

## ***A Decile Snapshot: Socio-Economic Impact on Legal Education — University of Auckland Case Study***

ELLEN STAGWOOD\*

*Little information is available regarding trends in the proportion of individuals of low socio-economic backgrounds entering and succeeding in legal education in New Zealand. This article combines the Ministry of Education’s secondary school decile rankings with student enrolment information obtained from the University of Auckland. Evidence presented here suggests that the number of students originating from decile 9 and 10 secondary schools is significantly higher than students originating from any other decile at all stages of the LLB and LLB(Hons) programmes at the University of Auckland. Meanwhile, students from the lowest two deciles in this snapshot appear to access and obtain legal education much less often than students of other decile backgrounds. Although significant limitations arise from this study’s methodology, these findings suggest that there is a prominent correlation between the decile of the last secondary school that Auckland Law School students attend and their success in accessing and receiving legal education.*

### **I INTRODUCTION**

#### **Raising the Question**

New Zealand’s legal profession and law schools have achieved significant progress in promoting greater descriptive representation of groups traditionally absent from legal practice. As of 1 February 2018, 50.01 per cent of practising lawyers in New Zealand were women, compared to 20.80 per cent in 1990, and 615 females were admitted to practice in 2017 compared to 370 males.<sup>1</sup> Meanwhile, 20.24 per cent of LLB graduates in 2015 were Asian, 9.52 per cent Māori and 5.95 per cent Pasifika.<sup>2</sup>

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1 Geoff Adlam and Sophie Melligan “Snapshot of the Profession at 1 February 2018” (2018) 915 Law Talk 44 at 48–49. Where possible, all numbers in this article have been rounded to 2 decimal places.

2 At 46. This compares favourably to the composition of the profession, which remained 78.90 per cent European as of 1 February 2018, indicating that the descriptive representation of non-Europeans in the profession faces a significant increase in the near future. At 48.

Admittedly, such progress in these fields has been more modest in other respects. In particular, the composition of the profession at the upper levels — that is, partnership and directorship of larger firms, and status as Queen’s Counsel — remains overwhelmingly male.<sup>3</sup> Nonetheless, these gains in descriptive representation have enabled the profession, at least at its more junior levels, to better represent historically excluded segments of society.

However, studies abroad reveal that law students remain particularly homogenous in terms of their socio-economic backgrounds (SEBs). At the start of this decade, United States Ivy League law schools drew only five per cent of their cohorts from the less socio-economically advantaged half of the population.<sup>4</sup> Across the Atlantic, the United Kingdom’s legal profession and education system are in comparable situations.<sup>5</sup>

In contrast to the wealth of statistics available on gender and ethnic representation, no systematic assessment has yet been conducted of the SEB of New Zealand’s law students.<sup>6</sup> Existing commentaries on the SEB of legal practitioners are not comprehensive, being based on anecdotal evidence.<sup>7</sup> Despite the different structures of legal education between New Zealand and the above-mentioned countries, the socio-economic patterns overseas raise the question of whether New Zealand’s gains in descriptive diversity extend to socio-economic status.

### Offering a Snapshot

This case study suggests they do not.<sup>8</sup> A snapshot is offered of the deciles of the last secondary school attended by members of the 2015 Part I and 2016 Parts II, III and IV LLB and LLB(Hons) cohort at the University of Auckland. Data reveals that students from higher decile schools comprise the majority of students at the Auckland Law School at all stages, increasing as a proportion

3 At 51 and 53. No comparably comprehensive data is available regarding the ethnic composition of the profession at this level.

4 Richard H Sander “Class in American Legal Education” (2011) 88 *Denv U L Rev* 631 at 632.

5 Lucinda Ferguson “Complicating the ‘holy grail’, simplifying the search: a critique of the conventional problematisation of social immobility in elite legal education and the profession” (2017) 51 *The Law Teacher* 377. See Elaine Freer *The Pegasus Access Scheme: Final Report to The Honourable Society of the Inner Temple* (August 2015) for a more expansive discussion of the topic that includes the subjective experiences of low socio-economic students.

6 See Mara Kawehiwehi Hosoda “Optimising the New Zealand Law School Experience for Pacific Lawyers” (PhD Thesis, University of Otago, 2015) which has engaged with socio-economic background as an aspect of the experiences of members of other communities of equity interest rather than as a community of interest in its own right.

7 See, for example, Duncan Webb, Kathryn Dalziel and Kerry Cook *Ethics, Professional Responsibility and the Lawyer* (3rd ed, LexisNexis, Wellington, 2016) at 19; and Tim Dare *The Counsel of Rogues? A Defence of the Standard Conception of the Lawyer’s Role* (Ashgate, Farnham (UK), 2009).

8 This case study was conducted by the author. Any data and statistics given in this article that are not cited to a source should be considered to have been directly obtained by the author as part of the research conducted for the purposes of this study. Due to the conditions of the University of Auckland Human Participation Ethics Committee approval required for this study, the editors were unable to access and verify the raw data on which the analysis in this article is based. For the full range of the aggregated data, as well as additional figures and tables, see the dissertation on which this article is based. Ellen Stagwood “Socioeconomic Impact on Legal Education: A University of Auckland Case Study” (LLB(Hons) Dissertation, University of Auckland, 2017).

of the student body at each stage. This suggests students of higher decile backgrounds are more likely to gain entry into law school, complete their studies and graduate with Honours compared to their peers from lower decile schools.

As membership of the legal profession is restricted to those who have completed the LLB or LLB(Hons) programme, this disparity provides a broad indication of the SEB of those entering the profession and its impact on their experience. However, it is beyond this article to offer any definitive findings on that question. There are five other law schools that also provide graduates to the New Zealand profession,<sup>9</sup> and only about 60 per cent of law graduates will seek admission as barristers and solicitors of the High Court,<sup>10</sup> of which not all will seek to practice in New Zealand. Equally, as will be discussed later, decile ratings and SEB are imperfectly correlated in the case of individual students, though a school's decile can offer a meaningful indication of its students' SEB on average.

This article is structured as follows. Part II outlines the methodology of this study and identifies some limitations. Part III presents details of the findings and identifies trends in the data. Part IV discusses the questions raised by these findings. Most significantly, students originating from quintile 5 (deciles 9 and 10) secondary schools are present in significantly greater proportions than those originating from any other quintile at any stage of the LLB or LLB(Hons) programmes. These findings, and others discussed in detail below, suggest that there is vertical inequality between students of differing decile backgrounds in access to legal education.

Despite significant limitations on its scope, this case study suggests that the gains in descriptive representation of groups historically excluded from legal education and the profession in New Zealand have not extended to those of low SEB.

## II STUDY DESIGN, METHODOLOGY AND LIMITATIONS

### Study Design

The design of this study was significantly informed by overseas projects examining the impact of SEB on access to, and performance in, legal education and the profession.<sup>11</sup> In these studies, researchers sought to measure the SEB of law graduates and their academic and career performance over the years following their entry into practice.

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9 In addition to the University of Auckland, the Auckland University of Technology (AUT), The University of Waikato, Victoria University of Wellington, the University of Canterbury and the University of Otago each offer the LLB and LLB(Hons) programmes.

10 Adlam and Melligan, above n 1, at 48.

11 Freer, above n 5; Sander, above n 4; and Gary N Marks and Julie McMillan "Declining inequality? The changing impact of socio-economic background and ability on education in Australia" (2003) 54 *British Journal of Sociology* 453.

It was beyond the scope of this study to undertake a similar longitudinal assessment due to time restrictions. Furthermore, no direct measurement of SEB, such as parental income, was available for the University of Auckland, unlike in other studies.<sup>12</sup> Instead, the author collected data using two principal methods. First, the author obtained secondary school leaver information on students in the LLB and LLB(Hons) programmes at the University of Auckland in 2015 and 2016. This data was then combined with publicly available records concerning the calculation of secondary schools' deciles.

## Methodology

### *1 Rationale: University of Auckland LLB and LLB(Hons) Cohorts*

Students enrolling at the University of Auckland are required to state the secondary school that they most recently attended. When combined with publicly available decile ratings, which virtually all secondary schools in New Zealand possess, University enrolment records can therefore offer a decile profile of any given cohort of University of Auckland students.

