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From Public Service to Service Industry: The Impact of Socialisation and Work on the Motivation and Values of Lawyers

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‘All the offers are very tempting. But I could never be a star and I don’t want to be a flash in the pan. In law I can have a career that lasts 40 or 50 years’.
(P.J., contestant in the ‘reality’ television series ‘Big Brother’ explaining his refusal of media opportunities.¹)

Introduction

The purpose of this article is to explore the perspective of newly qualified lawyers on the process of professional socialisation and the way that their expectations, motivations and values affect the ways they interpret their experience. In this article ‘expectation’ means recognition of a probability that something will happen, although it conveys a sense of looking forward to realisation of that probability with hope or pleasure. ‘Motivation’ is defined as the inducements, incentives or inspiration that move a person to action, to which expectation is clearly linked. ‘Values’ are the highest level of abstraction of personality organisation² constituting enduring and overriding notions about how the world ought to be and what is judged valuable or important in life. All of these elements are potentially affected by professional socialisation and, indeed, to affect them is presumably the purpose of a process of cultural learning.³ Such a process may, however, have unintended as well as intended consequences, particularly when the purpose of socialisation is relatively unarticulated and its scope unclear. This is reflected in the fact that a strong theme of the article is the phenomenon of disaffection with legal careers, in which expectation, motivation and values may play a part.

While the data for this article is drawn from interviews with young practitioners in England and Wales, a recent incident graphically illustrates the international significance of its themes. In 2002, associate attorneys at the New York office of Clifford Chance, one of the largest and richest law firms in the world, sent a memorandum to partners attempting to ‘join the discussion on how to improve the quality of life for associates at the firm’.⁴ They were prompted by a survey of associates in leading firms by *American Lawyer*, which ranked Clifford Chance the worst firm in the country for associate satisfaction. The memorandum complained about a wide range of issues, including pressure to ‘pad bills’, poor communication,

* I would like to thank the Law Society of England and Wales for funding the project, Sumitra Vignaendra of the Law Society who commented on the proposal for the qualitative work and Liz Duff and Michael Shiner for their work on the project generally, Julian Webb for commenting on an earlier draft of this article and Avis Whyte for research assistance, including with the fieldwork. I would also like to thank the three anonymous referees, whose comments were valuable and stimulating.

¹ J. Currie, ‘Lawyer in the house’ *The Lawyer* 7th October 2002.

² This level of personality organisation comprises also beliefs and attitudes (G.J. Rathjen ‘The Impact of Legal Education on the Beliefs, Attitudes and Values of Law Students’ 46 *Tennessee Law Review* 85 at 87).

³ See, for example, E. Durkheim *Professional Ethics and Civic Morals* translation by C. Brookfield (London: Routledge & Kegan Paul Ltd., 1957) and P. Atkinson ‘The Reproduction of the Professional Community’ in R. Dingwall and P. Lewis (Eds.) *The Sociology of the Professions* (Basingstoke, Hampshire: The MacMillan Press Ltd., 1983) 224.

⁴ <http://financialtimes.com>.

partner indifference and discouragement of pro bono work.⁵ The associate's list of grievances conveys a sense of betrayal of their motivation for entering the profession and their values. Both, to some extent, are grounded in clear expectations of ethical professionalism and legal work. Such examples raise concerns about the promise of the professions' to provide satisfying, lifelong careers and issues about the nature of preparation for professional working life. In order to develop responses to these concerns it is important to understand the nature and origins of disaffection.

Literature

Dissatisfaction with legal roles is a strong theme of American literature on the legal profession. Simon begins his 2002 treatise on the theory of lawyers' ethics with the observation that 'no social role encourages such ambitious moral aspirations as the lawyer's and no social role so consistently disappoints the aspirations it encourages'.⁶ Simon rejects the idea that contemporary evidence of disillusionment is a phenomenon caused by trends towards bureaucracy and commercialism. Rather, he blames conventional legal ethics and, specifically, the demands of role morality.⁷ Rhode also identifies an aspect of role, that 'lawyers expect to make, and perceive that they do not make, a contribution to social justice', as the greatest source of discontent.⁸ She, on the other hand, also implicates structural factors, such as commercialisation and competition, leading to the decline of civility and collegiality, longer hours and pressures on family life.⁹ Kronman agrees that specialisation and organisational change have exacerbated the decline of the personal dimension of professionalism, but attributes the decline in professional satisfaction to the demise of the lawyer/statesman ideal and the diminishing call for the broad advice that requires practical wisdom, or reason.¹⁰

British studies of legal work have also focused on legal roles, both as they have been traditionally constructed and how they may be changing. Twining, for example, addressed the question, 'what do lawyers do?' employing the opposing models of statesman policy-maker and mere technician.¹¹ Sherr asked whether, in the light of changes in legal practice, lawyers could sustain the popular media image of superhero or whether they were in fact mere wage slaves.¹² The use of similar bi-polar representations of legal roles in other common law jurisdictions indicates similar interest in, and concern about, the nature of professional work.¹³ Sugarman, however, counsels against theories based on stereotypes,¹⁴ suggesting that longstanding and

⁵ *Id.*

⁶ W.H. Simon *The Practice of Justice* (Camb. Mass., London: Harvard University Press, 1998) 1

⁷ *Id.*

⁸ D.L. Rhode *In the Interests of Justice: Reforming the Legal Profession* (Oxford, New York: Oxford University Press, 2000) 213.

⁹ *Id.* particularly Ch. 2.

¹⁰ A. Kronman *The Lost Lawyer* (Cambridge, Mass., Belknap Press, 1993).

¹¹ W. Twining 'Pericles and the Plumber' (1967) 83 *Law Quarterly Review* 396 and note the discussion of Kronman, and the general themes dealt with here, in W. Twining 'Pericles Regained' (1998) 1 *Legal Ethics* 131.

¹² Sherr anticipated increasing demand for efficiency resulting in an enhanced division of labour, para-legal employees performing routine aspects of cases reserving qualified lawyers for 'crises', thereby turning the attractive, vocational element of legal work into routine (A. Sherr 'Of Super Heroes and Slaves: Images of the Work of the Legal Professional' (1995) 48 *Current Legal Problems* 327).

¹³ A. Goldsmith 'Heroes or Technicians? The Moral Capacities of Tomorrow's Lawyers' (1996) *Journal of Professional Legal Education* 1.

¹⁴ Sugarman contends that, while lawyers' work, organisation and culture change over time, 'ideology sustains apparently divergent conceptions of the profession, while asserting a common culture and

intimate links between legal professionalism and business make commercialism an unlikely candidate for the contemporary ills of legal practice. This view is supported by MacDonald's empirical study of attrition among entrants in the early 1980s, in which the politest of those departing the profession described their experience as 'a nasty shock'.¹⁵

Theoretical analyses of legal work have been informed by a number of recent studies exploring the experience of young lawyers in the United Kingdom. In the mid-1990s Moorhead and Boyle's quantitative survey of one hundred and forty eight trainees and recently qualified lawyers found a 'considerable level of disquiet...', which they mainly attributed 'to debt, job security and the quality of supervision and training'.¹⁶ The emergence of such pressures may well have presaged the emergence of the legal culture that the Clifford Chance associates found so repugnant. A culture constituted by work pressure, pressure to bill,¹⁷ fuelled by cynical commercialism and organisational conformity, would operate as a threat to aspiring lawyers' ethical commitments.¹⁸ Other work, however, suggests that the increasingly heterogeneous nature of entrants is an issue. Larger numbers of women, in particular, enter the profession but many do not stay.¹⁹ Research for the Law Society by Siems²⁰ and by Duff and Webley,²¹ confirmed that women were significantly more likely than men to have considered leaving the profession. Among the possible reasons according to Siems is that they earn less, are more dissatisfied than men with partnership opportunities and are more likely to resent long hours and lack of balance between work and family or leisure time.

Sommerlad suggests that the decline in conveyancing income and increasing commercialisation are factors affecting the job satisfaction of all solicitors, but particularly legal aid practitioners and women.²² These groups endure reduced job satisfaction because of a declining emphasis on client care and professional autonomy dictated by the imposition of funding constraints and franchise auditing mechanisms. They have also suffered a loss of professional esteem because of the 'denigration and distrust' of public sector professionals, represented by such measures. The replacement of the professional ethic of client service by 'New Public Management' of the sector and of professional organisation by capitalist relations within firms²³ has,

history binding lawyers together as a community' (D. Sugarman 'Simple Images and Complex Realities: English lawyers and Their Relationship to Business and Politics, 1750-1950' (1993) 11 *Law and History Review* 257 at 258).

¹⁵ P. McDonald 'The Class of '81' – A Glance at the Social Class Composition of Recruits to the Legal Profession' 9 *Journal of Law and Society* 267

¹⁶ R. Moorhead and F. Boyle 'Quality of life and trainee solicitors: a survey' (1995) 2 *International Journal of the Legal Profession* 217 at 218

¹⁷ L.K. Hellman 'The Effects of Law Office Work on the Formation of Law Students' Professional Values: Observation, Explanation, Optimization' (1991) 4 *Georgetown Journal of Legal Ethics* 537, D.L. Rhode 'Ethics by the Pervasive Method' (1992) 42 *Journal of Legal Ethics* 31.

¹⁸ Student disengagement from ethical issues when exposed to organisational life is debated across disciplines (D.Lowry 'Moral Awareness of Business Students: The Implications For the Teaching of Business Ethics', 2004 Conference paper)

¹⁹ J. Currie 'AWS [Association of Women Solicitors]: why do so many young lawyers quit the profession?' *Lawyer* 2B February 2003 7).

²⁰ J. Siems *Equality and Diversity: Women Solicitors Volume I* (London: Law Society, 2004) p119.

²¹ L. Duff and L. Webley *Equality and Diversity: Women Solicitors Volume II* (London: Law Society, 2004).

²² H. Sommerlad 'Managerialism and the legal profession: a new professional paradigm' (1995) 2 *International Journal of the Legal Profession* 159.

²³ H. Sommerlad 'The implementation of quality initiatives and the New Public Management in the legal aid sector in England and Wales' (1999) 6 *International Journal of the Legal Profession* 311.

Sommerlad argues, caused the subordination of women and others, like paralegals,²⁴ without a grip on the levers of organisational power. Greater differentiation and stratification, between and within firms, has increased the emphasis on commitment, measured in hours worked, and characteristics such as the capacity to generate business, in which areas women may suffer disadvantage.²⁵

Another dimension of experience of the work environment are the values that entrants bring to it. There are often differences in the level of generality at which legal values are discussed, although the context is usually legal education. Kronman argues that legal education be underpinned by the ultimate value of democratic individualism,²⁶ Evans and Palermo's study of Australian law students focuses on personal values such as honesty, and moral values such as truth and justice,²⁷ and Cownie emphasises broader educational values, singling out the capacity for critical self-examination.²⁸ Empirical studies on professional motivation and values are usually based on the career intentions of law students, with orientation to a particular type of legal career assumed to be a good indicator of 'altruistic' or 'selfish' motivation.²⁹ These concepts already have broad currency in legal ethical discourse, altruism readily translating into the defining value of professionalism, public service³⁰ or the professional ideology of committed service to others³¹ and selfishness usually appearing juxtaposed to it and linked with individualistic, business or entrepreneurial orientations to role.

