

The firm as a new actor in legal education: implications for lawyers' identity formation

Andrew Cook

Department of Geography, Lancaster University, UK.

a.cook3@lancaster.ac.uk

James R Faulconbridge,

Department of Geography, Lancaster University, UK.

Email: j.faulconbridge@lancaster.ac.uk

Daniel Muzio,

Leeds University Business School, Leeds University, UK.

Email: dm@lubs.leeds.ac.uk

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Introduction

Increasing interest in quantitative and qualitative empirical legal research has yielded a range of insights into the legal profession and law firms over the past decade.¹ For example, studies of legal education have provided a clearer picture of the role of law schools in the production of lawyers' identity but also in the unintentional reproduction of gender and race biases in the legal profession.² In the US context, the recent Carnegie Foundation report entitled 'Educating Lawyers' has highlighted why such research is important. The report points to the need for education that develops individuals with skills suited to the complexity and diversity of legal practice and the need for education

¹ E.g. Faulconbridge, J. R., Beaverstock, J. V., Muzio, D. and Taylor, P. J. (2008) Global Law Firms: globalization and organizational spaces of cross-border legal work. *Northwestern Journal of International Law and Business* 28 (3) 455-488; Henderson, W. D. (2007) 'Longitudinal changes in the promotion to partnership tournament', in *Empirical Legal Studies* <http://www.elsblog.org/the_empirical_legal_studi/2007/02/longitudinal_ch.html>; Muzio, D. and S. Ackroyd (2005), 'On the Consequences of Defensive Professionalism: the Transformation of the Legal Labour Process'. *Journal of Law and Society* 32 (4): 615-642; Bolton, S & Muzio, D (2007) 'Can't live with 'em; can't live without 'em: gendered segmentation in the legal profession, 41, 1, *Sociology*, 47; Silver, C. (2002) The Case of the Foreign Lawyer: Internationalizing the U.S. Legal Profession. *Fordham Journal of International Law* 25 1039-1084.

² Boon, A, Flood, J & Webb, J (2005) 'Postmodern Professions? The fragmentation of legal education and the legal profession' 32, 3 *Journal of Law & Society*, 473; Sommerlad, H (2007) 'Researching and theorizing the processes of professional identity formation', 34, 2 *Journal of Law & Society*, 190.

that more firmly instills ethical and social values in practitioners.³ Similar issues have been highlighted in the UK, most notably in the First Report on Legal Education and Training in 1996.⁴

In the context of the globalization of the legal profession and law firms, empirical research of training and education is especially important. Debates about the impacts of globalization on the legal profession are now well developed.⁵ Yet the way structures and processes of legal education interact with and may even be changed by processes of globalization has received considerably less attention than debates about the relevance of curriculum content for 'global lawyers'.⁶ This is significant because existing theoretical framings of the legal profession place education at the centre of explanations

³ Carnegie Report. See also FT report on legal education <http://www.ft.com/reports/llm-2008>

⁴ The Lord Chancellors Advisory Committee on Legal Education and Conduct. First Report on Legal Education and Training. ACLEC, London.

⁵ See Trubek, D. M., Dezalay, Y., Buchanan R and Davis, J. R. (1994). Global restructuring and the law: studies of the internationalization of legal fields and the creation of transnational arenas. *Case Western reserve law review* 44 (2) 407-498; Flood J. (1996) 'Megalawyering in the global order: the cultural, social, economic transformation of global legal practice.' *International Journal of the Legal Professions* 3: 169-214; Flood, J (2007) 'Lawyers as sanctifiers: the role of elite law firms in international business transactions' *Indiana Journal of Global Legal Studies*, 14(1); Faulconbridge, J and D. Muzio (2007), 'Re-inserting the Professional in the Study of PSFs' *Global Networks* 7 (3): 249-270. Faulconbridge, J, Beaverstock, J, Muzio, D and Taylor, P (2008) 'Globalizing Law Firms and the Expansion of the US and English Legal Profession' *Northwestern Journal of International Law and Business* 28(3): 455-488

⁶ However see the special issues on Legal Education published in 2002 and 2005 in the *International Journal of the Legal Profession* 9(2) and 12(2).

of everything from processes of closure (the creation of barriers that limit the title 'lawyer' to those holding certain qualifications) to processes of identity formation and the understanding of fiduciary responsibilities in practitioners.⁷ As a result, the impacts of processes of globalization on the very structure of legal education, the regulation of education providers and the role of education in maintaining professional values and competency levels are all in urgent need of analysis.

This paper, therefore, develops two main avenues of discussion about the importance of empirical legal studies of education in the context of globalization. First, it argues that 'control' of the professions through forms of closure based on education is increasingly undergoing important changes as the national arena of regulation is complemented by and increasingly coexists with transnational arenas. This evolution is significant as it raises questions in relation to long-held assumptions about the construction and maintenance of nationally controlled legal professions, a situation in which legal education is assumed to have a central role because it ensures minimum standards of knowledge and the existence of agreed ethical principles at the national scale. Second, the paper argues that changes in the location of professional education *per se* also have important implications for the legal profession. The growing importance of vocational education outside of universities and the way (global) law firms increasingly use selective recruitment and post-qualification education to mould the practice of lawyers

⁷ See Burrage, M., K., Jaraush, and H., Siegrist (1990) 'An actor based framework for the study of professionalism' in Burrage, M. and Torstendahl, R. (eds.) *The professions in theory and history*. London: Routledge pp 203-226; Carhegie report op cit.3; Anderson-Gough, F., Grey, C and Robson, K. (1999) *Making Up Accountants: The Organizational and Professional Socialization of Trainee Chertered Accountants*. (Aldershot: Ashgate); Boon et al, op. cit. 2

suggests the university is increasingly only one of the many sites in which professional development and identity formation occurs. This suggests it is increasingly difficult to control professional practices solely through university-level legal education. In particular, the paper identifies the firm as a missing and potentially fundamental actor in processes of legal training and professional formation and highlights some of the ethical and sociological implications arising from this 'organizational turn' in studies of legal education.

The rest of the paper begins with a review of the existing literature on legal education and the law school. This highlights a series of key trends and issues for discussion. It then seeks to theorize the importance of education in understandings of professionalism and patterns of professionalization by drawing on work on the sociology of the professions.⁸ This stresses the importance of education both as a key actor and resource in processes of professionalization. The paper concludes by identifying recent trends in relation to the regulation and provision of education by global law firms in the European context and the implications of such trends for the legal profession.

Legal education in context

Understanding of the effects of processes of globalization on legal education is aided by a now burgeoning body of empirical work. Of particular importance is the fertile debate about how the content of legal education influences the practice of lawyers. Existing

⁸ Larson, M. S. (1977), *The rise of professionalism: A sociological analysis*. (Berkeley: University of California Press); MacDonald, K.M. (1995) *The sociology of the professions*. (London: Sage)

studies reveal a clear link between the style and content of legal education and the approach of graduates to legal practice, thus raising questions about how education can be reformed to enhance the technical abilities but also the ethical values of lawyers.⁹ Work on the relationship between the content of legal education and legal practice also suggests that legal education is increasingly in need of empirical research because of questions about its ability to develop the skills that a practising lawyer needs to work in the increasingly commercialized and globalized profession of law.¹⁰

Central to these existing debates about the content of legal education are questions about the need for revised syllabi that reflect the increasingly diverse careers of law graduates and the often international dimensions to their work.¹¹ This in itself is a contentious issue with questions being asked about whether the university law degree should provide practice-relevant training or a more broad and 'liberal' education that seeks to develop academic abilities (critical thinking, normative values and consciousness of positionality).¹² In addition, debates continue about globalization and in particular about how the emergence of global law firms might lead to bureaucratization

⁹ See in particular Mertz, E. 2007. *The Language of Law School: Learning to "Think Like a Lawyer"*. Oxford University Press, USA.