This study was designed with the University of Auckland's law degree structure in mind. A brief outline of that structure follows for the benefit of readers unfamiliar with the Auckland law degree. The structure of the LLB has been altered in recent years. The following discussion refers to the degree as it was structured in 2015 and 2016.<sup>13</sup>

At the University of Auckland, the LLB is comprised of Parts I, II, III and IV. This is usually completed over eight consecutive semesters of full-time study.<sup>14</sup> The great majority of LLB students complete another degree programme conjointly,<sup>15</sup> extending their time studying to at least ten consecutive semesters of full-time study.<sup>16</sup>

In 2015, Part I of the LLB comprised two compulsory law courses and at least six other courses selected by the student, drawn from another degree programme in which the student is enrolled. In 2015, 1253 students enrolled in LAW 121, the first of the two compulsory courses.

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12 See Raj Chetty and others *Mobility Report Cards: The Role of Colleges in Intergenerational Mobility* (National Bureau of Economic Research, Working Paper 23618, July 2017) for an example of the use of anonymised tax and tuition records to examine the intergenerational transition of social capital. Such a study would be significantly more difficult to achieve under New Zealand privacy laws, meaning that a comprehensive dataset was available for the University of California, Los Angeles that was not available for the University of Auckland.

13 Andrew Kellett (ed) *The University of Auckland 2015 Calendar* (University of Auckland, Auckland, 2014) [2015 Calendar] at 247–249, 351–352, 355–358 and 360–361; and Andrew Kellett (ed) *The University of Auckland 2016 Calendar* (University of Auckland, Auckland, 2016) [2016 Calendar] at 279–281, 388, 393, 396–400, and 402–403.

14 *Auckland Law School Undergraduate Prospectus 2019* (University of Auckland, Auckland, 2018) [2019 Law Prospectus] at 3.

15 In 2016, 79.66 per cent of the 290 students that graduated with LLB or LLB(Hons) at the University of Auckland graduated with a conjoint degree, which is roughly equivalent to that of each of preceding 10 years and the following year. See University of Auckland "Graduate database" <[www.auckland.ac.nz](http://www.auckland.ac.nz)>.

16 *2019 Law Prospectus*, above n 14, at 5.

Some students may attempt entry into the LLB after having completed another degree at the University of Auckland or at another institution. These students are required to complete the compulsory Part I law courses, with the remaining non-law courses drawn from the student's best and most recent points from their existing qualification.<sup>17</sup> Prospective graduate entry students may also sit the Law School Admission Test (LSAT) and use their score in that test in conjunction with their most recent year's worth of grades to prove their aptitude.<sup>18</sup> However, students admitted through this pathway must then complete the compulsory Part I courses concurrently with Part II of the degree, rendering it comparatively onerous.<sup>19</sup>

In 2015, entry from LAW 121 into LAW 131, the second of the two compulsory Part I courses, was restricted to students who attained a C+ or higher pass in LAW 121.<sup>20</sup> This contributes to the attrition of approximately 35 per cent in the numbers enrolled in LAW 131 compared to LAW 121.

Admission into Part II of the LLB programme is limited. Students enrolled in LAW 131 in Semester Two 2015 were invited to apply for admission to Part II of the LLB programme at the end of that year. Admission was determined on the basis of a weighted grade point average (GPA) across the applicants' results in the two law courses (each weighted at 20 per cent) and their best six other courses completed that year (each weighted at 10 per cent, totalling 60 per cent).<sup>21</sup> For graduate admission, the best six courses from their most recent year of study can be considered.<sup>22</sup> In 2015, the highest achieving 300 students not eligible for consideration under a targeted admissions scheme<sup>23</sup> were invited to progress onto Part II.<sup>24</sup> General admission to Part II requires a GPA of between B+ (74.50 per cent to 79.49 per cent) and A- (79.50 per cent to 84.49 per cent).<sup>25</sup> A small, unrecorded number of students that have completed Part I of their LLB at other New Zealand universities were also permitted to enter Part II of the Auckland LLB.

Students admitted to Part II complete five compulsory courses. The majority of law students completing another degree conjointly will typically complete these courses over two years of full-time study, but are free to complete the courses in any combination over any number of years.<sup>26</sup>

Upon completion of Part II, students who have achieved a minimum GPA of B+ across Parts I and II of their programme are invited to enrol in the LLB(Hons) programme.<sup>27</sup> These students represented 30 per cent of the cohort

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17 At 3 and 6.

18 At 3 and 6.

19 At 6.

20 *2015 Calendar*, above n 13, at 666.

21 From 2018, the entry requirements have changed. Entry into Part II LLB is now based on the student's results from *three* Part I Law papers: LAW 121, LAW 131 and LAW 141, plus their best results in five other papers. See *2019 Law Prospectus*, above n 14, at 3.

22 *2015 Calendar*, above n 13, at 248.

23 Those students applying under the Maori, Pacific, Disabilities, Refugee and Low Socio-economic Background schemes must achieve at least a C+ (59.50–60.49 per cent) average to be considered.

24 *2015 Calendar*, above n 13, at 44.

25 University of Auckland "Entry requirements for the LLB" (2017) <[www.auckland.ac.nz](http://www.auckland.ac.nz)>.

26 *2019 Law Prospectus*, above n 14, at 5.

27 *Auckland Law School 2016 Handbook* (Auckland Law School, Auckland, 2016) at 10.

in 2016. While students achieving the requisite GPA after completing further study in Parts III and IV of the LLB could also enter the LLB(Hons) programme, over 90 per cent of LLB(Hons) students enter the programme directly after finishing Part II.<sup>28</sup> Those students not admitted into the LLB(Hons) programme, who elect to withdraw after admission, or whose average grade across all law and Honours courses falls below 75 per cent before completing the LLB(Hons) programme graduate with an LLB instead of LLB(Hons). Those admitted into the LLB(Hons) programme complete the requirements of Parts III and IV of the degree plus a further two research papers, the total workload of which is equivalent to an additional semester of full-time enrolment.<sup>29</sup>

Parts III and IV of the degree are generally completed over four consecutive semesters of full-time enrolment following the completion of Part II. Part III is comprised of four compulsory 300-level courses and Part IV a number of elective courses equivalent to the workload of about three semesters of full-time enrolment. The point value of each of these courses varies, meaning that students could use anywhere between nine and 18 elective courses to complete their Part IV requirements. Most students in the LLB(Hons) cohort in a given semester will likely also be members of this cohort, save for the fact that a significant proportion of LLB(Hons) students elect to complete the second research paper in the semester after completing the Part IV requirements.

As a matter of practice, students' status as Part III or IV students does not necessarily reflect the year of their studies they are completing, as students do not formally advance to Part IV until after they complete all LAW 300-level courses. Some students may choose to do their LAW 300-level courses across multiple years concurrently with their Part IV electives. Accordingly, these students would finish Part III and IV at the same time. Thus, there is limited value in distinguishing between Part III and Part IV students, and this study will refer to them jointly as the Parts III/IV cohort.

The invitation to enter Part II of the LLB or LLB(Hons) programme is conditional on academic performance. Thus, comparing the proportions of students from secondary schools of differing deciles who gain entry into Part II can suggest a correlation between SEB and academic performance. Additionally, comparing the composition of the Part II and III/IV cohorts may indicate any disparities in attrition rates between students of differing decile backgrounds. These data sets could support an inference about the impact of a student's SEB on their ability to access and succeed in legal education.

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28 Email from Stephen Penk (Associate Dean (Academic), Auckland Law School) to Ellen Stagwood regarding entry to the University of Auckland Honours programme (15 May 2017).

29 2016 *Calendar*, above n 13, at 281.

## 2 Rationale: Secondary School Enrolment Data Request

Data requests were sent to the University of Auckland Deputy Vice-Chancellor (Operations) in her capacity as Registrar. This study sought data on the secondary school backgrounds of the following cohorts:

1. 2015 Part I LLB cohort;
2. 2016 Part II LLB cohort;
3. 2016 Parts III/IV LLB cohort; and
4. 2016 LLB(Hons) cohort.

