

# Legal Education in the Global Context

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Challenges from Globalization, Technology and  
Changes in Government Regulation

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**Report for the Legal Services Board**

Legal education is going through profound changes around the world because of globalization, technology, and government changes in the organization of legal services. English lawyers have traditionally enjoyed high standing in the world but the question arises will changes introduced by the Legal Services Act 2007 and potential changes arising from the SRA-BSB-Ilex review of legal education damage that reputation? The paper examines legal education in a number of dimensions taking into account the developments in the global field of legal education. Keywords: professions, globalization, technology, lawyers, education, regulation.

## Contents

### 1. Introduction and Framework

#### 1. English Legal Education

### 2. Globalization, the Rise of Technology, and the Legal Services Act

#### 1. Globalization

##### 1. Importing foreign students

##### 2. Exporting domestic law schools

##### 3. Creating global law schools

#### 2. Rise of Technology

#### 3. Legal Services Act

### 3. Monocentric and Polycentric Modes of Legal Education

#### 1. UK Legal Education

#### 2. US Legal Education

##### Sidebar: Law—Science or Humanities?

##### 1. US Legal Education: Science

##### 2. UK Legal Education: Humanities

### 3. Canadian and Australian Legal Education

#### 1. Canada

#### 2. Australia

### 4. Indian and Chinese Legal Education

#### 1. China

#### 2. India

### 5. Europe

#### 1. France

2. Germany

3. Spain

4. Crossing Borders in Europe: *Morgenbesser* and *Koller*

4. The Re-professionalization of the Legal Profession

5. Conclusion

Acknowledgements

References

## 1. Introduction and Framework

When the chairman of the Legal Services Board (LSB) hypothesises that the “dialogue and interplay” between legal education and practice is not happening, we should take note (Edmonds 2011). Behind his statement is a range of questions that lead to his hypothesis and we must investigate them in order to understand the role of legal education, and, by implication, training, in the modern world.

The thesis in this report can be stated as follows. From an empirical point of view there is an inexorable move in the world towards the Americanization of legal education, in the form of the widespread adoption of the JD degree over the LLB. This shift is the result of three developments:

1. Globalization and the rise of technology
2. The move from polycentric to monocentric modes of education and paths of entry into the legal profession
3. The re-professionalization of the legal profession as a result of the growth of the large law firm and new forms of regulation as in, for example, the UK and Australia.

Although globalization is located in element 1, it is in fact a pervasive feature of this report. To demonstrate this we only have to observe the figures for English-qualified lawyers—more precisely solicitors—working overseas. The Statistical Report for 2010 (Law Society 2011) informs us that over 6,000 are practising outside their home jurisdiction out of just over 150,000 solicitors on the Roll and nearly 118,000 with practising certificates. This makes us one of the largest exporters of legal talent, if not the biggest, in the world. From this two things of importance emerge: one is that the UK legal profession is global and that English-qualified lawyers are in demand outside the UK<sup>1</sup>; and two is that UK-based legal education is respected elsewhere in the world. So at one level we can ask if there is anything amiss with English legal education? If not, is there any need to “fix” it?

As Edmonds points out, it has been 40 years since legal education was reviewed and set on its present course, with the subsequent addition of the Legal Practice Course. In 40 years there has been massive change in the world, the professions, law, and education. A review, therefore, is long overdue if our pedagogic model belongs to another age. But underlying Edmonds’ hypothesis is not a desire for some updating—that occurs all the time—but rather a question about the configuration of legal education within a changing regulatory structure that will bring about radical change to the legal profession. Should legal education undergo analogous radical change?

The UK is not the only country facing this question. Canada, France, India, Australia, China, and the US, for example, are contemplating or instituting change in their legal education

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<sup>1</sup> Note that this includes lawyers working in private practice and in inhouse legal departments.

sectors. Would the UK be left behind if it failed to change? Does it matter if the UK lawyer is accepted globally? It does if the UK wishes to retain its hegemonic position alongside the US attorney.

This report is not so much concerned with the history of legal education, which has been dealt with adequately elsewhere, although some mention of it will occur, but rather with more "horizontal" dimensions that are geographical and technological in character.

### ① *English Legal Education*

Legal education has maintained an "ad hoc" character for most of its existence, in that it has never focused on a systematic theoretical approach to the study of law as civil law has instead preferring a craft approach, and has long been tied to the fortunes of the legal profession. The distinction between civil and common law was exaggerated by the former having a privileged place in the universities with its connections to the church whereas common law was mostly confined to the Inns of Court (Boon & Webb 2008). The fortunes of legal education waxed and waned until the turn of the 19<sup>th</sup> and 20<sup>th</sup> centuries when both the Law Society and the Bar introduced examinations for intending lawyers.

Apprenticeships were still the norm and actual teaching was carried out mostly by practitioners. University law schools were small in number and size, carried little intellectual weight and competed with the legal profession as conduits into the profession. Not until 1971 did solicitors have to possess a degree for entry; the Bar adopted a similar route in 1979.

The consequence of the move towards the academy becoming the main route of entry to the profession was a divergence of interests between academic and professional lawyers. The profession was not wholehearted in its support that a degree was necessary to be a professional lawyer. Solicitors especially viewed themselves as "men of business" who needed experience of life rather than knowledge from books. Nevertheless with control of legal education, after Ormrod, divided between the academy and the profession, an uneasy alliance held. Law schools subscribed to core subjects prescribed by joint statements on qualifying law degrees while academic law became embedded in universities with the concomitant evolution of research and a proliferation of postgraduate law degrees, most notably LLMs and the PhD.

The profession focussed instead on vocational education, the Legal Practice Course and the Bar Vocational Course. Over these considerable control was exercised by the Bar Council and Law Society and they laid the emphasis on practical skills required by lawyers in practice. Despite the Lord Chancellor's Advisory Committee on Legal Education and Conduct's (ACLEC) attempt to have the Bar and Law Society consider joint training, neither was prepared to take the step and each retained separate paths in their vocational training. Despite attempts at Training Framework Reviews, Day One Outcomes, etc, legal education

has mostly been tinkered with rather than face a substantial overhaul in light of the changes to the legal services market wrought by the Legal Services Act 2007 (LSA).

In addition to the academic and vocational stages of English legal education there have been various interstitial steps of the common professional examination (CPE), later reincarnated as the Graduate Diploma in Law (GDL), enabling non-law graduates to convert their degrees over the span of a year into basic requirements to undertake the vocational stage. Some universities have also created a form of top-up degree taking two years. The CPE route has been a surprisingly popular one for entrants and also for employers.

The final part is the role of continuing legal education or continuing professional development. This is the requirement that training is part of a life-long learning process and that knowledge requires updating and expanding (Boon 2011). The academy probably plays a lesser role in the delivery of continuing legal education than private providers although some scholars are imagining “cradle to grave” legal development models (Wilkins et al 2011).

We can make two fundamental distinctions about legal education in the abstract. They are important as we consider the effects of changes on English legal education and the legal services market and their global repercussions. The first is that England has traditionally pursued education from perspective of the profession rather than as an abstract body of knowledge. According to Weber’s analysis of the emergence of legal professions and types of legal thought, England’s development centred on the courts and the lawyers that grew up around them (1978). The courts and lawyers embodied the law in a series of precedents that were contested in future cases. Thus learning law was essentially an empirical matter based on craft principles which were augmented by the guild character of lawyers’ practice which reserved certain activities to them alone (Epstein 1998; Krause 1998; Ogilvie 2008).<sup>2</sup> Craft with its associated apprenticeship was not taught in universities but through apprenticeship. This has given English law (and consequently US law) a form which we term “substantive rationality”, that is the procedure follows formal rules but the system is not closed in that, for example, “policy interventions” can be introduced. Although the academy has become the main route into the legal profession, Twining (1994) still felt that English legal education was an uncomfortable compromise between the academy and the profession.

The second distinction is based on the scientific approach to law as found in canon law or Roman law and hence in a number of civil law systems. This approach starts from either sacred texts or codes such as the Napoleonic codes—law is imbued with abstraction and is viewed as a system of norms which are interpreted through highly formal and rational means. Scientific approaches to law are located with the university as the sole mode of

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<sup>2</sup> For further discussion on guilds and professions, see Section 4 below.

entry although some apprenticeship is necessary to impart some practical skills.<sup>3</sup> Lawyers were not therefore the carriers and makers of law, as were English lawyers, but rather engaged in restating the formally rational aspects of law. Thus, for example, notaries in Italy were, and are, one of the most important strata of the legal profession who through their alliance with the universities promoted the scientific approach to law in their drafting and construction of legal documents. In the UK and US notaries are perceived as guarantors of oaths. Similarities to the Italian example are apparent within the French and German systems.

The result of these distinctions, which have ramifications for modern legal education, have been posed as academy versus profession. Which is to dominate the reproduction of the legal profession? Clearly both sides—civil and common law—have compromised: both embrace the academy and both use some element of craft training. Yet the distinction remains and has consequences for how those outside the UK perceive the quality of legal education and training here. Despite this characterization this polarization of academy and profession is not inevitable: indeed, we could envisage a collaborative model that engages both sides with mutual respect. Institutionally, within the UK there is a beginning of cooperation but more is needed if collaboration is to be a working reality.

## **2. Globalization, the Rise of Technology, and the Legal Services Act**

### **① Globalization**

In the period since the end of the Second World War there have been fundamental changes to the economy which have spurred further developments elsewhere. We can briefly characterize them as the rise of the neo-liberal agenda (Held et al 1999). They include the emergence of supra-national institutions such as the United Nations, World Bank and International Monetary Fund, the World Trade Organization, and the European Community. These have been further bolstered by the hybrid institutions including the G8, G20, and others such as the Organization of European Cooperation and Development (OECD).

