

Learning to be a Lawyer in Changing Times

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Even in times of global financial downturn, large legal firms continue to generate huge revenues, with the top five firms in the world all earning in excess of US\$1.8 billion in 2010 (American Lawyer.com, 2011). Several Australian legal firms make the list of the world's top 100 firms based on revenue (American Lawyer.com, 2011). Taking into account what these figures represent in relation to commercial transactions around the world, the economic and social importance of private legal practices is significant. At least in part, these large revenues are possible because the profession enjoys a legal monopoly in its occupational area, established through charter or enactment of legislation (Neal and Morgan, 2000). In return for this monopoly the legislation typically imposes standards upon the profession, both educational and ethical (see for example 2004 (Vic)). The legal monopoly allows both the enactment of barriers to entry and the charging of higher fees, which in turn, contribute to the high status of the profession (c.f. Neal and Morgan, 2000).

The maintenance of the professional competence of the body of practitioners is a major concern for professions as it is essential to the maintenance of the monopoly and thereby of status and income. A distinct body of work has developed around the education, training and induction experiences of professionals in occupations ranging from medicine (see, Becker et al., 1961) to auditors (see, Anderson-Gough et al., 2001). These acknowledge the importance of formal learning in relation to the acquisition of technical knowledge but also point to the need to adopt 'the values, norms and behaviours of the profession' in order to achieve career success (Anderson-Gough et al., 2001). It is widely recognised, in the traditional professions at least, that this breadth of technical and practical knowledge is most consistently accomplished through a combination of class room education and on the job training (see further Neal and Morgan, 2000).

The emphasis of much of the work into learning in the professions is upon how professional organisations reproduce themselves. Certainly, there are many features of the structure and practice of law firms that appear to be enduring. For at least the last hundred years law firms have existed as three tiered, stratified apprenticeships (Gaborro, 2007). 'They are apprenticeships in that the actual practice of law is learned on the job, working on client problems under the supervision or guidance of one or more

senior professionals... These organizations are stratified in that status differences between junior, mid-level and senior professionals are clear and significant' (Gabarro, 2007). Gabarro suggests that this stratified apprenticeship form, incorporating partners and senior lawyers as 'producing managers', persists because it offers several significant advantages in the maintenance of relationships with clients, the provision of credibility in dealing with sophisticated clients and complex problems and in the establishment of legitimacy in leading other professionals. However, pressures in relation to growth and profitability have led to law firms looking to the corporate form, and particularly the bureaucracy, to attempt to deal with the challenges that accompany increases in size and scope. Changes that have become evident over the last decade or so include: the increasing use of technology which has led in turn to an increase in the commoditisation of legal work; the increasingly competitive nature of the legal market (both in relation to attracting and retaining clients and to attracting and retaining 'talent'); and the more extensive use of non-lawyer specialists to run support and marketing functions and a related increase in the employment of non-lawyer COOs(Gabarro, 2007).

At the same time as these changes affect the understanding of 'organising' legal practice from the top down, social changes have also impacted on legal practice from the bottom up. Changes in society are (slowly) being reflected as changes in the makeup of the profession; increasingly women are entering the profession, now regularly making up more than 50 percent of the entrants into law schools around Australia (see for example, The Law Institute of Victoria, 2011), and new entrants into the profession are not infrequently entering their second career, rather than following the more traditional career path of moving straight from secondary school to university to a law firm. Such changes in the workforce reflect society's expectation that the profile of the profession will more closely mirror the diversity profile of the society which it serves (Wilkins, 2007). However, they create challenges in relation to the integration into the organisation of new members who may be significantly different in gender, or in ethnic, educational or socio-economic background (Wilkins, 2007) to the senior members of the firm who will be the 'masters' in their apprenticeship.

This paper looks at the issue of learning in legal firms in the context of these changes. It arises from a larger study into organisational learning in legal firms. The framework that informed the larger research was the concept of communities of practice. First, this paper will explain how communities of practice inform understandings of learning in organisations, including the interplay between reproduction of the organisation and its knowledge and production of new knowledge leading to change within the organisation. Learning in communities of practice involves the development of occupational identity (Wenger, 1998), and the paper will next discuss the critical importance of identity work and attempts at identity regulation. It will discuss how identity becomes even more central to learning in knowledge intensive firms. Last, the paper will draw on Bourdieu's concept of 'habitus' (Bourdieu, 1977 and see also, Mutch, 2003, Dobbin, 2008). Whereas Bourdieu saw habitus as a source for stability reinforcing institutionalised values and practices, the paper will propose that, in the changing context of legal firms habitus may well operate as a force for change in the profession. Throughout the discussion, the value and utility of the concepts to the exploration of learning in knowledge intensive firms such as legal firms will be illustrated by reference to the case which was the subject of the larger research project mentioned above.