In responding to the information request, the University Registry determined a student's membership of a relevant cohort based on their enrolment in relevant courses. Therefore:

1. the 2015 Part I LLB cohort was defined as those enrolled in any LAW 100-level course in 2015;
2. the 2016 Part II LLB cohort was defined as those enrolled in any LAW 200-level course in 2016;
3. the 2016 Parts III/IV LLB cohort was defined as those enrolled in any LAW 300-level or 400-level course, or any LAWGENRL, LAWENVIR, LAWCOMM or LAWPUBL course, in 2016; and
4. the 2016 LLB(Hons) cohort was defined as those enrolled in any LAWHONS course in 2016.

As identified in the limitations section below, the format in which the University provided information imposed significant limitations on the study. Unfortunately, given the need to protect the anonymity of individual students, and the limited resources available to the University in responding to the information request, it was not possible to secure more specific data such as gender or ethnicity.

Selecting specific cohorts allowed for a decile-based comparison of students within a single Part I cohort as they progress through the first restrictive gateway to legal education. However, the 2016 Parts II, III, IV and LLB(Hons) cohorts described in this article do not represent the progress of any other single graduating class progressing through law school.

## 3 The Decile Rating System

Virtually all secondary schools in New Zealand are assigned to one of 10 decile bands by the Ministry of Education. A school's decile rating is calculated based on census data about the geographic communities in which the students of these schools reside. Decile ratings are indicative of the socio-economic conditions in these communities, being based on metrics such as household crowding, parental education, the proportion of parents receiving income support benefits, the proportion of parents employed in the lowest skill level occupational groups, and the percentage of households with income in the lowest 20 per cent nationally.<sup>30</sup> Decile 1 contains the 10 per cent of New

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30 Ministry of Education "School deciles" (4 December 2017) <[www.education.govt.nz](http://www.education.govt.nz)>.

Zealand schools whose students reside in the most socio-economically deprived geographic communities in New Zealand, and decile 10 the least.

Decile information was retrieved from publicly available Ministry of Education databases containing the Ministry of Education's final list of school deciles for 2015.<sup>31</sup> This list states the final results of the decile recalculation process that began in 2014 following the 2013 census. Most non-state or non-state-integrated schools — which do not appear on this list as none of their funding is determined by their decile allocation — also received decile rankings that were freely retrievable from other Ministry databases.<sup>32</sup> A small number of Academic Colleges Group private schools with no decile information for 2015 available from either source were rated on the basis of their most recently available decile report.<sup>33</sup>

The deciles used in this report therefore relate to the socio-economic conditions in the geographic communities in which students of the relevant schools resided on the night of the 5 March 2013 census. The conditions in these communities — and thus a school's *true* decile position — may have been substantially different at the time that the students captured in the cohorts attended those secondary schools than it was on census night in 2013. This is an important limitation in the case of any mature students within the law school cohorts, whose decile rating relates to their last attended school's *current* socio-economic environment, which may not accurately reflect their school's status historically. However, data retrieved from the University of Auckland indicates that 90 per cent of students in the 2015 Part I LLB cohort were 2014 school leavers. This is consistent with the position at other law schools.<sup>34</sup> Therefore, while potentially affecting only a small part of the relevant cohort, the presence of mature-aged students (whose school deciles may have changed in the time between school and university attendance) remains a significant factor not accounted for by the design of this study.

Students that attended schools that have been absorbed or combined with another school were coded using the new school's decile data. Students whose last attended secondary school has never been allocated a decile rating — including international students, homeschooled students or students of Te Aho o Te Kura Pounamu (the Correspondence School) — were excluded from their relevant cohorts for the purposes of this study as no measure comparable to their last attended school's decile rating could be obtained. Table 1 notes the numbers of students that are so excluded from each cohort.

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31 “Decile Change 2014 to 2015 for State & State Integrated Schools” in Ministry of Education, above n 30.

32 Directories containing decile information for a number of these schools is available at “Private Schools Directory” in Ministry of Education “Private Schools” (March 2018) Education Counts <[www.educationcounts.govt.nz](http://www.educationcounts.govt.nz)>. Data of the most recent decile rating for individual schools without a decile at the time of the most recent version of the directory is retrievable at Te Kete Ipurangi “Schools” <[www.tki.org.nz](http://www.tki.org.nz)>.

33 For example, ACG Sunderland had no decile listing at the time of writing, but had previously been assigned a decile rating. See Richard Thornton “ACG Sunderland” (Education Review Office, Wellington, 11 November 2010).

34 Adlam and Melligan, above n 1, at 46.



Cohort	Number Excluded	Size of Cohort	Percentage of Cohort Excluded (2 dp)
2015 Part I LLB	81	1252	6.47
2016 Part II LLB	29	635	4.57
2016 Parts III/IV LLB	45	787	5.72
2016 LLB(Hons)	18	231	7.79

Table 1. *Number of Students Excluded from Relevant Cohorts because of Inability to Code Decile of Last Secondary School Attended*

The enrolment information provided by the University of Auckland was then compared with the Ministry of Education information to identify the decile of the last secondary school attended by each student within each cohort.

Decile rating data was analysed by quintile groupings for ease of comparison with Ministry of Education reports referred to later in this article, which use quintiles rather than deciles. Quintiles were then used to report other results to maintain consistency. Each quintile grouping is comprised of two consecutive deciles, numbered sequentially. For example, quintile 1 is deciles 1 and 2.

#### *4 Ethics Approval*

The University of Auckland Human Participants Ethics Committee approved this research (protocol number 019031). All data requests sent to the University of Auckland for school leavers' data were made on the basis that the enrolment information was not by itself capable of identifying individual students. Requests were made with the understanding that any data received and subsequently presented for publication would be aggregated in a manner that further protected the confidentiality of each student.

### **Significant Limitations**

#### *1 The Use of Decile*

SEB is notoriously difficult to measure accurately. The question of the best methodology to employ in measuring the SEB of law students has been the source of considerable discussion in overseas literature on this topic.<sup>35</sup> Rather than undertake the enormous task of developing a rigorous methodology for comprehensively describing the SEB of Auckland Law School students, the author elected to use the decile of the last secondary school attended by these students as rough indicia of their SEBs. As the school decile system is unique to New Zealand, other jurisdictions, in which

<sup>35</sup> See Sander, above n 4, for discussion of these difficulties.

comparable research has been undertaken, have not had access to a similarly readily available measure of the socio-economic circumstances of a student's secondary school.

However, the use of decile information for these purposes raises a number of significant limitations. Because the Ministry of Education calculates decile ratings using national reference points and averages related to the geographic communities — comprising areas of about 100 households<sup>36</sup> — in which students at a school reside, it is unable to determine the SEB of any given individual student. Rather, decile ratings reflect the extent to which the school drew its students from communities of lower socio-economic status. Therefore, a school's decile rating cannot identify a student with a high SEB attending a low decile school, or a low SEB student attending a high decile school. However, school deciles do allow for the ranking of the probability that any given student from a school is of low individual SEB: the lower the decile, the lower the probability. Equally, this does not preclude the interesting possibility that those students from low decile schools admitted to legal education or practice are amongst the highest SEB individuals from their schools. While this possibility requires future study, it nonetheless remains a significant limitation on this study.

## 2 *Blindness to Intersectionality*

A significant limitation of this research is that it is blind to ethnicity, gender and sexual identity. These factors are critical components of an individual's SEB that can significantly affect their social mobility. Regrettably, the scope of this study could not include these factors, and the author would encourage more research on the matter.

More broadly, this article does not seek to undermine the importance of measures undertaken to increase descriptive representation of female, non-European or other individuals with diverse backgrounds in legal education and the profession in New Zealand. Some studies on this topic in other jurisdictions were undertaken with the intention of suggesting, or were presented by proponents of, the abolition of existing affirmative action measures in favour of those addressing SEB.<sup>37</sup> Such claims are not advocated here — this research seeks to complement existing initiatives and research addressing differing access to legal education by ethnicity, gender, sexual identity and cultural backgrounds.

