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Ariell Reshef and Cailin Slattery

Legislation, Regulation, and Litigation: Demand for US Legal Services in Historical Perspective

KEY MESSAGES

- The employment share of legal services in the US more than doubled during 1970–1990
- At the same time, the relative wages of lawyers and law firm partners increased by 60 percent
- This demand shift was driven by important legislative and regulatory events
- These increased the scope of the law, uncertainty, sensitivity to effort, and potential for rents
- 40 percent of expenditures on legal services are excessive, about USD 75 billion in 2024 alone

DEMAND FOR LEGAL SERVICES IN HISTORICAL PERSPECTIVE

Lawyers perform an indispensable role in modern democratic societies that are governed by the rule of law. They are considered the guardians of the justice system, they represent individuals, firms, and the government, advise these entities about their rights and obligations, and perform the role of state verification in many aspects of life. These tasks are part of the institutional underpinnings of the success of such economies. A less benign view of lawyers sees much of their activity as rent seeking, with negative effects on the economy through the direct costs that they levy

(Hadfield 2000), as well as through the negative effect of rent seeking on the allocation of talent (Baumol 1990; Murphy et al. 1991). Therefore, it is important to understand the institutional drivers of the amount that society spends on legal intermediation. Reshef and Slattery (2025) study the evolution of the size, composition, and remuneration of the United States' legal services industry in light of these considerations.

Figure 1 illustrates that in the period 1970–1990 the US legal services industry – and lawyers in particular – experienced a secular demand shift. During this period, legal services' share in private sector employment more than doubled from 0.53 percent to 1.15 percent. Lawyers' employment share also nearly doubled from 0.28 percent in 1970 to 0.53 percent in 1990. This stands in stark contrast to the stability in 1850–1970 and in 1990–2015. During this long period of sustained economic growth, and through all the upheavals it experienced in this sample, the US economy employed a stable share of labor in legal intermediation (or declining, for lawyers) – except in 1970–1990. In other words, employment in legal services grew in lockstep with total employment, apart from during those 20 years.

Figure 1 also shows that the increase in relative employment in legal services coincides almost exactly with an increase in the relative wages of lawyers in legal services. Within legal services, the relative wages of associate lawyers more than doubled in 1970–1990, while relative remuneration of all lawyers, including law firm partners, increased by 60 percent over the same period. Simple wage regressions imply that the increases in wages for lawyers were not driven by demographic changes. The coincidence of the rise in relative quantity with relative price implies that demand outpaced supply.

Reshef and Slattery (2025) argue that the main contributors to the increase in demand for lawyers are new laws and regulations. Starting in the mid-1960s and continuing through the 1970s and 1980s, the US legislated a series of important acts, and added new regulations and fee-shifting statutes, which jointly (1) expanded the scope of the law, and at the same time (2) increased uncertainty about legal outcomes, while (3) increasing sensitivity of outcomes to effort and the potential for industry rents.



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A handful of scholars have previously studied the size of the legal services sector in the US. However, these did not provide credible explanations for the rise of legal intermediation in the long run. Pashigian (1977) argues that demand for lawyers in 1920–1970 was driven mostly by increases in real GNP. With hindsight and longer time series, Reshef and Slattery (2025) show that this cannot be the case. First, output per worker increased throughout the sample, but lawyers as a share of the labor force was either declining or stable for most of it. Second, the rapid growth in the employment share of lawyers from 1970 did not coincide with an acceleration in real output growth – quite the opposite.

Contrary to Figure 1, Sander and Williams (1989) argue that supply increased more than demand, since they detect a modest decrease in relative wages for lawyers. They also rule out the role of legislation and regulation as a source of change, which Reshef and Slattery (2025), in contrast, identify as the main drivers of demand and remuneration for lawyers. Rosen (1992) attributes part of the generally high wages of lawyers to the cost of their training (an argument that can be traced to Adam Smith's *The Wealth of Nations*). However, he does not consider whether or why this has changed over time. In fact, Reshef and Slattery (2025) do not detect any acceleration in law school fees in 1970–1990, and a calculation of the opportunity cost of law school exhibits a decline in the relevant sample period, not an increase. Other scholars have discussed the sources of remuneration and rents for lawyers, notably Olson (1991) and Hadfield (2000). However, they do not put their ideas to empirical test, nor do they provide explanations for why things have changed.