If the international community was trying to reshape the global agenda by establishing a range of institutions that aimed to conserve international comity and stability, private initiatives in this direction were not to be excluded. These came about through the intercession of foundations and other NGOs such as the Ford Foundation's law and modernization movement in conjunction with the World Bank. These projects sought to bring new legal education and liberal justice systems to third world countries (Ford Foundation 2000; Krishnan 2004).

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<sup>3</sup> Although the English academy effectively took over the education of lawyers in the 20<sup>th</sup> century, it neither accepted nor adopted the scientific approach to law. See Section 3, Sidebar: Law—Science or Humanities? below.

Institutions of commerce and business played a significant role in developing private ordering in the world. Three are notable in this context, namely, investment banks, accounting firms, and law firms. All three were largely Anglo-Saxon creations and reflected this outlook in their approaches even though they became global in reach. They were natural allies of the neoliberal agenda and promoted the “Washington Consensus” (Williamson 2002). These institutions were and are small in number and have generally established long term relationships that have made it difficult for those outside the club to join (Flood 2002; 2007). This is particularly the case in areas such as mergers and acquisitions and capital markets. The result is that their impact is out of proportion to their number.

Taking law firms, for example, a report by McKinsey (Becker et al 2001), the consulting firm, showed that big law firms were arranged along a spectrum from those firms with global reach (e.g., Baker & McKenzie and Clifford Chance to those which were highly selective about the numbers of offices they maintained, generally preferring to depend on a “best friends network” of correspondent firms (e.g., Wachtell Lipton and Slaughter & May) (Beaverstock et al 1999; 2000). The crucial aspect of these big law firms is that they were capable of articulating normative orders based around the construction of agreements and contracts that were accepted throughout the world (Morgan & Quack 2006; Faulconbridge & Muzio 2008; Flood & Sosa 2008; Gessner 2009). Indeed, they were central to the formation of international standards through organizations such as the International Swaps and Derivatives Association.

The large law firms that grew rapidly throughout the second half of the twentieth century and into the twenty-first promoted the paramountcy of Western common law, or more accurately, that of New York state law and English law. Western common law relied on the contract as its core constituent and large law firm lawyers were masters at drafting it. Complex, detailed and comprehensive the Anglo-American contract was drafted to respond to every eventuality. Such contracts run to hundreds and thousands of pages: they were effectively self-sufficient. Unlike the continental European contract which spanned a few pages relying on the Civil Codes to provide the rationale for its interpretation, they were the antithesis of the common law style. But globalized capital was driven by the capital markets of New York and London and therefore employed the legal technology it was used to. Paris and Amsterdam had long lost their pre-eminent positions in global capital (Cassis 2006). Despite the recession the large law firms have maintained their dominant positions within the global economy (Sahl 2010; Fordham Law Review 2010).

The preceding is not meant to create the impression that law serves only corporate ends although much of the analysis of legal services and the legal profession tends to focus on this sector. For heuristic purposes it is worth adopting the analysis proposed by Heinz and Laumann (1982) that law practice is separated into hemispheres, namely the corporate

and the individual. The distinction here is dependent on client and work. For example, securitization work is performed for corporate clients and only rarely for individual clients unless of high worth. Divorce, however, is individual client work. The two hemispheres are characterized by lawyers from different backgrounds and legal training. Generally, the corporate hemisphere is dominated by elites while the individual is populated by lower status lawyers, both in terms of perceived quality of law school and level of qualifications. There are overlaps and crossovers when corporate lawyers might undertake some individual-type work such as obtaining immigration permits for corporate executives, but on the whole the hemispheres are separate and the two mingle little. Recent research on legal careers suggests that because of the growing “lateral move” market in law practice this kind of distinction is being attenuated (Dinovitzer et al 2004).

From the perspective of globalization we might think that the individual hemisphere is fundamentally local in its jurisdiction, e.g., crime, family, employment, but there has been a growing amount of individual-type work in the global arena. Sousa Santos and his colleagues demonstrated how land movements and struggles for cheaper medicines among others have moved onto the global stage enlisting the help of NGOs to transport strategies and tactics across national borders. For example, the challenges to WIPO and the big pharmaceutical companies’ control of HIV drugs in South Africa led to sweeping changes in the pricing and distribution of these medicines across the globe (Klug 2005). These movements combine the political and the legal, but as Levine and Pearce (2009) argue, legal education and entry requirements to practice do have an impact on the rule of law and human rights, especially in countries where such things are still nascent.

From the perspective of legal education, globalization is an ineluctable movement which it must contend with in order to stay ahead (Davis 2006). Aggressive moves are being made by the US, Australia and even some continental European countries alongside China towards building a bigger share of the graduate legal market. Terry’s tour through global educational initiatives shows how strong this has become: the percentage increases in mobility are stark. For example, Terry reproduces WTO statistics to show that global mobility of students between 1999 and 2007 from North America rose by 50% and from Latin American and the Caribbean by 70% (2011: 3).

In legal education it is important to distinguish between the range of first degrees in law—often the qualifying law degree for practice—and the LLMs on offer.

Legal education in the context of globalization falls into four main categories of which I cover the first three.

1. Importing foreign students to home law schools for LLM and research degrees.
2. Exporting domestic law schools’ programmes to foreign countries, sometimes in conjunction with a host institution.

3. Creating global law schools that attempt to appeal transnationally.
4. Online law schools that could transcend borders but tend towards the local.

### *1. Importing foreign students*

Recruiting foreign students to postgraduate programmes at the LLM or PhD level is the typical method of supplying legal knowledge to students outside one's own borders. The Inns of Court have carried this out for many years often educating the political leaders of Commonwealth countries (e.g., Nehru in India; Lee Kuan Yew in Singapore). Although this type of educational programme has fallen into desuetude, it has been replaced by the forceful marketing of university LLM courses which are often highly specialized. Indeed, LLM courses fulfil two sets of needs: one is a general approach to the host country's legal system—e.g., courses on English or American law—the other is to supply legal skills in specific areas such as human rights, banking law, or alternative dispute resolution.

Carole Silver's research (2006) on foreign LLM students' experiences in the US, which also applies to the UK, shows how these graduate programmes have benefited both the law schools and students. It is worth noting that there is no corresponding research on the LLM degree in the UK. Before the 1990s most LLM programmes were small and relatively informal. Little special provision was made for foreign, or even domestic, students on the LLM. However, as business and commerce placed ever-increasing demands on their professional advisers, recruitment rose. Thus in the 1990s there was an expansion of LLM programmes which was followed into the 2000s. Terry shows that even in a traditional jurisdiction such as Germany, for example, there were nine accredited masters degrees (2006: 892). Silver argues that law schools gained in reputation and financially from this expansion. Law schools gained publicity in foreign countries and because graduate programmes were subject to lower forms of scrutiny by the American Bar Association, LLM students were integrated into the mainstream of the JD classes with little overhead. However, this is integration in the "overhead cost" sense not cultural. Silver notes there is little interaction between the LLMs and the JDs.

For foreign graduate students the LLM experience signifies that they can speak English which has become the lingua franca for many cross-border transactions. It also assists them in obtaining a US legal credential which they can use in place of their own home one or in conjunction with it. An LLM becomes part of the process of taking the bar examination, usually in states like New York or California. Indeed, the US LLM has a distinct advantage over the British version. Although Silver (2011), in her analysis of German and Chinese LLM students, found that law firms were not overly concerned whether the LLM was from the US or the UK in terms of quality, they were aware of the

opportunity for US LLM students to take the New York Bar exam whereas the English LLM failed to prepare students for any professional examinations.<sup>4</sup>

Location is important for LLM programmes since ideally students want to be close to law firms unless the schools carry sufficient prestige—e.g., Harvard or Yale—to outweigh this (Silver 2011). Therefore New York and London are the central choices providing opportunities for internships and work experience. According to Willard (2002: 704) around 800 to 1,000 foreign lawyers take the New York State Bar Exam each year, with each successive year adding approximately 100 lawyers. But by 2008 and 2009 the numbers have risen to over 4,500 taking the New York Bar Examination (Bar Examiner 2009; 2010).

The recession has affected the way LLMs are perceived in the US, but not by reducing numbers; instead by incurring regulatory attack because of difficulties of finding jobs for American lawyers. Although the ABA does not regulate the LLM directly as it does the JD, it has begun to outline certain conditions for it.<sup>5</sup> This follows the adoption by the New York Court of Appeals of stricter requirements for foreign students taking LLMs (Sloan 2011). New York State used to require 20 credit hours of US law school courses for foreign trained lawyers in order to take the New York Bar Examination. Since May 18, 2011,<sup>6</sup> the state now requires a minimum of 24 credit hours for the LLM for foreign lawyers during than no fewer than two semesters of 13 weeks each. Summer programmes will only count in part and all course work must be completed within two years. Moreover, the course must be completed within the US and online and correspondence courses will not be sufficient. There are also content requirements:

Students must take at least two credit hours on the history of the American legal profession; at least two credit hours in legal research and writing; and at least two credit hours on constitutional law, civil procedure or another course designed to introduce students to the U.S. legal system. They may not take more than four credit hours in a clinical course (Sloan 2011).

The American Bar Association's proposals would take this a stage further. It proposes a minimum of 26 credit hours tuition—despite state supreme court judges and bar examiners demanding higher numbers of hours—taking courses similar to first year JD students including

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<sup>4</sup> This is true for Germany, but not for China because of the rule prohibiting a Chinese-licensed lawyer from working at a foreign law firm. I am grateful to Carole Silver for pointing out this distinction.