Research context and design. The site for the research drawn upon in this paper is the Melbourne office of a mid-tier law firm (hereafter called Benefics, a pseudonym). The firm also has offices in several other Australian states. The Melbourne office is relatively new (just over 10 years old) although the firm itself can trace its history back over 100 years. The research adopted an interpretive approach in order to examine the practices through which learning is accomplished and identity negotiated in legal firms. Data collection commenced simultaneously with a new intake of five law graduates, a historically high number for the Melbourne office of the firm, which at the time had a total staff of about sixty people, including fee earners, non-legal specialist, managers and administrative staff. A total of 26 semi-structured interviews were conducted with members at all levels and in all employment categories. The new graduates were interviewed twice, first shortly after they commenced at Benefics and again, shortly after the anniversary of their commencement. By the second interview all the initial

graduates had been admitted as lawyers. (For clarity of description, these participants will be referred to as 'the graduates'.) The supervising partners of all but one of the graduates also agreed to be interviewed. Other professional staff interviewed were two mid-level lawyers and a further partner (who were all identified by the graduates as being important to their learning), as well as the single law graduate and law clerk (the designation for legal employees who had not yet graduated) employed the following year. In order to explore the interactions between the different categories of employee, interviews were also conducted with two administrative staff members (known as 'admins' by most employees), the Chief Operating Officer (COO), the Office Manager and the Human Resources Manager (who was primarily located at another office but made regular trips to the Melbourne office). The interviews, which ranged from approximately 30 minutes in the case of the administrative staff to just under two hours for several of the partners and managers, were audio recorded and transcribed (with the exception of one partner interviewed who declined to be recorded but whose interview was taken down as hand written field notes).

In addition to interview data observational data was also collected over an extended period including attendance at the initial two day induction and a period of three weeks in which I shadowed one of the graduates. During this time I occupied the desk immediately outside the graduate's office, a position which she herself had occupied only a month or so earlier. From this vantage point I could see and hear into her office as all walls were glass and doors were seldom closed. It was also possible from this vantage point to see and hear the activities of many of the firm's lawyers and administrative staff. Longhand notes of observations were recorded in a notebook which I carried with me at all times. As my presence as a researcher was known to all parties, it was usually possible to be making notes as events occurred. When the nature of the observation or conversation made the taking of contemporary notes inappropriate, notes were made as soon as possible after the event.

Having introduced the case that will illustrate the theoretical discussion, the paper will now explain how communities of practice assist in understanding learning in legal firms. It will begin by identifying the origins of the concept and show how it allows simultaneous focus on reproduction and

production of knowledge. It will then describe how the concept draws attention to identification as an essential element of the development of competence.

Learning in and by Organisations through Communities of Practice

It has already been noted that law firms exist as apprenticeships (Gabarro, 2007). How apprentices develop recognised competence in their field was the subject of Lave and Wenger's (1991) work, *Situated Learning: Legitimate Peripheral Participation*. This work is widely credited with coining the term 'community of practice' to describe the social group which the apprentice enters upon commencing their apprenticeship. The concept was first applied to organisational learning by Brown and Duguid (1991 and see also, Brown and Duguid, 2001). Wenger (1998) later expanded on the concept and particularly explored the relationship between recognition of competence in a discipline and identification with that discipline. Wenger (1998) proposes that communities of practice have three dimensions: mutual engagement; a joint enterprise and a shared repertoire (see also Thompson, 2005). These elements carry with them implications of shared history, mutual accountability and a sense of belonging. While the relationships that tie communities of practice together are informal and emergent and cannot be created (or prohibited) by management mandate (see further Brown and Duguid, 1991) they may operate within formal organisational units (see for example Wenger, 1998).