By exploiting a sufficiently long sample and the timing of changes, Reshef and Slattery (2025) provide explanations for the rise in demand for legal intermediation. The main contributors are changes in the legal environment – legislation and regulation – that increased the scope of the law as well as uncertainty about outcomes and, in some cases, created hyper-incentives for litigants to spend on lawyers.

FACTS

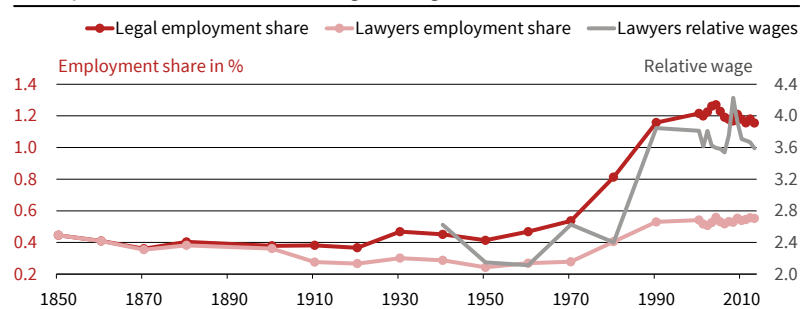
Reshef and Slattery (2025) document five important facts about the evolution of the legal services sector in the US, in terms of size, remuneration, and composition of the sector, along several dimensions.

Fact 1: *The employment share of legal services roughly doubles in 1970–1990.* As described above and summarized in Figure 1, this increase in relative size stands in stark contrast to stability (or declining share for lawyers) before 1970 and after 1990. Similar increases, at the same timing but in larger magnitudes, occur for the wage bill share and value added share of legal services.

Fact 2: *Wages of lawyers and law firm partners increase in 1970–1990.* Also shown in Figure 1, the

Figure 1

Employment Shares and Relative Wages of Legal Services



Notes: Employment measured in hours, and the shares are within the private sector. The relative wage of legal services is the average wage in legal services divided by the average wage in the private sector, excluding legal services. Hours worked is sourced from the decennial Census from 1850 to 2000, and the American Community Survey from 2001 to 2015. The relative wage of lawyers series includes lawyers and partners. Relative wages are imputed using BEA data on compensation of employees, proprietors' income, and full-time equivalent employment, and Census/ACS data on relative wages and employment shares of non-lawyers in legal services. Source: Authors' calculations.

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relative wages of lawyers, including both associate lawyers and law firm partners, increased by 60 percent. Not shown is that the relative wages of associate lawyers more than doubled in 1970–1990, although from a lower base. At the same time, non-lawyers in legal services (e.g., legal assistants, administration, etc.) see no significant changes in their relative remuneration throughout the period. These findings are corroborated by individual-level wage regressions that control for demographics.

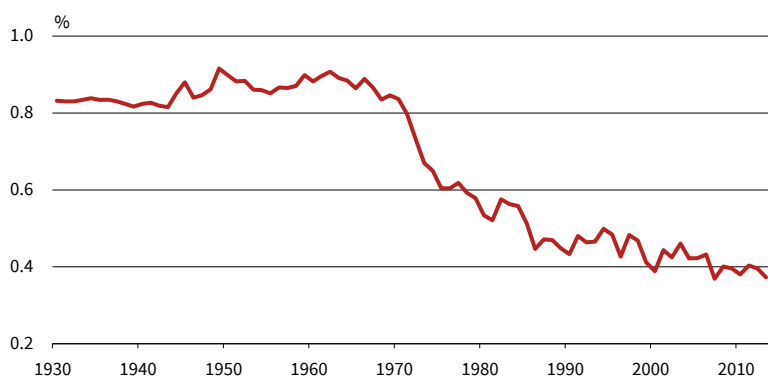
Fact 3: *The ratio of law firm partners to all lawyers drops sharply in 1970–1990.* Figure 2 shows that the ratio of law firm partners to lawyers is stable at roughly 0.85 until 1970, after which it nearly halves to 0.45 in 1990, and then continues to decline much more moderately. The implied increase in the ratio of associate lawyers to partners is consistent with an increase in the scope and “market for legal intermediation” after 1970.