<sup>5</sup> The main requirement of the ABA is that LLM programs do not adversely impact on the status of the JD. Moreover, LLMs are not considered in themselves qualifying degrees for admission to practice. See Council Statement, 2011-03-04, at

[http://www.americanbar.org/content/dam/aba/migrated/legaled/accreditation/Council\\_Statements.pdf](http://www.americanbar.org/content/dam/aba/migrated/legaled/accreditation/Council_Statements.pdf).

<sup>6</sup> Some of the requirements will not come into effect until the 2012-2013 academic year.

constitutional law, civil procedure, the history of the U.S. legal system, legal writing and research. They would have to take most courses during the regular school year and must be taught by full-time or emeritus faculty. The programs could not be done overseas. Law schools would have to publicize their LL.M. students' bar-passage rates (Sloan 2011).<sup>7</sup>

Predicted effects of these proposals, which are due to go to the ABA House of Delegates in early 2012, are that foreign students will not be able to take as many commercial courses as hitherto and that if the proposal applies to all states, New York and California could lose their paramount positions as liberal states in which to take the Bar examination.

### *2. Exporting domestic law schools*

In part to maximize revenue and tap into new markets a number of universities from countries such as the US, UK and Australia have established campuses in overseas locations especially in the East, e.g., Singapore, China, Malaysia, and Japan. One such example is New York University School of Law's arrangement with the National University of Singapore. Students acquire two LLM degrees after studying in Singapore, Shanghai, and New York City. The final stage of their course includes an opportunity to take the New York Bar exam. Another programme is Cornell Law School-Université Paris I dual JD and Master en Droit enabling students to take both US and French bar exams. Students have to be fluent in both languages. Temple University of Philadelphia has offered a US LLM degree in its Tokyo campus for many years and is accredited by the ABA for semester-abroad programmes for its US JD students. Finally, the University of Wisconsin-Madison runs an East Asian Legal Studies Centre that runs a series of LLM programmes in China alongside professional courses for judges and other officials, as well as facilitating US JD students to spend study time in China. Dual degree programmes are gathering force and at present 10 US law schools have partnered with foreign law schools to implement international dual JD degree programmes.<sup>8</sup>

### *3. Creating global law schools*

In recent years there have been moves by established law schools to create a global faculty. The most notable example is New York University which set up its Hauser programme in the mid-1990s inviting a "global" faculty and student body. It was designed to capture the zeitgeist of globalization but it never quite succeeded as a new model for legal education (Flood 1999). While NYU's idea was presented as new, it had forbears in institutions like the School of Oriental and African Studies whose law school has taught a range of legal

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<sup>7</sup> See Proposed Model Rule on Admission of Foreign Educated Lawyers at <http://www2.americanbar.org/calendar/section-of-international-law-2011-spring-meeting/documents/friday/accreditation%20of%20foreign%20law%20schools/proposed%20model%20rule%20and%20criteria.pdf>.

<sup>8</sup> Washington College of Law of American University ran a conference on this topic on 11 April 2011 (<http://www.wcl.american.edu/secl/founders/2011/20110411a.cfm>).

topics outside the normal range of the English law school. More dynamic approaches have been taken as with McGill's "transsystemic" approach to global law where students are taught that law is to be found not just in the law books and statutes but also transactions, custom, conventions, etc (Arthurs 2009).

The ideal of the global law school is capturing the 21<sup>st</sup> century imagination. One of the latest incarnations is the Jindal Global Law School in Delhi, India, a private institution funded by corporate money. Its main occupation is preparing Indian lawyers for elite positions in the legal profession although it runs international LLM courses. The faculty is cosmopolitan with most possessing international law degrees. However, the school's formulation of global is restrictive in that it has formed alliances with foreign law schools but all of American origin. Perhaps the most enterprising move made by this law school is to sign an agreement with the US law firm White & Case to provide executive and continuing legal education. The two will also set up adjunct and visiting professorships and internships for the law students (3 Geeks 2011).

One innovation in legal education is the combinatory approach where the educational systems of two or more jurisdictions are married together. The Peking University School of Transnational Law is such a venture. The school is Chinese but the bulk of the programme is American in teaching, language and substance with students expected to graduate with both an American JD and a Chinese Juris Master. Formed in 2007 the idea is to produce a cadre of transnational lawyers capable of functioning in any legal or business environment while being educated wholly in China. Unfortunately, the ABA has yet to accredit this school. The possibility of doing so has drawn much criticism from both US lawyers and law schools who object to this kind of competition (Lin 2011). It is clear, however, that ventures like this are two-way flows of information and ideas: Terry argues that the confluence of regulation and legal ethics has made US law faculty much more aware of global issues and concerns (2007: 1139).

One final mention in this category could be the International Bar Association LLM in international legal practice run jointly with the College of Law in London, which combines theory and contributions from practice in both face to face situations and largely through online learning. The central idea is a core of English legal practice with international perspectives.<sup>9</sup>

## ② *Rise of Technology*

The second major shift in this period has been the rise of technology and its impact on the practice of law. Futurologists such as Richard Susskind have prophesied, Jeremiah-like, that the end of lawyers is nigh (2008). While this is speculative, certain fundamental changes

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<sup>9</sup> See <http://www.college-of-law.co.uk/Our-Courses/LL-M/Our-LL-M/> and [http://www.ibanet.org/Education\\_and\\_Internships/LLM/LLM\\_Home.aspx](http://www.ibanet.org/Education_and_Internships/LLM/LLM_Home.aspx).

are taking place. The clearest evidence is in the rise of commoditization and the outsourcing of legal services to countries like India where the legal process outsourcing industry has grown enormously in the 21<sup>st</sup> century (see Daly & Silver 2007). And if we take on board Thomas Friedman's ideas about the world becoming flatter and therefore potentially more intricately linked then all lawyers are affected as their worlds become virtually tied together and substantively convergent (Terry 2008b). Terry states that the effects are felt by small firm lawyers as much as big law firms. According to her, because of offshoring and supply chaining clients are constantly having to seek legal advice from around the world. Not all wish to hire big law firms and look for lawyers with local ties but global appreciation.

The underpinning for this move can be seen in a speech given by Mark Chandler, general counsel of Cisco, in 2007 (Earnhardt 2007). He argued that his company's motivations and that of law firms' are "orthogonal" to each other, i.e., they diverge. Cisco reduces costs while law firms raise theirs. Much of law firm work—routine document production, for example—can be slotted into technological knowledge management systems thus reducing law firm spend. For Chandler lawyers' addiction to maximizing revenue per partner has to be reined in to become a "normalized" business model. Increasing use of outsourcing and paralegal work leaving highly trained lawyers to concentrate on difficult legal issues is, to Chandler's mind, a better use of scarce professional resources. The answer is for lawyers to use more technology in their law practices.

The rise of technology goes hand in hand with specialization. Legal practice has become highly fragmented and disparate. The difference between criminal and civil work is almost unbridgeable in a modern legal practice, except for few areas such as white collar crime which represents corporate interests primarily. Not only is the content radically different but the administrative facilities required to conduct these practices are dissimilar. Taking corporate legal practice as an example the compartmentalization of practice and law firms is such that departments within firms are tantamount to a species of firm themselves with, often, low levels of communication between them (Flood 1996; Mayson 1997; Heinz et al 2001; Faulconbridge & Muzio 2008). Compartmentalization requires efficient intra-departmental communication and inter-departmental communication through means such as email and instant messaging. Maximizing utility of lawyers in departments requires a sustained level of standardization through the use of boilerplate documents (e.g., ISDA and LMA) and knowledge management systems. Increasingly firms are attempting to counter hyper-specialization by organizing themselves on a matrix which includes legal specialisms and sectoral divisions: e.g., Antritrust::Telecommunications, Media and Technology.

Outsourcing, which depends on technology for its success, is already having an impact on legal practice and will eventually reach legal education. Although outsourcing is usually associated with offshoring to India, depending on economic circumstances and the

changing economy of the legal market, it is beginning to signify more onshoring than otherwise. Companies that have begun in India or employed Indian lawyers are setting up offices in the UK and the US, e.g., Pangea3, recently bought by Thomson Reuters and Integreon which has opened an office in Bristol. Two forces are impelling this move: one is the uncertain regulatory environment for outsourcing and offshoring, especially in the US, which is persuading both lawyers and clients that domestic inshoring companies could be preferable to offshoring; the other is the recession which has made legal labour much less expensive than it used to be. It has brought into focus Henderson's (2009) depiction of the binomial distribution of starting salaries for lawyers out of law school where there is a spike around the \$50,000 point and another at the \$160,000 point (see NALP 2008). Onshore outsourcers are offering salaries at the lower end of the scale and finding ample demand from applicants (Timmons 2011).

Others have repeated and amplified this message countless times since. Perhaps the one part of the system that has not heard the message is legal education. It still lives in the Gutenberg age where the book reigns supreme. Computers are used in class but mostly as note-taking adjuncts rather than serious accompaniments to education. The two most graphic demonstrations of the use of technology are the creation of a legal game by a Dutch law firm called, "The Game", and the running of new approach to legal education called, "Law Without Walls" (LWOW) designed at the University of Miami School of Law. The former provides a simulated environment of a takeover by a foreign company and includes real documents, interviews with characters, and a context that encourages real-time participation. LWOW brought together a number of students from different law schools in different countries and time zones through the medium interactive video-conferencing. In addition, the faculty were interdisciplinary which stretched the students outside the normal limits of legal study (Padgett 2011). In both cases the technology reaches well outside the classroom, but at great expense and it is unlikely that most law schools could sustain these types of instruction given the high human capital costs.<sup>10</sup>

At a simpler level, some law teachers have brought experiential learning into the classroom in a way that requires a high level of correlative thinking on the part of the students. Using simulations, students establish law offices, deal with witnesses and document production, as well as researching the law. Maharg (2007; 2011) argues that games and simulations encourage interdisciplinarity and interaction with other students, which among other things enables values and ethics to be brought into the situation something that is

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<sup>10</sup> It is unclear which way this might go. As the programme expands—and for 2011 and 2012 it has added another four law schools—there will come critical limits to the current pedagogical techniques. There are alternatives such as the Open University model which has successfully placed distance learning on the global map since its inception in the 1960s.

otherwise excluded. The new law school at York University has introduced elements of this in its curriculum.<sup>11</sup>

### ③ *The Legal Services Act*

The act itself does not mention legal education directly but LSB Chairman Edmonds, in his Upjohn lecture, has stated that it does fall within the remit of the board. The link is expressed in Regulatory Objective 6 which is to encourage an independent, strong, diverse and effective legal profession. RO6 is further linked “to assist in the maintenance and development of standards in relation to the education and training of authorised persons”, which means “if the law is to ever more effectively serve the public, then the profession—or rather the entire legal workforce—needs to have the right skills and knowledge. That includes the capability to constantly update both skills and knowledge (Edmonds 2010: 5).

