Page 1 of 15 ANZAM 2009

The principled legal firm: Insights into the professional ideals and ethical values of partners and lawyers

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Abstract

unexplored area given the inherent difficulties of gaining access to lawyers. This case study sheds light on the professional ideals and ethical values of partners and lawyers in a mid-tier Sydney law firm. Semi-structured interviews with partners and lawyers/legal clerks reveal how partners' professional ideals and ethical values play a pivotal role in: (1) upholding positive normative

Understanding how the professional ideals of partners influence lawyer everyday life is a relatively

evaluations of partner/firm propriety (moral legitimacy), (2) satisfying younger lawyers' needs for personal support and autonomy/responsibility (pragmatic legitimacy), and (3) stressing the importance of a balanced working life (cognitive legitimacy). The principled actions of partners are

portrayed as the cornerstone of shaping a moral community in legal practice.

Keywords: business ethics, organizational culture/values, work/life balance

Understanding the professional conduct of lawyers has long been a central interest of scholars and

practitioners (Linowitz 1994; Mescher 2008; Wallace & Kay 2008). What constitutes proper lawyer

behavior remains a fascinating question given 'moral values underpin much of the law' (Mescher

2008: 914) and lawyers' sense of professionalism is heavily influenced by everyday aspects of their

work such as the time they 'spend with corporate clients and the pressures they feel to generate

profits' (Wallace & Kay 2008: 1039). Indeed, previous studies suggest lawyers develop very different

conceptions of professional practice based on the type of work they undertake, their relative positions

in the firm, the nature of their clientele, and the values and ideologies they conform to as lawyers

(Nelson & Trubek 1992; Tomasic 1983).

Although ideological beliefs and values orientations have been construed as important elements in

understanding lawyer behavior, person and situation-specific aspects of lawyer practice are not well

described in the literature. This may be because of the inherent difficulty of gaining access to lawyers

and the "time is money" contexts in which they practice. However, without these insights we cannot

categorically state the current boundaries of the lawyer role in terms of professional and moral

standards (Sama & Shoaf 2008). Nor can we easily refute blanket notions that lawyers are simply

guns for hire pursuing monetary rewards above all else on behalf of their demanding corporate clients

(Linowitz 1994; Mescher 2008).

1

Page 3 of 15 ANZAM 2009

This paper sheds light on the professional ideals and ethical values of lawyers in one particular professional practice. Before presenting these findings, it is worth mentioning the conceptual foundations of the study. The study's initial aim was to not study ethical practice but to examine differences in the professional ideals of younger and older lawyers. Framing the study was the notion younger and older lawyers may have different conceptions of legal practice given their different ages, work expectations and values (Smola & Sutton 2002; Zemke, Raines & Filipczak 2000). Different conceptions of legal practice and values orientations were thought to be revealed in lawyers' understanding of ideal professional concepts such as autonomy, independence, work ethic, and success. However, as the interviews and data coding unfolded, it became evident that partners' professional ideals and values were embedded in 'certain words, phrases, patterns of behavior [and] ways of thinking' reported by younger lawyers (Bogdan & Biklin 1982: 166). That is, partners' professional ideals and values seemed to play an important role in the way younger lawyers 'understand their everyday life' (Nelson & Trubek 1992: 178). Hence, the focus of the study shifted to understand similarities in the professional ideals of lawyers and the ways partners' ethical values and principles explicitly and implicitly guide lawyer behavior.

IDEALS OF PROFESSIONAL PRACTICE

Theoretical analyses of what constitutes proper lawyer behavior have been informed by traditional ideals of professionalism based on notions of autonomy, public service orientation, collegiality, and variety (Wallace & Kay 2008). The professional model suggests lawyers are more likely to contribute to the wider social good and provide excellent service to their clients when they: (1) exercise judgment in their work, (2) perform tasks that are complex and challenging, (3) enjoy collegial and harmonious working relationships, and (4) act in the best interests of the public and make a difference in people's lives (Wallace & Kay 2008). Underpinning this view of professional behavior is the concept of work centrality and the notion lawyers are more likely to contribute to the wider social order when legal practice is regarded not as a job, but as central to an individual's life and moral duty (Davis 2002; Wrzesniewski, McCauley, Rozin & Schwartz 1997). In this ideal of professionalism, lawyers express a strong commitment towards the service of others when the professional self is

oriented first around making a contribution to society rather than self-interest or making money (Nelson & Trubek 1992).