Fact 4: *Lawyers became more specialized in 1972–1992.* Publicly available data from the Census of Services allow tracking the specialization of lawyers from 1972 to 1992 at the aggregate level and across 28 states. The share of lawyers that are specialized in one field increased from 41.5 percent to 71.7 percent during this period. The majority of the increase in specialization occurred in the ten years between 1977 and 1987. Fields that increased the most include insurance, negligence, banking, and corporate law.

Fact 5: *Changes in relative sizes of states do not explain aggregate trends.* Lawyers in the United States can only practice law in states where they have passed the Bar exam. By not accepting (for the most part) Bar exams from other states, state Bar associations impose high mobility frictions. This makes states natural units of analysis. Decompositions of changes in the aggregate share of legal services and of lawyers in employment demonstrate that virtually the entire aggregate change is driven by within-state variation, not by changes in state sizes. This is also true for wages and for fields of specialization. This implies that factors that specifically affect demand

Figure 2

Law Firm Partners as Share of Lawyers



Notes: Law firm partners are approximated by proprietors in legal services, from the BEA. Employment is in terms of full-time equivalents. The share of lawyers in legal services is calculated based on the US Censuses (interpolated between decades) and the American Community Surveys from 2000 onward.
Source: Authors' calculations.

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for legal services and lawyers, and not economic activity in general, play an important role in explaining the aggregate changes.

Simple economic theory implies that demand for lawyers outstripped supply during 1970–1990. While supply partially caught up with demand in terms of quantities, the new equilibrium exhibits higher relative wages of lawyers and law firm partners. The demand shift was pervasive, exhibited within all states, and not driven by changes in composition thereof. The compositional changes within legal services in terms of ratio of associate lawyers to law firm partners and in terms of specialization are consistent with the demand shift, which increased the size of the market for legal intermediation. The question is, therefore, what caused this demand shift?

WHAT DRIVES DEMAND FOR LEGAL SERVICES?

Fundamentally, the need for legal intermediation arises from asymmetric information regarding how the law regulates life. Lawyers within legal services have this knowledge, while most other people do not. Therefore, demand stems first and foremost from the scope of law: as laws cover more dimensions of life, the market for legal intermediation grows.

Beyond scope, legal complexity and uncertainty about legal outcomes also create demand for legal intermediation and increase its cost. To see this, consider legal interaction as a tournament in which both sides make effort, but only one prevails (Hirshleifer and Osborne 2001). An increase in uncertainty about the outcome of the tournament increases the incentives for both sides to spend on lawyers. This is because small differences in effort are more likely to tilt the probability of winning the tournament, compared to a situation in which the merit of one side or the other is clear. While this is a natural way to think of litigation, the logic extends to transactional relations. For example, when negotiating a joint venture agreement, lawyers for each side try to outmaneuver

each other by limiting the disclosure of negative information and use of vague language, while exploiting ambiguities in the law.

Increases in the scope of the law, and increases in uncertainty in outcomes, should both lead to more litigation – there are more domains over which to litigate, and more selection into litigation when both parties are uncertain of the outcome. Reshef and Slattery (2025) show this to be true in the data. Figure 3 plots the intensity of civil litigation alongside the share of employment of legal services. The match between the two series is striking: the timing and magnitude of the increase in civil litigation almost exactly fits the evolution of the employment share of legal services. This is consistent with a fixed litigation technology over the sample. The message from Figure 3 is that whatever drives the increase in demand for legal services, the mechanism likely operates through litigation or in conjunction with it. The timing of when changes *start* and when they *end* helps identify the pivotal role of changes in the legal and regulatory environment in explaining the evolution of legal services.