¹⁰ See Boon, Flood and Webb (2005), op. cit. 2; Carnegie op. cit. 2; Pue, W. 2001. Globalization and Legal Education: Views from the Outside-In. *International Journal of the Legal Profession* 81 (1) 87-102; Sugarman, D. and Sherr, A. 2001. Globalisation and legal education. *International Journal of the Legal Profession* 8 (1) 5-10.

¹¹ Sugarman and Pue op. cit. 10; Boon Flood and Webb, op. cit. 2; Rochette and Pue, op. cit. 10

¹² Brownswood, 1999; Webb, 2009

and increased commercialism in legal practice as well as to the erosion of national legal cultures.¹³ These debates also consider another issue that lies at the heart of this paper: the impact of the globalization of the legal profession on the regulation and delivery of legal education.

As lawyers and law firms increasingly move across national jurisdictional boundaries, legal education and its regulation, particularly with regards to its role in professional closure regimes, have undergone significant developments. This is perhaps most evident in the context of the English legal profession where deregulation in the 1990s led to transfer tests being established which permit individuals with law degrees from outside of England and Wales to 'transfer' their qualifications and, after suitable testing, register as an English lawyer.¹⁴ The development of the European Union Service Directive and its consolidation of principles developed in the First General Systems Directive and the Directive on Professional Qualifications has reinforced such trends in the European context, taking the principles of the General Agreement on Trade in

¹³ See for example Etherington, L. and Lee, R. 2007. Ethical Codes and Cultural Context: Ensuring Legal Ethics in the Global Law Firm. *Indiana Journal of Global Legal Studies* 14 (1) 95-118; Francis, A. 2005. Legal ethics, the marketplace and the fragmentation of legal professionalism. *International Journal of the Legal Profession* 12 (2) 173-200; Nicolson, D. and Webb, J. 2005. Public rules and private values: fractured profession (alism) s and institutional ethics. *International Journal of the Legal Profession* 12 (2) 165-172.

¹⁴ Boon, Flood and Webb, op cit; Cullen-Mandikos, B. and MacPherson, A. 2002. US foreign direct investment in the London legal market: an empirical analysis. *The Professional Geographer* 54 (4) 491-499.

Services and developing a framework under which professional qualifications are transferable between European member states. The full significance of these changes is, however, rarely examined in empirical legal studies.

The rest of this section, therefore, highlights how engagement with two key theoretical framings of professional work drawn from the sociology of the professions can be used to connect legal education, professional practice, globalization and regulatory reform together; thus revealing the implications of globalization for lawyers, legal systems and their regulation. The main argument developed is that: (a) regulatory change is altering the powers of nation-states in relation to the control and maintenance of distinctive national legal professions; and (b) that wider changes in education provision associated with globalization raise questions about the role of university degrees in developing the practices and values of future generations of lawyers as firms become more and more important sites of legal education. The second half of the paper shows the value of careful empirical analysis of these issues.

Legal education and professional sociologies and projects

Education has generated broad interest across the social sciences, particularly in so far as it connects to notions of professionalism, whereby certain occupation acquire exclusive service rights in relation to certain tasks. Whether we adopt an orthodox¹⁵ or

¹⁵ Carr-Saunders, A.M. and Wilson, P.A. (1933) *The professions*. (Oxford: Clarendon Press); Parsons, T. (1954) 'Professional and Social Structure', in *Essays in sociological theory* (Glencoe: Free Press); Parsons, T. (1968) 'The professions'. *International Encyclopedia of the Social Sciences* (12): 536-547.

critical position¹⁶, education lies at the heart of models of professional formation insofar it provides the criteria and credentials which allow the exclusive right to perform certain activities to be claimed.

At the heart of orthodox understandings of professionalism lies the notion of a 'regulative bargain',¹⁷ “whereby the state protects professionals from unfettered competition but trusts them to put public interest before their own. In exchange, “the profession promises to select and train carefully its members so that they can provide a competent and ethical service”.¹⁸ Such a bargain, therefore, prioritizes the duty of competent and ethical practice, which of course implies the rigorous training of prospective members so to guarantee minimum competency levels and quality standards. This is seen as an acceptable compromise in return for the profession’s protection from market forces because it reduces the potential risks to consumers and the general public when using professional services which are esoteric, inherently complex in nature and which have potentially serious individual and social implications if not effectively discharged. In this context, regulating ‘inputs’ to the professions (i.e. the practitioners themselves) through education rather than the ‘outputs’ of their practice is, therefore, seen as the most

¹⁶ Johnson, T.J. (1972) *Professions and power*. (London: Macmillan); Freidson, E. (1970) *Professional dominance: the social structure of medical care*. (New York: Atherton Press); Larson (1976) op. cit.8

¹⁷ Cooper D., Lowe A., Puxty A., Robson K., Willmott H., (1988). – Regulating the U.K. Accountancy Profession: Episodes in the Relation between the Profession and the State, Paper presented at ESRC Conference on Corporatism at the Policy Studies Institute, London, January 1988.

¹⁸ Freidson, E. (1994) *Professionalism reborn: theory, prophecy, and policy*. (Chicago: University of Chicago Press: 202)

realistic way of guaranteeing quality and competency.¹⁹ Institutionalized training, official credentials (to certify training) and a formalised body of knowledge (to be trained into) are an essential part of this process and have been identified as key traits in all functionalist taxonomies of professionalism.²⁰ Thus, education and training act as seals of quality, separating qualified individuals in the professions from unqualified providers and serving the public interest by guaranteeing competency in areas of great individual and social importance.

Whilst orthodox and practitioner theories treat knowledge, training and credentials as essential to the professions' ability to adequately fulfill their function as providers of public safeguard services, a more critical body of work links these to self-interested attempts by practitioners to achieve and legitimize market dominance and monopoly rents.²¹ Thus, education as embodied in formal credentials is seen as acting as a powerful exclusionary mechanism within professional projects, restricting to "a limited circle of eligibles" access to the roles, rewards and opportunities connected with professional membership.²² This has powerful financial implications as it provides a mechanism through which "theoretically inexhaustible knowledge resources become

¹⁹ Mintzberg, H. (1983) *Structure in fives: designing effective organizations*. Englewood Cliffs; London: Prentice-Hall.

²⁰ Macdonald, op cit. 8

²¹ Freidson, 1970 op. cit. 16; Johnson, 1972 op. cit. 16; Larson, 1977 op. cit. 8

²² Parkin, F. (1974) 'Strategies of Social Closure in Class Formation' in Parkin, F. (Ed.) *The Social analysis of class structure*. London: Tavistock Publications, pp 4; See also Millerson, G. (1964) *The qualifying associations: a study in professionalization* (Routledge); MacDonald, 1995 op. cit. 8.

socially finite”²³, thus increasing the value of professional qualifications and the rewards connected with professional status.