Ideological Beliefs and Values

Ideals of professional practice however do not occur in a social vacuum. Nor do they always resemble a single set of ideas or practices as depicted in the professional model. What lawyers ought to do (ideals of practice) represents a set of ideological beliefs and values about which lawyers and others in society argue (Carlin 1966; Nelson & Trubek 1992). Lawyers do not possess a unified, consistent professional ideology but articulate a particular version of the professional ideal in response to the particular circumstances of their practice. For instance, local versions of professionalism abound reflecting the type of legal work undertaken by lawyers, the size/location of their practices, and the nature of their clientele (Tomasic 1983; Wallace & Kay 2008). These versions often reflect the material circumstances and social backgrounds of lawyers and the opportunities they perceive to make money, gain skills in specialized areas, and/or progress to higher status levels within a firm. Different conceptions of the professional ideal exist because professionalism is shaped by the motivation and values of lawyers, the workplace context, the history of the firm, and the interests of its most powerful partners (Boon 2005; Nelson 1988).

As Nelson (1988) forcefully argues, partners are agents of professional ideology in the workplace and legal practice is shaped by the ideology of the elite in power. Because ideologies legitimize certain beliefs and provide the justification for individual-organization success and goal achievement (Beyer 1981), partners' ideologies imbue meaning into what lawyers should do (and not do) in certain situations. This meaning is conveyed in all aspects of decision making within the firm. For example, if partners view increasing fee-income as the hallmark of professional practice then legal practice will be organized around serving the material needs of clients. Work structures will clarify lawyers' understanding of their roles by intensifying client contact and working hours and by making promotion decisions dependent on the cultivation of high-status corporate clients (Boon 2005). Over time, lawyers will internalize these core beliefs and gauge their material circumstances and numbers of valued corporate clients as the *sin qua non* of professional practice. Hence, partners' ideological

Page 5 of 15 ANZAM 2009

beliefs not only help mould lawyers' preferences and behavior – in aggregate they are central to defining the identity of the firm (Albert & Whetten 1985).

The extent to which lawyers accept or refute narrow/broad conceptions of legal practice stressed by partners will depend crucially on a 'variety of political, ideological, and situational concerns' (Nelson & Trubek 1992: 179). Ideologies in practice may bind some lawyers together, particularly in contexts where partners and lawyers work alongside one another, undertake similar legal work, and respond to the demands of similar clients (Carlin 1966; Wallace & Kay 2008). In large top-tier firms, partners' client-driven values and promises of promotion to partnership may motivate lawyers to work hard and be highly committed to the firm (Galanter & Palay 1991). However, these values and promotion expectations may be brought into sharp relief and undermined by long working hours, routine discovery tasks, and the prevalence of an "up or out" culture (Boon 2005). In such contexts, ideologies may serve not to unify but to reinforce instead social distance between partners and non-partners.

CASE STUDY

Bensons (a pseudonym) is a mid-tier firm (122 employees) with its main office in Sydney. It specializes in personal injury, property law, employment and industrial relations, commercial litigation and dispute resolution, and probate, wills and succession planning for individual clients. Founded in 1899, the family firm has strong Catholic foundations and an established reputation for personal client contact and service, particularly in respect to work for not-for-profit organizations and church orders. As lawyers for the Australian Workers Union, the firm gained notoriety launching common law actions for negligence in the workplace on behalf of individual laborers in such industries as steel, metal and paper. Throughout its history, the firm has strived to combat perceived injustice by acting as champions for people in dire straits, referred to in the vernacular as the "Aussie battler". Recently, the firm has expanded and taken on commercial work for a number of large corporate entities. Time recording and fees billed targets are set for all practitioners (e.g. lawyers engaged in personal injury service 100-120 clients per year). Although these targets are average by industry standards, there is a high expectation to meet the standards. Occupying two floors of its

functional Sydney offices, the firm is focused on maintaining its family orientation and preserving a stable partnership which manages to balance the concerns of staff whilst servicing the demands of individual clients.

Data Collection

Gaining access to the firm was made possible by the firm's general manager. At a legal management conference, the manager expressed interest in a study exploring the working relationships of younger and older lawyers. Partners and lawyers in the firm were subsequently invited to be involved in the research and assured that participation was voluntary. In accordance with a university ethics protocol, all participants consented in writing to an interview, the collection of demographic data (e.g. age, time in firm), and allowing interview data to be used for publication purposes. In December 2008, interviews were conducted with eight lawyers (six female, two male), two legal clerks (one male, one female), and six partners (five male, one female) responsible for a major area of work. The average age of lawyers/legal clerks was approximately twenty-seven and for partners fifty-three. All of the lawyers/legal clerks had less than three years of experience within the firm and spent most of their time in litigation work. By contrast, partners had more than ten years experience within the firm (two senior partners had amassed forty-five and forty-nine years experience as lawyers) and were engaged in litigation and property related legal work.