LEGISLATION, REGULATION, AND LITIGATION

Reshef and Slattery (2025) argue that the main contributors to the increase in demand for lawyers are new laws and regulations that were enacted starting in the mid-1960s and continuing through the 1970s and 1980s. The first set of major legislation is often called “social regulation,” which included environmental laws, workplace and product safety rules, civil rights laws, and consumer protection laws – all of which increased the domain of interactions that fall within the law, thus increasing the scope for legal intermediation and litigation. Olson (1991) has labeled this an expansion in the reach of the “invisible fist.” Leading examples include the Civil Rights Act of 1964 and the National Environmental Policy Act of 1969.

In principle, new legislation can avoid the need for legal intermediation and litigation, and even make existing legal activities unnecessary. This can happen when the dimension that new legislation addresses is well-defined, easily verifiable, and its provisions easy to enforce. But when there is difficulty in verification (either technical or pecuniary) and in enforcement, let alone in interpretation of the legal text, then new legislation may create scope for more legal activity. The acts discussed above are characterized by these features (Johnson 2009).

The second major source of change came in the form of economic regulation. Starting in the 1970s, the US embarked on a period of deregulation that persisted throughout the 1980s and early 1990s. The consensus at the time was that regulation of entry and prohibition of certain types of activities were keeping prices artificially high, benefiting regulated industries and not consumers. However, removal of such barriers and restrictions did not necessarily imply less regula-

tion. In fact, many legal scholars have characterized the outcome of deregulation as more regulation, often by way of litigation (Friedman 1981).

The introduction of social regulation and economic deregulation increased the scope of the law, eased entry into the justice system, and increased the effective intensity of regulation. These expanded the “market” for lawyers and demand for their services. Consistent with this, Reshef and Slattery (2025) find that the ratio of associate lawyers to law firm partners increased markedly, as the increase in the market size made it profitable to hire more associate lawyers in order to help deal with the massive increase in demand for intermediation. This was accompanied by an increase in field specialization of lawyers, which is also consistent with an increase in market size driving division of labor.

Deregulation of certain industries and broadly written social regulation increased uncertainty about legal outcomes, leading to greater sensitivity of outcomes to effort and, therefore, directly increasing remuneration of lawyers. Moreover, most of the aforementioned acts were amended to include “fee-shifting” provisions that stipulate that if the plaintiff wins, the fees for the plaintiff’s lawyer will be paid by the defendant. These fee-shifting provisions were enacted by the government in order to create an incentive for lawyers in the private sector to represent plaintiffs in “public interest” cases, which had an effect on the industry through both the quantity and price channels. At the time, some legislators in Congress were called these fee-shifting provisions “a bonanza to the legal profession” (Diamond 1983).