According to more critical approaches, by institutionalizing a link between competence and membership, professional education provides a rational and publicly acceptable justification for professional monopoly, restrictive arrangements and the benefits these confer to producers. Indeed, critics of professional credentialism point to the lengthy and over-theorized nature of professional curricula which may be better understood as an entry barrier and supply regulation regime than as a functional requirement of professional practice.²⁴ Thus the cognitive resources of education are part of that nexus of technical, legal, normative and cultural requirements that carve out, stabilize and defend a profession’s jurisdictional boundaries from external incursions.²⁵ In addition, the commonality of training and socialization experiences which is embodied in a shared educational path is also supposed to bind individual professionals together, providing a platform for occupational cohesion based on a shared sense of community.²⁶ Indeed this underscores the professions’ political power as it allows professions to maintain

²³ Larson, 1977: 223, op. cit. 8

²⁴ Collins, R. (1979) *The credential society: an historical sociology of education and stratification.* (New York: Academic Press); Murphy, R. (1988) *Social closure: the theory of monopolization and exclusion.* (Oxford: Clarendon Press) as well as Abel, R.L. (1988), *The legal profession in England and Wales.* (New York: Blackwell); Muzio and Ackroyd, op. cit. 1

²⁵ Reed, M.I. (1996: 576), ‘Expert power and control in late modernity: an empirical review and theoretical synthesis’. *Organisation Studies* (17)4: 573-597.

²⁶ Boon, Webb and Flood 2005 op. cit. 2

“sufficient cohesion ... as a whole to be able to undertake common action both to sustain its status and privilege and to advance its own ‘cultural’ projects”.²⁷

Educational actors in professional sociologies

Together, then, orthodox and critical theories of the professions provide an expansive explanation of the role of education as a ‘resource’ underpinning professions such as law. Moreover, such theories also provide important insights in the role of the providers of professional education as key actors in processes of professionalization.²⁸ This connects to notions of professionalization as a negotiated outcome which rests on the interactions between different actors, each equipped with its own interests, agendas and resource capabilities. Four actors are identified as being particularly significant to professionalization processes and in defining the rights, identities and practices of professionals:

1. Practitioners who through their professional association seek to identify, carve-out and protect an area of exclusive competence so to maximize financial and status rewards.
2. Users of professional services who determine the way the professions practice and organize them selves because of the demands they place on practitioners.
3. States who grant autonomy and self-regulation to professionals (Anglo-American context) or actively license them as a civil service (Continental European context).

²⁷ Freidson, (1994: 202) op. cit. 18

²⁸ Burrage et al, 1990 op. cit 7

4. Universities which produce the knowledge-base of the professions and provide the credentials (an approved degree) that support professional closure regimes.

It is from the negotiation between these actors that professional settlements emerge²⁹. This is a historically and spatially contingent process, as in each epoch and national context these actors play different roles and have different abilities to influence the establishment and regulation of professional occupations and the understanding that practitioners have of their function and ethical responsibilities. The key distinction here is between Anglo-Saxon and Continental patterns of professionalization, with the former viewing professionalization as a bottom up process which spontaneously emerges from the decisions of individual practitioners and the latter emphasizing the role of governmental coordination and tying professional formation to processes of nation building and governance.³⁰ However, important differences exist within as well as between these broad geographical blocks.³¹

Most significant for the discussion of education here is the nationally specific role of universities in professional projects. At its simplest, universities and allied institutions provide the credentials needed for professional membership whereby an individual can claim the status of a 'lawyer'. This means that, in any one country, universities through their recruitment strategies, or because of imposed limits on the number of training

²⁹ Abbott, A. (1988) *The system of professions: an essay on the division of expert labor*.

(Chicago: University of Chicago Press)

³⁰ Burrage, M. and Torstendahl, R. (eds.) (1990) *Professions in Theory and History: Rethinking the Study of the Professions*. (London: Sage); Torstendahl, R., and Burrage, M. (Eds.) (1990) *The Formation of Professions: Knowledge, State and Strategy*. (London: Sage)

³¹ Faulconbridge and Muzio, 2007 op. cit. 5

places available, can have a significant impact over the regulation of access to the profession³². The impact of this is exemplified by the variations in the ratio of lawyers to the wider population, whereby different levels of access to university education and differing forms of assessment account, at least partially, for the stark contrast between, for example, the USA and Japan, with the former having twenty four times more lawyers per capita than the latter.³³

More subtly, the relationship universities have with the state and, in particular, the settlement they reach with it over the content and structure of education, also influences the knowledge, values and practice of professionals.³⁴ This allows the distinctly national flavor of the professions to be maintained, the easiest variation to identify in the case of law being macro-level variations between common and civil law jurisdictions.³⁵ More subtle differences, rooted in processes of professional education and identity formation, also pervade the ethos of professional practice itself. In the case of law the way practitioners understand their relationship with the client and the public interest, the importance and legitimacy attached to a commercial and business oriented approaches

³² Abel, 1988 op. cit. 24

³³ Keleman, D. and Sibitt, E. 2004. The globalization of American law. *International Organization* 58 103-136.

³⁴ Boon. Webb and Flood , 2005 op. cit. 2; *International Journal of the Legal Profession Special Issue on Legal Education* 2002, 9(2)

³⁵ Flood, 1995 op. cit. 5; Flood 2007 op. cit. 5; Morgan, G and Quack, S. (2005) Institutional legacies and firm dynamics: the growth and internationalization of UK and German law firms. *Organization Studies* 26 (12): 1765-1785

in legal work³⁶, and the principles of ethical practice and social responsibility³⁷ have all been shown to be influenced by education. Indeed, a number of empirical studies have revealed the significance of the national varieties of professionalism by looking at the way global law firms encounter both regulatory but also cultural differences as they open offices in different jurisdictions.³⁸

The role for education in professionalization processes is, therefore, geographically contingent and nationally specific. However, the internationalization of professional activity may, first, increasingly put pressure on the once exclusive link between national jurisdictions and professional education systems and spur the development of international educational programmes and establishments, with important implications for professional projects. Secondly, in a context characterized by the deregulation of provision, the emergence of new and recalibrated forms of legal education which explicitly target the requirements and preferences of large and often global professional service firms is also likely to impact significantly on the structure of professional education and on the practice of lawyers. Indeed, the professional firm itself is likely to be an important vector of change in this area. Thus, having established the theoretical centrality of education and education providers both as a resource and as an actor in processes of professionalization, the rest of the paper turns its attention to emerging trends in this area and to their likely impact on this particular profession.