The concept of community of practice has formed a significant stream within the wider 'practice-turn' in relation to organisational learning that has emerged in the last decade or so (see further, Gherardi, 2000, Schatzki et al., 2001). Knowledge within the practice perspective is 'competence-to-act' (Gherardi and Nicolini, 2000). Despite origins in several different disciplines, practice-based theories have several things in common. Knowledge is seen as situated in ongoing practices, mediated by artefacts, acquired through participation and dynamic, being continually reproduced and negotiated (Gherardi and Nicolini, 2000). 'Participation in a practice is consequently a way to acquire knowledge-in-action, but also to change or perpetuate such knowledge and to produce and reproduce society' (Gherardi, 2000).

More traditional approaches to learning see production and reproduction as requiring contrasting organising. For example, March (1991) addressed the choices organisations make between reproduction,

that is utilising existing knowledge (which he terms exploitation) and production, that is the generation of new knowledge (termed exploration). Exploitation, March suggested involves 'the refinement and extension of existing competencies, technologies and paradigms. Its returns are positive, proximate and predictable' (1991: 85). In contrast, he contended that exploration involves experimentation and its returns are uncertain and may be negative. He identified that under these conditions there is a tendency to prefer the certain and proximate return of exploitation, that is not to learn, and he warned against this temptation as leading to stagnation. He also warned against over-emphasising exploration as the generation of new knowledge could outstrip the ability of individuals to develop competence in the new knowledge. The two processes are identified as a dichotomy requiring conscious choice and a difficult balancing act. Similarly, Weick and Westley (1996: 440) state that '[o]rganizing and learning are essentially antithetical processes, which means the phrase "organizational learning" qualifies as an oxymoron. To learn is to disorganize and increase variety. To organize is to forget and reduce variety.'

Practice-based concepts theorise how both may occur simultaneously through the negotiation of practice and identity. According to Lave and Wenger (1991) newcomers to a community of practice learn the practices of the community through a process of increasing the level and complexity of their participation in the practice under the guidance of experienced practitioners. These practitioners are principally their 'master' but may also be 'journeymen' (fellow members of the community of practice recognised as competent in, but not yet as masters of, the practice of the community). At the same time as newcomers develop practical knowledge, that is they learn to *do*, they identify increasingly strongly with the community, that is they learn to *be* (Wenger, 1998) until, eventually, they may be recognised as fully competent members. (See further, Wenger, 1998, Osterlund and Carlile, 2005) The learning is not however, pure imitation or a uni-directional imprinting. Newcomers brings with them their existing sense of self and the possibilities raised by the new community membership must be integrated with this. They are also likely to be members of other communities with influence upon their identity (Wenger, 1998). Prior experience and multimembership therefore present the possibility of newcomers resisting the taken for granted knowledge of the community and thereby bringing about change. However, this change is

unlikely to be revolutionary as this would require wholesale rejection of the values and behaviours of the community and as Wenger (1998) suggests the most likely outcome of this rejection would be exclusion from the community, rather than change from within.

Communities of practice at Benefics. Benefics was divided into three practice areas, dispute resolution, corporate law and property law. Within each practice group there were further specialisations some employing several lawyers at various hierarchical levels (for example, partner, associate, junior lawyer and trainee lawyer/law graduate) and some which involved a single lawyer, typically at partner level. In the main, work is brought into the firm through the reputation of the legal practitioner (usually a partner) and maintained through the relationships the lawyers develop with clients. The Human Resources Manager explained that optimally teams of lawyers at multiple levels would exist in each specialisation, to allow the junior lawyers with the cheapest bill out rate to undertake the more routine work and the partner, with the highest level of expertise and also the highest bill out rate, to undertake the most complex work.

Thompson (2005), drawing upon Wenger (1998) identifies several indicators that a community of practice has formed, all flowing from shared histories and experience; examples are an absence of introductory preamble upon meeting, local lore and shared stories, an ability to assess the appropriateness of actions and products, and a substantial overlap in people's descriptions of who belongs. While I had initially anticipated that communities of practice would follow the formal practice group boundaries, in fact the arrangement of partner based teams around specialisations within practice groups tended to indicate smaller communities of around four lawyers. At times, however, the Melbourne legal staff, partners down to graduates, all appeared to be part of a single community of practice demonstrating many if not all of the indicators identified by Thompson (2005) and Wenger (1998) that a community of practice has formed. This was particular evident in relation to being the Melbourne office, which was neither the head office nor the largest office of the firm. Stories were told at induction and repeated, by partners in particular, about the founding of the Melbourne office and how it had grown and struggled to

establish a foothold in the city. The shared history created 'Melbourne' ways of doing things that united Melbourne staff and excluded those from other offices.