There is little evidence that the socialisation of lawyers has much impact on values. Indeed, most of the research from the United States suggests that legal education has a negative or neutral affect on students' moral reasoning.³² It indicates a progressive homogenisation of attitudes and values towards a conservative view of legal role,³³ away from idealism towards instrumentalism³⁴ and against legal aid, public service or

²⁴ A.M. Francis 'Legal executives and the phantom of legal professionalism: the rise of the third branch of the legal profession' (2002) 9 *International Journal of the Legal Profession* 5.

²⁵ P. Sanderson and H. Sommerlad 'Professionalism, Discrimination, Difference and Choice in Women's Experience in Law Jobs' in P. Thomas (Ed.) *Discriminating Lawyers* (London: Cavendish Publishing Limited, 2000) 155 at 161 (and see H. Sommerlad and P. Sanderson 'The Legal Labour Market and the Training Needs of Women Returners in the United Kingdom' (1997) 49 *Journal of Vocational Education and Training* 45).

²⁶ *Op. cit.* n.10.

²⁷ A. Evans and J. Palermo 'Australian Law Students' Perceptions of their Values: Interim Results in the First Year—2001—of a Three-Year Empirical Assessment' (2002) 5 *Legal Ethics* 103

²⁸ F. Cownie 'Alternative Visions in Legal Education' (2004) 6 *Legal Ethics* 159 at 174

²⁹ Careers in Government Legal Service are presented quite literally as a form of public service in which financial benefits are surrendered in order to work in the public good (J. Currie 'For Queen and Country' *Lawyer* 2B June 2002 50).

³⁰ See, for example, Pound's assertion that a profession is an occupation pursued in a spirit of public service (R. Pound *The Lawyer from Antiquity to Modern Times: With Particular Reference to the Bar Associations in the United States* (St. Paul, Minn.: West Publishing, 1953)) or the discussion in G. Mungham and P.A. Thomas 'Solicitors and Clients: Altruism or Self Interest?' in *The Sociology of the Professions* (*op. cit.* n.3) 131.

³¹ See generally, E. Freidson (Ed.) *The Professions and Their Prospects* (Beverly Hills: Sage Publications, 1973) and H.S. Erlanger and D.A. Klegon 'Socialisation Affects of Professional School: The Law School Experience and Student Orientations to Public Interest Concerns' (1976) 13 *Law and Society Review* 11.

³² T.F. Willging and T.G. Dunn 'The Moral Development of the Law Student: Theory and Data on Legal Education' (1982) 32 *Journal of Legal Education* 306.

³³ D. Schleef 'Empty Ethics and Reasonable Responsibility: Vocabularies of Motive Among Law and Business Students' (1997) 22 *Law and Social Inquiry* 619).

³⁴ Schleef's study of American law degree students found that students' positions shifted from extreme self-interest or altruism towards a mid-point consensus, whereby a desire to 'help the poor' transformed

government work.³⁵ Caution should be exercised in transferring conclusions to jurisdictions outside the United States, particularly since there are significant contextual differences in legal education and training.³⁶ Although there are numerous studies of legal education and its interface with legal work in the United Kingdom,³⁷ only Sherr and Webb's work on Warwick University degree students³⁸ touches on the issue of motivation. Their findings were consistent with the studies carried out in the United States, particularly that of Erlanger and Klegon, in finding the progressive marginalisation of altruistic motivation towards the socially disadvantaged.³⁹ This led Sherr and Webb to speculate that legal education has a weak socialising affect, one that subsides easily when pitted against the pull of the job market.

The Law Society cohort study (hereafter 'the cohort study'), of which the work reported here was the final piece of fieldwork, makes a strong contribution to the literature on professional socialisation in the United Kingdom. The longitudinal design followed a single cohort of students on its progress to qualification for, and entry to, the legal profession, resulting in six surveys, each with a quantitative and qualitative component. The cohort comprised undergraduate law students first surveyed as second years in 1992 and non-law graduates undertaking a one-year conversion course first surveyed in 1993, both groups selected from a range of institutions. The cohort of students from which participants were drawn graduated in 1993 and was around 6,000 strong. The aspect of the reports that have received most attention was the considerable disadvantage that some groups within the cohort suffered in the labour market,⁴⁰ although aspects of the surveys touched on motivation issues. The cohort study revealed some ambivalence about the experience of higher education and training, particularly for some of the sample. For example, the second

into support for zealous advocacy and pro bono representation (*id.*). Gender differences in relation to these values are also, apparently, few in law schools (J. Taber, M.T. Grant, M.T. Huser, R.B. Norman, J.R. Sutton, C.C. Wong, L.E. Parker and C. Picard 'Gender, Legal Education, and the Legal Profession: An Empirical Study of Stanford Law Students and Graduates' (1988) 40 *Stanford Law Review* 1209)

³⁵ A substantial downswing in determination to work in the public interest or public sector is common (S. Homer and L. Schwartz 'Admitted but Not Accepted: Outsiders Take an Inside Look at Law School' (1989-90) *Berkeley Women's Law Journal* 1 at 42, R. Granfield *Making Elite Lawyers* (New York, Routledge, 1992) or, if such interest is maintained during college years, it is not reflected by employment decisions (Erlanger and Klegon *op. cit.* n.31) or legal education reinforces original attitudes to careers (J.M. Hedegard 'The Impact of legal Education: An In-Depth Examination of Career-relevant Interests, Attitudes, and Personality traits Among First-Year Law Students' (1979) 4 *American Bar Foundation Research Journal* 791 at 805).

³⁶ Many are snapshots of a single cohort or longitudinal studies of changes in students through the college years. Issues of scale and cost often limit the generalisation of data. Hedegard's study (*id.*), for example is of the law school at a Mormon college, Brigham Young University, with an exclusively Mormon intake, raising issues of reliability. Similarly, Schleef's (*op. cit.* n.33) was a relatively small-scale longitudinal study.

³⁷ A study of the efficacy of vocational training by Goriely and Williams used qualitative methods and distinguished between training in large and small firms (T. Goriely and T. Williams *The Impact of the New Training Scheme: Report on a Qualitative Study* (London: The Law Society, 1996). Similarly, the larger project from which this article is drawn makes the same distinctions (A. Boon, E. Duff, M. Shiner 'Career Paths and Choices in a Highly Differentiated Profession: The Position of Newly Qualified Solicitors' (2001) 64 *Modern Law Review* 563). Both studies, however, tend to concentrate on technical issues of education, terms and conditions of employment etc.

³⁸ A. Sherr and J. Webb 'Law Students, the External Market, and Socialisation: Do We Make them Turn to the City?' (1980) 16:2 *Journal of Law and Society* 225.

³⁹ Law students associate public service with 'helping people', usually poor or otherwise disadvantaged members of society. This is explicit in Schleef's study and implicit in Sherr and Webb's study (*op. cit.* n.33 and *id.*).

⁴⁰ Halpern, David. (1994) *Entry Into the Legal Professions: The Law Student Cohort Study Years 1 and 2* London: The Law Society Ch. 9.

report showed high levels of intention to practice but focused on accumulating evidence of indirect discrimination in the award of training contracts.⁴¹ The fourth survey suggested a significant pattern of discrimination in the City commercial and large provincial firms, in favour of Oxbridge and CPE students and against ethnic minorities and new university students.⁴²

The theme of discrimination was reflected, although to a lesser extent, in the starting salaries of the different groups within the cohort. Although such discrepancies reflect the higher salaries paid in City and commercial firms generally, the fourth survey also revealed that ten per cent of trainee solicitors and twenty eight per cent of pupil barristers felt that they had been adversely discriminated against or harassed at work.⁴³ In the fifth study, a quarter of respondents were in their first post-qualification job and dissatisfaction with different aspects of practice was becoming more manifest.⁴⁴ The sixth and final survey found half of those in private practice in City or large provincial firms and high levels of career satisfaction despite a significant earnings gap of between £20,000 in high street firms and £50,000 in City firms, difficulty in moving between sectors and, for a minority, discrimination, bullying and harassment.⁴⁵ The majority envisaged that they would remain in the profession, but within the quarter of respondents uncertain about their futures, six per cent said that they definitely would not be working as a solicitor or barrister in five years time.⁴⁶

Methodology

The principal methodology of the Law Society cohort study was quantitative. In every stage but the last, qualitative interviews focused on the issues considered in the particular survey and extracts from them were used for illustrative purposes in the survey reports. For the sixth and final survey it was decided that the qualitative work should also be freestanding, constituting an open-ended enquiry into participants' expectations of a legal career and their experience. Establishing the qualitative work in this way had a number of advantages, including providing the possibility of a better understanding of the context for the phenomena studied and diagnosing and evaluating the factors underlying the quantitative responses. This offered the possibility of exploring issues like how having relatives in professions increases the chances of professional entry⁴⁷ and more complex attitudinal questions, like the ambiguity between high levels of general satisfaction and clear dissatisfaction with aspects of the experience of qualifying.⁴⁸

⁴¹ M. Shiner and T. Newburn *Entry Into the Legal Professions: Law Student Cohort Study Year 3* (London: Law Society, 1995).

⁴² M. Shiner *Entry into the Legal Professions: The Law Student Cohort Study Year 4* (London: Law Society, 1997).

⁴³ *Id.*

⁴⁴ M. Shiner *Entry into the Legal Professions: The Law Student Cohort Study Year 5* (London: Law Society, 1999).

⁴⁵ E. Duff, M. Shiner, A. Boon, A. Whyte *Entry into the Legal Professions: The Law Student Cohort Study Year 6* (London: Law Society, 2000).

⁴⁶ *Id.*

⁴⁷ Halpern (*op. cit* n. 40) noted but was unable to explain this (see p.99)

⁴⁸ The Law Society cohort study continuously noted the difficulties of using survey based attitude measures to understand satisfaction ratings. (*op. cit* n. 44 p.72). Moorhead and Boyle also found relatively high levels of satisfaction with the quality of working life and current position, yet dissatisfaction with other aspects of experience (*op. cit* n. 16 at 233).

Qualitative methods, by the inductive development of ‘grounded theory’,⁴⁹ provide opportunities to enhance study validity and contributes to reliability through methodological triangulation.⁵⁰ The reliability of qualitative work depends on process rather than on generating statistically valid samples. Thus while the sample for this work, fifteen, is modest compared with quantitative studies, it is not uncommon in qualitative work, which proceeds from different premises.⁵¹ In qualitative research design, salient issues are not predetermined by the researchers as survey questions, but emerge from the process. An important illustration of the potential significance of this is the fact that the cohort study attached great importance to the issue of debt, which was not mentioned by any interviewee in the qualitative sample. This capacity of qualitative work to raise questions about quantitative studies, or to place them in a different perspective, is important. It responds to Sarat and Silbey’s argument that socio-legal studies should strive to ‘keep multiplicity alive’ by examining rival hypotheses and multiple narratives rather than merely ‘testing and rejecting’.⁵² Another strength of the qualitative work for the sixth survey was the vantage point of the sample as qualified lawyers. One of the weaknesses of the empirical work on the motivations of law students, noted by Erlanger and Klegon, is that they do not usually follow law students into their employment as lawyers.