³⁶ Hanlon, G. (1998) 'Professionalism as enterprise: Service class politics and the redefinition of professionalism'. *Sociology* 32 (1) 43-63; Hanlon, G. (1999), *Lawyers, the state and the market: Professionalism revisited*. (Basingstoke: Macmillan Business)

³⁷ See Etherington and Lee, Op Cit. 13

³⁸ Faulconbridge and Muzio, 2007, op. cit. 5; Morgan and Quack, 2005 op. cit. 36; Neal and Morgan, 2000

Globalization, education and regulation of the professions

Globalization is having a significant impact on the legal profession. This process includes the development of inter-governmental trade organizations such as the World Trade Organization, inter-government institutions such as The International Criminal Court and United Nations Institute for the Unification of Private Law and the development of transnational legal frameworks such as EU law or international commercial law which increasingly influence the practice of lawyers.³⁹ In the context of the *Washington consensus* and an increasingly powerful neo-liberal agenda designed to remove barriers to cross-border trade⁴⁰, professional education and legal education in particular are also undergoing some subtle reconfigurations, perhaps most significantly because of the rescaling of the governance of the professions. It is important to note at this juncture that this process of rescaling is most advanced in the European context,

³⁹ Arnold, P.J. (2005) Disciplining domestic regulation: the World Trade Organization and the market for professional services. *Accounting, Organization and Society* 30(4): 299:330; Evetts, J. (2002) 'New directions in state and international professional occupations: Discretionary decision making and acquired regulation'. *Work Employment and Society* 16(2) pp. 341-53; Flood, 1995, op. cit. 5; Flood, 2007 op. cit. 5; Cooper, D.J. and Robson, K, (2006) Accounting, Professions and Regulation: Bringing the Firms back in, *Accounting, Organizations and Society*, 31(4/5): 415-44; Orzack, 1994; Dezalay, Y. and Sugarman, D. (Eds.) (1995) *Professional Competition and Professional Power: Lawyers, Accountants and the Social Construction of Markets*. (London: Routledge); Suddaby, R., Cooper, D., and Greenwood, R. (2007) Transnational Regulation of Professional Services: Governance Dynamics of Field Level Organizational Change. *Accounting Organizations & Society*, 32: 333-362.

⁴⁰ Suddaby, Cooper and Greenwood, 2007. op. cit. 40

with similar agreements developing in the Asia-Pacific region, with the USA, to date, being less affected by change as negotiations continue about the acceptance or rejection of transnational accords relating to the professions.⁴¹

As the discussion above highlights, professionalization in law as in other professions has historically been tied to the nation-state as the parties involved in the relevant occupational negotiations, including the professionals themselves, are assumed to operate and have power exclusively within one national jurisdiction. Over the past twenty years or so, this situation has begun to evolve. Globalization has been connected to processes of governmental rescaling with the nation-state operating alongside sub- and supra-national governance agents.⁴² Exemplifying this trend outside of the professions are the World Trade Organization and regional grouping such as the European Union and the North American Free Trade Association. It is important to stress that the emergence of such organizations does not necessarily remove or reduce the role of the nation-state in the governance of the professions.⁴³ The new regulatory bargain with transnational trade organizations takes place in the context of transnational regimes that are weak and incomplete, often because of the resistance of national governments who

⁴¹ See Terry, L. (2008) The Future Regulation of the Legal Profession: The Impact of Treating the Legal Profession as “Service Providers. *Journal of the Professional Lawyer* 189-211.

⁴² See Jessop, R. 2000. The crisis of the national spatio-temporal fix and the tendential ecological dominance of globalizing capitalism. *International journal of urban and regional research* 24 (2) 323-360; Swyngedouw, E. 1997. Neither global nor local: ‘Glocalization’ and the politics of scale. In Cox, K. (Ed.) *Spaces of Globalisation*. New York, Guildford, 137-166.

⁴³ Suddaby, Cooper and Greenwood, 2007 op. cit. 40

continue to defend their jurisdictions and professionals systems.⁴⁴ However, one consequence of this regulatory rescaling is a qualitative shift in which the nation-state becomes the enforcer of the 'soft' agreements put in place by groups such as the World Trade Organization. Such shift in relation to the professions are particularly significant in terms of education insofar as they recalibrate the role exercised by the nation-state and by local professional associations in professional closure regimes. This changes the ability of organizations such as the Law Society and Solicitors Regulation Authority in England and Wales to control the development of practitioner knowledge and values. More specifically, the ability to develop and sustain nation-specific licensing powers and to define the content of education and the educational credentials (university degree qualifications) needed to claim the status of a lawyer or any other professional has changed as a law degree in the country an individual wishes to practise in becomes only one way to gain entry to the profession. The way such pressures emerge is exemplified by looking at the impacts of the European Union Service Directive and the debated North American Free Trade Association's recommendations' on professional services.

The European Union's First General Systems Directive and the Directive on Professional Qualifications (2005/36/EC), which develop many of the principles of the re-regulation enacted by the Law Society in England and Wales in the 1990s⁴⁵, are clear examples of this process of regulatory rescaling in which transnational arenas become complimentary sites of control alongside national arenas⁴⁶. Both initiatives are designed

⁴⁴ Flood, J and Sosa. F (2008) Lawyers, law firms and the stabilization of transnational business, *Northwestern Journal of International Law and Buisness* 28(3) ; Suddbay et al, 2007, op cit. 40
Arnold, 2005, op. cit. 40;

⁴⁵ Cullen-Mandikos, B. and MacPherson Op. Cit. 45.

⁴⁶ Evetts, 2002 op. cit. 40

to establish common qualifications (through the reciprocal recognition of domestic qualifications and training procedures), deontological expectations and standards of practice across multiple nations. The development of the Bologna Declaration in the European context is also indicative of such a change. Designed to create harmonized structures for university education in all European Union member states, the directive is leading to subtle changes in undergraduate (first), postgraduate (second) and doctoral studies. As Webb argues, to date this has not led to convergence in the content or style of teaching in law degrees.⁴⁷ It has, however, further facilitated the type of mobility associated with the European single market and in particular with the recent EU Service Directive. Similar steps have been taken as part of the North American Free Trade Association's attempts to facilitate free trade with Chapter 12 Annex 1210, Section A, encouraging the development of mutually acceptable standards of professional education in all member countries.⁴⁸

Regulatory re-scaling and the impacts on education

There are many issues worthy of further investigation in relation to transnational regulatory systems and their affect on professional education. Two stand out as particularly significant; both are only currently relevant in the European Union but are likely to be adopted in other 'regions' such as Asia Pacific through the Asia Pacific Economic Cooperation (APEC) agreement and in North America as a result of World Trade Organization reforms, and both relate to the new mobility regimes inscribed in

⁴⁷ Webb, J. 2002. Academic legal education in Europe: convergence and diversity. *International Journal of the Legal Profession* 9 (2) 139-156.

⁴⁸ Suddaby et al., op cit, p40.

these directives which enable lawyers to move between national systems, transfer their educational credentials, and practice outside of the country of qualification.

First, the mobility allowed by emergent transnational regimes raises important questions about the solidity of professional closure systems. As those adopting a critical analysis of professional projects have revealed, the educational credentials provided by universities have been used to limit access to the professions, resulting in national variations in the demographics and population size of groups such as lawyers. The new transnational regimes which are emerging may potentially override this insofar they facilitate the transfer and recognition of foreign credentials. In effect, this means that attempts by the nation-state or its local professional associations to limit access to the legal profession by restricting number of university training places become less effective as practitioners can gain access to a profession through transfer tests without training in the jurisdiction they wish to practice. Whilst few might actually attempt to exploit such a loophole, and whilst neoliberal agendas in the USA, UK and other countries have gradually eroded the ability of professions to limit number of training places, the emergence of internationally portable credentials does signify a shift away from historic closure strategies, which have been centered around the nation state.⁴⁹ This becomes all the more significant when connected to a second consequence of such changes.