## 3 *Limited Chronological Scope of Study*

This article merely aims to raise an arguable case for, rather than conclusively establish, the existence of a systemic barrier to access to legal education and

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36 New Zealand Post Primary Teachers' Association "NZ Schools: The decile system NZPPTA Background Paper" (NZPPTA Issues and Organising Seminar, Wellington, 2013) at 2.

37 See, for example, Richard H Sander "A Systemic Analysis of Affirmative Action in American Law Schools" (2004) 57 *Stan L Rev* 367.

the profession on the basis of SEB by illustrating the decile composition of the Auckland Law School at different stages of the LLB programme. Therefore, the decile snapshot provided by this article captures only the decile profile of the law school from 2015 to 2016.

#### 4 *Blurred Cohorts*

An additional limitation is the inclusion of the negligibly small number of students who were completing LAW 200-level, 300-level and 400-level courses under a Certificate of Proficiency, as opposed to under an LLB or LLB(Hons). These students were likely lawyers trained overseas undertaking these studies prescribed by the Council of Legal Education as a condition of their admission to the bar in New Zealand.<sup>38</sup> It would be desirable to exclude these individuals from future research, if possible, as they are not part of any year's cohort progressing through the law degree programme.

The University included in the 2015 Part I cohort data any student enrolled in either LAW 121 or LAW 131 in 2015. One limitation arises from the fact that LAW 121 is also offered as a General Education course. General Education is a University of Auckland initiative designed to provide students with a well-rounded education by requiring most undergraduates to complete two courses not related to their degree programme.<sup>39</sup> Those students who merely wished to enrich their knowledge of law and society in New Zealand, rather than gain admission to Part II, will therefore be included in this Part I cohort. Additionally, some students who are interested in enrolling into the LLB at the start of their Part I year elect not to apply for admission to Part II after completing LAW 121 or even LAW 131, having lost their taste for the subject. The manner in which the data was provided meant it was not possible to exclude these student groups. Furthermore, it was impossible to identify those students who failed to achieve the grades required in LAW 121 to advance to LAW 131.

The University's inclusion of all students enrolled in any LAW 200-level course in the Part II cohort significantly impairs the direct comparability of the 2015 Part I and 2016 Part II cohorts. This is because a significant number of those enrolled in LAW 200-level courses in 2016 would have been admitted to Part II at the end of 2014 and would have completed their Part II requirements over the course of 2015 and 2016, particularly if they were undertaking a conjoint degree. Additionally, a small but non-negligible number of students enrolled in LAW 200-level courses in 2016 will have been admitted to Part II of LLB at the University of Auckland after having completed their Part I LLB requirements at another university. The inclusion of these students means that the Part II cohort includes not just the 2015 Part I cohort which gained restricted entry, but also contains the 2014 Part I cohort as well as postgraduate entries and transfers from other universities. These

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38 *Assessment of Overseas Law Qualifications Information Brochure* (New Zealand Council of Legal Education, Auckland, 2018) at 11.

39 See generally "Programme overview" University of Auckland <[www.auckland.ac.nz](http://www.auckland.ac.nz)>.

groups were not able to be distinguished due to the format in which the information was provided.

The inclusion of all students enrolled in any LAW 300-level or 400-level course in the 2016 Parts III/IV cohort is significant as this cohort will therefore also include students who have also been admitted into the LLB(Hons) programme, resulting in a significant double-counting of students in both cohorts. Due to the high average quintile rating of LLB(Hons) students noted below, their inclusion in the Parts III/IV cohort suggests that the rest of the Parts III/IV cohort might have had a lower socio-economic profile than the data indicates.

Enrolment in LAWHONS courses were used to determine admission into the LLB(Hons) programme. However, it is not uncommon for students pursuing conjoint degree to complete the first research paper required for LLB(Hons) in the fourth year of their degree, and the dissertation in the semester following the completion of their fifth year of study. Similarly, non-conjoint LLB(Hons) students, whose degrees typically take about four years, may do their first research paper in the third year and the dissertation after their fourth year. Therefore, some portion of those admitted into the LLB(Hons) programme in 2016 will not have been included in this population as, for example, they may have completed one LAWHONS paper in 2015 and another in 2017.

### *5 Admission into Restricted Entry Programmes*

The decision to invite a student to Part II LLB and the LLB(Hons) programme is purely based on academic performance. Enrolment in these programmes thus provides an easily ascertainable indicator of academic achievement in its strictest sense. Using this benchmark allows student achievement to be measured without unduly compromising the privacy of individual students, as would have occurred if student GPA information had been requested from the University in addition to the secondary school enrolment information.

However, admission into the LLB(Hons) programme is by no means the sole indicator of academic success. For example, a number of high-achieving students choose to forgo the LLB(Hons) programme as it involves a considerable additional workload and often prolongs the timeframe until graduation. It also involves substantial additional expenses, with tuition for the two LAWHONS courses costing about \$5,000.<sup>40</sup> These factors lead several students to decline admission to the LLB(Hons) programme, or to withdraw before completing the LLB(Hons) degree. Gaining entry into the LLB(Hons) programme therefore cannot be a strict indicator for academic success amongst law students.

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40 2016 Calendar, above n 13, at 56.

### III RESULTS

This Part follows the progression of a law student from leaving secondary school to graduating from the Auckland Law School. The first section identifies which secondary school students transitioned from school to the 2015 Part I LLB cohort. The second considers the composition of those students who succeeded in gaining access to further legal education as part of the 2016 Part II LLB cohort. The third section compares the composition of the 2016 Part II and 2016 Parts III/IV cohorts. Finally, the fourth section compares the composition of the 2016 Parts III/IV and LLB(Hons) cohorts and offers some insight into the comparative success of different quintile groups in pursuing legal education.

The results at each stage indicate that students from quintile 5, which includes those from most private schools, comprise a significantly greater proportion of the student population than those originating from any other single quintile at any stage of the LLB or LLB(Hons) programmes in the sample cohorts, and are present in greater numbers than students from all other quintiles combined from Part II onwards. Students from quintile 5 are more likely to try their hand at Part I, are found in higher numbers in Parts II and III/IV, and comprise the largest proportion of students enrolled in LAWHONS courses. Meanwhile, though students from the middle quintiles are present in significantly smaller proportions in the later stages of the LLB caught in this snapshot than at the beginning, quintile 1 student are present in the smallest numbers at all stages of the LLB and particularly the LLB(Hons) programme.

#### **Deciding to Try: From Secondary School to the 2015 Part I LLB Cohort**

Table 2 shows the number of students in the 2015 Part I LLB cohort from each quintile grouping of the last secondary school they attended, and the percentage of the cohort comprised of students from each quintile grouping. The total number of students in the 2015 Part I LLB cohort is 1,253. However, for the purposes of this study, 84 of those students will be excluded due to their last enrolled secondary school having no associated encodable decile information. Thus, this study took 1,169 as the total number of students in the 2015 Part I LLB cohort.

Quintile	Number of Students from Quintile in Cohort	Percentage of Cohort (2 dp)
1	83	7.10
2	178	15.23
3	110	9.41
4	245	20.96
5	553	47.31
Total	1,169	100

Table 2. *Students in 2015 Part I LLB Cohort by Quintile Grouping of Last Secondary School Attended*

### The First Bottleneck: Limited Admission from Part I to Part II LLB

Upon completing Part I, less than a quarter of students were invited to continue their law degree through to Part II. To track this transition, Table 3 compares the percentage that students from each quintile comprises in the 2015 Part I LLB cohort with the 2016 Part II LLB cohort. This study will take, as the total number of students in the 2016 Part II LLB cohort, 604 out of the 635 students enrolled in LAW 200-level courses in 2016. Again, the exclusion of some students for the purposes of this study is due to their last enrolled secondary school having no associated encodable decile information.