Data for this article is taken from interviews with fifteen recently qualified solicitors in private practice. They had all participated in the quantitative phase of the sixth survey for the cohort study.⁵³ In-depth interviews, lasting at least an hour,⁵⁴ were conducted towards the end of 1999 and in early 2000, when most participants had been qualified for at least two years.⁵⁵ They represented the profile of solicitors in England and Wales in terms of type of firm, gender and geographical location. The selection of participants was random, within broad categories, rather than purposive. These are, therefore, ‘ordinary’ entrants to the solicitors’ branch of the profession talking about their experience of professional socialisation, rather than people identified because they had experienced particular problems. Approximately half were women and two, Chris and Nadil, were from ethnic minorities. Both of these groups suffered some of the affects described in the literature, including possible discrimination. The treatment received by the group, however, seems to be fairly

⁴⁹ B.G. Glaser and A.L. Strauss *The Discovery of Grounded Theory: Strategies for Qualitative Research* (Chicago: Aldine, 1967), A. Strauss and J. Corbin ‘Grounded theory Methodology’ in N.K. Denzin and Y. S. Lincoln (Eds.) *Strategies of Qualitative Inquiry* (Thousand Oaks, Calif.: Sage Publications, 1998) 158.

⁵⁰ Y.S. Lincoln and E.G. Guba *Naturalistic Inquiry* (Newbury Park, Calif.: Sage Publications, 1985) 305, R.A. Singleton, B.C. Straits and M.M. Straits *Approaches to Social Research* (Oxford: Oxford University Press, 1993) 56.

⁵¹ Lincoln and Guba (*id.*) pp. 39-43

⁵² S. Silbey and A. Sarat ‘Reconstituting the Sociology of Law’ in D. Silverman and J. Gubrium (eds) *The Politics of Fieldwork: Beyond Enlightenment* (Beverly Hills, CA: Sage Publications, 1989) 150. This position is justified by Weber’s observation that ‘whatever method we use, we can only impose an order of relationships on reality, not exhaust it’. (Julien Freund *The Sociology of Max Weber* (Trans. Mary Ilford), (Harmondsworth, Middlesex: Penguin, 1968).

⁵³ The work formed the qualitative element of the sixth, and final, survey. The participants described here were selected from the 1,524 respondents to a questionnaire sent to 3,258 respondents to previous surveys. Ninety per cent of respondents to the survey were in private practice, the other ten per cent working in industrial and commercial and public sectors.

⁵⁴ All interviewees were guaranteed anonymity. Identifying features have been deleted from the data each participant has been allocated a name not their own.

⁵⁵ All interviews were tape recorded and transcribed. For the purpose of this article most quotes have been edited. Where a significant amount of material has been deleted this is indicated thus, ‘...’ but hesitations and repetitions have been excised, where this is possible without altering meaning, for fluency and economy.

consistent and racial or gender discrimination is not the only explanation of bad treatment. Firms were classified as City firms, large provincial, niche specialist or 'other' firms.⁵⁶ From Table 1 it will be seen that the participant profile roughly reflects the fact that, of solicitors entering private practice, half are female and half belong to commercial firms, predominately in London.⁵⁷ It was not possible to tell from the data held which universities the sample had attended or what their routes to qualification had been. These details were discovered in interview and are included in Table 1.

Table 1: Participant details

NAME	Sex	Age	Ethnic Origin	Qualifications		Type of Firm	Size of firm (UK) P=partner A=Associate	Location
					1 st degree			
Amy	F	20+	White British	CPE	Campus	Legal Aid/ Crime	8P 24A	London
Bridget	F	40+	White British	LL.B	mod.	High Street/ Commercial	20P 30A	Northern Home Counties Midlands
Chris	M	20+	British Asian	CPE	Redbrick	High Street/ General	3P	London
Derek	M	20+	White British	LL.B	Redbrick	High Street	2P 2A	London
Eddy	M	30+	White British	CPE	CAT	High Street/ Commercial	18P 6A	Eastern England Midlands
Florence	F	20+	White British	LL.B	Redbrick	Institutional Litigation	Unlisted	London
George	M	20+	White British	LL.B	Campus	Commercial	17P 25A	London
Harriet	F	20+	White European	Trip.	Oxb.	Commercial	70+P 150+A	London
Isobel	F	20+	White British	BA Law & CPE	mod.	Commercial	16P 17A	London
Jenny	F	20+	White British	CPE	Redbrick	Commercial	65P 90A	London
Keith	M	30+	White British	CPE	Redbrick	Commercial	100+P 200+A	London
Larry	M	30+	White European	CPE	Plate glass	Commercial	100+P 500+A	London
Mary	F	20+	White British	CPE	Oxb.	Commercial	100P 300+A	London
Nadil	M	20+	British Asian	LL.B	Redbrick	Commercial/ Provincial	26P 27A	Midlands
Ophelia	F	20+	White British	CPE	Redbrick	Commercial/ Provincial	35P 80A	North

⁵⁶ Self-classification allowed some inconsistencies. For example, although the first six participants in Table 1 identified themselves as belonging to High Street firms, Chris' firm is small and based on good quality criminal work while Bridget's firm is the largest in a main county town and has a considerable amount of commercial work. Among those employed in commercial firms, Larry works for one of the biggest and wealthiest while Isobel works for a firm that is considerably smaller. Nadil and Ophelia work for commercial firms in major cities in the North and Midlands.

⁵⁷ Unfortunately, it was not possible to select for ethnicity from the information available at that time.

Fortuitously, given the selection method, participants attended a range of universities, categorised in Table 1 according to the era of their designation.⁵⁸ They also possessed a range of qualifications with just more than half having passed a conversion course for non-law graduates, often now called a graduate diploma but here referred to as a Common Professional Examination ('CPE').⁵⁹ The bare minority had studied law at undergraduate level and only a third had studied law as a full first degree. The sample reflects the findings of the quantitative data, suggesting that commercial firms in particular recruit CPE graduates with a first degree from 'old' universities, particularly Oxbridge. The interviews conducted were not explicitly organised in order to gather data on motivation and values. Only the initial question, about the match between expectations on embarking on legal study and the reality of participants' experience, was planned. In most interviews participants spontaneously developed a chronological narrative. Narrative carries a risk of exacerbating the distortion affects that are a recognised feature of self-reporting,⁶⁰ but it has some advantages as research data.

Narrative, like qualitative data in general,⁶¹ has the principal advantage that it does not reflect the kind of *a priori* assumptions that are inevitable in research questionnaire design. Participants in qualitative research can explain why things happened, and their consequences, and the weight they attach to their experiences. Mature recollection has perspective, allowing actors to understand, contextualise and evaluate, thereby offering a glimpse of 'the ethical value we place on our own desires and our relations with others'.⁶² The fact that personal perspectives are likely to have been mediated by experience might also suggest something about the experience. This was recognised by Schlee⁶³ and by Sarat and Felstiner⁶⁴ in qualitative studies of socio-legal phenomena. Both studies used C. Wright Mills' observation that individuals impute motives in an effort to negotiate the construction of ideology,⁶⁵ which is then used to legitimate a particular interpretation of actions. Construing participant's 'vocabularies of motive' in this way inevitably involves some conjecture. Attention to the motivations and values revealed in vocabularies of motive may reveal imprints of professional, educational or other ideologies. Sennett's study

⁵⁸ British universities are classified here according to status and this usually equates to the period of recognition as a university. The medieval universities, Oxford and Cambridge, have the highest status. The redbrick universities, including London, Birmingham, Sheffield, Bristol, Liverpool and Reading, received their Royal charters in the second half of the nineteenth century. In the rapid expansion post-war Nottingham and Exeter, the 'plate glass' universities for their incorporation of modernist buildings, were followed in the 1950s by the Colleges of Advanced Technology, Bath, Brunel, Loughborough. In the 1960s, following the Robins Report, seven 'campus universities', including York, Sussex and Essex, were built on green field sites. In 1992 the polytechnics, also created following Robbins, achieved university status.

⁵⁹ This may reflect employer preference, as well as the disadvantage of random selection over purposive sampling in relation to qualitative work.

⁶⁰ Qualitative interviewees may have imperfect recollection or understanding of their own motives, adopting *post facto* rationalisations of behaviour or striving to have past actions reflect current identity. Narratives are likely to be repeated accounts and it perhaps more likely that details will change or events re-interpreted (S. Gudmundsdottir 'The Teller, the Tale, and the One Being Told: The Narrative Nature of the Research Interview' (1996) 26 *Curriculum Inquiry* 293 at 298, 300 and 304).

⁶¹ *Op. cit.* Lincoln and Guba n.50, pp.39-43.

⁶² R. Sennett *The Corrosion of Character: The Personal Consequences of Work in the New Capitalism* (New York, London: W.W.Norton & Company: 2000).

⁶³ Schlee, *op. cit* n..33.

⁶⁴ A. Sarat and W. Felstiner 'Law and Social Relations: Vocabularies of Motive in Lawyer/Client Interactions' (1988) 22 *Law and Society Review* 737.

⁶⁵ C.W. Mills 'Situated Actions and Vocabularies of Motive' (1940) *American Sociological Review* 904.

of work in the US is an excellent example of the use of narrative accounts of individual work histories to develop grounded theory of motivation and values.⁶⁶

The education and training of lawyers has four stages: the initial, vocational and training stages and the post-qualification compulsory continuing professional development (CPD) phase. All of these may be relevant to motivation and values. This article, however, deals with pre-entry to the initial stage, where expectations of what a legal career might offer often determine choice of legal study. The education stage combines the initial and vocational courses, the theoretical and academic followed by the practical and applied. The third and final stage is entry into legal practice, a process that, for solicitors, begins with a two-year training contract with a firm in which the trainee may or may not stay. The CPD phase is not considered here.