Second, and most important here, is the potential loss of regulatory oversight in terms of the technical knowledge and ethical and social values of lawyers. As noted at the start of the paper, university legal education is associated with the development of specific skill-sets and value-sets, covering for instance the peculiar understanding of the role of

⁴⁹ Suddaby et al., op cit. 40; Muzio and Ackroyd, 2005 op. cit. 1

lawyers in society, required by professional practice. Current moves towards a more harmonized transnational system in which practitioners can transfer qualifications between countries and in which there is a harmonized standard of professional education threaten to limit the ability of the state to use education as a way of regulating the basic competence of lawyers in their national jurisdiction. For countries such as England where continuing professional development is compulsory, such concerns might be offset by the use of effective post-university education that instills values and ensures basic competence. But this subtly shifts the emphasis of professional indoctrination away from the university and towards vocational forms of training. Gordon makes a similar point and argues that the instilling of legal ethics into new recruits to the profession should focus upon what occurs after university, in the workplace and in other training, as much as what happens in the relatively short period of time right at the outset of an individual's career in the university.⁵⁰ We return to this point below and in our conclusions because it highlights broader questions about the abilities and motivations of different firms in relation to training. First, though, it is worth reflecting on the broader ethical concerns associated with such a shift away from national control of educational content.

As Etherington and Lee highlight, the emergence of such transnational arrangements for professional mobility creates situations such as “an Australian lawyer working in the Brussels office of a New York law firm on a contract for a Japanese client with a German counterpart, which is governed by English common law, but in which disputes are to be referred to the International Chamber of Commerce’s International Court of Arbitration in

⁵⁰ Gordon, R. W. 2005. Professionalisms Old and New, Good and Bad. *Legal Ethics* 8 (1) 23-34.

Paris".⁵¹ Whilst the legal complexities of the transaction in itself are worth studying, the fact that regimes promoting transnational mobility allow an Australian lawyer to work overseas, outside of the jurisdiction where her/his legal training took place, raises questions about whether they maintain the ethical standards of Australia, whether they have learned about the standards of Belgium, or whether they simply exploit the ambiguity to 'minimize' the impacts of ethical concerns on the transaction.⁵² As Etherington and Lee highlight, the national systems highlighted in work on the sociology of the professions lead to diverse ethical values being promoted with great variations in terms of confidentiality rules, disclosure regimes, deontological responsibilities, etc. When practitioners effectively operate in a limbo, outside of the jurisdiction they trained in, and in a system where values are very different and potentially unknown to the lawyer, questions arise about what standards are maintained. Suddaby et al. (2007) make a similar point noting how basic concepts such as the definition of 'good quality' advice vary between countries. In this context, they argue, it becomes unclear how a practitioner would come to understand the values and principles of a specific jurisdiction if they have not been through its 'domestic' educational systems.⁵³

In terms of empirical legal studies, this opens-up two pressing agendas for future research. First, it seems important to examine the work of lawyers exploiting new forms of transnational regulation and the way such practitioners become 'assimilated' into the legal jurisdictions they operate in. The role of continuing professional development,

⁵¹ Etherington and Lee, op cit, page 97-98.

⁵² Here we take ethical standards to be the codes of conduct and the informally adopted norms that define the legal profession in any one jurisdiction (see Nicholson and Webb, Op. Cit. 13) [cited in Francis, Op. Cit. 13]).

⁵³ Suddaby et al., 2007, op cit. 40

where it exists, should be part of such studies as well as the analysis of how the transfer tests assess both knowledge and ethics. Second, the strategies of the professional associations deserve careful analysis. In particular, it is important to understand how national regulators may be responding to the ongoing development of transnational regulatory regimes through the introduction of new tactics designed to give them control over lawyers practicing in their jurisdiction. Third, as Etherington and Lee highlight, the role of global (but also non-global) large law firms in managing the complexities that arise from transnational mobility is also particularly important. We turn to this issue in more detail in the next section of the paper. Here, though, it is important to set the context for this discussion by highlighting the need for understanding the ethical values promoted by firms through in-house training. As Etherington and Lee suggest, these may increasingly diverge from the national professional ethics of any single jurisdiction and take a more transnational commercial and/or firm-specific focus and meaning. This point is, however, unproven, and hence the need for empirical research. We also need to consider whether the often sophisticated clients of large firms are actually capable of 'regulating' their professional advisors themselves because of their knowledge and power (as fee-paying clients), thus reducing the risks associated with lawyer mobility and the potential ethical 'limbo'. In contrast, smaller firms who cannot provide the same type of training as large and global ones and who have less savvy clients who are less able to 'regulate' their advisors might raise greater concern and more pressing issues in need of empirical study. This topic also raises questions about whether transnational ethical standards might be important for the legal profession in the future (like International Accounting Standards), something which could act as a benchmark for cross-border practitioners, firms and transactions.

This section of the paper has, then, highlighted two main trends. First, the changing scales of governance in the legal profession and the affects of this on education and ultimately closure regimes that restrict access to the professions. Second, the changing agents of education and professional identity formation. The role of vocational education, which often takes place outside of the university, has been highlighted as an increasingly important site of professional identity building and regulation, in particular because of the ability of transnationally mobile professionals to short circuit systems solely reliant on the credentials awarded by national systems of education. This suggests, then, that a refocusing of empirical legal research on education away from the university is an important direction for future work in this area.

The next section develops this point by turning to the firm as a new agent in professional education and by introducing initial findings of an Economic and Social Research Council funded empirical study of leading English-based global law firms (Magic Circle) and their in-house training programmes. Data, which is currently being collected, derives both from a desk based research exercise relating to the qualifications and formal education of lawyers and from a series of in-depth interviews with lawyers in global firms. We report preliminary findings from both of these elements of the research below.

The global law firm: site of training and professionalization?

In theoretical work on the sociology of the professions, which primarily dates from the 1980s and early 1990s, there is a conspicuous absence of the firm as a relevant party in professionalization projects. In part this is probably because of the European bias in

much of the work and the relatively recent emergence of large, mega-law firms outside of the USA. Increasingly, though, the absence of the firm seems more and more problematic. It goes without saying that large law firms and in particular global law firms now have a huge influence on the profession, employing a significant proportion of practicing lawyers.⁵⁴ For example, since the year 2000 in England and Wales, large law firms despite representing 2% of the entire population, employed over two thirds of solicitors and generated over half of the profession's turnover⁵⁵. As a result, in conjunction with globalization and deregulation, legal education is also experiencing the increasing 'gravitational pull' exercised by 'mega-law firms' and their specific interests. More specifically, legal education is increasingly being captured by large organizations which are rearticulating its structure and content around their own strategic priorities. This implies, in particular, the gradual inflection of legal education with commercial and managerial objectives.

In the UK, the first clear evidence of the rise of the firm as an important actor in legal education is probably represented by decision taken in 2001 by a number of large City law firms to break away from the traditional stronghold of the College of Law (the educational arm of the Law Society) for the provision of the compulsory Legal Practice Course (LPC)⁵⁶ and to initiate "their own training of associates with different content and

⁵⁴ See for example Flood, 1996 op. cit. 5; Spar, D. L. 1997. Lawyers abroad: the internationalization of legal practice. *California Management Review* 39 (3) 8-28.; Faulconbridge, J and Muzio, D. (2008) 'Organizational professionalism in global law firms'. *Work, Employment and Society*, 22(1): 7-25

⁵⁵ Muzio and Ackroyd, 2005 op. cit. 1

⁵⁶ In England and Wales all aspiring lawyers must complete such a course after their university degree if they are to acquire practicing certificate

standards of assessment".⁵⁷ The resulting City LPC, delivered by new commercially orientated providers such as BPP, stemmed from a growing dissatisfaction with the broad and generalist programme of education favoured by the Law Society, which allegedly failed to prepare solicitors for the realities of practice in large City firms. The new course addressed this situation through new curricula which emphasised corporate specialisms, commercial approaches and business skills⁵⁸.