Quintile	Number of Students in 2015 Part I LLB Cohort	Percentage of 2015 Part I LLB Cohort (2 dp)	Number of Students in 2016 Part II LLB Cohort	Percentage of 2016 Part II LLB Cohort (2 dp)	Percentage Change in Proportion (2 dp)
1	83	7.10	19	3.15	- 55.63
2	178	15.23	78	12.91	- 15.23
3	110	9.41	53	8.77	- 6.80
4	245	20.96	119	19.70	- 6.01
5	553	47.31	335	55.46	+ 17.23
Total	1,169	100	604	100	

Table 3. *Comparison of Students in 2015 Part I LLB and 2016 Part II LLB Cohorts by Quintile Grouping of Last Secondary School Attended*

Comparing the quintile profiles of the 2015 Part I LLB and 2016 Part II LLB cohorts, the largest proportional change is the proportion of quintile 1 students decreasing by 55.63 per cent, from comprising 7.10 per cent of the cohort to 3.15 per cent. The two grouping that experienced the smallest percentage change in proportion is quintile 4, which decreased by 6.01 per cent, from 20.96 per cent to 19.70 per cent. Every quintile grouping experienced a decrease in percentage change in proportion except quintile 5. Indeed, those decreases correspond to the considerable 17.23 per cent increase in the proportion of quintile 5 students, the proportion of which rose from 47.31 per cent to 55.46 per cent. The data suggests students from quintile 5 schools have a higher chance of being admitted into Part II than their lower quintile peers.

### Who Continues? From Part II to Parts III and IV

After students complete Part II LLB, they must complete compulsory and elective papers at Parts III and IV before graduating with an LLB. To track this transition, Table 4 compares the percentage representation of students from each quintile in the 2016 Part II cohort with the 2016 Parts III/IV cohort. This study takes, as the total number of students, 742 of the 787 students enrolled in LAW 300-level, LAW 400-level and LAWGENRL, LAWCOMM, LAW PUBL and LAW ENVIR courses in 2016. Again, the exclusion of some students in this study is due to their last enrolled secondary school having no associated encodable decile information.

Quintile	Number of Students in 2016 Part II LLB Cohort	Percentage of 2016 Part II LLB Cohort (2 dp)	Number of Students in 2016 Parts III/IV LLB Cohort	Percentage of 2016 Parts III/IV LLB Cohort (2 dp)	Percentage Change in Proportion (2 dp)
1	19	3.15	23	3.10	- 1.59
2	78	12.91	83	11.19	- 13.32
3	53	8.77	63	8.49	- 3.19
4	119	19.70	128	17.25	- 12.44
5	335	55.46	445	59.97	+ 8.13
Total	604	100	742	100	

Table 4. *Comparison of Students in 2016 Part II LLB and 2016 Parts III/IV LLB Cohorts by Quintile Grouping of Last Secondary School Attended*

Most significantly, quintile 2 decreased by 13.32 per cent from 12.91 per cent to 11.19 per cent. The change in quintile 4 was almost as significant, having decreased by 12.44 per cent from 19.70 per cent to 17.25 per cent. The proportion of students from quintile 1 remained steady, having only declined by 1.59 per cent. Quintile 5 students were the only group to see an increased percentage change in proportion, increasing by 8.13 per cent from 55.46 per cent to 59.97 per cent. Again, this evidence could suggest that students from a quintile 5 secondary school are more likely than their peers to progress from Part II LLB to Part III and IV LLB.

### A Final Hurdle: Admission into LLB(Hons)

Upon completing Part II LLB, some students will have achieved a B+ average across their papers. These students are invited by the faculty to enrol in LLB(Hons), to be completed concurrently with Part III and IV of their degrees (and an extra semester at the end). Table 5 compares the percentage that students from each quintile comprises in the 2016 Parts III/IV LLB cohort with the 2016 LLB(Hons) cohort. This study will take, as the total number of students, 213 of the 231 students enrolled in LAWHONS courses in 2016. Again, with the same caveat of exclusion as above.

Quintile	Number of Students in 2016 Parts III/IV LLB Cohort	Percentage of 2016 Parts III/IV LLB Cohort (2 dp)	Number of Students in 2016 LLB(Hons) Cohort	Percentage of 2016 LLB(Hons) Cohort (2 dp)	Percentage Change in Proportion (2 dp)
1	23	3.10	2	0.94	- 69.67
2	83	11.19	18	8.45	- 24.49
3	63	8.49	23	10.80	+ 27.21
4	128	17.25	35	16.43	- 4.75
5	445	59.97	135	63.38	+ 5.67
Total	742	100	213	100	

Table 5. *Comparison of Students in 2016 Part II LLB and 2016 Parts III/IV LLB Cohorts by Quintile Grouping of Last Secondary School Attended*

Barring quintile 1, which will be discussed below, the most significant percentage change in proportions between the two populations is seen in quintile 2, which decreased by 24.49 per cent from 11.19 per cent to 8.45 per cent. The proportion of Quintile 4 students decreases by 4.75 per cent from 17.25 per cent to 16.43 per cent. Continuing the emerging trend across



previous comparisons, the proportion of quintile 5 students increased once again, this time by 5.67 per cent from 59.97 per cent to 63.38 per cent. However, in an interesting break from the trend, the proportion of quintile 3 students increased by 27.21 per cent from 8.49 per cent to 10.80 per cent.

Most dramatically, the proportion of students from quintile 1 decreased by 69.67 per cent, from 3.10 per cent to 0.94 per cent. This substantial percentage change for the was largely due to the relatively small number of quintile 1 students in absolute terms in both populations. That being said, the number of quintile 1 students does decrease by 91.30 per cent in absolute terms, from 23 to two. The decline in the number of quintile 2 students is the next largest in absolute terms, at 73.31 per cent, decreasing from 83 to 18. As discussed below, this is consistent with the overall trends observed in the changes in proportions, and changes in absolute terms, of students from each quintile grouping across each stage of the LLB and LLB(Hons) programmes.

## IV DISCUSSION

### Identifying Potential Trends

Given the limitations on this study noted in Part II, the existence of the potential trends noted below must be assessed cautiously and corroborated by future research.

The findings suggest that the proportion of quintile 5 students — already larger than any other single quintile of students in the 2015 Part I LLB cohort — increases between the 2016 Part II cohort and Parts III/IV cohort, and again between the Parts III/IV cohort and the LLB(Hons) cohort. From Part II of the LLB onwards in the cohorts examined, quintile 5 students are present in greater proportions than students of all other quintiles combined. The prevalence of quintile 5 students is particularly evident when the data is presented graphically. Figure 1 below notes the proportion of each quintile grouping at each of the four stages of the LLB and LLB(Hons) programmes examined in this article, with numbers as taken from Tables 2–5.

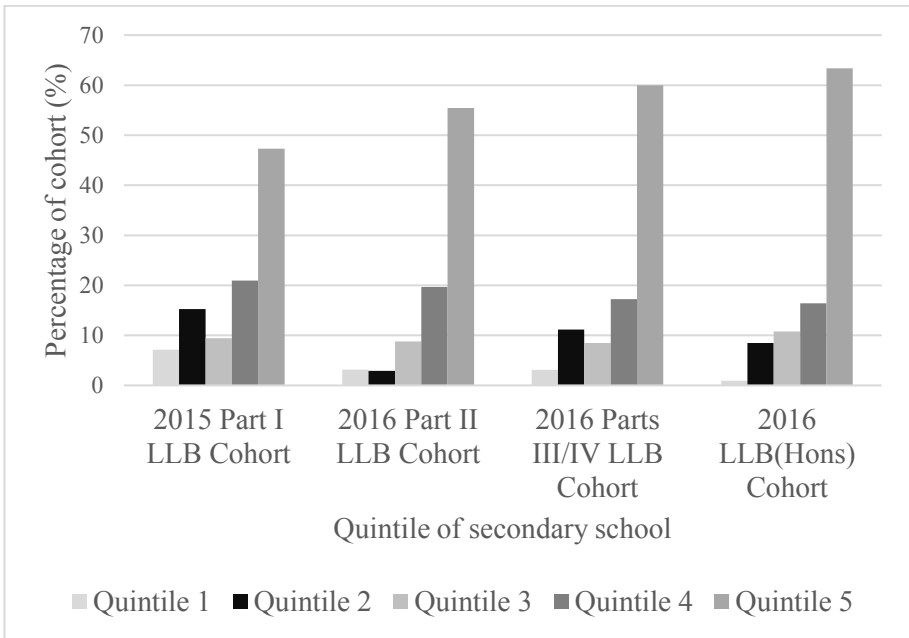


Figure 1. *Comparison of Percentage of Students in Each Cohort of Each Quintile Grouping of Last Secondary School Attended*

In displaying the information in this manner, it is important to emphasise once again the considerable limitations on this study. While the impression conveyed by Figure 1 is that of a trend, the non-comparable aspects of the populations depicted and the other limitations noted above mean that apparent correlation is not certain. Nonetheless, the limited objective of this article — that is, raising an arguable case for a possible relationship between decile background and success in accessing and receiving legal education — appears to have been achieved. This might in turn suggest a relationship between student success at these pursuits and their SEB.