Stage 1: Background and choice of law

The first report of the Law Society's cohort study found that more than fifty per cent of home law students had, at age 16, seriously considered a career as a solicitor and thirty three per cent as a barrister.⁶⁷ At the time of survey the percentage thinking seriously about being a solicitor had jumped to seventy five per cent of home undergraduates, while those considering the Bar had fallen to fourteen per cent.⁶⁸ The cohort study also suggested that middle class background and having parents with university education were significant variables in predicting choice of law degree. Students with relatives in the legal profession and from independent schools are over-represented on law degrees, and more so on the CPE.⁶⁹ The significance of the fact that law students are motivated by family and employment reasons is also suggested by Steven's study in the U.S., which found that both correlated weakly with positive motivations towards public service.⁷⁰

Of the English studies dealing with motivation, the respondents in MacDonald's survey, the first study chronologically, placed the satisfaction of helping people with their problems behind security of income and prospects in their list of motivations.⁷¹ The survey of Warwick students conducted by Sherr and Webb found that their motivations were, in descending order, interest in subject matter, desire for intellectual stimulation, desire for professional training, desire to practise law, prospects of above average income, enjoyment of debating and arguing, desire for independence, expectation of a stable, secure future and the prestige of the profession.⁷² Asked to rank the possible objectives of a law degree, students in the cohort study prioritised individualistic and vocational aspirations, developing intellectual skills and preparation for legal practice. These practical and selfish aspirations came far above altruistic aspirations such as encouraging responsibility for law reform, preparation as a future policy maker or developing an understanding of the social context of law.⁷³

⁶⁶ *Op. cit.* n.62 at p.10

⁶⁷ *Op. cit.* n.40 Ch. 7

⁶⁸ *Id.* p46

⁶⁹ One in five law students had a close relative in the profession and among home students there were a ten times higher number than would be expected by chance. Whereas six per cent of pupils are at independent schools, eighteen per cent of new university, twenty six per cent of other university and forty five percent of Oxbridge law students were at independent schools at age fourteen (*Id.* Ch. 5)

⁷⁰ R. Stevens 'Law Schools and Law Students' (1973) 59 *Virginia Law Review* 551

⁷¹ *Op. cit.* n.15

⁷² *Op. cit.* n.48 at p. 233

⁷³ *Op. cit.* n.40 at p.39

The qualitative investigation for the sixth survey did not contradict the lack of an explicit altruistic motivation among the sample. In fact, a law degree was usually an ambiguous choice and the decision to study a CPE, while more purposive, was usually explicitly linked to employment concerns. There are often complex interactions of motivating factors in the decision to study for a degree, with family wishes and traditions having a strong underlying, and sometimes residual, impact. Family influence appears to interact with other factors and predispositions in the orientation towards law. George, for example, had an uncle and a number of family friends who are in the legal profession, and was pushed towards the professions by school and parents, but he chose law as his profession. Nadil has family members who were accountants yet also chose law above other options. Derek's father had regretted not being a professional qualification and strongly advised his sons not to make the same mistake. Harriet chose Law as part of her Cambridge Arts degree because her parents advised her to study a subject 'which would result in being able to earn a living afterwards.'

A second group took positive steps towards legal studies as a result of their own experience of exposure to lawyers or law. Florence and Nadil chose a law degree largely as a result of witnessing legal practice first hand, Florence as a legal secretary and Nadil on a Btec work placement. Florence wanted '... to be a solicitor 'cause when I was a secretary I was doing the job of a solicitor, you know, like a paralegal, but he was getting all the credit'. Nadil shadowed a high street practitioner doing civil and criminal litigation, observing that 'being on his feet and being vocal, that's the type of thing I wanted to do. I couldn't do that in Accountancy'. Bridget's route as a mature student was through an access course containing Psychology, Law, Literature and History, but she had an intrinsic interest in Law, which she attributed to her husband, a police officer, who was unable to satisfy her curiosity about how or why cases turned out as they did. Isobel, could also be included in this group, because she studied some legal subjects as part of an Art and Communications degree, found she had aptitude for law and chose to study as much law as possible on her degree. She then picked up the subjects she missed through a CPE.

A third group, half the sample, completed the whole initial stage by studying a CPE. None had chosen their first degree with the intention of switching to Law later and most had begun other careers before deciding to work for a CPE. Chris, having studied Politics, took a CPE in order to extend his time at his university, chosen for its reputation for a wild social life. For many, parental influence was again, a factor, although most were more directly affected by employment considerations. Amy studied politics for interest and 'to pass the time', but realised that many of her recently graduated friends were having difficulty finding a job:

'... luckily enough, I knew two people, one a solicitor who does a lot of high-profile miscarriage cases, and someone who did documentaries... but the reason why I opted for law in the end, funnily enough, was, I think, because I just thought that it was too competitive getting into the media. It was no more honourable kind of motivation, I thought, "God, that looks a bit too difficult."

Of those switching to a CPE having started other jobs, Ophelia and Jenny found it difficult to get remunerative work with a foreign language degree. Keith's degree was in Economics and Maths and, following this, one of a variety of jobs had included 'clerking' for radical local solicitors' firms. Looking for a stable career, he thought that law is 'quite a good, sound basis, for lots of careers or jobs...'. Eddy joined one

of the big five accountancy firms in London as a tax consultant following a first degree and Masters in Economics but was concerned that, with no real knowledge of accountancy, he would always feel marginal within the firm. Larry, ten years into a teaching career, realised he was never going to be 'one of those teachers who everyone has in their mind when you ask them about their schooldays' and decided to follow his parents' advice, and the example of his friends, and find a career with higher status. CPE students usually expressed strong employment related reasons for legal study and a preference for commercial firms rather than high street firms. Commercial firms, desiring to increase the pool of students with first degrees from elite universities, also manifest a preference for them.⁷⁴ The preferences of both firms and students are reversed in the case of law graduates.⁷⁵

There is little expression of motivation to offer public service, or helping people, in the explanations of any of the participants of why they chose law. This may be because, at the time of choosing, most participants were in almost complete ignorance of legal careers. Isobel did not know what a solicitor was and Jenny admitted that, when she embarked on a CPE, she 'just had no idea whatsoever what Law was.' Harriet said:

'I didn't know what articles were... I'm amazed, you know, that I just didn't know. I was really dim. And I wasn't that interested. I didn't really particularly want to find out. I just thought, well I'll do it and I'll see...'

Larry admitted that all he knew about law was based on a television series, 'Rumpole of the Bailey', a passably accurate dramatisation of a 'hack' criminal barrister's life in the 1960s. The absence of public service rhetoric may be because it is considered passé or to be implicit in the type of work that some of these solicitors now do. Alternatively, it may be because these participants did not, and do not now, perceive public service to be a relevant aspiration.

Stage 2: Legal education

The impact of legal education on students is contested. Using Kohlberg's theory of moral development,⁷⁶ Willging and Dunn postulate that moral reasoning is universally progressive and that education is the key to achieving high levels.⁷⁷ While some curricula, Philosophy for example, can affect levels attained, legal education has no discernible independent positive impact, and may have a negative impact, on moral development. The studies suggest that legal education inculcates distinctive, common personality characteristics among law students,⁷⁸ making it the most invasive and psychologically distressing graduate study.⁷⁹ Sherr and Webb speculated that legal

⁷⁴ *Op. cit.* n. 42 and 44 and V. Bermingham and J. Hodgson 'Desiderata: What Lawyers Want from Their Recruits' (2001) 35 *The Law Teacher* 1

⁷⁵ *Id.*

⁷⁶ See, e.g., L. Kohlberg 'Continuities in Childhood and Adult Moral Development Revisited' in P. Baltes and K.W. Schaie (Eds.) *Lifespan Developmental Psychology: Personality and Socialisation* (New York: Academic Press, 1973).

⁷⁷ *Op. cit.* n.32.

⁷⁸ Examples of common intellectual development are in theoretical and abstract modes of conceptualisation and evaluation, tolerance of ambiguity and independent in judgement. Law students tend to be more confident, dominant, expressive and assertive (see literature review in Hedegard *op. cit.* n.35)

⁷⁹ G. Andrew, H. Benjamin, A. Kaszniack, B. Sales and S.B. Shanfield 'The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers' (1986) *American Bar*

subjects studied affect career ambitions, but had a neutral, short term or negative impact on the public service orientation of law students.⁸⁰ Their study found that Warwick students came with conservative attitudes to the functions of law and lawyers and maintained these attitudes through to graduation. They concluded that a consistent undergraduate preference for welfare subjects is short-term and does not affect orientation to legal practice. Interest in public service, and private client work, was subordinated to intellectual, financial and status motivations.⁸¹ The cohort study found that, if they entered the legal profession, the most popular areas for intending practitioners among home law undergraduates were Personal Injury, Commercial Law, Family and Childcare, Criminal Law, European Community Law, Employment and Human Rights.⁸² There were dramatic differences between men and women, with men expressing more interest in commercial law and women in family.

The qualitative data confirms the initial impact of private and welfare law subjects on students and also illustrates how this interest can affect career choices. Amy, Bridget, Chris and Nadil were originally interested in Criminal Law but only Amy and Chris had carried this through into employment. Chris said Criminal Law ‘...was probably the one subject that I enjoyed, probably as much as doing the politics section of my degree’ and did not consider working in large firms ‘because they didn’t do any criminal work... I didn’t waste my time applying to Linklaters!’ Amy was also most interested in Criminal Law as an academic subject but had changed her mind about criminal practice several times before settling into a mainly high street firm specialising in criminal work.

Since graduating, Bridget and Florence had changed direction, although circumstances dictated that Bridget switched from Criminal Law to Family Law and Florence from Family to Personal Injury. Bridget ‘... stayed in one department longer than we had all planned, which meant that I ran out of trainee time before I got to crime’. Florence says:

‘... I thought I wanted to do family, but typing it is different from being a solicitor. I wasn’t the right sort to do family work at all... very the same, no real conclusion, people just fighting over children, fighting over money, and they don’t really need solicitors there to do it... you’re doing the same thing for years and years and years and not really making a difference, I don’t think. And your clients don’t really thank you.’

On the surface of these accounts the neutral influence on aspirations and values attributed to legal education appears to be justified. Indeed, recollections of legal education were very much a footnote in most of these narratives with practice, finance and security appearing as more important considerations. Harriet chose to be a solicitor rather than a barrister because she did not want to take the risk of not succeeding. Keith joined a commercial firm because of his poor financial circumstances when qualifying and because a commercial firm offered to pay for the Legal Practice Course. However, while in the short term financial and security issues dominate, it appears that the presence of subjects like Criminal Law in the

Foundation Research Journal 225 and P. Goodrich ‘Law-Induced Anxiety: Legists, Anti-Lawyers and the Boredom of Legality’ (2000) 9:1 *Social and Legal Studies* 143.

⁸⁰ *Op. cit* n. 38.

⁸¹ Criminal Law was consistently the preferred subject area for practice. Family Law began as second preference but, by year three, had been supplanted by Welfare Law and Labour Law. Company Law, the only commercial subject to feature, began at three but, by the end of their third year, had slipped to fifth preference. (Sherr and Webb *op. cit.* n.23).

⁸² *Op. cit* n. 40 p.60.

compulsory curriculum do leave an impression on students' understanding and expectations of their future roles as lawyers.

Despite the apparent irrelevance of subjects to career aspirations, most of sample define their choices by reference to subjects the practice of which offer a public service dimension. Therefore, those lawyers who had chosen more commercial directions juxtaposed their actual choices with a justification of rejecting Criminal or Family Law. Ophelia, for example, explained that she found crime quite interesting as a subject but 'knew I didn't want to do it in practice... I just didn't fancy the sort of playing with people's lives, really.' Harriet found studying criminal law 'difficult ... and also not that interesting... you expect crime to be the really glamorous and exciting subject, but... I didn't have any great idealistic bent, you know, to, to go and do that sort of work.' George, 'having tried' Family Law with his training firm, realised that it did not interest him '... I just prefer dealing with contractual law, commercial contractual law, it's just much more interesting.' As one of the few who had a choice between commercial and high street practice Keith expressed his ambivalence through choice of subject. Despite the fact a commercial firm was paying for his vocational education, he chose to study employment and environmental law as options on his Legal Practice Course. He now describes this decision as a 'my sop to myself... It was probably pathetic really'.

