

Law Essay

A) Explain the work & training of barristers & solicitors?

In the Western world, where the majority of employment occurs in the service sector, rather than the primary sector as it does in the developing world, there are certain jobs that carry a very high status. Careers such as doctor, accountant and lawyer are to name but a few of these high status jobs and it is lawyers that I am going to be focussing on in this essay.

In England, since the 15th century lawyers have been split up into two professions, barristers & solicitors. Solicitors have traditionally been the people who research cases and barristers have traditionally had rights of audiences in court.

There are 60,000 solicitors in the U.K. and 6,000 barristers of which 4,000 are currently working in London. Solicitors have traditionally run the business side of the law profession running offices. Solicitors duties can include interviewing witnesses and issuing writs, conveyancing, divorce proceedings, drawing up wills and last testaments, advocates in magistrates courts, commercial contracts, tax, immigration and employment issues. Solicitors may handle a cross-section of work however; there is a trend especially in London, for solicitors to specialise in one type of work. There has also been a recent tendency, for solicitors to form large partnerships, with as much as 100 partners however, they may not form companies. Some solicitors may also go into public employment, such as local government or into industry as legal advisors. Solicitors are partly regulated by both the courts and the Law Society since the Solicitors Act 1974 came into force. The Law Society is the controlling body for solicitors. It has always been a voluntary organisation and about 85% of practising solicitors are members. Under the Solicitors Act 1974 it makes training regulations relating to examinations and articles. It maintains the role of solicitors, has a teaching college and provides club facilities for its members. It is also responsible for the administration of the Legal Aid scheme in Civil proceedings. From 1980, to become a solicitor you needed to have, either a law degree, or a non-law degree; with the Common Professional Examination (CPE) and part II exams or the legal practice course, a 2- year training contract and satisfy the Law Society as to his/her good character and suitability to practice as a solicitor. This basically means that after finishing university a would be solicitor has to endure another four years of work at a possible cost to them of £11,000 it is due to this extended period in education that a lawyer is held in such high esteem.

Until the change made under the Courts & Legal Services Act 1990, barristers with a few exceptions, the only people allowed to advocate in the superior superior courts which were, The House of Lords, The Court Of appeal, The High Court, The Crown Courts and the Employment Appeal Tribunal. However, this has now changed, and there is increasing competition between barristers and solicitors for this work. Barristers do some paperwork, drafting legal documents and given written opinions on legal problems. Barristers are usually engaged by solicitors on behalf of a client, and work on a cab rank rule. Technically, this means that if they are not already committed for the time in question, they must accept any case.

The starting training of barristers is an upper-second upper-second class degree. If this is a non-law degree the applicants must do a CPE, just as with solicitors. Very rarely, mature students may be accepted to the bar without a degree. Then all students have to join one of the four Inns of Court: Inner Temple; Middle Temple; Grays Inn; or Lincolns Inn all of which are in London. The Inns of Court emerged in the 13th century and their role has evolved over time. Their main functions now cover the provision of professional accommodation for barristers' chambers and residential accommodation for judges. Students take the year long Bar Vocational Course each year, which can be taken at seven different institutions around the country. The course includes oral exercises and tuition in interviewing and negotiation skills and as with solicitors training, more emphasis has been laid on these practical aspects in recent years.

Around 1600 people take the Bar Vocational Course a year costing £7000 plus living expenses. Local authority grants are rarely available and limited financial assistance is available from the Inns of Court.

Until recently students had to dine at their Inn 18 times, however, this changed in 1997 as this seen as old- fashioned and it was reduced to 12 times and dinners will be linked to seminars, lectures and training weekends, in order to provide genuine educational benefit.

After this, the applicant is called to the bar, and must then find a place in chambers to serve his or her pupillage. This is a one- year apprenticeship in which pupils assist a qualified barrister, who is known as their pupil master.

Pupillage places are not guaranteed, with students from the bar vocational course; only having a 50% chance of finding a pupillage. Pupils are required to take a further advocacy course before the end of pupillage, as part of the increased emphasis on practical skills.

Around half of the 900 pupils each year receive funding of £6000 for their 12-month pupillage from their chambers, but for the rest, finance can be a major obstacle. Pupils may take on cases in their second six months, but the fees for that work are generally not high, and are not paid until some time after the works done.

Pupillage completed, the newly qualified barrister must find a permanent place in chambers, and some are forced to squat – remaining in their pupillage chambers for as long as they are allowed, without becoming a full member – until they find a permanent place. There are only around 300 tenancies available each year – one to every three pupils.

To conclude this essay, I would just like to say that to become a lawyer is an incredibly long and strenuous process and this is part of the reason why, it is so highly paid and so well regarded. Finance is also a major obstacle for a working class person with ambitions to become a lawyer and this is obviously a major factor in the majority of lawyers coming through being middle class. Also, the legal profession is changing drastically with the Courts & Legal Services Act 1990, giving solicitors with the qualifications, the rights of audience in the higher of courts, and that is going to be the topic of debate in my next essay.