Additionally, if the constituent deciles of quintile 5 are divided, a further potential trend emerges. It appears that decile 10 students may be more likely than decile 9 students to increase in proportion across the different stages of the LLB programme, and to be more highly represented in the LLB(Hons) programme.

Cohort	Percentage of Cohort Comprised of Decile 9 Originating Students	Percentage Change from Preceding Cohort	Percentage of Cohort Comprised of Decile 10 Originating Students	Percentage Change from Preceding Cohort
2015 Part I LLB Cohort	25.15		22.16	
2016 Part II LLB Cohort	29.64	+ 17.85	25.83	+ 16.56
2016 Parts III/IV LLB Cohort	28.71	- 3.13	31.27	+ 21.06
2016 LLB(Hons) Cohort	27.70	- 3.52	35.58	+ 13.78

Table 6. *Percentage of Each Cohort Comprised of Decile 9 and 10 Originating Students and Comparison of Percentage Changes in Composition Between Successive Cohorts*

A potential analysis indicated by these figures is that while students originating from decile 9 and 10 schools arrive at the University of Auckland well prepared for the initial academic challenge of securing entry into law school, something in the opportunities or resources provided to students from the uppermost decile allow them to continue to succeed at progressively greater rates compared to even the next decile band of students over time. Meanwhile, decile 9 students, having secured entry into Part II, are less likely to enter the LLB(Hons), and there is evidence that they may be experiencing minor yet perceptible attrition.

Whether the potential trends suggested by this snapshot actually occur is a subject for future research. Nonetheless, this finding complements the quintile 5 trend proposed above, suggesting that students originating from secondary schools of the highest deciles may perform better academically than their peers throughout their careers at law school.

Meanwhile, the proportion of quintile 1 students — already present in the lowest proportions in the 2015 Part I LLB cohort — either decrease in proportion or, at most, remain steady across the 2016 Parts II, III/IV LLB, and LLB(Hons) cohorts. This can be seen in Table 7, which shows the percentage of each cohort comprised of students from quintile 1 as they progress through law school, and the percentage change from the preceding cohort. Both the high percentage decreases and the small absolute numbers suggests that individuals from the lowest decile backgrounds may experience the least success in accessing and successfully pursuing legal education.

Cohort	Percentage of Cohort Comprised of Quintile 1 Originating Students	Percentage Change from Preceding Cohort
2015 Part I LLB Cohort	7.10	
2016 Part II LLB Cohort	3.15	- 55.63
2016 Parts III/IV LLB Cohort	3.10	- 1.59
2016 LLB(Hons) Cohort	0.94	- 69.68

Table 7. *Percentage of Each Cohort Comprised of Quintile 1 Originating Students and Percentage Changes in Composition Between Successive Cohorts*

The greatest proportional decrease between the 2015 Part I LLB and 2016 Part II LLB cohorts is that in quintile 1, as seen in Table 3 above. Quintile 5 is the only quintile group that rises in proportion in the LLB(Hons) cohort, as seen in Figure 1 above. Given that enrolment in the LLB(Hons) programme is an indirect assessment of academic success, this finding further suggests that quintile 1 students face barriers to their legal education that their quintile 5 peers may not. More data across a series of years is needed to make more determinative claims about such trends.

No clear potential trend emerges in considering quintiles 2, 3, and 4. Figure 1 above demonstrates the lack of any obvious trends in the data.

### **Corroborating Evidence: Preparation for Legal Education**

Some of the data above suggests that high decile students may be outperforming their lower decile peers through their progression in legal education. Some trends in secondary schools themselves may be contributing to this apparent trend.

While different skills and disciplines are required at each stage, educational achievement at secondary school might reasonably be expected to correlate with future academic success at university. Practically, this assumption is supported by the great effort that New Zealand universities invest in competing to offer scholarships and other preferential treatment to top school leavers.<sup>41</sup> It is therefore significant that 16.10 per cent of students

41 For example, in 2018, the University of Auckland Top Achiever Scholarship offered up to 250 academically accomplished school leavers with excellent records of community involvement, artistic achievement or sporting success, or some combination of the three, \$20,000 and guaranteed placement in university accommodation. “The University of Auckland Top Achiever Scholarships” (17 May 2018) University of Auckland <[www.auckland.ac.nz](http://www.auckland.ac.nz)>. Comparable scholarships are available at all of New Zealand’s other universities. In addition to competitive scholarships, several universities also offer guaranteed scholarships — albeit of lesser value — to students who NCEA Levels 2 and 3 with Merit or Excellence endorsement. This provides an incentive for students to trade off the opportunity for a greater reward with a competitive scholarship for the certainty of the

from deciles 8 through 10 schools achieved NCEA Level 3 with Excellence in 2014.<sup>42</sup> This is the year in which the school leavers in the 2015 Part I LLB cohort — who comprise more than 90 per cent of the cohort — would have completed their secondary education. As Table 8 shows, this is 45.05 per cent greater than the proportion of students from decile 4 through 7 schools who received that accolade, and 235.42 per cent greater than the number of students from deciles 1 through 3 schools who achieved the Excellence endorsement.<sup>43</sup>

Decile Grouping	Percentage of Students in Decile Grouping with NCEA Level 3 Excellence Endorsement in 2014 <sup>44</sup>	Percentage Change from Preceding Decile Grouping	Percentage Change from Deciles 1–3
Deciles 1–3	4.8		
Deciles 4–7	11.1	+ 131.25	+ 131.25
Deciles 8–10	16.1	+ 45.05	+ 235.42

*Table 8. Percentage of Students in Decile Groupings with NCEA Level 3 Excellence Endorsement (2014)*

16.1 per cent of students from deciles 8–10 secondary schools are likely to receive NCEA Level 3 endorsed with Excellence, as opposed to 11.11 per cent of deciles 4–7 students and 4.8 per cent of deciles 1–3 students.

The rate at which students from different decile backgrounds are eligible to have one or more courses endorsed with Excellence at NCEA Level 3 demonstrates a similar trend. Furthermore, 93.7% of deciles 8–10 students will receive one or more NCEA level 3 course endorsed with Excellence, compared with 87.2% of deciles 4–7 students and 77.1% of deciles 1–3 students. This can be seen in Table 9 below.<sup>45</sup>

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guaranteed scholarship. Every year, the University of Otago attempts to attract the top academic achiever from each secondary school in New Zealand by offering the duces of each school an automatic scholarship and placement in residential college. University of Otago “Terms and Conditions” (9 May 2018) <[www.otago.ac.nz](http://www.otago.ac.nz)>.

42 *Annual Report on NCEA and New Zealand Scholarship Data and Statistics (2016)* (New Zealand Qualifications Authority, Wellington, 2017) at 48.

43 At 48.

44 At 48. These percentages were provided by the New Zealand Qualifications Authority to 1 decimal place.

45 At 54.

Decile Grouping	Percentage of Students in Decile Grouping with One or More NCEA Level 3 Excellence Course Endorsements in 2014 <sup>46</sup>	Percentage Change from Preceding Decile Grouping	Percentage Change from Deciles 1–3
Deciles 1–3	77.1%		
Deciles 4–7	87.2%	+ 13.10%	+13.10%
Deciles 8–10	93.7%	+ 7.45%	+ 21.53%

Table 9. Percentage of Students in Decile Groupings with One or More NCEA Level 3 Course Excellence Endorsement (2014)

These findings indicate that students of higher decile schools consistently achieve greater academic performance in secondary education than students from lower decile schools. This suggests that students from higher decile schools may be more familiar with the skills and habits conducive to academic success. This may transfer into the university environment and account for the potential trends noted above, given that admission to Part II is determined almost exclusively by academic performance.