The administrative assistants did not appear to be members of the specialist communities of practice, despite many of them having extensive experience in the preparation of legal documentation. Non-legal specialists and managers also appeared not to be part of the professional communities of practice. Learning to be a lawyer within the communities of practice of Benefics was therefore clearly tied to learning to be professional.

There are several aspects of professions as knowledge intensive occupations that make the process of identification described by Wenger (1998) pivotal to understanding the development of recognised competence. The next section will look more closely at knowledge and its ambiguity in knowledge-intensive firms such as legal firms. It will identify the importance of identity in coping with this ambiguity.

Knowledge Intensive Firms and Identity

Alvesson (2001) proposes that in knowledge-intensive organisations, knowledge and its role in knowledge work is highly ambiguous. This ambiguity is three fold. First, many authors question the functionalists' objective understanding of knowledge, arguing instead that all knowledge is contextual and theory bound (see for example, Gergen, 1999, Hatch and Cunliffe, 2006). It is therefore not possible to point to uncontested, universal knowledge that may be possessed and applied irrespective of context. Second, the extent to which formal knowledge is actually important to the solution of client problems is questioned. Rather, it is suggested that in many situations the reputation and status of the knowledge-intensive organisation provides a basis for belief that the firm can provide a solution and legitimises the actions of the client in seeking and applying the advice. Third, Alvesson points to the difficulty of evaluating the outcomes of knowledge work. While a solution to the problem may be achieved it is very difficult in many situations to evaluate if it is the best solution. Take as an example, a decision to settle a legal case out of court based on advice relating to the probability of a win and the estimated magnitude of any judgment for or against the client. Once the matter has been settled, it is not possible to take the

matter to judgment to evaluate the accuracy of the lawyer's advice. 'The ambiguity of knowledge work of knowledge-intensive companies means that "knowledge", "expertise" and "solving problems" to a large degree become matters of beliefs, impressions and negotiations of meaning' (Alvesson, 2001: 870). In turn, this shifts the focus of learning in knowledge-intensive firms away from the need to acquire and master an esoteric body of technical knowledge towards the development of abilities such as persuasion (rhetoric), image management and the management of client relationships. 'All these circumstances put some strain on, as well lead to the centrality of, the securing and regulating of identity' (Alvesson, 2001: 883).

The ambiguity of knowledge at Benefics. The ambiguity of knowledge is easily visible at Benefics and particularly impactful upon the new graduates. The questionability of the existence of objective, universal knowledge and the difficulty in evaluating outcomes have already been explained. In addition, the graduates found it difficult to know what knowledge was important. In one informal conversation a graduate pointed out that at university the facts were presented as unproblematic. It was the areas of law that required analysis. In practice however, the major battle was collecting the facts and distilling what, among the details, was important (Field Notes). Once that was sorted, the law was often straight forward.

The graduates felt ill equipped by university to deal with practical, as distinct from abstract, problems. Sometimes the knowledge they had was not the knowledge they needed.

Grad 1: ...Particularly, what's also hard as a graduate is things that they go, 'Oh you've studied contract law, so you can review this contract.' We studied the law, four years ago but we never actually looked at a contract.

Interviewer: Ok. Yes.

Grad 1: I'm like, 'Oh I can give it a go but - '

Interviewer: I can tell you if you've got a contract, I can tell you if it's properly executed... But whether it's got the right terms in it?

Grad 1: Yeah, 'cos like this one was basically asking the breadth of these terms in light of what he does for a living, whether that would be oppressive. I can give you a common sense opinion but I don't know how legal it will be. Yeah, so obviously -

Interviewer: Into the cases about oppressive contracts?

Grad 1: Yeah, well, but I don't, but that's not what - I asked, 'Is this a research exercise?' And the partner said, 'No it's not. It's a pure construction of terms.' So, which is good to get new stuff straight away but, yeah, it's hard when you get, you've got a presumption of knowledge and like, I don't know that.