B) Discuss whether there should be a single legal profession?

After the passing of the Courts and Legal Services Act 1990, the legal profession and the role of lawyers and solicitors has been heavily scrutinised. This is due to the fact that many believe that, there is no longer a need for two separate arms of the legal professions as solicitors now have the rights of audience, therefore eradicating, the need for barristers as solicitors are able to carry out barristers duties and therefore, moving towards a unified legal system as they have in many other countries such as America. In this essay, I will be discussing the main advantages and disadvantages of the merging of the two professions and, will be concluding with my own opinion.

The last 13 years, have seen a major move towards the merging of the two legal professions. The passing of the Courts & Legal Services Act 1990, and the Access to Justice Act 1999, has meant that the eventual merging of two professions has become a lot more realistic possibility. However, many argue, that the legal professions should be left as they currently are and not interfered with. Many people actually already existing in the legal especially judges who tend to be older do not want tradition to change. The legal profession has been divided since the 19th century and see the British justice as the fairest and most successful legal system in the world. Many refer to the phrase ‘why fix something that isn’t broke’ and claim there is no need to change something that is adequate already. Critics of the merging of the legal system also claim that even if the two legal systems do merge there will still seem to be a divide between the two professions. Even if the two professions do merge under the joint name of ‘lawyer’, there may still be a considerable divide between the professions. E.g. if a client went to a legal firm of say 100 partners, consisting of both former barristers and solicitors, they may request a barrister to handle the case, as they may feel that a barrister would be better suited and more accomplished to speaking in court. Judges may also favour barristers and can make for an unfair profession.

One could also argue, that it would be practically impossible for a merger, to occur as this would just be too much work for one individual to contend with. For one individual to have to research, and speak in court would take tremendous time and effort and part of the reason why they divided the legal profession into two in the first place was to avoid one person doing so much work.

Others suggest, that, merging the two professions, will limit the amount of people coming into the legal profession, and further exercise the class divide into law. As if the two

professions will be merged, there will obviously have to be, more strenuous training, which will inevitably mean it, will be more expensive. This means the added cost will decrease the amount of working- class people coming into the legal profession and may limit the number of people altogether coming into law all together as it may be seen as too expensive a profession to fund.

It is also said, that if the two professions merge law, which is already a cut throat -world will become even more competitive as there will be less jobs available as there are only 66,000 'lawyers' at the moment in England and Wales.

There, may also be, a lot of job losses and people leaving the law profession, as there will be less jobs and this could leave a lot of skilled people out of work.

It is also said that merging the two professions will result in lawyers, being paid a lot more money as there are effectively doing two jobs ad this will obviously mean they will be paid a lot more.

However, as with the people who have their doubts over whether the legal profession should merge, there are also many who feel that the two professions should be merged into a single profession.

Those, in favour of a single legal profession claim the whole English Justice system should be revamped and we should move towards the American system of scrapping the CPS and have a district attorney's office where plea bargaining is regular claiming this would stop many cases going to court thus saving taxpayer's money.

Others also claim, that England, needs to move with the times and in order to become more modern England needs to merge the professions that have been divided by tradition since the 19th century.

Supporters of merger also state, that many solicitors are already acting as barristers, due to the Access To Justice Act 1999, and that by training graduates, to in fact do both is the next logical step.

Many also claim, that many solicitors have the right to audience in the higher courts however, they are not taking advantage of this capability as they feel out casted and looked down upon by judges and supporters feel merging the professions would eradicate this inferiority complex

Whatever, you may personally feel about whether the two legal professions should merge; there are many strong arguments, made both for and against the subject. I believe, that inevitably due to mounting pressure and especially as I also, believe that we will, eventually, live in the United States Of Europe I think it is only a matter of time before the entire English Legal System is revamped. However, before this does eventually happen, I believe a lot of factors will have to be taken into consideration. I think clients, should not no whether their lawyer was a former practising barrister or solicitor. I think they are going to have to input mechanisms into the legal system to ensure working-class people who cannot afford fees should be heavily subsidised and, that there are also many 'new' jobs created within the legal profession where people, who may not have degrees, are brought in to help out with the administration and presentation of cases and eventually through gaining insight and experience in the legal profession as a whole are given honorary degrees to practice law after say fifteen years service. However, even if the, two professions don't merge I still think there has to be structural changes to even out the legal profession. As it seems strange that 2500 more people have joined the bar even though solicitors have basically the capabilities to do the same job as barristers. I think judges should have to respect solicitors who have gained rights of audience; I think the tests for solicitors to be given rights of audience should be made easier and that solicitor's salary be raised in line with barristers to entice people to become solicitors.

By Daniel McIntosh