A protocol was developed to ensure a consistent approach to the interviews (Yin 2003). Interviews were designed as structured conversations and contained a number of probes to elicit sufficient depth and detail from respondents (Rubin & Rubin 2005). A series of main questions were prepared relating to professional ideals (i.e. perceptions of self), age-related issues in the workplace (i.e. perceptions of self and others), and respondents' working relationships (i.e. perceptions of self and the firm). Probing questions asked respondents to: (1) state their reasons and motivation for studying law, (2) describe key aspects of their role and working relationships, (3) comment on professional ideals that they hold

¹ A summary report describing and interpreting partner-lawyer interview data was sent to the firm's general manager for distribution and comment. Feedback from the partners was positive in that they all 'appreciated the analysis and independent insight to the views of the younger staff in particular' (pers. comment on draft report, 27 May 2009). No changes were made to interview data. However, certain words used by the researcher in interpreting partners' ways of thinking were rephrased to more accurately reflect the viewpoints of partners.

dear, and (4) explain what autonomy, independence, work ethic, and success means to them in their work. All interviews were recorded (each interview lasted on average fifty-five minutes), transcribed verbatim, and analyzed by the author.

Data Analysis

Transcripts were read a number of times before qualitative coding techniques were utilized to describe events and contexts and to develop topic categories and themes (Morse & Richards 2002). Codes were often grounded in the words of respondents to prevent categories being formed at too high a level of abstraction. For example, the category helping individual clients contained properties of text related to *helping people in dire straits*, *individual client representation*, and making sure *work was done efficiently to the best advantage of clients*.

In talking about themselves and the firm, partners and lawyers evoked a strong sense of organizational legitimacy in that work activities were 'desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions' (Suchman 1995: 577). In order to elucidate this pervasive theme, segments of text were analyzed through the lens of Suchman's (1995) three primary forms of legitimacy: moral legitimacy (i.e. consistent positive normative evaluations of firm/partner propriety), pragmatic legitimacy (i.e. self-interested calculations of what individual lawyers stand to gain from working in the firm), and cognitive legitimacy (i.e. taken for granted assumptions of the firm's balanced working culture).

FINDINGS

Moral Legitimacy

Partners' ideals in respect to helping individual clients reflected a strong sense of moral legitimacy in being 'the right thing to do' (Suchman 1995: 579). Partners measured their own success in terms of *fighting the good fight* and *directly affecting the lives of people*. These judgements reflected not just a dedication to serving clients and their needs, but a professional obligation couched in terms of a social contract with society (Davis 2002). This social contract is honoured when the firm takes on personal injury work that other firms would refuse, acts for religious orders, and wins cases that are socially

just and desirable. Actively helping individual clients in times of need also seemed to be inextricably tied to each partner's sense of professional identity. A senior partner recollected: 'I got satisfaction from helping people as soon as I started practicing law' and 'if I was acting for insurance companies it's too impersonal, you don't directly affect the lives of people'. A younger partner concurred with this viewpoint echoing that 'an important part of the law is to help people in dire straits; helping individuals is more rewarding than fixing a corporate problem'. He added 'success to me is putting a smile on someone's face, solving their problem, digging them out of the mud, and giving them a sense of peace'. A female partner affirmed the motivating force of representing individual clients in dire straits:

success is defined if you can handle a lot of clients well... keep them happy. I prefer to act for individuals, more [job] satisfaction, get a kick out of winning a fight against a corporate/insurance claim...we take on a lot of personal injury work that others wouldn't... we attract people that otherwise wouldn't be represented... that's important to me, for me the driving factor is the individual client representation.

Partners' professional ideals also played a pivotal role in upholding positive evaluations of firm propriety. For example, in the legal domain "my word is my bond" is imbued with values of personal integrity and professional reputation. Two senior partners shuddered when they considered this principle might be sacrificed or replaced in a climate of changing business practice:

...we would almost dismiss someone if they gave their word and didn't keep it on a serious matter... [Interviewer: so that's a clear line in the sand?]... yes, that is a very clear line, I guess it's fair to say that unfortunately in this day and age a word being your bond is not quite so readily accepted... it should be, and certainly I'm sure this policy applies although I'm no longer managing partner, I'm sure this still applies here.

