tuition	2018/2019 Tuition	Percentage Increase
University of Saskatchewan College of Law	\$12,624	\$13,002	\$13,653	~2.5%-3% per year

#### Who sets tuition at the University of Saskatchewan?

It is a common misconception that the University of Saskatchewan College of Law sets its own tuition rates and has direct control of its regulation. In reality, the University of Saskatchewan Board of Governors is responsible for setting tuition rates. Tuition is considered by the Board each year as part of the University's planning process.

#### Who is the Board of Governors comprised of?

The Board of Governors meets approximately six times a year and consists of eleven members: The Chancellor, the President of the University, five members appointed by the Lieutenant-Governor-in-Council, two members elected by the Senate, one student, and one faculty member. It elects its own Chair and Vice-Chair from among its members. The Board is responsible for overseeing and directing all matters respecting the management, administration and control of the University's property, revenues and financial affairs.

#### How are tuition rates set at the University of Saskatchewan?

Tuition rates are set based on three main principles/aims:

- Comparability:** the University compares tuition levels with other U15 medical-doctoral peer institutions with similar programs and, to a lesser extent, with other institutions in close regional proximity.
- Affordability and Accessibility:** the University ensures that students with greater financial need are not systematically excluded. Tuition is set with an understanding of the total cost for a student to attend the University of Saskatchewan (including fees, supplementary course materials, living expenses, total student debt load, direct financial aid including scholarships, bursaries, grants, loans, research funding and tax credits, program demand and potential lifetime earnings of the graduate).
- Quality:** the University pledges to provide high quality education to ensure the overall student experience is properly resourced and meets students expectations.



### LAW SCHOOL TUITION FEES ACROSS CANADA

Law School	Total Applicants	First Year Enrolment	Average LSAT	Average GPA	Tuition
Dalhousie U	1,300+	170	160	3.7	\$18,694.36
Lakehead U	1,000	79	Not Available	Not Available	\$18,723.27
McGill U	1,271	185	162	85%	\$4,387.88
Queen's U	2,351	200	161	3.7	\$19,246.22
TRU	Not Available	Not Available	Not Available	Not Available	\$18,548.22
UBC	1,664	180	166	83%	\$12,148.80
U of C	1,174	122	162	3.6	\$12,314.88
U of M	665	106	161	3.9	\$11,327
UNB	715	92	158	3.7	\$10,576
U of O	(English) 2,600 (French) 150	(English) 310 (French) 80	Not Available	82%	\$19,354.97
U of S	983	127	158	3.3	\$13,653
U of T	2,199	208	166	3.8	\$36,440.36
UVic	1,000	125	163	3.8	\$ 9,581.30
UWO	2,200	176	162	3.7	\$22,785
UWindsor	1,800-2,200	160	155	3.1	\$18,578.10
York U	2,577	290	82 <sup>nd</sup> percentile	3.67	\$26,245.78

### CONTACT

Janna Mitchell  
Third Year Juris Doctor Candidate  
University of Saskatchewan  
College of Law  
E-mail: [janna.mitchell@usask.ca](mailto:janna.mitchell@usask.ca)

Professor Sarah Buhler  
Access to Justice Seminar (LAW 414.1)