A possible explanation of the impression left by the private law subjects is that they further embed media representations of lawyers. The dimensions of this could be that subjects concerned with human welfare and protection promote the notion of public service. This may then leave a residue, nostalgia for lost aspirations, reflected, for example, in Derek's reflections on University life:

'... about my second year at university I thought about getting involved in an area of the law where there was sort of, you know, I don't what the best way to describe it, but where I'd be putting back something into society. Sounds a bit idealistic. You know, sort of, working on sort of childcare cases, matrimonial, you know, housing, legal aid, you know, all manner of things which help, which were, would be in the interests of helping people less fortunate than myself... I ended up doing property law, which was possibly the last thing I ever expected to be doing, back at that stage.'

While the original aspirations of the sample are seldom explicitly altruistic, the subjects that they are mention are often concerned with public service, broadly construed as helping people, either directly through Family, Employment of Criminal Law, or indirectly, through Environmental Law. It may be that they hope to work with interesting or relevant areas of law. It might also be that they desire something that is intrinsic to some of these areas, like close contact with clients in need and the performance of a necessary public service. This may affect how 'law jobs' are perceived and perceptions and expectations of legal practice.

Stage 3: Legal Practice

Training

One of the developments eluding law students with knowledge of legal practice derived from the media, is the wide divergence in types of firm. The large commercial firms, with a thousand employees and turnovers of millions, are so different in nature from typical high street firms, many of which are small and struggling to survive, that

they are barely recognisable as part of the same profession.⁸³ The fourth survey in the cohort study showed that the majority of aspiring trainees had little choice in where they entered a training contract. Despite this, three quarters were satisfied with their areas of work experience and only fourteen per cent were unhappy with the type of firm they were in. Those in City firms tended to be unhappy about the extent to which they chose the kind of work they did, and inadequate exposure to clients, and those in high street firms felt that they received inadequate supervision.⁸⁴ Moorhead and Boyle found a significant correlation between firm size and satisfaction, with those in very large, large and sole practitioner firms most likely to feel that their training was a strong basis for practice.⁸⁵

Careers at either end of the spectrum of firm size are hugely different, in terms of work, income and expectations. Harriet, however, only realised this at a traineeship interview for an elite commercial firm:

‘I went to an interview at [Z & Co.] which was horrific, I couldn’t believe it... it was just this enormous place... they showed me the swimming pool and said, you know, “There’s a swimming pool, there’s a gym, there’s a canteen, they do breakfast, and you can sleep here as well,” and I thought, “Oh my God! Why?” And it started to dawn on me what the commercial world was about, the fact that you worked really hard...’

Bridget thought that the high street firm where she trained:

‘... liked people who were interested in the legal aid-type, people-type stuff, ‘cause that’s what they do best. So it would be no good arriving in your smart pin-striped suit to set the world on fire because both sides would be disappointed...’

Bridget, and some other participants, made a positive decision not to join large commercial firms. Eddy, had rejected such firms on the basis of his experience in a City accountancy firm and Derek, who had a summer placement, thought that the ‘boredom of the work that they do... and the incredibly long working hours... would drive me mad’. Isobel said ‘... it just didn’t really appeal to me to work in the City. I’m not really money motivated...’.

Elite commercial firms usually choose trainees for the institutions they have attended and the class of degree achieved.⁸⁶ As Oxbridge undergraduates Harriet and Mary were supplied with a list of commercial firms offering vacation placements but, as she had not started her CPE Mary observed, ‘... you didn’t actually do much work, particularly as a history undergraduate you couldn’t do anything anyway... they just want to know what sort of person you are and whether they’re happy to have you sitting in their room for six months.’ Existing contacts can also be important. Larry knew someone in a leading commercial firm and was offered a placement and then articles. He says that the firm gambled on recruits from a wide range of backgrounds, whereas, ‘... other firms, and you can see it, Oxford, Cambridge, law, law, law’. Because they do not fit the profile, or lacked contacts, many have no chance of a training contract with leading commercial firms. Additional disadvantages, including lower second class degrees, mean a reduced chance of obtaining a training contract at

⁸³ A. M. Francis ‘Out of touch and out of time: lawyers, their leaders and collective mobility within the legal profession’ (2004) 24 *Legal Studies* 322, G. Hanlon *Lawyers, the State and the Market: Professionalism Revisited* (Basingstoke, Hampshire: Macmillan Press Ltd., 1999).

⁸⁴ *Op. cit.* n.42 Ch. 6.

⁸⁵ This appeared to be related to the existence of one to one relationship between partners and trainees (*op. cit.* n.16 at p 22).

⁸⁶ *Op. cit.* n.41 Ch.6.

all. Nadil, made between 400 and 500 hundred applications, eventually moving hundreds of miles to endure a lonely and difficult two years. Eddy had almost given up hope when he found a traineeship through 'someone my dad used to play tennis with'.

Trainees' experience of training tend to be different depending on the type of firm they went to. The view that large firms recruit trainees with a view to their long-term development in the interests of the firm, whereas small firms have short-term goals and use trainees for routine tasks like photocopying⁸⁷ was not borne out in this research. Nadil's regional high street firm required him to meet clients from the first day across a wide range of topics; '... crime, civil, the whole range of it, wills, you name it...'. This was not unusual in small firms and was not always a positive experience. Amy worried because '[clients] sit down in front of you, and they're expecting quality legal advice and you don't know what you're talking about...'. Florence, having worked as a para-legal secretary, was not shocked by the lack of training supervision, but recalls with bemusement the lack of supervisory skills of one supervisor. Having asked a partner from another branch how to assess the value of a medical report she was told, "Well, you just read it, you know."

Some of the trainees in local firms had particularly bad experiences. Florence's training firm could not get a legal aid franchise and was failing financially. '...The accountant was coming to me going, "Look, we've got these PI files, just try and settle them...'. Nadil was sent on hearings without being prepared properly. Derek, having found a prosperous firm in a county town was surprised that he was:

'... sort of bullied and kicked around from day one, treated like dirt and spoken to very rudely...everything I was doing or attempting to do was just being torn apart, even down to two-line letters... I then went on to work for a sole practitioner who was just dreadful... he was a contact, someone that I knew... it was very much a case of jumping from the frying pan into the fire... "here's your desk, here's a million and one files, now get on with it," kind of thing... [after five months with him] I was just tearing my hair out and not getting any guidance... I just don't think I had the nervous constitution to withstand the full time with him...'.
'

Others felt they made good progress by being stretched. Eddy and Bridget had positive experiences of training in established 'family firms', where, although the work was sometimes pressured, training was taken seriously. Specialising in Criminal Law and lightly supervised, Chris attributes his swift progress to being allowed to run his own cases. Those training in large commercial firms had markedly different experiences. Larry perceived that the firms' clients were too important to be handled by trainees, so there was more emphasis on training courses, accompanied by lavish catering. During his seat in the property department, Larry found he spent most of his time photocopying '... what I don't know about photocopying is not worth printing. I'm the world's expert photocopier. I reduce, colour, expand, collate, I can do everything...'.
'

The sixth survey in the cohort study showed that the majority of trainees, seventy four per cent of those who wished to do so, stayed with the training firm on qualification and all but two per cent of the remainder found employment elsewhere. Moorhead and Boyle found that twenty per cent of their respondents wanted to change firm on qualification, and that a further thirty two per cent were neutral about moving. Because of their experiences in training, those in this study often wanted to make

⁸⁷ T Goriely and T Williams, *op. cit.* n.37.

significant changes when they qualified. Many in the smaller firms, like Eddy, Florence and Nadil, had the opportunity of remaining with their training firm but chose not to. Bridget feared she would always be seen as a trainee and joined a larger local firm because it was well organised, with a solid foundation of commercial work, but allowed her to specialise in Family Law. The cohort study also found that movement between sectors and types of firm was rare, presumably because training has a powerful influence on subsequent career. Only Florence and George made a significant change in type of firm. Florence moved to a work for a firm with corporate clientele, switching from a high street firm doing plaintiff work to defendants' personal injury work. George pursued a career in a City commercial firm, despite having trained in a high street firm, by gaining a year's post-qualification experience with a provincial commercial firm in the Midlands before returning to London as an assistant solicitor in a commercial firm.

Post qualification

Different reasons have been identified for dissatisfaction with work as a solicitor. The profession is increasingly associated with a long hours culture, particularly in large firms. Just over a quarter in high street firms, forty per cent in large provincial and fifty six per cent in City firms worked over 50 hours a week.⁸⁸ On the other hand, those in small firms were most likely to want to move and potential movers were generally negative about their quality of life, training experience and job security.⁸⁹ As against these very practical reasons for dissatisfaction there are less obvious potential causes. Sommerlad suggests that the cost pressures of legal aid franchising squeezes the service element out of client care and that practitioners are reacting negatively to being 'agents of the state... rationing justice'.⁹⁰ The satisfaction of different groups and individuals are, however, likely to be affected by different factors. The empirical research on women solicitors suggests that greater equality of entry to the profession has not been matched by progress within the profession. Sommerlad suggests that this is because roles within firms are 'gendered', so that, for example, belief that women lack the necessary aggression for corporate work affects their prospects.⁹¹ These causes can coalesce. Women who wish to return to work following a maternity break may encounter doubts on several scores. They are not of interest to commercial firms because of doubt about their ability to put in the hours. They may only of interest to high street firms if their cultural capital is useful in practice development, for example, if their ability to recruit clients is enhanced by their parental status.⁹²

The quantitative data also points to the significance of disappointed expectations and frustrated motivation and values as being significant factors in disaffection. Over forty two per cent of women leaving the profession indicated disappointed expectations regarding the value of the work to the community as one of the most important reasons.⁹³ This may also contribute to lack of enjoyment of the job, which is given as the third most important reason for leaving, after maternity leave and looking after

⁸⁸ *Op. cit.* n.45 p41.

⁸⁹ *Id.* p.230.

⁹⁰ *Op. cit.* n.23 p.177.

⁹¹ *Op. cit.* n.25 p.54.

⁹² *Id.* p51.

⁹³ *Op. cit.* n.20 p.96.

children.⁹⁴ This is interesting, particularly given that this does not figure in the early indications of motivation for choosing a legal career. The most important factors in choosing a job for students in the cohort study were intrinsic interest, suiting talents, independence and flexibility, promotion prospects, the kind of people they hoped to work with, long-term salary and early responsibility.⁹⁵ There were important differences between men and women in those factors that were important in career choice. The kind of people and possibility of career breaks were more important to women. The value of the work to the community came well down the list of factors for both groups, but was more important to women than to men.⁹⁶

Most participants in this qualitative study felt that, once qualified, their circumstances improved dramatically. Many participants mentioned the value of interesting work, echoing the finding of many studies that subject interest attracts people to law, but a number of the sample complain that legal work is not satisfying. The most positive are Bridget, Florence and Eddy who specialise, in Family Law, Personal Injury and Employment respectively, in well-established, solid, local firms. Bridget explains her positive orientation to work by suggesting that, as a late entrant to university, she was not interested in 'a career path and fighting my way up the greasy pole... I wanted to do the work of a solicitor. I didn't want to be a manager, I didn't want to be setting up my own firm, I didn't want to be a businessperson. I wanted to do the work...'. Florence says '... I always want to do more work, better work, more interesting work and gain in expertise, develop... And I'd always want to be interested in what I'm doing. But other than that I can't say that I've got any specific goals, you know.' Eddy developed a passion for employment after taking a postgraduate course, explaining:

'... it's an academic subject... It's technical, it's constantly changing; you've got to keep up to date. It is litigation but it's soft litigation in that you don't have hard rules of procedure. It's all done by letter really. So, really, you're looking at the law. And it's also quite nice because I think all lawyers retain that little part somewhere where they want to help people. And, employment law, you can do that...'