The Legal Services Act (LSA) envisages a legal services market in which lawyers are only one significant element. Since a range of differently skilled people will be populating the legal services market it is worth asking what distinguishes them from each other in order to understand what forms of legal education are being highlighted. I shall return to this discussion later in the third section of the report when looking at the production of producers by producers. The key distinction to be drawn is between the proportions of theoretical education and practical training.

Professional work is fundamentally made up of two components: indeterminacy and technicality (Jamous & Peloille 1970). The balance between the two creates an ideal environment for the professional ethos. Technicality refers to the instrumental aspects of work, e.g., how to fill in a document correctly or knowing when to file an instrument at court. Every occupation has a technical component to its work. Not every occupation has indeterminacy, especially not in the way professions claim. For example, a clergyman has to be able to carry out certain rites such as marriage or christening, but the ability to do them does not fully demarcate the role. In order for a clergyman to be accepted by parishioners and the church as a clergyman, he (or she) must express a commitment to their “vocation” by a declaration of faith. Without this the role is valueless.

So it is for lawyers. While they do not claim faith as their *raison d'être*, they adhere to principles of free access to justice and the rule of law. These are philosophical and moral positions which are considered essential to the proper functioning of a legal system. We have enshrined these values in part in the regulatory objectives in Part One of the act. These ethical values are inculcated in the theoretical element of legal education most often in the universities. In addition we can include the imparting of knowledge of the substantive elements of law—the nature of contract; distinguishing between rights *in rem* and *in personam*; and so forth. One unfortunate aspect of professionalization is that it

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<sup>11</sup> See Studying Law at York Law School, <http://www.york.ac.uk/law/ugrad/llb/index.htm>.

inevitably produces information asymmetries that are potentially deleterious to the client (Decker & Yarrow 2010).

The market “predicted” by the LSA will be diverse and so will require a range of skills from the full professional education to the limited technical training. It is possible to argue that the former—full professional education—is living on borrowed time as the main model of legal education. Webb (1999) argued that commodification of legal education in England and Wales has already arrived with a number of potentially adverse consequences. He analyses the impact of the flexibilisation of legal education allowing students “to jump on and off the conveyor belt at various points in the process”. For many students, Webb says, this could be a false hope because legal employers would not be convinced by bureaucratic recruitment policies partly because of credential inflation and so instead search for packages of “credentials, technical skills and charismatic qualities” (Brown 1995: 42). The result is a stratified market for skills in legal services. This probably would not sit well, for example, with how the Council of European Bars (CCBE) would expect to see legal education harmonized across Europe (Gout 1998) nor how indeed the harmonization of legal education has fared, that is, there has been no harmonization of academic cores (Ladtrup-Pedersen 2007). This led Colin Tyre, president of the CCBE in 2007 to say that what is essential for “day one outcomes” “is an understanding of what it is to be a lawyer rather than merely having the knowledge of what the law is” (Tyre 2007: 3).

What we can draw from this is that the possibility of the success of the disaggregation of legal education and training is dependent on two factors. One is the quantity and quality of training required to deliver particular services in the legal services market. The other is the reception of such training by a legal market that is imbued with a conservative culture when it comes to innovation. The LSA then has two challenges with respect to legal education and training. One is to ensure enough lawyers or legally-trained personnel are in the market to satisfy need; the other is to remove some of the barriers to this end that are harder to perceive because their visibility is murky at best. The struggle in the balance of indeterminacy and technicality rages in many forms and will continue to assert itself most probably the guise of the upholding the public interest.

In the next section I will consider the different pathways taken into law in different countries and their consequences. As the CCBE discovered harmonization is not a realistic goal for legal education and there are some fundamental differences in systems. The most stark is between the US and the UK.

### **3. Monocentric and Polycentric Modes of Legal Education**

#### **① UK Legal Education**

The UK has adopted a multi-path entry way into the legal services market for those who wish to work in it. In setting this out I have deliberately avoided using the words lawyer or

legal profession, which other systems would most likely insist on. Julian Lonbay (2007: 10) sets out the paths as if they were train lines with crossing points. Using admission to the Roll of solicitors as his end point, he identifies three main lines to that terminus.<sup>12</sup> The shortest and least complicated is for applicants to take A levels to enter university and then take a law degree which is followed by a one-year Legal Practice Course (LPC) and a two-year Training Contract (TC), including a Professional Skills Course (PSC), leading to admission. In general this takes about six years without break and excluding A levels. The second shortest route is again to take A levels then take a degree in any subject and follow this with a one-year Common Professional Examination (or Graduate Diploma in Law), then join line one with an LPC and TC to admission. This adds one year to the duration making seven years in total. The third route is much more variable and elastic over time taken. Indeed route three might not lead to admission but halt along the journey. Lonbay's starting point is either a student with GCSEs or a mature student who enters some kind of unspecified legal employment.<sup>13</sup> This student joins the Institute of Legal Executives (ILEX) and takes ILEX part one and two examinations to become a legal executive. After a further two years of legal experience the student can enrol on the LPC, take the PSC and be admitted. This route allows for broken journeys and rest stops or even premature halts. After taking these journeys an admitted solicitor should be capable of demonstrating the expected SRA day one outcomes (Boon & Webb 2008: 119). There is no explicit regulation of the law degree—i.e., LLB—by the legal profession apart from the joint statements on the qualifying aspects of the degree and, of course, review by the Quality Assurance Agency for Higher Education which examines all degree courses including law. With respect to the Legal Practice Course and Bar Professional Training Course there is closer supervision involving audits and inspections by their respective regulators—the Solicitors' Regulation Authority and the Bar Standards Board. For LLMs and research degrees in law there is no professional review.

The UK therefore falls within the *polycentric* model of legal education and training as do a number of other countries and legal systems. But many do not.

## ② *US Legal Education*

I contrast the US system of legal education and training in order to examine a *monocentric* system. The American Bar Association is granted the power to accredit and approve law schools and regulate them by the US Department of Education.<sup>14</sup> The result of this accreditation is that a student graduating with a Juris Doctor (JD) degree can sit the bar

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<sup>12</sup> Dixon (2011) identifies four routes to admission for solicitors.

<sup>13</sup> GCSEs are examinations taken generally at the age of 15 or 16 to test competency in a range of basic subjects.

<sup>14</sup> The National Advisory Committee on Institutional Quality and Integrity advises the Secretary for Education on accreditation issues. At a recent review the ABA was found to be out of compliance with 17 regulations and although its accreditation was renewed, it was given one year to remedy the problems ([http://taxprof.typepad.com/taxprof\\_blog/2011/06/aba-is.html](http://taxprof.typepad.com/taxprof_blog/2011/06/aba-is.html)).

examination of any state in the US.<sup>15</sup> There are approximately 200 ABA accredited law schools in the US. Law schools which are not accredited may be permitted by their state to confer eligibility on students to take the state's bar examination. The number of unaccredited US law schools is not fully known. For example, California recognizes three categories of law schools: ABA accredited; state-accredited law schools; and unaccredited law schools. The latter two have varying degrees of regulation—unaccredited does not mean unregulated. California has the largest number of state-accredited and unaccredited law schools in the US, 18 and 28 respectively. Graduates from these latter two types can take only the California Bar examination and those of others if the other state will permit it.

Law schools in the US are categorized as "professional schools" along with medical, journalism and business schools. They are distinguished from graduate schools which confer advanced degrees on research students, i.e., PhDs. Admission to graduate school normally requires the completion of an undergraduate degree which for law can be in any discipline. The ABA requirements say that at least three-fourths of a first degree must be completed for entry to law school. However, this partial requirement applies more to the unaccredited law schools. For example, California requires 60 hours of undergraduate credit for entry to state-accredited and unaccredited law schools. In addition to a first degree entrants need to take an admissions test which is usually the Law Schools Admissions Test (LSAT), and in many cases write a personal statement.

US ABA-accredited law schools meet quite rigorous standards in delivering legal education. A law degree involves 58,000 minutes of instruction via an academic year of 130 days. Each credit is equated to 700 minutes of tuition. Most full-time JD programs take three years although there are some programs that reduce the time to two years. Satisfactory completion of law school enables a graduate to sit the state's bar examination although this is typically prefaced by a two-month bar review course which prepares students for the actual examination. Bar examinations, though state-based, have almost become nationwide through their adoption of the Multistate Bar Examination (MBE) developed by the National Conference of Bar Examiners (NCBE). The MBE covers contracts, torts, constitutional law, crime, evidence and civil procedure and for some states a passing grade in this exam is sufficient for admission to the state bar. Indeed, the NCBE has developed the Uniform Bar Examination which is designed to test all the requirements for admission, but can be supplemented with additional tests if individual states so determine. So far five states have adopted the uniform approach. The NCBE also administers the MPRE which is the professional responsibility examination that every applicant must pass.<sup>16</sup> Following

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<sup>15</sup> Some states still permit reading for the bar but this type of route is not significantly used. So while there may be some elements of polycentrism in the US bar admissions process, it remains essentially monocentric.