Whilst the City LPC brought the concerns and preferences of large law firms to the foreground, the recent development of firm-specific version of the LPC represents an intensification of these tendencies.⁵⁹ By 2008, leading firms such as Clifford Chance and Linklaters have signed exclusive relationships with training providers (in their case the College of Law) to develop and deliver such programmes (which can now be completed in nine months rather than twelve) to all of their new recruits. The benefits of such firm-specific programmes according to those adopting them are multiple. At its most fundamental, the programme allows trainees to be introduced to a firm's standard forms and precedent systems at an early stage. More subtly, as one interviewee from a major English firm identified, such training also allows the firm to 'indoctrinate' new lawyers into its own approach to legal practise early on. As the interviewee put it,

⁵⁷ Malhotra, N, Morris, T and Hinings, CR (2006: 194), 'Variations in Organization Form among Professional Service Organizations', Chapter 7, *Research in the Sociology of Organizations: Professional Firms*, R Greenwood, R Suddaby and M McDougald (eds) (Oxford: JAI Press).

⁵⁸ Charles, G (2004) A revolution in legal education, *The Lawyer* 22/3/2004

⁵⁹ Charles 2004, op. cit. 56; Berris, J. (2008) Cleary teams up with the College of Law for LPC, *The Lawyer* 3/9/2008

“Hopefully therefore you kind of build the loyalty and motivations a bit earlier because they are, you know, a cohort of [firm x] trainees together at an earlier stage”. Or, as an interviewee from another firm using a tailored LPC course suggested:

“it’s a bit like an elongated induction programme and so we’ve created the hook for them, we’ve created things which allow them actually to get in touch with some of the community that actually exists here, so that by the time they come here they hit the ground running”

The idea of organizational culture is particularly significant here. The fact that only recruits from one firm attend classes means that they can be inducted and socialised into their employer’s culture, process and systems from an early stage as a result of the coaching provided both by the LPC provider and by the regular visiting speakers plucked from the firm’s partnership ranks.

Such firm-tailored compulsory training programmes are complemented by an increasing number of post-qualification courses, only some of which are mandatory as part of Continuing Professional Development requirements, which are designed to develop the technical knowledge and business skills required by corporate lawyers and are tied to career progression pathways. The multi-jurisdictional character of many of these initiatives, such as the Clifford Chance Academy, is particularly relevant not only because they represent the growing role of firms in professional education but also, as we will discuss later, because they represent a way of managing global differences in professionalism and lawyering through the development of firm-specific understandings of the role and norms of a lawyer. Thus, the emphasis in these programmes is on the acquisition of firm-specific skills, capabilities and values and on the induction into a specific corporate culture, suggesting that in law like accountancy the firm is replacing

the professional association as the primary source of socialization and identity formation for many lawyers.⁶⁰

Table 1 captures the key characteristics of these in-house programmes in one English global law firm. One notable feature is the focus on business and commercial skills over 'black letter' or formal legal training (i.e. training relating to legislative change or the technical dimensions of deal construction). This is not to suggest that ensuring lawyers are knowledgeable about 'the law' and are able to effectively design and execute deals is unimportant. Rather, it suggests that legal technical excellence is only one of the skills lawyers are expected to develop. Alongside technical excellence, lawyers must also be outstanding advisors, commercially sensitive in their work and, for corporate lawyers, it is crucial to be able to construct transactional frameworks that can straddle jurisdictions as part of transnational deals. These are all skills not necessarily associated with law degrees and not necessarily regulated as part of continued professional development courses. Yet they are increasingly fundamental for large and global firms and in particular for English global firms. Indeed, it is important to note here that not all global firms adopt this strategy; many US firms have much less developed business skills programmes. But in the (predominantly English) firms where they do exist such skills-based training programmes have an increasingly important role. So as the head of training in one global firm noted:

“we put together a series called [firm training x] which is specialist training for a lawyer. The idea is that if you are in corporate, wherever you are in the world, you will still take the course...we've got a global technical core, so we've got a stream of training which is global which works wherever they are and then we've

⁶⁰ Anderson-Gough et al, 1999 op. cit. 7

got a global skills core. So we've got skills training on a global basis wherever you are in the world".

Table 1. Forms of training in one English global law firm. Training in *italics* is managed at the national level. Other training is part of a global programme.

Legal knowledge	<i>Practice group technical sessions</i>	Legal Ethics & Standards
Behaviours	Managing your time Being financially literate Communication skills	Client service & relationships People management Business development
Practices	Constructing global deals	Working as an international lawyer

Firm based formal and informal training programmes are deployed, then, to deliver the necessary technical competences, transferable skills and cultural dispositions to perform as a global corporate lawyer.⁶¹ This is in line with an increasing commercialized version of professionalism⁶² whereby specialist rather than generalist skills are required and whereby new values such as client focus, performance, real time delivery and practice development exist alongside traditional notions such as public service and access to justice. Training provides a way of retooling professional skill-sets to perform to new

⁶¹ See in particular Anderson-Gough, et al, 1999 op. cit. 7; Anderson-Gough F., Grey C. and Robson, K (2000) In the Name of the Client: the Service Ethic in Two International Accounting Firms; *Human Relations*, 53: 1151-1174; Grey, C (1998): On Being a Professional in a Big Six Firm. *Accounting, Organizations and Society*, 23 569-587.

⁶² Hanlon, 1998 op. cit. 37; Hanlon, 1999 op. cit. 37

'commercial' requirements as professional mindsets are made to coexist alongside allegiances to organizational priorities.⁶³ This may, then, be one of the loci of the type of transnational commercial professionalism Etherington and Lee identify, something which could replace nationally specific professionalisms and ethical codes.⁶⁴ This recognizes the prominence of large firms as sites of professional formation 'where professional identities are mediated, formed and transformed'⁶⁵ and in particular the use of training, together with other corporate practices such as appraisals, mentoring or selective recruitment as a technology of control involved in such processes.⁶⁶

The quest for global integration

Another area where training and legal education are of crucial importance is with regards to managing the challenges of globalization and the quest for organizational integration and seamless service provision. For global law firms, one of the primary challenges associated with developing integrated office networks in multiple legal jurisdictions is finding lawyers with a shared approach to legal work. As described above, the nationally peculiar content and values promoted in legal education leads to lawyers with country-specific approaches to legal work. For global law firms, these 'varieties of

⁶³ See Realin, J. (1991) *The clash of cultures. Managers managing professionals*. (Boston: Harvard Business School Press).