Among the participants who derived no intrinsic satisfaction from their work the most notable was Derek. He said, conveyancing is '...a bit boring really, isn't it? I mean, it's terribly dry work, it's very repetitive. It's a lot of pressure... and it doesn't have a great deal of satisfaction about it at the end of the day'.

Another area of work that is often characterised as boring, but compensated for by extrinsic rewards, is company and commercial work. The reason for the rewards is the element of risk inherent in dealing with large sums. Larry admits to '... the biggest mistake by a lawyer ever... a [multi] billion dollar transaction and I missed out a zero... I sometimes catch myself saying things like, "Oh, it's only one hundred million pounds - why are we doing such a small deal?'''. The commercial work was portrayed as highly specialised but, technically, relatively undemanding. Keith, for example, said '... all your precedents are there and everything's there and you do have to do a reasonable amount of clean drafting around the precedent but your structure, your basics are there...'. The largest firms deal with the larger scale, more prestigious and valuable work, often in teams. Keith argues that smaller scale commercial work is therefore more interesting:

⁹⁴ *Id.*

⁹⁵ *Op. cit.* n.40 p.57.

⁹⁶ *Id.* p.59.

... this is a very big firm, but it doesn't do big jobs... it would aspire to, but it doesn't do your multi-billion pound deal. Where someone of my qualification would be spending day after day after day in a data room or doing verification or just boring, mundane, cog-in-the-wheel type stuff, the work I'm doing here is much more. After a year qualified I was already doing my own work, running my own transactions. Much smaller and compared to the other big firms, ... They wouldn't be economic for them. But... I cut my teeth on them....

However, some of the sample managed to find a niche in the largest firms that provided work satisfaction and, presumably, higher remuneration than is available in the high street for the same work. This is because the work of large commercial firms is often divided into the highly profitable company and commercial work that is their main source of profit, and service departments, litigation, employment and other areas, that are maintained so as to provide a full service, or 'one stop shop' to commercial clients. The service departments are referred to as the 'know how' departments, and are distinguished from the company and commercial work fields, 'the engine or boiler room', which are the bedrock of these practices.

The feature of work most often associated with commercial law firms is a culture of long hours. George works 'from seven to seven-thirty, sometimes later but rarely earlier, and the odd few hours on a Sunday afternoon'. Larry works less hard than his colleagues but a typical day is 8.30 a.m. to 7.00 p.m. Participants observed that long hours were not mandated by firm policy or by management:

'A lot of it's atmosphere... feeling the need to stay 'till 8 o'clock because if you leave earlier than 8 o'clock... you get tuts or you get comments about "I can't believe you're leaving. What's this, half time, part-timer now?"...'

This may reflect a change in the wider work environment, to which professional organisations are not immune. Flatter organisations and the need to develop client relationships places a premium on a modern business focus.⁹⁷ This involves employing self-motivated individuals who are creative and adept at personal relationships and therefore able to attract and keep business.

The emphasis in commercial firms on client satisfaction appeared to involve a shift in the focus of the work, away from the technical towards the interpersonal. Keith estimates that he '... probably spent a day at the most in the library in five and a half years...', Larry spends five hours a day on the telephone. He observes that, '... if you are a partner, you have your mobile phone on, you can be contacted at home, even your holiday is not necessarily *your* holiday, your weekend is certainly not *your* weekend'. Many of the participants in the commercial sector were troubled by this emphasis on client satisfaction. Ophelia disliked dealing with commercial clients so much she accepted an offer from the firm to be a professional legal support worker, just when she was on the point of resigning: '...the stuff I really enjoyed doing I could do, but not have the client contact and the running files... being more backroom, which is what I enjoy...'. Nadil admits that he almost did not join his present firm 'simply because I was a bit frightened of dealing with commercial clients because their expectations were up there, you know?' Keith finds some clients insufferable and resents having to be constantly available, but reasons 'I suppose it comes of being part of a service industry.'

Keith's comparison of commercial legal work to a service industry is significant, not least because, in commercial law particularly, the relationship between lawyer and

⁹⁷ Hanlon, *op. cit.* n.83.

client appears more commercial than professional. When even partners are at clients' beck and call, young lawyers are likely to be at the sharp end of this market transition. The situation described by some of the participants in this study evoke parallels with a well-established literature in the sociology of work dealing with the 'emotional labour' involved in employees' management of their feelings during social interaction in the work process. This, in Hochschild's original analysis, was a feature of interactive service jobs, like airline stewarding, that have high levels of interaction with the public, emotional states generated by workers and a high degree of employer control over performance.⁹⁸ Recently, however, analysts of organisations and work have extended the analysis to well-paid professional employees, including lawyers.⁹⁹

In research into barristers Harris suggests that there is emotional labour in their elaborate public face. They address diverse audiences, must master a range of responses if they are to be successful and are directly socialised for their role through vocational training.¹⁰⁰ Harris argues, however, that their relationship with clients has changed as a result of competition with solicitors for advocacy work. One of Hochschild's elements, employer control over performance, has been replaced by competition, so as to bring about a change in barrister's behaviour. Increased pressure to cultivate professional and lay clients has led less well-established barristers to abandon 'professional detachment' in order to cultivate solicitors and clients. This, Harris argues, has caused an increase in the emotional labour involved in client relationships and increased potential for exhaustion from emotional display. The literature suggests that customer anger is more likely because service interactions are structured so that customers believe that they are in control but procedures often mandate limited options for the service worker.¹⁰¹ Workers in service industries exposed to demanding and abusive customers cope by sharing problems with co-workers¹⁰² but professional workers may be less inclined to reveal weakness. The literature makes little reference to solicitors, although the Law Society's consultation of leading image consultants on guidelines for the dress of female solicitors demonstrates some affinity.¹⁰³ Solicitors are, however, more at risk of emotional labour than barristers because their direct contact with clients carries more pressure to engage emotionally.

Another area in which large firms have become far more like commercial businesses is in their relationship to their professional employees. Whereas there may once have been an expectation of staying with a training firm once qualified, the possibility of doing so is much less certain, particularly in large firms.¹⁰⁴ Retention rates at the end of training depend on market conditions, with some firms keeping on less than half and average retention rates outside the top ten firms at sixty six per cent.¹⁰⁵ Even for qualified employees, job security has given way to insecurity, with policy of 'up or

⁹⁸ A.R. Hochschild *The Managed Heart: Commercialisation of Human Feeling* (Berkeley, CA: University of California Press, 1983).

⁹⁹ C.A. Wellington and J.R. Bryson 'At Face Value? Image Consultancy, Emotional Labour and Professional Work' (2001) 35 *Sociology* 933.

¹⁰⁰ L.C. Harris 'The Emotional Labour of Barristers: An Exploration of Emotional Labour by Status Professionals' 39 *Journal of Management Studies* 553.

¹⁰¹ M. Korczynski 'Communities of Coping: Collective Emotional Labour in Service Work' 10 *Organization* 55.

¹⁰² *Id.* at 57.

¹⁰³ *Op. cit.* n.100 at 940

¹⁰⁴ J. O'Connor 'Newly qualified retention rates take hammering' (2003) 17 *The Lawyer* 3

¹⁰⁵ *Id.*

out', reaching partnership or leaving, becoming pervasive in larger firms.¹⁰⁶ The ethos of insecurity inevitably affects entrants' perceptions. Jenny, for example, says she is not prepared to put everything into work, reasoning,

'... your world could change... they might turn around to you tomorrow and say, "We're really sorry, we're making you redundant." ... And you've put so much effort into your work and your job, and they – to be honest, they don't really care... I've seen people hired and fired ... at the end of the day it is a business ...'.

Jenny's attitude is echoed in Sennet's study of the wider employment market in the United States. He argues that changes in employment practices, towards flexible, short term and routine work, have a negative ethical impact on individuals, their identities and values.¹⁰⁷ Whereas a career once offered meaning, an alternative to aimlessness and personal failure, insecurity and unpredictability undermines personal loyalty, purpose and resolution.¹⁰⁸ It is likely that the confidence of entrants to legal professions, whose underlying motivation may be a secure career, is similarly vulnerable to the realisation that security is fragile.

A confusing feature of the organisational culture of large firms is that women are welcomed into large firms as trainees but then find the firms inhospitable.¹⁰⁹ There were few examples of bad treatment offered by participants from large firms, although Isobel suggests that she and other female trainees felt resentful when male trainees were taken to lunch with clients. Harriet recounts how her training principal:

'...walked into my room the first day when I arrived and said... "Hello, I see that, mm, you went to the same, we went to the same college at Cambridge." I said "Yes". He said, "Well of course, we didn't have women then," and he walked out again.'

The women in this sample working in commercial firms were in 'know how' areas. The potential for intrinsic interest in the area is advantageous because the clients are often not sympathetic characters. Mary, for example, works in a top ten firm in employment law, and describes her clients as '... about fifteen, twenty per cent sort of fat cat stuff, you know, engagement and dismissal of chief executives and things like that... dealing with all these people who at least think they're the great and the good...'. When pregnant she arrived at work around 9.30 a.m., left at 6 or 6.30 p.m. and was rarely called at the weekend. She says 'I have a very civilised life compared to almost everybody else at X & Co.. I'm in a little niche, and we all get paid the same as well; it's very unfair...'. She thinks her return from maternity leave, part time for three days a week, is 'controversial' because firms like hers seldom make concessions to employee parents:

'... In the City it's very, very hard to get a part-time job unless... you come back and you do information work – legal information specialist. So you're not a fee earner any more... [you only have a chance of a return as a fee earner] if you're prepared to knuckle down and behave as if you haven't got children...

¹⁰⁶ R. Lee 'Up or Out'-Means or Ends? Staff Retention in Large Firms' in P. Thomas (ed.) *Discriminating Lawyers* (London: Cavendish, 2000).

¹⁰⁷ *Op. cit.* n.62 at p.30

¹⁰⁸ *Id.* p.120.

¹⁰⁹ See further, *op. cit.* n. 20, 21 and 25.

The traditional expectation of solicitors of partnership¹¹⁰ may be frustrated because, in the larger firms, solicitors in the 'know how' areas are unlikely to be made partners. This may be because the firms think it is important that they recruit their top staff from the 'engine room' so that they can maintain relationships with important clients. It is also likely, however, that long hours serve as a proxy for loyalty, commitment and effort,¹¹¹ which are important criteria for partnership. Mary said:

'...they very rarely make up partners in employment and so... you're in a slightly different position from the poor slaves in the main furnace room... but I knew I would never be a partner [here] anyway because the only way to really do it is to go into the commercial department, where you have to do seven years' hard labour after qualification. And 'working hard' really means working hard...'