Relatedly, it appears that students attending high decile secondary schools are also most likely to have been able to take subjects that the University of Auckland recommends as preparation for legal education. The University of Auckland publishes recommendations of the subjects that students intending to enter into each degree programme should take at secondary school.<sup>47</sup> The recommended subjects for the LLB are those that promote the development of communication and reasoning skills, such as Classical Studies, Economics, Geography, History, Te Reo Māori, Art History, English and other languages. However, it is important to note that just because a student had the *opportunity* to take these subjects at secondary school, it does not mean that they necessarily *did* take those subjects.

Table 10 draws on the decile information previously collected for each school and the number of these recommended subjects offered by the school. This information is available publicly in the Ministry of Education’s records of schools’ subject offerings.<sup>48</sup> Any schools without available decile data were excluded. Schools exclusively for teenage parents were also excluded as outliers, as they offer considerably fewer subjects than other schools of comparable decile due to their low resource base. These schools

46 At 54. These percentages were provided by the New Zealand Qualifications Authority to 1 decimal place.

47 *2014 Subject Guide for School Students* (University of Auckland, Auckland, 2014) at 3.

48 “Secondary Visual and Performing Arts by School & Subject Name – 1 July 2017” in Ministry of Education “Subject Enrolment” Education Counts <[www.educationcounts.govt.nz](http://www.educationcounts.govt.nz)>; and “Secondary Social Sciences by School & Subject Name – 1 July 2017” in Ministry of Education “Subject Enrolment” Education Counts <[www.educationcounts.govt.nz](http://www.educationcounts.govt.nz)>.

are also overwhelmingly of low decile, such that they would have significantly affected the averages for the low decile schools. The availability of each individual language at a school was included as a separate relevant subject offering, except where grouped by the Ministry of Education as “[o]ther languages” (which includes all offered languages other than the 11 most commonly taught non-English languages).<sup>49</sup> The inability to separately account for these languages introduces a limitation, but only minor one, as only 3.20 per cent of the schools listed offered any of the “other languages” in 2015.<sup>50</sup> The mean number of recommended subjects offered by schools of each decile was then calculated.

Decile of Secondary School	Average Number of Recommended Law Subjects Offered in 2015 (2 dp)
1	4.63
2	5.54
3	6.02
4	7.04
5	7.71
6	8.07
7	7.48
8	8.43
9	9.53
10	8.95

Table 10. *Average Number of University of Auckland Recommended Law Subjects Offered by Secondary Schools of Each Decile (2015)*

Assuming the University’s subject recommendations are appropriate, this correlation strongly suggests that students at high decile schools are more likely to have access to a strong educational foundation for legal academic success. More broadly, this aligns with the findings of prior studies that students of lower SEB, who are more likely to attend lower decile schools, are more likely to select — and be encouraged by their school and families to select — vocational rather than academic subjects.<sup>51</sup> This indicates that lower decile secondary schools might not be preparing those students intending to pursue academic tertiary education as well as higher decile secondary schools. Indeed, the data suggests that some middle and low decile schools sent large

49 “Secondary Languages by School & Subject Name – 1 July 2015” in Ministry of Education “Subject Enrolment” Education Counts <[www.educationcounts.govt.nz](http://www.educationcounts.govt.nz)>.

50 “Secondary Languages by School & Subject Name – 1 July 2015”.

51 Cathy Wylie, Rosemary Hipkins and Edith Hodgen *On The Edge Of Adulthood: Young people’s school and out-of-school experiences at 16* (Ministry of Education, Wellington, 2008) at 83.

numbers of students to Part I of the LLB, yet very few or none progressed through onto Part II.<sup>52</sup>

As admission to Part II LLB depends almost entirely on academic performance, these findings indicates a possible relationship between the role of secondary schools in preparing students for university and their prospects of accessing legal education. However, as the 2015 Part I LLB and 2016 Part II LLB cohorts are not a single intact cohort, and as there is a significant — if small — portion of the 2015 Part II LLB cohort who are not recent school leavers, no determinative conclusions may be drawn.

Additionally, the consistently greater apparent academic success of students from decile 10 schools compared to even students from decile 9 schools noted above is somewhat at odds with the slightly higher average number of recommended subjects offered at decile 9 than 10 schools. Qualitative research and student interviewing may help to throw light on the role of school subject preparedness in contributing to these students' success.

### **A Further Observation: Likelihood to Pursue Legal Education**

The decile proportions of the 2015 Part I LLB cohort suggest that students from different quintile groupings are not equally likely to pursue legal education, as seen in Table 2 above.

This study sought to investigate a student's likelihood to pursue legal education by comparing the decile profile of students in the Part I LLB cohort against a suitable comparator group. The most appropriate comparator group would be all students enrolled in Stage I of undergraduate degree programmes at the University of Auckland in 2015 or, alternatively, the University's entire student body. Unfortunately, the University does not make these statistics readily available publicly, and the resources required for the University to retrieve such data makes such an information request impractical.

However, information *was* publicly and readily available from the Ministry of Education regarding the decile of origin of all students enrolled in degree courses in New Zealand in 2015 who had recently left secondary school.<sup>53</sup> As over 90 per cent of those enrolled in the Part II LLB cohort had completed secondary school within 12 months of entering university, this group presented a broadly suitable comparator. However, this is not the most ideal comparison group. There is undoubtedly some discrepancy between the decile profiles of University of Auckland students and the national average, as reflected by the University of Auckland having the most restrictive admissions criteria for school leavers of any New Zealand university.<sup>54</sup>

52 To avoid compromising the anonymity of the participants in this study (a condition of the University of Auckland Human Participants Ethics Committee approval), this data cannot be provided in raw form. See Stagwood, above n 8, at 72, for a collated table of the deciles of main contributing schools. The author can also provide other suitably collated forms of this data upon request.

53 "School Leaver Destinations" (August 2016) Education Counts <[www.educationcounts.govt.nz](http://www.educationcounts.govt.nz)>.

54 See "Undergraduate entry requirements" (2018) University of Auckland <[www.auckland.ac.nz](http://www.auckland.ac.nz)> for the required academic results to guarantee New Zealand secondary students entry into their preferred first year programme at the University of Auckland. The lowest required results for any programme at the University of Auckland is higher than those required for preferential entry to all first year



Table 11 compares the information regarding the quintile composition of the 2015 national school leavers' cohort from the Ministry of Education with the decile composition of the 2015 Part I LLB cohort from Table 2.

Quintile Grouping	Percentage of 2015 National School Leavers' Cohort Comprised of Quintile	Percentage of 2015 Part I LLB Comprised of Quintile	Percentage Difference Between National School Leavers' Cohort and 2015 Part I LLB Cohort (2 dp)
Quintile 1	4.87	7.10	+ 45.79
Quintile 2	9.91	15.23	+ 53.68
Quintile 3	17.21	9.41	- 45.32
Quintile 4	26.10	20.96	- 19.70
Quintile 5	41.91	47.31	+ 12.88
Totals	100	100	

Table 11. *Comparison of Percentages of 2015 National School Leavers' Cohort and 2015 Part I LLB Cohort Comprised of Students Originating from Each Quintile Grouping*

The above data indicates that the rate of entry into tertiary education is not equal across each quintile in New Zealand, and is broadly positively associated with the quintile grouping of the last secondary school a student attends. Additionally, there are significant discrepancies between the national school leavers' decile composition and the Part I LLB. These observations raise at least two questions. The first is why the rate at which individuals elect to pursue legal education differs between those who last attended schools of differing quintile groups. This question is beyond the scope of this study.