⁶⁴ Etherington and Lee, Op Cit. 13

⁶⁵ Cooper and Robson, 2006: 416 op. cit. 40

⁶⁶ Grey, 1998, op. cit. 59; Anderson-Gough et al, 2000 op. cit. 59; Anderson-Gough F, Grey C, and Robson, K (1998) 'Work Hard, Play Hard': An Analysis of Cliché in Two Accountancy Practices. *Organization*, 5 (4), 565-592

professionalism', whilst valuable when servicing 'domestic' clients in any one country, can cause tensions when cross-border transactions are completed. Put simply, if several lawyers from different jurisdictions all approach a transaction with different principles, methods and visions in terms of the desired outcome, both tensions between members of the transaction team and the disjointed advice offered to the client are likely to compromise the effectiveness of cross-border work.⁶⁷

In many ways such difficulties are unavoidable. However, as global law firms mature and develop new strategies designed to minimize the effects of nationally heterogeneous legal practices, professional education has come under increasing scrutiny, both as a *cause* but also potential *solution* to the difficulties firms have encountered. One tactic designed to deal with such challenges comes from the use of selective recruitment. Carole Silver provides an in-depth and to date unrivalled analysis of this phenomenon.⁶⁸ By analyzing the biographies of lawyers employed in global firms, Silver reveals that in the early stages of globalization, US firms tended to favor lawyers with LL.M qualifications from particular universities. These tend to be the elite universities such as Harvard, Yale, Columbia etc. but also universities known for their commercial ethos and approach to legal practice. Often this also means recruiting from universities close to the firm's 'home' office because of established contacts and insights into these institutions, their quality and pedagogical perspectives. Silver's research suggests that that this

⁶⁷ See Beaverstock, J. V., Smith, R. and Taylor, P. J. 1999. The long arm of the law: London's law firms in a globalising world economy. . *Environment and Planning A* 13 1857-1876; Faulconbridge, J. R. 2008. Negotiating cultures of work in transnational law firms. *Journal of Economic Geography* 8 (4) 497-517; Faulconbridge and Muzio, 2007 op. cit. 5; Faulconbridge and Muzio 2008 op. cit. 53).

⁶⁸ See in particular Silver (2007) Op. Cit. 66.

recruitment strategy initially led to overseas offices of US global law firms being populated by a significant number of lawyers with a US LL.M degree or some experience of legal practice in the USA. These individuals were recruited because they were assumed to provide “important links to domestic offices and firm culture, practices and procedures”.⁶⁹ In effect, they acted as a vector for the diffusion of US legal culture and practice, their role being to perform to the standards and in the style expected by the firm (and its clients), and to help ‘socialize’ foreign lawyers employed in overseas offices into the firm’s professional culture and style of legal practice. Interestingly, Silver’s research shows that in the early stages of US firm’s globalization there were more lawyers with LL.M qualifications or US experience especially in offices where the English language is uncommon, where legal systems are very different to Anglo-American legal systems or in jurisdictions which have had limited interaction with Anglo-American law until recently (e.g. China and other parts of Asia). This suggests US qualifications have particular value as proxies for quality and trust in the more unfamiliar territories.

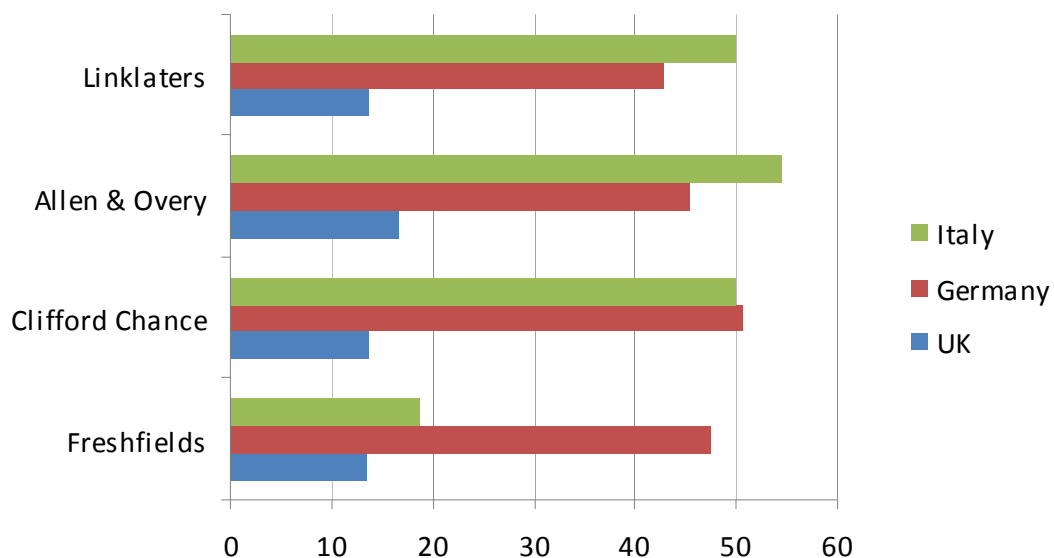
In light of this finding, it is unsurprising that we have found selective recruitment to be important in English global law firms. By studying two European jurisdictions — Germany and Italy – outside of English firms’ home-country, we have found that the LL.M and other forms of postgraduate education are important tools for ensuring lawyers are cognizant of Anglo-Saxon, common law approaches to delivering legal advice. As figure 1 suggests, around 50% of partners in the German and Italian offices of ‘Magic Circle’ firms have some kind of training outside of their country of practise. As this data refers to partners, in many cases it captures the recruitment strategies of firms in the past with

⁶⁹ Silver (2007) op cit. 66; See also Faulconbridge Op. Cit 65.

present day partners, with the exceptions of lateral hires, being recruited ten or more years ago. This confirms, then, Silver's suggestion that selective recruitment had an important role as firms globalized. In effect, then, this strategy is about a layering process through which, for example, a German lawyer gains initial qualifications and the right to practice through a degree at a German university before gaining secondary postgraduate qualifications in Anglo-Saxon jurisdictions. Such lawyers are more likely to be familiar with the primarily American or English values of global law firms because they have been socialized into this professional culture through their educational experiences in the UK or USA. Crucially, 'technical' knowledge gained about the law is, here, less important than business skills and an understanding of Anglo-Saxon legal culture and business practices.

Figure 1. % of partners with overseas qualifications

Source: Firms websites



More recent research by Silver (see Silver, this issue) suggests US firms have begun to move in a different direction in terms of their recruitment strategies. As part of 'glocalization' and attempts to become more integrated into overseas markets, LLM graduates are playing a less important role today than in the past. In their place are 'local' lawyers without US training. Data on current recruitment practices in English firms is hard to access as few firms publish the qualifications of their junior associates. However, interviews suggest that there is still some role for selective recruitment with overseas qualifications acting as an indicator that a lawyer may be capable of working in a transnational, Anglo-Saxon firm. As the head of training at one English global firm summarized this idea:

“So they [people having completed a LLM in the UK or USA] tend to have a more kind of open attitude...you do get a sort of, it's a gross generalisation, but you do get people that are very open-minded so they are very receptive to training”.

Clearly more research is needed to unpack the current role of selective recruitment and to confirm is continuity or decline in importance in English global firms. Nevertheless, the quotation above does highlight the important connection between recruitment and training. By recruiting the 'right' lawyers it is then easier to train them to be transnational practitioners in a global firm. The development of firm specific training programs and the recalibration of existing curricula to reflect the realities of cross-border work is, therefore, a second important and complementary way of dealing with the challenges of ensuring global integration.

As highlighted in table 1, training in global firms and in particular training relating to business skills, tends to be organized and delivered at a 'global' level. The use of a

common business skills curriculum is a core tactic for ensuring that, as well as being embedded in the local legal market and culture, lawyers working for global law firms also share a set of transnational values and understandings in terms of the norms of legal service delivery. This is not to say that all lawyers in a global firm share exactly the same values and lose their 'national' identity. Rather, it indicates that 'hybrid' identities emerge as lawyers develop an understanding of their role as a lawyer both in their local context as well as in the transnational business environment.