Larry, though in the furnace room, has decided he does not wish to pursue partnership, explaining:

'I don't want the responsibility, I don't want the hours, I want to see my kids occasionally. It's all very well earning five to six hundred thousand pounds a year but I would like to be around to spend it, and you can get by on less; I think it's possible. If you look at people who have that drive to be a partner which need to make it in a firm like this, or any of the big firms, I don't have it; I simply don't want it enough. And I won't make the sacrifices to get there, and I know that means earning less than half a million pounds a year but I can just about reconcile myself to that...'

He knows that his decision will probably result in him leaving the firm because he would not take the pay cut associated with moving to the 'know-how' side. He says, '... if you're seven years qualified, earning a hundred grand a year, they will kick you out because they can pay someone forty thousand to do the same job as you...'

The position of those in smaller, local firms is different. Some in this sample had moved to find more stable firms or better quality work. Eddy, for example, '... looking just to go up a rung or two on the ladder...' found an old established regional firm with an employment department where he could indulge his interest in Employment Law. Florence, exhausted by the trauma of her training firm's bankruptcy and her struggle to become a plaintiff's personal injury lawyer, 'changed sides' from plaintiff work to a firm representing personal injury insurers. She describes her work now as:

'... like real, real stuff, you know? ... they're a proper commercial firm. Whereas, before, I'm used to working for a scummy little legal aid firm, to go from that to this, where money isn't really an object, ... it's just a bit of a shock really... you're getting paid for every phone call, whereas [working for] claimant[s], you know? You might have a dud case, you're just doing your best really to just scrape a living...'

Eddy thinks that, in his firm, the important questions are:

'... do you get on with people? What's the quality of your work like?... Standards are high, the reputation I think is quite high, but there is still that, that balance, which is nice 'cause it has some of the old, quirky things that you like about law...'

¹¹⁰ Fifty per cent of prospective entrants to the profession expect to make partner by the age of 35. (G. Charles 'In the Know' (2004) 3 *Lawyer* 2B 28 (Note that this research was with 'students' in general. Just over half were undergraduates and the method of their selection is unclear).

¹¹¹ M. Gallanter and T. Pallay, *Tournament of Lawyers: The Growth and Transformation of the Big Law Firm* (Chicago: University of Chicago Press, 1991) and *op. cit.* n. 25.

Partnership is also more achievable in a small firm. Chris, for example, broke away from the high street firm where he trained with firm with two colleagues and became a partner in his own firm. Florence expects to be a partner in five years time and would be willing to move on if it is not offered.

Future

Many of the participants in this study are disillusioned with their legal careers, a finding that is consistent with other research.¹¹² Although disenchantment crosses the different areas of work, it is manifested in different ways. Some hoped to work in different areas or sectors but found that their experience limits their options. Isobel, for example, a commercial conveyancer, is disappointed she could not get work in Entertainment Law or Family Law. Some in smaller and high street firms may be disappointed with the financial rewards although none said so. Some who are dissatisfied chose to stay with their current firm because they were established, have accrued employment rights and because their firm offers a hospitable environment. Isobel has stayed with her firm because she feels comfortable, Amy because the criminal department encourages part-time work and she wants to start a family.

Many fantasise about new directions. Isobel, for example, says `... you know, I met this girl on holiday, she's like a buyer for a, for a big store, and I thought, 'God, I'd love to do that.' I mean, you know, buying for a living, that's a great job.' Nadil would like to be a corporate manager or an in-house lawyer for a company, 'because this is stressful...', but will stay with his present firm because '... to change now is such a drastic thing...'. Chris wants to use his firm as a base for other business ventures, saying:

'I would want to work in an industry where I had a real passion for it... I always wanted to go into business of some other sort. Now I realise that I'm in business, but within a profession... over time your ambitions change, or your goals change, or your sense of reality, etc. I can't be Richard Branson, I've just got to be a lawyer...'

Others in this sample are so disenchanted that they are beyond simply fantasising. Derek has reached the point where, he is, `... thinking of just leaving the law completely now actually... after all of this, it's just got to be telling you something...'.

The commercial lawyers also express dissatisfaction with the nature of their work. Keith says:

'... this type of law in a commercial law firm would have been meaningless to me and sometimes is still meaningless to me... not law as most people would understand law... to ease my conscience, I do some *pro bono* work for [a charity]. I do a fair amount of their sort of commercial stuff. That's about it, really.'

Larry also does '... a lot of charity work, initially through [the firm and] Business in the Community'. For commercial lawyers, a frequently expressed preference is to move from private practice to a position as a corporate in-house lawyer. Isobel, has

¹¹² A survey of assistant solicitors conducted by The City of London Law Society found that 31% wanted another career, 45% regretted their choice of profession and 80% that they were looking for other job opportunities (P. Harris 'The CLLS/Legal Week Survey of Assistant Solicitors' *Legal Week* 7th November 2002 and www.legalweek.net).

been unable to make a desired move in-house, concluding that he would ‘... need to come from a City firm, you know, you’ve got to really stand out...’. Larry observes that:

‘ICM lawyers at Clifford Chance, Linklaters and Allen & Overy, can literally walk into jobs anywhere... I hope to move on in the bank, move laterally. I’d like to go on to the business side. In other words, my journey is moving further and further away from law towards people. That’s a metaphor if you like for what’s happened to me. I start off doing a people thing like drama, I go into law, which is documentational, and I’ve been moving away from law ever since, back to people...’.

The ambivalence of the commercial lawyers is ambiguous. It may be that expressed desires for a more overt public service dimension to work are, in fact, consistent with the desire to avoid dealing with commercial clients. Mary, for example, says ‘... my idea involves, at some stage, leaving the City and doing law centre work or Citizens’ Advice ... I like the fact that I do a sort of law that is actually useful to people, that I can actually help people...’. The public service orientations of other in the sample are more explicit. Derek aspires to move in-house at Greenpeace or Amnesty International and is considering going back to university to study international law, economics or environmental studies as a foundation for this. Amy worries because:

‘I’d like to do something that was a bit more meaningful, like the miscarriage of justice cases that really have an impact on more than just the person involved, that politically has wider repercussions... And that’s a personal sort of trauma for me, ‘cause sometimes I worry that I’m not doing any good for society, just doing a job like I’m doing... ’

It appears that the strong orientation to work with a public service element reflects a desire to combine the elements of traditional ‘know how’ areas with ‘helping people’.¹¹³ Eddy reflects this perspective perfectly. Believing that ‘all lawyers retain that little part somewhere where they want to help people’ he acknowledges that for him ‘it’s not the most significant part’. Isobel also reflects this. She chose litigation ‘because I thought it was the best of a bad bunch’ but, of her decision to find a career in law, she now says:

‘... you’re spending all this time thinking “Oh, this is wonderful, justice, and this is so exciting, and all these cases, and actually, in reality, there’s a lot of paper pushing and it’s not really what you think it’s going to be. It’s not *Ally McBeal* anyway...’

It is not clear whether legal education, legal practice or television series, like *Ally McBeal*, create expectations of legal practice, but, in most of the sample, there is an apparent mismatch between expectations and reality. The dissonance may be because the legal profession projects a complex, incoherent and inconsistent set of values. It must be difficult to predict which prevail in any given situation. This was well illustrated by Harriet’s experience. Harriet’s account of her interview for a training contract, where the interviewing partner asked, “What is the essential requisite for a solicitor?” illustrates the problem with this assumption. :

‘... I thought okay, and I went through: commitment, tenacity, intelligence, enthusiasm and so on. And he said, “No, no, no. What I want is integrity.” And I said, “No, that’s a given”. You know, I hadn’t thought of that... everywhere else it had been so much focus on business and working yourself into the ground and being prepared to deal with anything... you sort of learn the things that you’re expected to say’.

¹¹³ Law students associate public service with ‘helping people’, usually poor or otherwise disadvantaged members of society. This is explicit in Schleef’s study and implicit in Sherr and Webb’s study (*op. cit.* n.33 and n.38).

Harriet might have expected that commercial law firms, with their espousal of commercial rather than traditional professional values, would expect their trainees to be far more commercially focused.¹¹⁴ Values are, of course, personal and may be deeply held and may be affected to different degrees by professional socialisation. When no part of the professional socialisation process explicitly focuses on values, however, those considered important in a given situation are unlikely to be mandated or discernible to entrants to the profession.

Conclusion

This research supports Erlanger and Klegon's intuition that employment studies are an important supplement to research on professional socialisation. As they, and Sherr and Webb, suspected, limited availability of public interest jobs or skewed financial rewards may predispose law students to be more self-interested as their employment concerns increase.¹¹⁵ A temporary focus on pragmatic employment considerations may, however, not affect underlying expectations, motivation and values. These emerge quite powerfully in the narratives of the participants in this qualitative work, which indicates ways in which legal education may leave an impression on the values of law students. While there is little or no public service orientation in participants' descriptions of their original motivations to study law, it emerges in accounts of their aspirations and desires, whether for more conventional public service type employment or, in the case of some of the large firm lawyers, in *pro bono publico*. Thus, if socialisation is defined by attitudes, and the presence and absence of attitudes may be evidence of socialisation,¹¹⁶ it seems reasonable to conclude that positive attitudes to public service are acquired during the process of lawyer socialisation.

In determining the main patterns and themes that emerge, however, it is the nature of work that is perhaps a stronger influence on motivation. Interest in subject matter appears strongly in most of the studies of motivation towards law. Stevens' study of students at elite US law schools in the 1970s, carries echoes of the narratives of many of the English solicitors.¹¹⁷ Stevens' respondents often came to law by default, but their dominant motivations were expressed as the desire for future independence, correlating with the desire for varied work, handling others' affairs and interest in the subject matter.¹¹⁸ Public service type orientations, for example, the desire to restructure society or work with the underprivileged, came around the middle of the range of motivations of Stevens' respondents but were still far ahead of direct family pressure to study law. Through the process of education and training, entrants to the legal profession begin to refine what they mean by their interest in subject matter. English legal education appears to create positive motivations towards certain subjects, particularly those where the client tends to be in a crisis situation. The fifth survey of the cohort study, conducted around the end of the training contract and in the post-qualification period, showed a close relationship between individual's levels of interest in legal subjects and the areas of law in which they had or might expect to work. Many of these had a strong social welfare orientation including family, crime,

¹¹⁴ C. Stanley 'Enterprising Lawyers: Changes in the Market for Legal Services (1991) 25 *Law Teacher* 44.

¹¹⁵ See Erlanger and Klegon, *op. cit.* n.31 at p.32.

¹¹⁶ J. Webb 'The Law School as a Source of Occupational Socialisation – Issues of Research Design' (1998) 22 *Law Teacher* 99.

¹¹⁷ *Op. cit.* n.70

¹¹⁸ *Id.*

benefits and personal injury.¹¹⁹ Human rights and EU law had a disproportionately high level of interest compared with numbers of trainees who expected to work in them. Commercial areas, including commercial property and business and commercial affairs, had low levels of interest compared with numbers expecting to work in them. It seems possible that interest in subject matter may be bound up with how the subject matter can be used.