<sup>16</sup> The state of Wisconsin still applies diploma privilege which means that graduates of the state's law schools are automatically admitted to the Bar without sitting an examination. (Wisconsin Supreme Court Rules, Chapter 40)

admission to the state bar a lawyer commences practice immediately without articles or training contracts.<sup>17</sup>

The ABA may seem to exercise considerable sway over law schools but the academy, as in the UK, is generally free to organize the content of legal education in its own way. However, the academy's freedom is being challenged by the ABA's proposal to reform law school accreditation standards. The Standards Review Committee has put forward a series of changes to liberalize legal education by permitting more online instruction, less security for faculty, and various other changes.<sup>18</sup> These have been challenged by the American Association of Law Schools (AALS) which sees the proposals as deleterious for legal education as a whole and, instead, has requested the ABA restart its review.<sup>19</sup> The ABA has refused to do this (Hansen 2011).

There is a fundamental distinction between UK and US legal education that is worth recognizing as it continues today, which is presented in the following sidebar.

***Sidebar: Law—Science or Humanities?***

Histories of legal education show us that the path taken was culturally determined. In the 19<sup>th</sup> century with the rise of corporate legal practice greater demands were being made on the producers of professional novitiates (Hanlon 2004; Gordon 2007; Galanter & Roberts 2008; Flood & Muzio 2011). Both US and UK elites relied primarily on kinship, clans and social networks to form the supply chain into professional life, i.e., ascriptive over meritocratic values. The problem with this form of recruitment process was that it sufficed when demands were low but when the call for new lawyers, bankers and accountants rose it was difficult to maintain quality thresholds. The approaches taken by the US and the UK differed remarkably and had long lasting pedagogical and disciplinary effects.

① *US Legal Education: Science*

The US was the first to tackle the problem of standards and quality in the supply of new lawyers. In 1870 Christopher Columbus Langdell became dean of Harvard Law School. Langdell borrowed the techniques of the chemistry laboratory to create the case method of teaching law. Materials for class examination were compiled by extracting the most salient parts of appellate court judgments on which students could be questioned by their instructors. Classes were very interactive depending on contributions from students as the main pedagogic method was Socratic. Students could be finely graded on both class and examination performance which allied with editorial responsibilities on the law school law reviews provided a nice set of indicators for recruitment purposes. Law firm innovators, such as Paul Cravath, were able to develop these ideas further by hiring the best graduates

<sup>17</sup> A very small number of US states require some kind of clerkship as a condition of admission, eg, Delaware requires a clerkship of five months,

<http://courts.delaware.gov/bbe/docs/ClerkshipRequirements2011memo.pdf>.

<sup>18</sup> See ABA Standards Review Committee at

[http://www.americanbar.org/groups/legal\\_education/committees/standards\\_review.html](http://www.americanbar.org/groups/legal_education/committees/standards_review.html).

<sup>19</sup> See AALS letter to ABA at <http://www.aals.org/advocacy/Olivas.pdf>.

as associates and training them by carefully disassembling cases and assigning small parts to lawyers to work on then reassembling their work into the finished product, again reinforcing the idea that law could be viewed as a scientific endeavour. Ascription through the medium of science became meritocratic (Swaine 1948; Stevens 1987; Gordon 2007). In this model the profession and the academy became interdependent and in essence the model has carried on, though recent economic events have raised concerns about its endurance (Galanter & Henderson 2008).

Despite changes in pedagogy over the years, the case method, or hybrid variants, remains the norm with the emphasis on doctrinal analysis. Criticism of the case method has not reduced its popularity among law professors (Weaver 1991; Guinier et al 1997). Interdisciplinary approaches have made their way into the curriculum and have waxed and waned. Political science has always had a strong connection with the analysis of courts, their structures and decision making. The most conspicuous success in this area has been the rise of law and economics, especially through the espousal of Judge Richard Posner (Gordon 2006). Considerable areas of law are dominated by economic analysis including antitrust, contracts, securities law, and torts. In its way it has reinforced the scientific attitude towards law. Some challenges to these orthodoxies are occurring, for example, with new law programs at Brooklyn Law School and the University of California, Irvine School of Law (Seron 2011).

## ② *UK Legal Education: Humanities*

In the introduction I pointed out that English legal education arrived in its modern form relatively late, especially when compared to US legal education. Nor did the big law firm come into existence until much later. In the 1930s the New York law firm of Sullivan & Cromwell had over 200 lawyers so that Karl Llewellyn (1933) warned that law factories were mopping all the best lawyers. The UK had to wait until 1969 when the artificial cap on partnership numbers was removed.

English legal education adopted neither the Socratic method nor the use of cases and materials books. Instead it employed the typical methods of humanities education, namely the exegetical lecture and the inquisitorial tutorial. Textbooks were expository and largely descriptive of the legal topic at a particular time. There were relatively few law journals and certainly none along American lines with student editors. Indeed, as Twining has shown, the research profile of law was thin. It would have been difficult in the English context to distinguish a law student from a philosophy one. In part this represented the UK teaching of law at the undergraduate level rather than graduate as in the US. Nevertheless, as other commentators have noted, it was only in the last 30 to 40 years that English legal education began to consider such new ideas as clinical legal education and approaching the subject from the perspective of law in context as opposed to merely a system of rules, or doctrine, to be learned and repeated.

In contrast to the US law and economics has never caught the academic imagination in the UK to the same extent. Other social sciences, notably sociology, have enjoyed greater success in the study of law. Research in areas such as courts, legal profession, access to

justice and more have been informed by disciplines of sociology, anthropology and geography.

### ③ *Canadian and Australian Legal Education*

If the US and UK forms of legal education represent the extremes on the polycentric to monocentric scale, others are located more towards the middle combining aspects of both. The Canadian and Australian systems of legal education are situated here. Both countries have elements of the UK and the US. This is understandable in the context of Australia having been a transit point for lawyers who wanted to requalify in either the US or the UK. In the case of Canada, it is almost inevitable because of its proximity to the US and the American demand for its graduates.

#### ① *Canada*

Canadian law schools were long viewed as “trade” schools under the authority of the law societies and it is in the period following the Second World War that the grip was loosened and legal education became academic (Boyd 2005). But the Arthurs report of 1983 showed that Canadian legal education was insular, inward looking and illiberal and argued that it should embrace contextualization and learn from the social sciences (Arthurs 1983). While this happened to an extent with the rise of socio-legal studies and clinical legal education, some commentators believe there has been a retrenchment as legal education has become “commodified” (Boyd 2005; Martin 2009). In part this has come about because the University of Toronto Faculty of Law decided to compete head to head with the best US law schools. This involved raising tuition costs significantly in order to increase faculty salaries and target the big law firms throughout North America as potential employers of its students.

Canadian legal education mainly follows the US model. There are 17 law schools where a four-year bachelor’s degree is followed by a three-year law degree. This can either be in a common law or civil law faculty. In Quebec the civil law faculties do not require a preliminary degree for entry. After law school a graduate joins a law society in one of the provinces—Ontario is the largest—and articulates for a period in a law firm then takes the society’s licensing examination.<sup>20</sup> As it stands there is no national standard for legal education in Canada—unlike in the US with the ABA—as befits the looser federal structure in this part of North America. The Federation of Law Societies of Canada set up a “Task Force on the Canadian Common Law Degree” which reported in 2009 and which has recommended a set of standards be introduced by 2015. It sets out a number of standards covering competencies, skills, problem-solving, oral and written communications, along with awareness of ethics and professionalism, as well as substantive legal knowledge. It is

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<sup>20</sup> For details see <http://rc.lsuc.on.ca/jsp/licensingprocesslawyer/exams.jsp>.

worth pointing out that in some respects Canada is the spiritual home for the English Legal Practice Course as it was Canadian academic thinking that informed the framers of the LPC.

A number of Canadian law schools now use the JD degree in favour of the LLB, and some faculties have joint ventures with US law schools for their graduates to complete their studies with both Canadian and US law degrees. The key one is the joint venture between Osgoode Hall Law School of York University and New York University Law School where over four years students take two sets of two-year courses at Osgoode and NYU to earn a Canadian LLB and an ABA-approved JD (DeBrennan 2008). Two other Canadian law schools have linked with US schools for joint degrees: Windsor with the University of Detroit Mercy and Ottawa with Michigan State University and American University in Washington. For De Brennan (2008) the combined effects of the Canada-US Free Trade Agreement of 1989 and the North American Free Trade Agreement of the 1990s increased the levels of cross-border trade between Canada and the US which concomitantly required raised awareness of the legal aspects of cross-border trade issues.

Two results flow from these developments: one is that the “Americanization” of legal education is taking hold, and two is that, it is argued, students may be “self-censoring” themselves to ensure they only take courses in law school—business law, commercial paper—that will appeal to law firms. Some have suggested this can be analogous to “dumbing down” or de-liberalizing the curriculum as it restricts intellectual challenge and diminishes diversity (Thornton 2001; cf. Webb 1999; James 2009). Certainly Canada’s legal education is in transition.

## ② *Australia*

Australia has also been changing and rationalizing its legal education system in not dissimilar ways to Canada. There are 32 accredited university law schools,<sup>21</sup> of which 28 are public and two private institutions (Douglas & Nottage 2009: 5). Accreditation of universities is carried out on a national basis whereas law school accreditation is state by state. Higher education bodies can be set up under federal or state but in order for them to receive grants or their students to obtain assistance they must be recognized by the Australian Minister for Education, Science and Training. Quality standards for universities are managed through the Australian Qualifications Framework (<http://www.aqf.edu.au>). The accreditation, content and quality of law degrees is supervised at state level. So, for example, in New South Wales, law degrees are accredited by the Legal Professions Admissions Board under the Legal Profession Act and the Legal Profession Admission Rules (Douglas & Nottage 2009: 4-5).