Such global training that allows core business skills to be developed and forms of 'cultural coherency' to be maintained in firms is delivered in a range of ways. One of the most important techniques is the global or regional retreat at which lawyers from multiple jurisdictions come together for a number of days of training. This is where key skills are honed, not in relation to technical knowledge of 'the law', but in relation to client service and transaction building in global firms. As one head of training in an English global law firm described:

“much of the course tends not to be law focused. So it really is transactional practice focused. And in that way it's as valuable for somebody from say China or Germany or Italy as it is for the English contingent because they are not learning about, you know, we would never touch something like the Company's Act on that course”

One of the most important tools in such scenarios is the simulation in which a corporate transaction and all of its stages are reproduced in the classroom through the involvement of partners and, on some occasions, outside training consultants. The aim of the simulation is to provide lawyers, and particularly junior lawyers, with the opportunity to understand how transactions should be approached in the firm. It also provides lawyers with an opportunity to put into practice the skills learnt through more

formal teaching provided at retreats. Perhaps most importantly, though, just like the tailored LPC it allows lawyers to get to know, work with and be part of a community of colleagues from the firm's worldwide network of offices. This has multiple benefits. At one level, the experienced lawyers and partners brought into to help with training act as 'role models' instilling the types of approaches expected from more junior lawyers. This allows a 'benchmarking' effect to take place as lawyers compare themselves to one-another and make adjustment to fit with the 'norms' performed by role models. At another level, being part of the community allows lawyers from different jurisdictions to better recognize the differences that exist in the way they approach legal work, the approaches favoured by those providing training, how their approach conflicts with that of others and, any changes that might, therefore, be needed. As one training partner put it:

"you get to work on deals which have you know, need lawyers from all different jurisdictions to pull the deals together. So you learn by working with other people from other parts of the world and you know, working together as a whole team to service the international client so that's one way...that obviously gives them a pretty good understanding of what it means to work in another office in another part of the world".

Implications for empirical legal research

Together, the combination of selective recruitment which emphasizes multi-jurisdiction qualifications and exposure to Anglo-Saxon practices, and corporate training programs which promote firm-specific values and understandings of professionalism which can help to sustain globally consistent practices and approaches to service delivery, seem to be leading to a situation in which the firm as a site of professional education is becoming as important as the university. Although many of these training initiatives are still

consolidating and, therefore, are under-researched, this new commercial and corporate focus raises some important ethical and deontological implications for the legal profession, whilst delivering a lasting challenge to professional projects, as they expose generations of new professionals to conflicting work organization principles such as: entrepreneurship and managerialism.⁷⁰ For instance, the inflection of professionalism and professional education with a clearly corporate logic may undermine the independence that should distinguish professional advice and downplay commitment to broader principles such public interest and the service of justice. The specialist focus which characterises contemporary legal education and in particular the development of firm specific programmes, produces less rounded professionals, inhibits notions of professional community and could lead to the creation of a divisive two tier system of professional education.

More broadly, such changes are likely to coexist with existing regulative regimes which are national in scope and not designed with the realities and dilemmas of education in large law firms in mind. Thus, as Etherington and Lee suggest, forms of commercial business law ethics may fall outside of the scope of current regulatory frameworks; something which suggests that it is time to revisit questions about who regulates professional education and how this is achieved.⁷¹ Indeed, in England the Solicitors Regulation Authority is currently considering just these questions, the proposal being the development of a City code targeted at large corporate firms operating in London.⁷² More broadly, whether changes should result in transnational or national standards is

⁷⁰ See Freidson, E. (2001) *Professionalism: The Third Logic* (Chicago: University of Chicago Press) on these topics and their role in the professions.

⁷¹ See Everington and Lee, op cit. 13

⁷² The Lawyer (2008) 'DLA volunteers for trial SRA inspection'. 27th October.

another important question. A starting point for developing answers to such questions would, however, require the further analysis of the role and nature of legal education in global firms, since these developments may potentially act as an important mechanism through which the practice of lawyers may be shaped in problematic or at least unexpected ways.

Conclusions

This paper has presented a number of examples of how processes of globalization have begun to effect legal education. In doing this, the paper has highlighted a number of important trends associated with transnational mobility and regulation that deserve empirical research, especially because of their potential impacts on the practices and ethics of lawyers in global firms. In particular, the discussion of the European Union's Service Directive and the work of the North American Free Trade Association as part of broader neoliberal reforms reveals the type of 'short-circuiting' that is occurring in national systems of the professions because of new forms of transnational governance which limit the state's ability to control lawyers through traditional means such as educational closure.

The paper has also revealed the way the careful and strategic use of education allows global law firms to manage the challenge of operating across multiple national jurisdictions. In particular, the emerging trend noted of firms working with education providers to develop specifically tailored forms of training that help develop the practice of their lawyers suggests how *the firm itself* is an increasingly important actor in professional projects; thus, its role in shaping the values, practices and ethics of lawyers deserves further attention. Global law firms and the training they organize now

represent, then, both a vehicle for the sustained interaction between different local varieties of professionalism and a mechanism for ironing out some of the tensions arising from such national heterogeneity; this is something which can generate significant challenges but may well lie behind the emergence of a new transnational form of professionalism.

As a result, the original theoretical frameworks used to explain processes of professionalization require revision and integration.⁷³ Exploiting transnational mobility regimes in the professions alters the role of the state as a regulator of professional status whilst regulatory reforms also reconfigure the role of other actors such as universities. This is highly significant. As the paper shows, by charting the relationship between one of the new actors - firms – and one of the an existing actors – universities-, it is possible to connect some important developments in legal education to the emergence of new transnational models of professional culture, practice and organization.

More broadly, for those interested in legal education, our analysis suggests a refocusing in empirical studies. The university law school has acted as the primary site of research to date, revealing some important insights into the way the content and teaching of law has changed over the past two decades. However, in a globalizing context, it seems that other sites of education deserve increasing attention because of their influence over processes of professionalization..In particular, it would seem important to place more emphasis on corporate training programmes and their role in the production of professionals. It is often assumed that university education is the most important site of

⁷³ Burrage et al, op cit. 7

knowledge development and identity formation. Indeed, professional projects also assume this and are overly-reliant on university education in their closure mechanisms. But as this paper has shown, identity formation also occurs outside of the law school and in the various forms of compulsory and optional training, such as the LPC course in England, continued professional development courses and firm-led skills development programs, which take place in law firms.⁷⁴ To this end, focusing on education within large law firms also seems an important future direction for empirical legal research. Relatively little is known about the content, delivery mechanisms or ethos of this training. Yet as a site of identity formation for more and more professionals, it surely deserves more attention. This will also inevitably raise questions about what also goes on in small firms. One counter argument to the ideas expressed here is that the resources of large law firms and the training they provide ensures lawyers practicing in such an environment actually undergo more careful training that ensures technical and broader professional responsibilities are fulfilled than lawyers in small firms. In addition, the clients of large firms are often in a better position to judge the quality of legal advice and challenge lawyers who act irresponsibly. Therefore, a complementary stream of work on the training received by lawyers in small firms would also be welcome. It would seem, then, that over the next decade a range of new and important opportunities for empirical studies of legal education, ethics and professionalism exist.

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⁷⁴ For a similar argument see also Gordon (2005), op cit. 49