I deal a reasonable amount with country solicitors and their word is their bond, because if it wasn't you couldn't conduct business...we never have a cross word, we negotiate hard on some things, I would never ever suspect them of doing anything unprofessional... if they did I would

never deal with them again and that's a driver, that was a driver when I first started law but it's not a driver anymore in Sydney... in my first 20 years of law, if I said to another solicitor I'll undertake to do that, he would accept that unequivocally, now [today] they'll say 'you'll have to put your undertaking in writing'...I nearly slammed the phone down.

Younger lawyers identified with the firm's family/Catholic connections and partners' commitment to church orders and aid groups. A law clerk said she liked the firm's Christian values, even though 'I'm not religious at all'. She added, she liked 'the idea our clients are ethical, well most of them'. A lawyer affirmed her positive regard for the partners' moral and professional values by indicating a desire to emulate these values:

...I'm pleased that this firm has retained its traditional values and beliefs that I can share these with colleagues without reservation but also I'm aware of non-Catholics within the firm who I have respect for... I look up to them [partners] given their years of experience... they have the right values, moral and professional, I would really like to be able to follow those values rather than be out of it and in that way I want to meet that expectation.

Pragmatic Legitimacy

Comments made by lawyers suggest that the partners have successfully managed to appeal to younger lawyers (so-called 'Generation Y' cohort) self-interested needs for personal support and autonomy and responsibility (Smola & Sutton 2002; Zemke et al. 2000). The fact that partners are aware of and attempt to meet these needs is often contrasted with the situation in bigger firms where partners may not have the time or the inclination to show consideration and create 'an environment of emotional support, warmth, friendliness, and trust' (Dubrin, Dalglish & Miller 2006: 60). The following comment by a female lawyer contrasts the impersonal work context of a big firm and her own work environment based on humanistic principles of open communication and personal support:

...I came here and met a few people, it didn't seem a big firm where you would probably be stuck in the corner photocopying your whole life, everyone took an interest in you from the managing partner down to the secretaries to like you know the receptionist, everyone wanted to know who you were, where you were from, what you do and also they seemed to be quite keen on progressing your career as well, 'what are you doing now?', 'good, what do you want to do later?'... this was something evident in my interview, which I'm thankful for now...in a big firm I would perhaps be a bit lost.

Being able to approach someone directly with a question was viewed positively by lawyers as it indicates 'they will be able to assist me'. The lawyer added: 'it's particularly good about this firm, there is no sort of team boundaries, you can ask anybody for help... most of the partners are pretty flexible like this'. A legal clerk agreed stating the 'culture here is excellent, it's for example a true open-door policy where I can go up to anyone and ask them a question irrespective of their position... this certainly wouldn't occur in a top-tier law firm, you just couldn't walk up to a partner and say explain this to me, that's one good thing'.

Lawyers also made reference to the fact partners had placed a substantial degree of confidence in them to handle individual client files. Having the autonomy and responsibility to contact individual clients directly was viewed positively as a sign of faith in their ability to take-on complex tasks and be held responsible for their decisions. Such confidence is encouraged by 'sink or swim' and 'assistance when required' partner principles:

From day one when I started as a graduate lawyer, not yet admitted into practice, but I was still given carriage over my own files which were overseen by the partner I worked for... might be all sorts of things, conferences with clients and barristers, going to court, yet I don't have a safety blanket now where your partner holds your hand through it, sink or swim is the approach when you start but I think the partners are smart enough to know whenever someone is capable of doing the work or not...(lawyer, male).

I think it's important making your own decisions... at some other firms you might not be able to contact individual clients directly, you would have to speak to a partner first or the phone would be in the middle and you do a conference call... whereas here I work under [partner's name] and

he is really easygoing and only when I think the matter is pretty sticky and the potential for it to blow up then I get him on it, otherwise he's happy for me to do what's best which makes me feel he's confident in me... I still like to have someone there to assist when required... (lawyer, female).