EVIDENCE

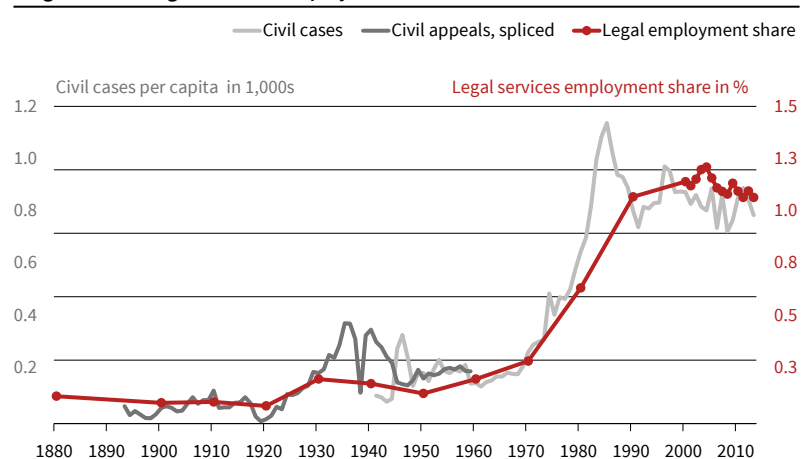
To substantiate their claims, Reshef and Slattery (2025) collect historical data on the introduction of fee-shifting statutes and on the number of pages of federal regulations from the Code of Federal Regulations (CFR), both displayed in Figure 4. Between 1970 and 1990, the number of fee-shifting statutes increased by three-fold; roughly six fee-shifting statutes were introduced each year, on average. This is in contrast to a rate of about one fee-shifting statute every two years between 1850 and 1970, and one statute per 16 months between 1990 and 2015. Similarly, the federal regulatory regime, as measured by pages of regulations per capita, increases sharply only during the period of deregulation of the 1970s and 1980s: pages per capita increased by 50 percent between 1970 and 1990, compared to less than 10 percent between 1990 and 2015.

The fee shifting and CFR series correlate tightly with the employment share of lawyers, relative wages of the lawyers within legal services, and with the associate lawyer-to-partner ratio. In their paper, Reshef and Slattery (2025) fit prediction regressions: regressions of future changes on past changes in the histor-

ical regulation, fee-shifting, and litigation series. The analysis confirms that these series strongly correlate with the three outcomes of interest, even after controlling for several other historical trends, including changes in the number of firms, taxes, and patenting activity. A one standard deviation greater increase in federal regulation predicts a 0.4 standard deviation increase in lawyers’ employment share over the next

Figure 3

Litigation and Legal Services Employment Share



Notes: Civil cases in 1941-1999 and Civil appeals from 1893-1994 are sourced from HSUS while cases in 2000-2015 are from the Administrative Office of the US Courts. Cases are normalized by total population in units of 1,000 people. The civil appeals series is proportionally spliced so that the average value in 1950-1959 fits the average value of civil cases in the same period.

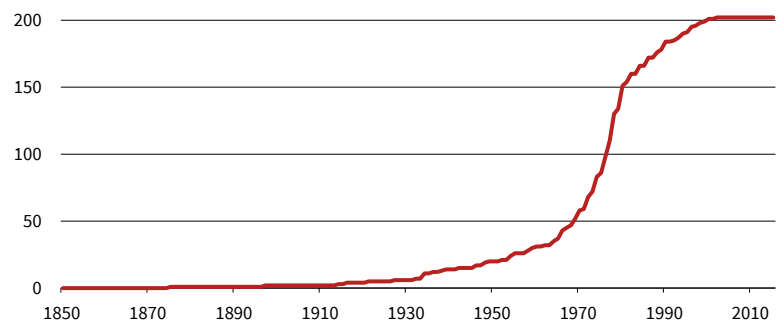
Source: Authors’ calculations.

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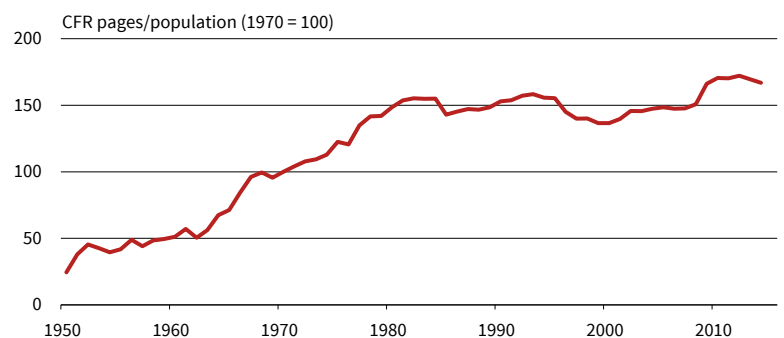
Figure 4

Fee Shifting and Federal Regulation

A. Cumulative Fee-Shifting Statutes



B. Pages of Federal Regulation



Notes: Figure (a) shows the cumulative introduction of federal legislation with fee-shifting statutes. The source for the timing of fee-shifting statutes is Derfner and Wolf (2012). Figure (b) shows the number of pages in the Code of Federal Regulations (CFR), divided by the US population, where we set the value in 1970 to 100. The source for CFR pages is the Federal Register Statistics.