There is, however, an equivalent of the ABA which is the Law Council of Australia. The Law Council has been active in working with the United States Conference of Chief Justices (CCJ)

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<sup>21</sup> See Council of Australian Law Deans at <http://www.cald.asn.au/schools.htm>.

and the ABA to improve access for Australian lawyers to the US legal market. Australia is reasonably liberal in permitting qualified American lawyers to be admitted without further study. And the CCJ has passed resolutions calling on states to reciprocate, which Delaware has done (Terry 2008a: 198; Hawkins 2008). This bilateral action has raised the level of Australian-American interaction as Hawkins (2008: 11) notes, "Australia and the United States have much in common in terms of their legal systems".

Australian legal education has similarities with both the Canadian and the US. The typical Australian route is via study in another discipline which is then combined with study in law. Law is a three year degree so that a full study period is around five years. Although law is classified as an undergraduate degree, because of the combined nature of the degree a number of US law schools have recognized the equivalence of Australian and US law degrees which allows for the exchange of students and also reinforces the action taken by the CCJ. The University of Melbourne has taken this a step further by transforming its law degree into a graduate JD which requires prior undergraduate study and taking the LSAT (Pollak 2008). Subjects and duration of the law degree fall under the authority of the Law Admissions Consultative Committee, an advisory body of the Australian Council of Chief Justices. Practical legal training is compulsory and is often done as a postgraduate element or through clinical legal education. Unlike other jurisdictions Australian states do not examine their entrants but evaluate them on the basis of their academic and practical training in addition to character and fitness requirements. However, new lawyers are only given a restricted practising certificate for their first two years that necessitates supervision.

Australia is now in the process of establishing a national legal services market. The National Legal Profession Reform Project initiated by the Council of Australian Governments is attempting, through a taskforce set up in 2009, to harmonize regulation of the profession across states. The taskforce has been consulting although it is thought it will take some time to implement the proposals, especially as Western Australia and South Australia are reluctant to join in (see <http://www.ag.gov.au/legalprofession>).

#### ④ *Indian and Chinese Legal Education*

Thus far I have concentrated on legal professions in mature economies and especially those that share similar approaches to the UK. In emerging economies we notice significant differences except they might share one similarity. It is clear that the UK legal education system was at one time strong and highly valued in the world, notably in its vocational form. Nevertheless, as alluded to before, the US approach to legal education has traction and is gaining grip in the global economy both in form and in attracting students to US law schools. Two of the strongest economies that have taken the decision to enlarge their legal professions in order to meet global challenges are India and China. To provide some

context see table 1 showing large flows of students from India and China to the US and the UK, with the US in the ascendant:

**Table 1: Total Student Migration between India/China and US/UK**

	India To	To India	China To	To China
<b>US</b>	103,000	3,000	130,000	13,000
<b>UK</b>	40,000	500	85,000	2,000

(mixed data sources)

① *China*

China's legal profession has gone from virtually no lawyers in the 1970s during the Cultural Revolution to approximately 3,000 in 1980 to around 190,000 to 200,000 today (Thornburgh 2009). It is said that China needs around a million lawyers to function fully in the global economy. This rapid expansion belies, however, China's history of law and legal education. Until the 19<sup>th</sup> century much of Chinese legal education was based on family connections or through internships as well as imperial examinations (Zeng 2002). As Western culture infused into China the need for law was recognized and the former distrust of law gave way to formal instruction in law based on the legal systems of Japan and Germany (Hou 2006). In the 1950s the Soviet Union's influence grew but law, as a discipline and a profession, entered steep decline during Mao's tenure. With China's opening up to the west under Deng Xiaoping the "Rule of Law" became a government objective, if one not given full accord (Pei 2005). According to Hou (2006: 295) there are nearly 400 law schools and departments in China with 150,000 to 200,000 students and 30,000 faculty members. Law has become a popular subject and the competition for entry into law faculties is strong. It is also considered a good employment opportunity as it provides entry into public service, judicial appointments, prosecutorial positions, law offices, and management positions in companies. Legal education is based on civilian law rather than common law with Hong Kong as the exception. Institutions such as Tsinghua University School of Law and the Peking University School of Transnational Law are beginning to modify this pattern as they introduce US law and pedagogical techniques into legal education (Erie 2009).

Despite massive growth in law schools and lawyers the quality of legal education and the profession is highly variable. This is a reflection of several aspects of the system. These include instructors of variable quality, poor teaching, cheating in exams, use of cramming schools, lack of graduation requirement to sit for the licensing examination.

Legal education is loosely based on a 4-2-3 system. The first degree, LLB, is a four-year programme which includes a substantial number of non-law courses. LLB candidates are

selected from high school graduates who have passed the National University Admission Examination. Law schools then select their entrants by status, i.e., high-status universities have first choice of candidates followed by lower-ranking schools then lastly secondary professional schools (Zeng 2002). The second degree is the LLM or the JM which takes between two and three years. Finally, there is the PhD/LL.D. which is a further three years. These graduate programmes are selected by two national tests, of foreign languages and politics, and tests set by individual law schools. There is also entry by *baosong* (recommendation) which was designed to improve recruitment of students (Erie 2009:73).

There is uncertainty about how the system should be run in China. The JM was introduced in the 1990s by the Ministry of Justice to increase numbers. It is an example of top-down reform that has gone awry when fitted into an existing system. Erie calls it “central planning misfire” (2009: 67). The JM was a joint programme by the Ministry of Education (MOE) and the Ministry of Justice (MOJ). The idea was to modernize legal education along US lines both in content and form. Law would move from being an undergraduate degree to a graduate professional degree. Thus the JM would provide opportunities for non-law graduates to take law, hence the use of *baosong* to encourage non-law students into law. Currently, there are between 80 and 100 universities running the JM with over 30,000 students enrolled. The MOJ would like the JM to become the main track for lawyers, however this has sparked inter-ministry rivalry between the MOE and the MOJ as the MOE controls all degrees except for the JM which is controlled by the MOJ.

The LLM is considered more academic than the JM. And indeed because of the non-law background of the JM students most classes are taught as if they were undergraduates. According to Erie there is prejudice against JM students both by teachers and future employers. Even taking the differences into account both Erie (2009) and Abramson (2006) describe the process of legal education as being influenced by the civil law approach and political considerations with the effect of attenuating critical thinking. With emphasis on direct lecturing and little questioning—partly in order to save face and follow the party line—neither students nor teachers were impelled to move towards more Socratic methods. This was further reinforced by the desire of the Tsinghua students to become civil servants rather than private lawyers.

One aspect of the Chinese system that is unusual is that sitting the bar exam is open to both law and non-law graduates. The National Judicial Examination is held once a year and is open to Chinese citizens only and on passing a preliminary practising certificate is awarded which permits training in a law office (Gao 2010). The strange result of this process is that students engaged on graduate programmes like the JM are able to become members of the bar before they graduate. The pass rate on the bar exam is, unsurprisingly, low because of the high numbers of non-law graduates sitting it. According to Gao (2010: 145) it was about 15% between 2002 and 2008. There is a system of continuing professional

development or continuing legal education but it can be partially waived if lawyers write an article.

The Chinese legal education system is clearly one in transition, but to what is an open question. On the one hand it can be seen as attempting to develop its own way through its own means, and on the other it appears to be succumbing to the effects of globalization or, more accurately, Americanization. For a country that is rapidly modernizing China gives the appearance of being tied to many traditional ways while trying to make sense of Western educational methods and values. China is, in effect, stuck between polycentric and idealized monocentric modes of education. From Webb's perspective it might look as if Chinese legal education is on its way to being commodified.

## ② *India*

India, the other BRIC country under consideration here, is very much an Anglophile common law country. Both Mahatma Gandhi and Pandit Jawaharlal Nehru were educated in the bar schools of the UK. But its own legal education system became increasingly detached from the needs of Indian life and the challenges of globalization. So much so, that the Indian Prime Minister, Dr Manmohan Singh, called for extensive and radical change to legal education in 2010.

John Varghese (2010a) has argued that Indian legal education has been stuck in the doldrums for 150 years regardless of some tinkering around the edges, with the result that it is parochial and impractical. Yet India is producing some of the most dynamic experiments in legal education with the establishment of institutions such as the National Law School of India University in Bangalore and the new private Jindal Global Law School. To many, these are the preserve of elites rather than vehicles for the new legal education. This is perhaps analogous to the situation of the School of Transnational Law in Shenzhen and raises the question whether such elite education is scalable.

The Advocates Act 1961 is the controlling legislation for lawyers in India and gave the Bar Council of India (BCI) the power to lay down standards for legal education and to recognize colleges teaching qualifying law degrees (Schukoske 2009; Varghese 2010a). The regulation of legal education is shared between the BCI and the University Grants Commission (UGC), which is problematical and so similar to the tensions between the MOE and the MOJ in China in relation to the JM degree. According to Varghese (2010a: 4) a typical law college is beholden to the university of which it is part, the state government, the BCI and the UGC which has led to many failings and inefficiencies in legal education. There are between 900 and 1,000 law colleges and universities in India approved by the BCI graduating thousands each year. They fall into three categories: private global law schools, e.g., Jindal; National Law Schools, e.g., Bangalore; and parochial law colleges, many of which are privately run. The syllabus is defined by the BCI and covers the usual range of

legal topics. There are two degree routes recognized by the BCI. The first is to take an LLB after a degree in another subject or to take a joint BA-LLB over five years. According to Schukoske (2009: 265) the BCI exercises considerable control over the content of the degree because it is the main requirement for admission to practice by the State Bar Councils. In order to bring some resolution to quality issues the BCI has introduced the All India Bar Examination which must be taken by all graduates who seek admission to practise (Varghese 2010b). It is a multiple choice exam which is based on the law school curriculum and can be taken as many times as needed. Students can bring any materials into the exam room except for electronic ones including laptops. Graduates who fail can be trainees and assistants while they wait to retake it.