Getting timely feedback was a problem for some of the graduates.

Grad 5: ...because feedback is one of the biggest things I think, for learning. I mean, once you've done some work you've got to get the feedback on it and you're going to learn from that. And partners and whoever it is reviewing work are usually so busy. They get you to do the work. You do it for them. They'll amend it, do what they want with it, and hand it on. It is hard. I mean, like some days they'll have time to give you the feedback. Some days you don't get the feedback for two weeks. By then I've usually forgotten what I've done.

Interviewer: Or why you did it?

Grad 5: Exactly, so I've got to back and review it. I find I chase the feedback and that's a big, that's my, yeah, I think that's definitely an obstacle to get over, is actually trying to get time with people to actually learn about what you're doing. Because you can just keep working, doing what you *think* is correct but you might, I always tell myself, yeah, they'll tell you if you're doing it wrong, but I don't think that's always the case.

In addition, they found that there was a lack of clarity about how competence was measured.

Interviewer: Ok. How is competence assessed in the firm? Formally and informally.

Grad 2: I'm not sure (laughs). Well I would say informally it would be what your partners think of you, the sort of feedback you're getting and the quality of work that you're delivering. But I'm assuming that formally it would be performance reviews, maybe every few months, I'm not sure.

Interviewer: How is competence assessed in this firm?

Grad 4: I don't know. It's hard to tell. I wouldn't be able to tell you who's a good lawyer and who's a bad lawyer. You know, I guess you wouldn't hear if anyone was a bad lawyer.

Interviewer: How is competence assessed in this firm?

Grad 5: I've no idea.

The partners themselves had no clear, objective way to measure competence.

Interviewer: How is competence assessed in this firm?

Partner 1: ...It's almost an instinctive thing with lawyers as to how competent someone else is. But in terms of -- I know it's been said truly that the only way you can prove something is to measure it. I know there should be better measuring sticks of competence. Unfortunately most law firms deal with competence as in billable hour...

Interviewer: How is competence assessed in this firm, both formally and informally?

Partner 2: Informally, is under the radar. People have views about the skills, certainly at a partner level, you know we have a monthly partners' meeting and comments are made from time to time about the capability and performance of staff and we do actually say is someone performing, not performing or whatever. I suppose that's the informal. Look the... I suppose in terms of the formal measurement is one of billing is the bottom line. For me though, that's again on the macro level for the firm and for the world to see is the easy one of, you know, the billable hour. I don't necessarily think that's a good measure. In terms of performance I measure my team through what I see and I've a very clear idea about the capabilities of each of my team...

This paper has discussed how the process of learning in communities of practice involves an increasing identification with the community. It has also discussed how, in situations where it is unclear what

technical knowledge it is important to know, and where the value of the application of knowledge is almost impossible to assess by clients, the interests of the firm are advanced by status and by the enactment of behaviours recognised as professional. The status and perceived professionalism act to legitimise the actions of clients in seeking the advice and acting upon it (Alvesson, 2001). This next section will discuss attempts at identity regulation in knowledge-intensive organisations such as legal firms and the identity work undertaken by newcomers.

Identity Work

Increasingly employees are looking toward identity regulation as an effective means of control, especially in knowledge intensive organisations where direct or bureaucratic controls have limited effectiveness (see for example, Alvesson and Willmott, 2002, Mutch, 2003, Nair, 2010). While the high status that accompanies membership in many professional organisations (especially those that are large and of high repute) promotes identification with the organisation as a source of self-esteem, the unpredictability and relationship dependence of the work means it is difficult to sustain a feeling of competence in such organisations (Alvesson, 2001). Therefore, not only does a strong organisational identification promote behaviours aligned to organisational goals through internalisation by the employee (Nair, 2010), it can address individual needs for self-esteem and help reduce uncertainty. Attempts to control discourses, particularly evident around the meaning of professionalism (Grey, 1998, Alvesson and Willmott, 2002), formal and informal surveillance (Alvesson, 2001) and manipulation of cultural artefacts are some ways that organisations may attempt to regulate the identity of employees.