This qualitative study for the sixth survey suggests various explanations for the impact of legal education on expectations, motivation and values that goes beyond intrinsic interest in subject matter. One theory is that the favoured subjects consolidate expectations and values instilled through media portrayals of legal work. This vision of legal work involves mastery of a corpus of law that is used constantly and that is evolving. This is consistent with Stevens' emphasis on subject matter and with Moorhead and Boyle's conclusion that job satisfaction is optimised when 'talents and abilities are put to maximum use' and when work is perceived to be demanding.¹²⁰ Another dimension of the undergraduate legal subjects is the picture of legal work they portray. This image is of autonomous professionals, ultimately in control of their work, helping clients. The power of the image is consistent with Steven's theory that the desire for independence is the prevalent reason for attending law school¹²¹ and with the idea that control is an important underlying issue for intending lawyers.¹²² The narratives collected for this study suggest that these attractions are undermined by extreme specialisation, the absence of a helping role in relation to clients and, in some kinds of work, job insecurity.

The expectation of control that is thought to define professional roles is likely to be frustrated in a society where consumers are 'omnipresent and sovereign'.¹²³ This is more likely to be most keenly felt in large firms, which have intensely client-centred cultures.¹²⁴ City trainees often have little if any responsibility for clients, are more likely to find work uninteresting and are generally less satisfied that they were achieving the right breadth of experience than those in high street or large provincial firms. When they are exposed to clients, what is expected of commercial lawyers is a kind of emotional labour. The juxtaposition by one participant of the traditional professional ideology of public service, with the associated commercial ideology of customer service, reflects this construction. Those working in large commercial firms may, however, have a choice between demanding commercial work and 'know how' work. While the more commercially orientated work is seen as unfulfilling, the 'know how' work has lower status and those involved in it have limited potential for partnership. As documented in the large American firms, the partnership race is developing into a 'tournament' for the most able and committed.¹²⁵ While Moorhead and Boyle thought that satisfaction levels could be high among City trainees because

¹¹⁹ *Op. cit* n. 44 pp.32-33

¹²⁰ *Op. cit* n. p.234

¹²¹ Watson, a psychologist, speculated that the psychological desire to control one's environment is the overriding goal and contains some elements, the legitimization of verbal aggression, concern for justice and curiosity about others' lives, that are central to the work of lawyers (Watson 'The Quest for Professional Competence: Psychological Aspects of Legal Education (1968) 37 *University of Cincinnati Law Review* 91 at 101 (referred to in Willging and Dunn, *Op. cit* n.32)

¹²² *Op. cit.* n.32 at p.331.

¹²³ Harris *op. cit.* n.100 at p.556.

¹²⁴ See, e.g., J. Flood 'Megalawyering in the global order: the cultural, social and economic transformation of global legal practice' (1996) *International Journal of the Legal Profession* 169.

¹²⁵ *Op. cit.* n. 111.

such trainees feel a sense of investment in their future,¹²⁶ this study suggests that this may dissipate as time moves on and employment options appear stark.

At the other end of the scale, another broad area of practice with which this sample had some contact, is the small firm. Sanderson and Sommerlad envisage such firms as rapidly declining havens from the pressures of large firm life in which women, in particular, might avoid subordination.¹²⁷ This view links the ‘increasing prevalence of a long hours culture in response to market pressures, and a loss of autonomy’ to the disappearance of small firms.¹²⁸ Those in this sample with experience of working in small firms, particularly Amy, Bridget and Derek, were more ambivalent about their experience of such firms. They often valued the early emersion in legal work that these firms required, but found the resources and support structures inadequate to support inexperienced legal workers. Work in under-resourced and marginal small firms was pressurised and relatively poorly rewarded, making it difficult to derive intrinsic satisfaction from it. Most had taken opportunities to join larger firms and the exception, Derek, was seriously thinking of leaving the profession. The extremes of employment culture found in the largest and smallest firms, and the difficulties of combining public service with personal rewards, may explain why mid-sized firms offer the most popular training contracts.¹²⁹

McDonald characterised the English legal profession as ‘a core of high status practitioners, concerned chiefly with the functions of capital, surrounded by a peripheral majority who deal in personal services for private clients’.¹³⁰ Crime and Family were ‘less desirable not only because they are less remunerative, but also because they represent a lower form of legal practice somewhat similar to social work’.¹³¹ The work reported here suggests that this assessment is too severe. Criminal Law, Welfare Law, and private work like Employment Law, do not merely have the potential to provide intrinsically satisfying work. In this study those in secure, solid and defensible public service type roles, like Bridget and Eddy, were the most positive about their work and professional role. They made realistic and relatively informed initial choices, seeking satisfying, private client work, asserting as primary motivations the aspiration to be good at the work, to develop satisfying personal relationships and to specialise. The ‘traditional’ firms that provide their base are, however, based on commercial work, financing a model that leaves the professional at the centre of operations and supports ancillary work as a service to clients. They have the potential, at least, to be hospitable places to work.

The study also casts doubt on the value of using public service orientations as a key to understanding motivation or, at least, a need to reconsider what is meant by public service in legal work. The altruistic element of some of these participants’ narratives is an ethic of practice based on the intrinsic satisfaction of work, rather than on a more outward facing conception of public service. Kronman¹³² and Simon¹³³ agree that work is central in the promise of professionalism, asserting that the opportunity to exercise contextual judgement is the feature that distinguishes the work of professions

¹²⁶ *Op. cit.* n. 16 p.236.

¹²⁷ *Op. cit.* n. 25 p.182.

¹²⁸ *Op. cit.* n. 25.

¹²⁹ G. Charles ‘In the Know’ (2004) 3 *Lawyer 2B* 28 (Note that this research was with ‘students’ in general. Just over half were undergraduates and the method of their selection is unclear).

¹³⁰ *Op. cit.* n. 15.

¹³¹ *Id.* at 273.

¹³² *Op. cit.* n. 10.

¹³³ *Op. cit.* n. 6.

from the work of other occupations. Both identify the crisis in professional work as the core failing of legal professionalism. Kronman believes that legal work can no longer be made meaningful because the obsolescence of the lawyer statesman model obviates a role for practical wisdom¹³⁴ and Simon locates the problem in the absence of ethical discretion in professional decision-making, which engenders an ambivalent role morality.¹³⁵ Both views suggest that the public service ideal is represented in the intrinsic satisfaction of legal work *per se*, rather than in types of work, for example, welfare law or crime.

This approach is echoed in MacIntyre's work on moral theory, linking the pursuit of virtue to the intrinsic rewards of social role, achieved by performing well, according to the judgement of experienced practitioners and established rules.¹³⁶ Kronman comes close to this notion of public service when suggesting that the intrinsic satisfaction of work, using 'certain powers or capacities whose exercise he values for their own sake' that 'bear on who he is as well as what he does',¹³⁷ is central to achieving a satisfying ethic of lawyering.¹³⁸ Simon differs from this only insofar as he believes that an ethical regime in which lawyers can exercise contextual judgment on ethical issues.¹³⁹ Although many in this sample value work satisfaction highly, the accounts suggest that disaffection has more than a single cause. This is consistent with evidence that, across a range of occupations, causes of disaffection is often multiple. Intrinsic work motivation is predicted by challenging task characteristics, emotional exhaustion by high workload and lack of social support, and turnover intention is often predicted by unmet career expectations.¹⁴⁰ Depending on context, each of these factors appears to play a role in determining the participants' level of career satisfaction and future intentions.

Some of the practical implications of this study concern legal education, which may unwittingly socialise law students into assumptions about legal work that, if they were ever true, are fast becoming false. The 'liberal' focus of law degrees¹⁴¹ leads to limited opportunities to educate for the realities of professional life,¹⁴² despite the fact that non-legal careers are ruled out by only a small number of prospective lawyers.¹⁴³ They may be increasingly aware of demands for longer hours and weekend work¹⁴⁴ but not that legal work is often routine and mundane.¹⁴⁵ Measures that may address

¹³⁴ *Op. cit.* n. 10 at p.367.

¹³⁵ *Op. cit.* n. 6 at p.25.

¹³⁶ A. Boon and J. Levin 'The Ethics and Conduct of Lawyers in England and Wales' (Oxford: Hart Publishing, 2001) p.18 and Ch. 9 but see also A. Flores *Professional Ideals* (Belmont, Calif.: Wadsworth Publishing, 1998).

¹³⁷ *Op. cit.* n.10 at p.366.

¹³⁸ See further J. Webb 'Being a Lawyer / Being a Human Being' (2003) 5 *Legal Ethics* 130.

¹³⁹ For example, in proposing a regime where conflict of interest rules would not apply where parties have equal power and compatible interests (Simon *op. cit.* n.6 at 131).

¹⁴⁰ I. Houkes, P.P.M. Janssen, J. de Jonge and A.B. Bakker 'Specific determinants of intrinsic work motivation, emotional exhaustion and turnover intention: A multisample longitudinal study' (2003) 76 *Journal of Occupational and Organisational Psychology* 427

¹⁴¹ It is known that in major jurisdictions many law students do not enter practice and may study law without any intention of doing so (R.E. Rosen 'Educating law students to be business leaders' (2002) 9 *International Journal of the Legal Profession* 27).

¹⁴² A. Boon 'Ethics in Legal Education and Training: Four Reports, Three Jurisdictions and a Prospectus' (2002) 5 *Legal Ethics* 34.

¹⁴³ One assessment is that only 17% do not intend to practice (V. Wilson 'Firm assessments' (1999) 13 *The Lawyer* 31).

¹⁴⁴ G. Charles *op. cit.* n.110.

¹⁴⁵ D. Lortie 'Laymen to Lawmen: Law School, Careers and Professional Socialization' (1959) 29 *Harvard Education Review* 352.

the costly attrition rates of entrants to the profession is to educate students to understand better the legal profession, its operation¹⁴⁶ and their chances of entry,¹⁴⁷ or more broadly, so that they can be something other than lawyers.¹⁴⁸ Another possibility is to recast legal work, rather than changing preparation for it. One potentially fruitful avenue for investigation, as Simon suggests, is the ethical regime for lawyers, which in the UK, after years of attention to client care, might again reassert the primacy of professional judgement.¹⁴⁹ Whatever the collective profession might do to address these issues, much of the action will be in the workplace. If the rhetoric of professionalism creates unrealistic expectations young lawyers, like the associate lawyers at Clifford Chance, may use its force to make legal practice respond to their motivations and better reflect their expectations and values.

¹⁴⁶ Sherr *op. cit.* n.12 at p.338

¹⁴⁷ Francis and MacDonald found that part time students are out of touch or ill-informed about what is required of modern professionals. If educational providers cannot improve their prospects, as they suggest, they can at least ensure that they are well-informed (A.M. Francis and I.W. McDonald 'All Dressed Up and Nowhere to Go? Part time Law Students and the Legal Profession' in P. Thomas (Ed.) *Discriminating Lawyers* (London: Cavendish Publishing Limited, 2000) 41).

¹⁴⁸ Rosen *op. cit.* n.141.

¹⁴⁹ See also *op. cit.* n.136 p.52, D. Nicholson and J. Webb 'Professional Legal Ethics: Critical Interrogations' (Oxford: Oxford University Press, 1999) p.286 and A. C. Hutchinson 'Beyond Black-Letterism: Ethics in Law and Legal Education' (1999) 33 *Law Teacher* 301 at p.305 and 'Taking It Personally: Legal Ethics and Client Selection' (1998) 2 *Legal Ethics* 168.