Quality in Indian legal education is an omnipresent problem and has resulted in many commissions, government and otherwise—e.g., the National Knowledge Commission (NKC)—to try and resolve it with little effect. Indeed the NKC recommended drastically reducing the influence of the BCI in order to improve teaching quality, research and begin to internationalize law schools. The BCI reflects the general state of the Indian legal profession which is predominantly sole practitioners who practise in the local courts and are the main resistance to foreign lawyers practising in India. Within the major cities there are some “big” law firms handling corporate work. In both cases family ties play a major role in obtaining legal positions (Halsbury’s Law Monthly 2009). Nevertheless the emergent large player in the Indian legal services market is the legal process outsourcer such as Pangea3, CPA Global, and Infosys (Krishnan 2007; Kuruvilla & Ranganathan 2008; Aggarwal 2011).

When the prime minister called for reform he had two reforms in mind. One was to make legal education more inclusive of social issues and the other was to prepare Indian lawyers for the globalized world, neither of which, except for a very few law schools, is apparent. NR Madhava Menon has been one of the key Indian legal educators to push for reform over many years (Menon 1983; Krishnan 2004; Halsbury’s Law Monthly 2009). One of the nodal points in the reform of legal education was the establishment of the National Law School of India University in Bangalore in 1986 (Krishnan 2004; Schukoske 2009) which taught the recently introduced five-year BA-LLB degree. For Menon, the first principal of the new school, the joint degree would replace the old-style three-year LLB. The advantages of the replacement were that it enabled more practice and experiential aspects of legal education, such as clinical legal education and mootings, to be included in the curriculum. The National School also insisted on internships for its students. Unfortunately the grip of the three-year LLB was too strong and it still exists today. The purpose of the National Schools is to raise standards and produce lawyers aware of the social purpose of being a lawyer and their place in the world. At present there are 12 National Schools of Law but they are small—even though Bangalore’s intake will double to 160—compared to the numbers going

through legal education. Even with the Jindal Global Law School the modernizing trend is slow and tortuous for India. Much will depend on how open India becomes to foreign lawyers and law firms and to what extent its legal process outsourcing industry expands in the future.

In many ways the BRIC (Brazil, Russia, India, China) countries are vital to the world's economy and so will be the character and quality of their legal professionals. Lawyers who are attuned to globalization in China and India are low in number and still graduate only from elite legal education institutions. Their pedagogic techniques are improving but again slowly. The alliances between foreign institutions of higher education and Chinese and Indian universities are strengthening, but it is clear these ties are being formed more with American universities than with British ones. Perhaps this reflects the significant attractions of the US as a place of higher learning for foreign students over other destinations (see table 1). The clearest demonstration of this tendency is found in the establishment of the Peking University School of Transnational Law in Shenzhen with an American founding dean and an American philosophy and the Jindal Global Law School in India forming strong links with US law schools and even making formal links with a US law firm, White & Case (3 Geeks 2011). Both institutions are geared to the American model of legal education and lawyering.

Although not discussed in this report other countries in Asia are in the process of reforming their legal education, e.g., Japan and Korea. Both are moving towards an American idea of JD graduate programme of law school (Nottage 2011) although Japan has not yet made this the exclusive route, therefore it remains somewhat polycentric. Saito (2006) argues that the Americanization of Japanese legal education has incurred the worst of all worlds because the American system was not adapted for the Japanese civilian legal culture. There is now the LLB degree which is insufficient to take the bar examination and the JD which has to be taken on top of the LLB in order to sit the exam. Korea, which has always capped the number of law schools, is able to adjust its essential monocentric pathway more readily, though not without resistance, than Japan which has allowed the numbers of law schools to flourish (Ahn 2006).

From a globalizing perspective the US has the lead over the UK in exporting ideas and technologies of legal education. The general flow is towards graduate degrees with an eye on their links to practice. There are clear similarities of difficulty over content in the US and the UK. That aspect does not seem to be overwhelmingly influenced by the level at which education takes place, however there is an expectation that graduate level degrees will resonate better with more mature students than undergraduates. However, it is worth flagging up one area of caution. Pearce and Levine (2009) argue that moving towards more selective American-style models of legal education will deny the opportunity to become legally trained to many with adverse consequences for the rule of law, access to justice and

human rights. Elite lawyers will focus on the commercial side of law at the expense of the social and humane. But access to justice for the majority will become harder and more remote as a result.

## ⑤ Europe

I have referred to some of the issues surrounding European legal education in section 2.3 above. The key difference in Europe is between the UK common law system and the prevalence of civil law elsewhere. In the globalization of law and lawyers some countries have felt left behind. France is one, which induced President Sarkozy to ask why it was that at the transnational level French lawyers seemed conspicuously absent compared to US and UK lawyers. The result was the setting up of the Darrois Commission to modernize the legal profession and legal education, both of which it signally failed to accomplish.<sup>22</sup>

A number of supranational phenomena affect the delivery of legal education in Europe, among them are the Bologna Declaration on higher education, EU directives on movement of labour and recognition of qualifications (e.g., Establishment Directive 98/5/EC and Diplomas Directive 89/48/EEC), and European Court of Justice decisions, notably *Morgenbesser* and *Koller*. Nevertheless, both Lonbay (2004) and Terry (2008c) have demonstrated that the EU has had “very little competence to regulate education” (Terry 2008c: 121). So education is regulated by soft law initiatives. Three of these are the Bologna Process, the Lisbon Strategy, and the European Qualifications Framework (Lonbay 2010a). The Bologna Process is a move to structurally realign higher education across greater Europe which will tie together qualifications and learning outcomes (Terry 2008c; Lonbay 2010a). It currently involves 46 countries of which 19 are non-EU and the significance of the process will have global reach (Terry 2008c). The goal of the EU Lisbon Strategy is even grander in that it has “set itself a **new strategic goal** for the next decade: *to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion.*”<sup>23</sup> The result of the Lisbon Strategy is to create a context for the EU to promote higher education reform across the EU. The third initiative is the European Qualifications Framework (EQF) which embraces all education and is designed to promote transparency without actually changing national qualification systems (Lonbay 2010a).

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<sup>22</sup> Darrois Commission, “Rapport sur les professions du droit”, [http://www.fbe.org/IMG/pdf/Rapport\\_DARROIS-2.pdf](http://www.fbe.org/IMG/pdf/Rapport_DARROIS-2.pdf).

<sup>23</sup> Presidency Conclusions, Lisbon European Council, 23-24 March 2000 at [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/00100-r1.en0.htm](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/00100-r1.en0.htm) (original emphasis).

Different countries approach legal education and admission to the legal profession differently, some with high degrees of regulation and others with lower (Lonbay 2010b).<sup>24</sup> But they share one feature: all focus on theory in the early stages of education and situate practical and clinical training at a later stage of the process compared, say, to English and American legal education. According to Irish (2006) it is a fallacy to think that skills training displaces learning legal theory or substantive law as some civil law teachers believe. Irish considers it a matter of what skills teachers want to develop in their students—e.g., writing, oral presentation, negotiation—and to find ways to infuse them into substantive courses. Furthermore, all qualifying European law degrees are undergraduate degrees: there is no formal equivalent of the US JD.

### ① *France*

France conducts its legal education through the university system even to the extent that even preparation for professional examinations is carried out at the university. The academic stage of legal education takes an average of five years with another two years of professional education and training to ready a candidate for the bar examination, Certificat d'Aptitude à la Profession d'Avocat. University education is essentially large-scale lecturing to cater for mass teaching to those entitled to enter university. Attrition rates are high (Sefton-Green n.d.).

### ② *Germany*

Germany's legal education system is more closely tied to the state. The first four years are spent at law school in the university but the final examinations are set by the state—the First State Examination—with a minority set by the university. Following a further two years of practical training the Second State Examination is taken which enables the graduate to choose whether to become a judge, a prosecutor or a lawyer. The first two categories are restricted by the state so most graduates elect to become lawyers (Korioth 2006). Law schools are located within state universities, bar one, and are generally under-resourced. Korioth (2006: 91) cites the example of Ludwig-Maxilians-Universität Munich which has 30 full professors with 55 assistants for 4,000 students not including students who take law as a minor subject. The result is that it now takes around five and a half years to reach the First State Examination. Even though the state insists on courses that deepen and broaden students' approaches—around 30% of the curriculum—to the formal compulsory subjects, e.g., civil and criminal law, procedural law, EU law, most teaching, like France, takes place in large one-way lectures with little or no interaction between student and professor. One result of this system is a thriving set of private cramming schools that prepare students for the state examinations (Wolf 2006). A few law faculties have begun a

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<sup>24</sup> See the *CCBE Comparative Table on Training of Lawyers in Europe* (2004) prepared by Julian Lonbay (on file with author). As a demonstration of the variety and complexity of different jurisdictions' approaches, the table runs to 202 pages.

bachelor and master of law set of degrees to reform legal education but they have no status as yet in becoming a lawyer. For example, many universities grant the *Diplom-Jurist* to students who have passed the First State Examination (Terry 2006: 876). In part the Bologna Process has begun to affect the design of German legal education although there has been resistance in that a bachelor's degree is still considered insufficient for qualification as a lawyer.