Source: Authors’ calculations.

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five years. For fee-shifting statutes, the magnitude is even larger: a one standard deviation increase in fee-shifting statutes predicts a 0.7 standard deviation in lawyers' employment share.

Next, Reshef and Slattery (2025) use detailed federal case filing data to link how litigation activity responds to changes in the legal and regulatory environment. They find sharp increases in case filings following the enactment of federal social regulations (e.g., the Civil Rights Act, the Clean Water Act, the Occupational Safety and Health Act). These increases manifest in federal cases that fall in the corresponding fields of the law. For example, the largest increase in federal case filings between 1970 and 1990 was filings related to civil rights, which increased by 380 percent, or about 14,000 cases.

For some industries, it is also possible to identify the result of deregulation in the civil case filings. For example, prior to the passage of the Airline Deregulation Act of 1978, airlines had to file their tariffs with the regulator (the Civil Aeronautics Board). A few years after the deregulation act, the Civil Aeronautics Board was abolished and the airlines were free to charge whatever rates they liked. Although the deregulation of airlines has been broadly celebrated as a success, it caused an increase in legal activity, which is evident from the case filings. There is a prolonged period of high litigation activity (contracts cases involving an airline) in the industry during the 5–10 years following deregulation, likely due to the increased uncertainty brought about by the new regime. The litigation between private parties and airlines dwarfed the amount of litigation carried out by the US government in the enforcement of airline regulations. Deregulation led to a significant increase in litigation in the industry.

The federal case data also allows for an investigation of the importance of fee-shifting statutes. Here, Reshef and Slattery (2025) exploit the variation in the timing of the passage of the original act and the passage of a fee-shifting amendment, which can happen several years later. Take as an example the Civil Rights Act of 1968, also known as The Fair Housing Act, which intended to protect people from housing discrimination. The fee-shifting statute for the Act was introduced 20 years later, with the amendment of the Act in 1988. The data show that litigation under the corresponding category ("Civil Rights: Housing") accelerated after the Act was amended to allow fee-shifting.

Finally, Reshef and Slattery (2025) exploit variation across US states, using state-level legislation events and state-level variation in the propensity to respond to federal legislation to help establish the link with legal intermediation intensity. Specifically, the authors study two types of federal legislation that states are exposed to differentially: civil rights and environmental protection. To measure the exposure to federal civil rights legislation, Reshef and Slattery (2025) use the employment share of Black people in each state. They find that when the change

in the state-level employment share of Black people increases by 1 percentage point in the previous ten years, the change in lawyers' employment share increases by 0.032 percent points in the next ten years. The effect is similar for 20-year changes.

Environmental regulation spanned the same period as civil rights, with amendments to the Clean Air Act in 1966 and 1970, the National Environmental Policy Act of 1969, the establishment of the EPA in 1970, and the Clean Water Act in 1972. Reshef and Slattery (2025) measure a state's propensity to respond to tougher federal protection of the environment and pollution regulation by the share of the state's GDP in "dirty industries." They estimate that when the change in the state-level share of dirty industry in state GDP increases by 1 percentage point in the previous ten years, the change in lawyers' employment share increases by 0.008 percent points in the next ten years. The effect is three times as large, 0.023 percentage points, for 20-year differences.

To shed light on the mechanisms through which employment of lawyers increases, Reshef and Slattery (2025) exploit state-level variation in federal case filings. Each federal case is filed in a district court, which corresponds to a state (or a region within a state). This permits the study of whether state-level propensity to respond to federal legislation helps predict cross-state variation in increases in federal case filings that fall in the corresponding field. Regressions show that there is a strong relationship between exposure to federal legislation and litigation at the state level. Changes in the employment share of Black people are followed by substantial increases in civil rights litigation, and changes in the share of dirty industry in GDP are followed by substantial increases in environmental litigation.