The second question is why the rate of pursuing a legal education amongst individuals of each quintile differs from the national rate at which individuals from each quintile attempt a bachelor's degree. That is, why are school leavers from lower quintile secondary schools less likely to pursue a law degree than other bachelor's degrees, compared to school leavers from higher quintile secondary schools? Overseas research suggests that a

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programmes at the University of Otago ("Entry Pathway system" (2018) University of Otago <[www.otago.ac.nz](http://www.otago.ac.nz)>), the University of Canterbury ("Enrol at UC" (2018) University of Canterbury <[www.canterbury.ac.nz](http://www.canterbury.ac.nz)>) and Massey University ("Admission to undergraduate study" (2018) Massey University <[www.massey.ac.nz](http://www.massey.ac.nz)>). The lowest required results at the University of Auckland is also higher than any of the Auckland University of Technology programmes with rank score requirements ("University Entrance (UE) for bachelor's degrees" (2018) Auckland University of Technology <[www.aut.ac.nz](http://www.aut.ac.nz)>) and all but one first year programme at Victoria University of Wellington ("New Zealand University Entrance" (2018) Victoria University of Wellington <[www.victoria.ac.nz](http://www.victoria.ac.nz)>). The University of Waikato and Lincoln University have no such requirements.

significant factor that causes enrolment in law degrees to diverge from enrolment in other programmes is cost. In the United Kingdom, 93 per cent of students who withdrew from training as barristers or solicitors cited cost as a contributing factor.<sup>55</sup> Other United Kingdom studies indicate that students are more reluctant to pursue training for a legal career if they are from a working class background, regardless of loan accessibility.<sup>56</sup> However, as New Zealand and the United Kingdom have substantially different models of legal education and training, direct comparisons are of limited utility. More comparably, a Canadian study has demonstrated that rising fees for tertiary education have led to students from well-educated families — with high levels of parental education being significantly correlated with high SEB — being far more likely to pursue professional degrees than those from lower SEBs, despite the accessibility of student loans being equal.<sup>57</sup> Further research is required to determine whether a similar relationship exists between the considerable year-on-year fee increases at the University of Auckland and other New Zealand universities over the last decade and the apparent disinterest of school leavers from lower decile schools in pursuing a legal education.

Other studies have demonstrated a correlation between other indicators of SEB and school leavers' choice of further education or training. For example, children of professional workers (including lawyers or doctors) are far more likely to choose law than children of an unskilled labour worker, even if they have equal academic ability at school.<sup>58</sup> These findings suggest an element of the reproduction of cultural capital at play in the discrepancies observed above.

Law school diversification may also account for some aspects of the decile profile of students enrolling in Part I of the LLB at the University of Auckland. In 2009, the Auckland University of Technology (AUT) opened a law school and entered into competition with the University of Auckland to attract school leavers from the region.<sup>59</sup> AUT appears to have consciously sought to establish a differential niche for themselves that is at least partly informed by socio-economics and geography, to aid in competing with the established University of Auckland. The Auckland Law School describes itself as being “situated in the heart of the legal precinct” and located near the Auckland High Court and several leading law firms' offices.<sup>60</sup> In contrast, AUT has sought to expand geographic accessibility in areas of high socio-

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55 Louise Norman “Career Choices in Law: A survey of law students” (Law Society, London, 2004) as cited in Margaret Thornton *Privatising the Public University: The Case of Law* (Routledge, Abingdon (UK), 2015) at 14.

56 At 25–26.

57 “Study: Access to professional programs amid the deregulation of tuition fees” (27 September 2005) Statistics Canada <[www.statecan.gc.ca/eng/](http://www.statecan.gc.ca/eng/)>.

58 Herman G van De Werfhorst, Alice Sullivan and Sin Yi Cheung “Social Class, Ability and Choice of Subject in Secondary and Tertiary Education in Britain” (2003) 29 *British Educational Research Journal* 41 at 59.

59 *Law Undergraduate & Postgraduate Programme Guide 2019* (Auckland University of Technology, Auckland, 2018) at 9.

60 *2019 Law Prospectus*, above n 14, at 1.

economic deprivation by offering all compulsory LLB courses at their South Auckland campus.<sup>61</sup> In the 2013 census, 36 per cent of the population of Manukau was identified as being amongst the most socio-economically deprived quintile of the population nationally,<sup>62</sup> more than twice the amount of the population in that quintile in any other part of Auckland (except Papakura, which contains significant parts of the South Auckland area targeted by government as an area of intense socio-economic deprivation).<sup>63</sup>

A university's geographic factors have a significant effect on student decisions regarding pursuing higher education. Low-SEB students are far more reluctant to incur large amounts of debt, which is compounded by geographic distance from family and community support networks while studying, than middle-SEB or high-SEB students.<sup>64</sup> AUT's decision to provide legal education in an area of high socio-economic deprivation therefore signifies a clear attempt at law school diversification on the basis of student SEB.

No data from AUT was used in this study, but it would have been significantly helpful in providing a clearer picture of how socio-economic factors impacting students' decisions to pursue a legal education. If low- and middle-SEB students are attending AUT in significantly higher numbers than other universities, this could indicate an accessibility issue in legal education at the University of Auckland. If further research demonstrates that access to legal education at each of Auckland's two law schools is indeed stratified by students' SEBs, the implications will be concerning. Given the Auckland Law School places considerably higher in international ranking and offers a wider range of elective subjects compared to AUT, graduates of the University of Auckland may be regarded more favourably by employers and have a wider range of employment options. Thus, if access to each law school is significantly influenced by the student's SEB, this would suggest that SEB has consequences in terms of the composition of the legal profession beyond gatekeeping access to legal education.

These related considerations offer some explanation as to why there appears to be a significant discrepancy between average decile background of Part I students across all degree programmes nationally and the composition of the University of Auckland 2015 Part I LLB cohort. More broadly, they provide further corroboration, but no verification, for the suggestion that the decile trends observed above may relate to the SEBs of those law students.

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61 *Law Undergraduate & Postgraduate Programme Guide 2019*, above n 59, at 14.

62 June Atkinson, Clare Salmond, and Peter Crampton "NZDep2013 Index of Deprivation" (University of Otago, Wellington, 2014) at 33; and "Demographic Profile: 2013 Census Population of Counties Manukau" (Counties Manukau Health, Auckland, 2015) at 87.

63 See, for example, "Demographic Profile: 2013 Census Population of Counties Manukau" (Counties Manukau Health, Auckland, 2015) at 15, 52, 56, 61 and 87.

64 See Senga Briggs "An exploratory study of the factors influencing undergraduate student choice: the case of higher education in Scotland" (2006) 31 *Studies in Higher Education* 705 at 720 for a discussion of the Scottish context, in which students studying accounting or engineering were highly influenced by geographic factors in their choice of university, particularly if they came from a lower socio-economic background.

## V CONCLUSION

The decile snapshot provided in this article suggests that low SEB (reflected by secondary school decile rating) may adversely impact a student's access to, and success in, legal education. Students who most readily seek to enter the Auckland Law School, gain entry into Part II of the LLB and continue studying until graduation are likely to be those in the 10 per cent of the population least likely to be from New Zealand's most socio-economically deprived communities. These students are also more likely to graduate with Honours, and appear to have a greater opportunity to prepare for success in pursuing legal education than those from other quintiles, because their schools offer more subjects that are relevant to a legal education.

On the other hand, those students from the lowest quintile appear to be the most likely to not attempt to gain access to legal education, to not gain admission to Part II of the LLB, to depart the programme prematurely and to not graduate with Honours. No clear potential trend emerges for the intermediate deciles, and more research targeting these groups may be necessary.

As a final note, both qualitative and intersectional research is needed to expand on the limited nature of this dataset. In addition, some evidence collected in this study suggests trends that warrant further research. For example, mature-aged students deviated significantly from the rest of the dataset and were far more likely to come from a lower decile background. Incomplete data collected from major law firms also suggested that private-sector law clerks are significantly more likely to be students from a high-decile secondary school than even LLB(Hons) students.<sup>65</sup> Additionally, it has been noted elsewhere that a survey of law clerks in the courts might prove valuable.<sup>66</sup> The author hopes that further contributions to this area of research will clarify the true state of socio-economic diversity in the legal profession.

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65 Stagwood, above n 8, at 77.

66 Max Harris "The Role of the Judge's Clerk at the Supreme Court of New Zealand: A 'Worm's-Eye View'" in Andrew Stockley and Michael Littlewood (eds) *The New Zealand Supreme Court: The First Ten Years* (LexisNexis, Wellington, 2015) 75 at 76.