### ③ *Spain*

Legal education in Spain is also heavily regulated by the state with a large number of compulsory subjects in the curriculum with little space for optional subjects. The *Licenciatura* degree required for bar admission usually takes four to five years. In order to be admitted to the bar all that is required is registration with the *Colegio de Abogados*, the bar association (Palao 2002). Following *Koller*, though not as a result of this case, Spain has introduced a new law that will implement 6 to 12 months compulsory in-job training before being admitted (Graells 2011).

### ④ *Morgenbesser and Koller*

In recent years the *Morgenbesser* and *Koller* European Court of Justice cases, referred to above, have caused Europe's bar associations to rethink how they evaluate the differences in legal education and consequent admission to the bar. Christine Morgenbesser was a French law graduate with limited experience and no admission to the French bar. After working in a law firm in Italy she applied to join the Genoa bar which refused saying she had to possess an Italian law degree or top up her French one by two years of further study, passing 13 examinations and writing a thesis. The ECJ declared that her French degree had to be recognized, and that she did not need an Italian law degree, and that all her experience had to be taken into account. Free movement applied to graduates (Goldsmith 2009).

Robert Koller's case is more intriguing. Koller, an Austrian, took his Austrian law degree but undertook no required practical training. He then studied law at the University of Madrid and had his Austrian law degree recognized as equivalent to a Spanish one for admission as an *abogado* in Spain. Koller then applied to join the Austrian bar under free movement of labour rules without any further examinations or training thereby cutting off five years of training required by the Austrian bar which objected (Goldsmith 2009). For the ECJ Koller's qualifications fell within the remit of the Diploma Directive and therefore had to be recognized by the Austrian bar (Koller 2010).

Harmonization of routes to practice within Europe and recognition of qualifications is happening even if there are pockets of resistance. The European countries have retained their own educational features in spite of the attractiveness of the UK and the US as places

to go for postgraduate legal study. They have not succumbed to Americanization in the ways that some Asian legal education systems appear to have.

#### **4. The Character of Professions under a Mode of Production by Producers**

Professional guilds have long enjoyed special status granted to them by organs of the state which has ensured their power and authority. Guilds had secure control over who entered and under what conditions. Opinion differs as to whether they were rent seekers exploiting communities (Olgivie 2008) or that they shared costs by placing apprentices and masters together thereby enhancing experienced-based learning (Epstein 1998). Guilds, however, in modern society regressive in that they opposed innovation and business development and even Adam Smith held them in low regard (1776).

Lawyers were a constituent part of that cadre of professional groups that fought for their rights to control themselves only to see control slip away. Krause's (1998) depiction of professions as guilds is a story of decline. In the late 20<sup>th</sup> century governments lost interest in protecting them or, as in the case of Margaret Thatcher, actively sought to wrest control from them. The bureaucratization of work and education has impelled this move farther along. Indeed, we can ask if there is anything to distinguish professions from any other occupation. If this is not the answer then we might be seeing another transformation, a reconfiguration of professions and the legal profession in particular.

One of the fundamental alterations to professional life has been the move away from the ideal of the solo professional to the professional organization as the focus of professional ideals. In law this move is contemporaneous with the rise of the large law firm (Flood 2007; Silver et al 2009). Following Faulconbridge and his colleagues (2009; forthcoming 2012) it is arguable that the true site of legal education has moved from the law school to the law firm. For Silver (2010) it is more complex and is the combined effect of law school and law firm that is helping to deliver legal literacy on a global scale. Nevertheless, with the delivery of bespoke legal practice courses for corporate law firms—e.g., BPP Law School—and telescoped two-year law degrees—e.g., College of Law and Northwestern University School of Law—it is feasible to see legal education moving towards a more commodified form as predicted by Webb (1999).

Much of the rhetoric surrounding legal education and legal professionalism invokes values and culture. I have provided examples from the CCBE and others of this discourse (for a clear statement see Boon & Levin 2008). Perhaps Arthurs report (1983) and the ABA McCrate report (1992) on law schools and the profession represent one pinnacle of this thinking. These reports understood the status quo was an impossible position to hold and that change, ideally, should be managed. Yet part of their aim was to reaffirm the values of professionalism while modernizing it. The latest influential report of this type is the Carnegie Report on legal education which advocates strengthening the link between

academic education and the promulgation of civic professionalism (Sullivan et al 2007; cf. Maharg 2007). And the American Bar Association has started to take this into account with its proposals to accredit law schools on the basis of student learning outcomes rather than input measures such as student/faculty ratios (Hertz et al 2008; Randag 2010).

Even a recent Demos report (Craig 2006: 13-14) boldly states, "Professionals have never been more important nor under more pressure...we depend on professionalism more than ever". Interestingly, we have not yet seen an equivalent examination of legal education emerge in the UK, certainly not with the breadth of vision brought by Arthurs, McCrate and Carnegie which embraces both humanistic and technical elements.

It is neither helpful nor valued to dichotomize professions along Shavian or Parsonian lines as conspiracies against the laity or normatively disinterested. Rather they are an integral part of modern society, between the state and the community. As the Spada report (2009) on professions notes, trust in professions has declined. This can be attributed to attacks on professions by the state and the media and the professions own inability to police themselves. Regulation is then revised to fill these gaps. But regulation on its own is inadequate: it is for the professions themselves to articulate a clear message to society about their role and functions. Reeves and Knell (2006: 215) state

The professional identifier of a shared ethic is older than the identifiers of qualification screening and occupational capture. The very term 'professional', in its original sense, carries a vocational, motivational import. Individuals entering religious orders were required to take an oath, to 'profess' their faith and commitment to their vocation and those entering other occupations were expected to 'declare publicly' (*profitieri*) both their skills and their character for the job. Professional ethics can conflict with self-interest, especially in a market economy. It may be better for the individual professional to undertake more work than necessary, prescribe a different drug, be economical with the truth. These are the moments when professional integrity is tested. But a general sense of trust that the members of a profession will act in accordance with its ethos is a vital component in its maintenance of social and economic status.

Professional education is central to the formation of values as well as imparting the necessary skills to do the job. Trends in legal education development would suggest that ideals of professionalism, although more as technocratic professionalism than as occupational value (Evetts 2011), have gained some ground in the thinking of states and professions. We see this in the move from undergraduate to graduate education, for example. Conversely there is a sense that professional education may be overloaded in that it does not need to incorporate the paraphernalia of professionalism, that it would serve society better if it concentrated on delivering the product in the most efficient manner

possible. Some would argue that organizations are more important in delivering value systems than professional bodies (Evetts 2011).

Professions, as suggested by Reeves and Knell, should focus on doing good work, delivering value by valuing what they do for its intrinsic worth as well as its product. Protectionism, or market closure (Larson 1977), will fail if it is the means by which professions attempt to enforce their authority. If professions are a valuable part of society and the economy then they reinforce their position by embracing a range skills, competencies, values and culture. I come back to the balance inherent in professionalism that Jamous and Peloille articulated, namely the combination of indeterminacy and technique. The one does not need to be shrouded in mystery nor does the other need to be a purely commoditized product. Both provide the context in which professions function. In reviewing educational and training procedures professions must be aware of the multiple roles inherent in their function: prioritizing one at the expense of the other is damaging.

## 5. Conclusion

Legal education in the UK cannot be viewed in isolation from the rest of the world. Laurel Terry's research into the global aspects of the removal of trade barriers and their effects on legal service providers shows how deeply imbricated legal professions are in globalization (Terry 2008a; 2008b; 2010). The UK legal profession has enjoyed immense status and popularity in the globalization of law. English and New York law have long dominated the international economy and so benefited their legal professions. But UK legal education is at a crossroads. The undergraduate legal degree combined with apprenticeship is losing attraction in the world. The US appears to be more advanced in exporting its model of legal education, especially to emergent markets such as China and India. Even former adherents to the British model—Australia and Canada—are adopting American ways.

There are critics who argue that moving to graduate legal education restricts access to the profession and is damaging to human rights and access to justice. While others say that undergraduates are too immature to understand the entirety of legal education. Parts of Europe, however, seem to find the undergraduate model congenial for its legal services market while there is significant movement towards US-style graduate degrees. Yet the UK itself has not been immune from form of creeping Americanization of legal education. Dixon's study (2011) of entry into the legal profession shows that the attractiveness of the qualifying law degree as the main mode of entry to admission has fallen since the 1980s while the CPE/GDL route has risen in popularity to the extent that since 1996-97 22% of admitted solicitors followed this route.<sup>25</sup> There is no equivalence between the CPE and the JD but in terms of timing and career selection it shows an interesting trend that might

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<sup>25</sup> Note the New York State Board of Examiners demand proof of a qualifying law degree from foreign applicants which the CPE and LPC combination does not yet satisfy.

suggest later legal training is desirable, at least from the perspective of the employer if not the student. What this does indicate is that the connection between education and practice is getting stronger so that the idea of law as a liberal education is fading and no longer an ideal in itself (cf. Bradney 1995; 2003). The cost of education is another factor driving this tendency, as the debates between the ABA and the AALS demonstrate. In all countries the expense of education is rising rapidly and expectations are not always met by success in the job market and law has suffered in this respect. This is not to say that innovation is not being sought. The 2011 Future Ed3 conference in New York placed the business model of legal education at the centre of its programme.<sup>26</sup> For example, Wilkins et al (2011) proposed a four-phase model of legal education and development that moves from “cradle to grave” realizing that education is not a finite activity.

Any changes in the way legal education is delivered need to take account of globalization and the role that professions play in society. Denying their effects could cause serious damage to the reputation of the UK legal profession.

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<sup>26</sup> See Future Ed3 at [http://www.nyls.edu/centers/harlan\\_scholar\\_centers/institute\\_for\\_information\\_law\\_and\\_policy/events/future\\_ed/fe3\\_program](http://www.nyls.edu/centers/harlan_scholar_centers/institute_for_information_law_and_policy/events/future_ed/fe3_program).

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