Cognitive Legitimacy

Partners and lawyers' comments conveyed a number of taken-for-granted assumptions in respect to the firm's balanced working culture. Lawyer's daily work-life seemed to mesh with larger belief systems enunciated by two senior partners that there should be some degree of balance between serving the needs of clients and deriving enjoyment from the work. Two senior partners expressed these beliefs in decisions not to hire individuals that do not fit this mode of working and in dismay for bigger firms that consciously use up younger people by requiring them to work excessive hours (Fry & Cohen 2009):

I suppose always I have regarded the law as a way in which, particularly Caroll O'Dea, as a place you can make a reasonable living and enjoy your work... so both being important... achieving those two things is very much in my mind all you can want from the law... there was an opportunity to engage someone [going back 20 years ago or more] who without any doubt would have been a great fee earner but I knew this person had an abrasive personality and even though he would have brought in a very large amount of cash to the firm, I didn't have the slightest inclination to ask him to join us [Interviewer: you just knew it wouldn't work?]... Yes, it would have destroyed that first element, enjoyment at work, and it would have boosted the second, as I say to make a reasonable return which we have been lucky enough to do.

...we have a work ethic but we insist on a lifestyle too... nobody is expected to work to 7pm... [example of working hours]... it's a very conscious thing, what the large firms are doing to young people is destroying them... I suppose it must work for the big firms because they keep doing that... maybe they have transactions that need to be completed around the clock, we don't ever get caught up in that.

Lawyers expressed positive sentiments in respect to balanced working hours which enabled work deadlines to be met whilst simultaneously allowing time to be spent at home in the evenings with family. One female lawyer remarked that the 'firm told me from day one that we don't expect you to work a long number of hours, we just want you to do a good job for the 8 hours of the day and go home to the family and rest'. Another female lawyer confirmed this arrangement saying 'we're quite lucky we don't have crazy times, some nights you are here to 9/10 pm but that is not standard... if you are here it's because you have got work [to do] and everyone knows work can wait another day'.

CONCLUDING DISCUSSION

A key purpose of ideology is to legitimize certain beliefs and make them the focus of meaning for the conduct of individual and organizational life (Beyer 1981). In this firm, partners' guiding principles in respect to lawyer morality (e.g. 'my word is my bond'), the treatment of individual clients ('help people in dire straits') and other staff ('don't use up people with long working hours') act as a moral glue in promoting strong ethical norms for everyday life within the firm (Jones 1991). These guiding principles act as the cornerstone of shaping a moral community in legal practice given they: (1) evoke a shared social code based on elements of mutual care, consideration, trust, and integrity (DiNorcia 2002; Sama & Shoaf 2008), and (2) promote collective moral agency – a necessary boundary condition for a moral community (Heugens, Kapstein & van Oosterhout 2008).

Central to the process of building collective moral agency are the ethical principles modelled by partners (Fry & Cohen 2009; Sama & Shoaf 2008). Leaders act ethically when they transcend self-interest and measure their own and their organization's success in terms of sound moral principles. Partners in this firm act from a strong moral foundation when they question the practice of extended working hours in bigger firms and its impact on younger lawyers (Fry & Cohen 2009). The importance of a 'working to live' culture where personal and working lives are integrated (Burke 2009) is demonstrated by a commitment to family-friendly working hours and by decisions not to hire people who are ruled by materialistic goals and values. Advocating work for church orders, and taking on personal-injury cases that other firms would refuse, also seems to advance lawyers' 'cherished ideals' of making a difference to individual clients' lives (Blau, 1964: 239). Collectively these

principles help shape a moral community when they bind lawyers to a set of self-imposed moral constraints that are worthy of collective pursuit.

Comments by younger lawyers suggest partners have established an ethical working environment characterized by 'inclusion, personal responsibility and open and honest communication among employees, so that they feel empowered to raise issues and make decisions' (Fry & Cohen 2009: 268). An important enabling principle here is partners' commitment to an 'open-door policy' where younger lawyers can ask partners questions and gain feedback and advice. Indeed, gaining immediate access to partners suggest partners are working effectively as ethical role models in small groups rather than as distant partners (Weaver, Treviño & Agle 2005).

This case study has given some insights into how partners' professional ideals and ethical values and principles shape the everyday life of lawyers. It suggests a firm can have strong collective moral agency when its partners act in a principled manner and pursue work activities that others, inside and outside the firm, perceive as legitimate and ethically desirable. Indeed, such a reservoir of moral legitimacy may prove a telling factor in attracting and retaining lawyers and clients in the midst of a global financial crisis. However, a word of caution needs to be tendered in respect to the case study's findings. The study relied principally on partner and lawyer interview data and did not "triangulate" other data collection techniques to strengthen the credibility of findings (Morse & Richards 2002). Gaining access to partners and lawyers in different settings over a period of time may allow greater insights into how professional ideals and ethical values and principles sustain a moral community in legal practice.

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ANZAM 2009 Page 14 of 15

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Page 15 of 15 ANZAM 2009

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