Identity work at Benefics. Benefics clearly attempted to control a number of aspects of self-definition through the concept of being professional. ‘Professionalism’ was presented as involving looking the part and also in acting the part. Issues of dress and appearance were subject to a dress code, which was presented in the induction for new graduates. While a few examples of clearly unsuitable clothing were given the code was not prescriptive. The instruction was to dress suitably for one’s role. Appearance was a major area of concern for the graduates. One graduate in her first interview explained that she wore shirts with sleeves as she had tattoos and was concerned that this would be considered

inappropriate by the partners. She did not want them to know in case it affected her employment. Following her second interview she explained that the partners now knew she had tattoos and that this was not a problem with them provided she kept them covered at work (Field Notes). The firm also practiced 'casual Fridays' but it was stated that any legal staff who expected to see clients or attend court on Friday should not 'come casual' as this was not a professional look. During the period where I shadowed the graduate, who was in the dispute resolution group, she did not once come casually dressed as she either had a client meeting, a court appearance or at least the possibility that she would need to go to court.

As well as looking the part it was also important to know how to act the part. To this end, the induction included a teleconference by a senior partner from the head office explaining professional ethics and how these manifested in behaviour (Field Notes). It was also emphasised that there was a right way to interact with clients and potential clients. Training in networking was proposed for the new graduates (Field Notes) and induction also included instruction on how one should talk to clients in social settings. Graduate 1 explained, '... they were saying, "A real faux pas is to ask what you did on the weekend." And I thought, "Oh, that's exactly what I would have done."'

All employees of the firm, including partners were subject to the possibility of surveillance in that each office in the firm had glass walls and doors and no curtains or blinds. It was also the custom of most of the legal staff to leave their doors open apart from when they were discussing client matters of a particularly confidential nature, so conversations could easily be overheard. The consequences of this arrangement (which was deliberately designed by the office manager) included that it was apparent to everyone when people were in the office and what time they arrived, private telephone calls were observed to be rare and when in the office people were working on firm related work. The firm intranet, which was accessible by all offices in Australia, also included notes on the whereabouts of staff, so that it was evident to every employee if a staff member was on leave, visiting interstate or away sick. The possibility of surveillance leads to high levels of self monitoring.

As Alvesson (2001) points out, the subjects can mold themselves around a specific self-definition. 'Employees are encouraged to see themselves as the kind of person who would have chosen this kind of work; this definition then produces a standard to which subjects become committed' (Alvesson, 2001, p. 881). When asked about the attributes that distinguished competent lawyers, the graduates, partners and other lawyers produced very similar lists. Items included: intelligent, organized, good communicators, problem solvers, and committed (variously to the firm or to the profession). The graduates universally claimed to already have some, or even most, of these attributes and that they were working on the others.

Habitus, Identity Work and Resistance

Newcomers do not enter the organisation as blank sheets awaiting scripts or as sponges that passively absorb the organisation's values and objectives as their own. Wenger (1998, 2000) recognised that newcomers negotiate identity drawing upon membership of multiple communities. As mentioned earlier, while the use of the term 'negotiation' in this context might be seen to imply that the existing community identity could also be changed by values, beliefs and behaviours of the newcomer, Wenger seems instead to find that the more likely result of a failure to negotiate a suitable identity within the available identity resources of new community, will be a failure to progress towards recognition as a competent member; that is, at best the newcomer will stay on the periphery of their new community.

In Wenger's (1998) formulation the relevant memberships are present memberships, underplaying the role of the individual's history. He also offers no clues as to which of the various communities to which the employee belongs is likely to dominate the self-identification of the employee. However, Mutch (2003) proposes that a useful concept when considering which elements of the self will persist upon entry to a new community of practice is Bourdieu's concept of 'habitus'. 'For Bourdieu, habitus is more than simply worldview in the classic sociological sense, but worldview is probably the closest approximation – worldview as it is affected by one's society, class, personal history' (Dobbin, 2008, p. 58). Habitus is acquired early in life and largely unconsciously (Mutch, 2003). It encompasses a set of generative principles, a disposition to act in a certain way which is transferred across contexts and

is relatively enduring. According to Bourdieu (1977: 78) habitus is produced through different 'conditions of existence' which impose 'different definitions of the impossible, the possible, and the probably, caus[ing] one group to experience as natural and reasonable practices or aspirations which another group finds unthinkable or scandalous, and vice versa.' Mutch gives the examples of the hauteur of the aristocrat or the stance of the peasant. Dobbin (2008) compares habitus to interpretive frames in Weick's theory of sensemaking.