This is an additional piece of evidence for the link between legislation, litigation, and the demand for lawyers; states that are more exposed to federal regulations experience increases in litigation related to this legislation and increases in the employment share of lawyers. In the case of the Civil Rights Act, these results suggest a strong association between the potential impact on a state of federal legislation to limit race-based discrimination and the growth of legal activity in that state.

State-level variation also permits the study of the importance of regulation. During the 1970s and 1980s, states deregulated bank branching (within states and across state borders), deregulated divorce (allowing no-fault divorce), as well as enacted state-level legislation on employment protections. Importantly, the timing of these events varies across states. Reshef and Slattery (2025) exploit this variation and demonstrate that lawyers' employment shares increase after states deregulate bank branching and divorce, and after they enforce stricter employment protections. Further, the authors show associations between divorce and bank

deregulation and the number of lawyers in domestic and banking specialties, respectively.

Alternative Explanations

A handful of alternative explanations for the causes of the evolution of legal services can be rejected. First, consider technology. Legal services is an information-intensive industry and should benefit from information and communication technologies. However, its relative ICT intensity does not increase until after 1995; until then, it is on par with the rest of the economy. Other technological explanations, such as changes in the industrial composition of the US economy (industries do not use legal services equally) or changes in sources of demand for legal services from households and the government toward the corporate sector, can account for only a small share of the observed changes.

Next, consider supply restrictions. In fact, there are few barriers to expansion of supply in the US, by means of establishing more law schools or increasing enrollment per school, which is what can be observed in the data. Reshef and Slattery (2025) find no evidence of a slowdown in these sources of supply in 1970–1990. There is no acceleration in tuition fees during the sample, and a calculation of alternative cost of going to law school relative to expected income for lawyers exhibits a decline during this period. Moreover, using various indicators – such as LSAT scores, the ratio of LSAT takers to passing students, and the ratio of enrollment to graduation from law school (three years later) – Reshef and Slattery (2025) find no evidence of an increase in lawyer quality.

Other potential explanations, such as changes in firm density, industry standards, and political influence, can also be easily rejected.

POLICY CONCLUSIONS

What is the cost for society of the increase in expenditure on lawyers? Assuming that the 1970–1990 increase in the employment share of legal services is socially desirable (e.g., due to increases in the scope of the law), the question is whether the increase in relative price is excessive (e.g., due to inefficiently high costs associated with poorly written regulations and increased uncertainty in judicial outcomes, or, more generally, industry rents).

It is difficult to use supply restrictions to explain the increase in the relative price of lawyers. In the presence of supply restrictions, we would expect to see greater wage increases for entrants compared to incumbents – but the data show the opposite pattern: individual-level wage regressions show that initially only incumbent lawyers see their incomes rise after 1970, whereas new lawyers do not see gains until 1985. This pattern points to complex rent-sharing arrangements within law firms. As mentioned above,

Reshef and Slattery (2025) find no evidence for an increase in the quality of lawyers over time, nor can they justify the increase in the price of lawyers with an increase in the cost of becoming a lawyer (law school fees or alternative cost).

Reshef and Slattery (2025) find that 40 percent of the increase in total payments to legal services (including law firm partners, associate lawyers, and non-lawyers) are in “excess” of what they would have been had income per worker in legal services relative to the rest of the private sector stayed at its 1970 ratio (adjusting for increases in aggregate returns to college). To put things in context, this represents USD 75 billion in 2024 alone.

It is difficult to evaluate whether this price for society is justified in terms of the potential benefits. While one could argue that the expansion of legislation and regulation was a desirable outcome (e.g., Ash et al. 2024 show benefits for growth), this has come at a high cost in terms of the price of lawyers. This cost should be considered when policymakers increase the regulation of society.

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