While Bourdieu's focus was on society as a whole and his habitus was principally a product of class, Mutch (2003) considers habitus within the context of communities of practice and identifies past career and gender as possible sources of enduring identification. The 'enduring maps' of habitus are presented by Bourdieu (1977) as reflecting and reproducing the social patterns from which they came. However, when considered as a source of resistance to attempts by the organisation to mold the newcomer into a lawyer in the image of his or her partner (who is also an image of his or her supervising partner) the habitus of newcomers becomes a resource for change in the profession. These factors are evident as sources of resistance to existing elements of professional identity in Benefics.

Gender and second careers at Benefics: Of the five graduates who commenced at Benefics at the beginning of the study, four of them were female. However, the practice of law was experienced, at least at higher echelons, as distinctly masculine. One of the new graduates raised this with her supervising partner in the first few weeks of her employment.

Look I have to admit at university, they get a lot of people out there talking about the amount of women in law and that it is a men's, and it is, it's a boys' club. But then it's quite funny I got into this firm and there's so many women it's ridiculous and it's wonderful. And I went up to [a media organisation] and it's an all-female legal staff. And that's really nice to see. But then you do see the partner levels all being male. And you think, 'What's going on there?' And then, I actually discussed with one of the partners here and I said, 'Well what happened to all the female partners?' He said, 'It's sort of one of those things. I mean, we do have children. Law's not something you can really do part time, because you either work with your clients or you don't.' So it's very difficult to find a part time area, and why they don't come back I don't know. But, yeah, I think at the high levels it's men. (Graduate 5)

A mid-level female lawyer was very conscious of the gendered nature of the profession.

I've probably seen worse, but I've had a partner lecturing me at a Christmas party about how I'm never going to get married, you know, which are not conversations -- whether a girl or a guy and

whether you're married and whether you're going to have kids, it's all very present. And I'm certainly very cognizant of the fact that I'm [mid-thirties] this year. You know the expectation is that my boyfriend and I are going to get married. And I know, because my [supervising] partner, because [my partner] has already mentioned it about the fact that having babies when you're [mid-thirties] clearly it's going to be in the next couple of years. I want to make associate. I don't want him thinking about whether or not I'm going to have a baby. I think those issues are there. I don't think that they would take on a male legal admin. I can't imagine them being open to that at all. There's some gender roles that really get played out. Like, at the Christmas party Santa Claus is always a partner and Santa's little helper is an attractive secretary, you know, not an attractive lawyer or one of the boys dressed up in, you know, the little short shorts and the, you know, braces and everything. It's always a pretty little secretary in the knee high boots and a tiny, tiny, tiny skirt. (Lawyer 2).

Similarly, although the Human Resource Manager stated that the firm was actively looking to appoint second career graduates, the graduates themselves found that the knowledge they brought with them from previous occupations tended not to be widely known or valued.

Interviewer: Do you have any forum or way that you can feed you experience and knowledge into improving things here.

Lawyer 1: Not really, because despite what I've done in the past, to almost everyone in this firm, I am almost no different to a 'freshy' straight out of uni. So everything I've done before really has no value in their mind. So my partner is probably the exception because he wasn't admitted 'til much later himself. So he knows that what you do before admission is actually quite important to how you perform as a lawyer and how you interact with clients and those kind of things, but for the most part the rest of the firm doesn't see it that way. So, it would not occur to them to think that I have anything valuable to offer and there isn't any forum for people who have experiences like that to feed in.

Discussion

Whether unconsciously or consciously (see Alvesson and Willmott, 2002), a large part of the training of newcomers to private legal practice involves attempts to regulate their self-definition as lawyers in a way that reproduces the values and behaviours of the senior lawyers in the firm. However, changing recruitment practices in the firm have led to an increase in the diversity of the graduates employed, particularly in relation to the employment of more women and more second career new lawyers. In relation to gender, several reactions to the dominant discourse in the firm can be seen. At one level, the mid-level female lawyer can be seen to be playing along with the 'truth' presented that women find it difficult to combine family and a career. She chooses to keep her plans quiet, to play along with the game until she has reached a sufficiently senior position. However, Graduate 5 clearly doubts the gendered

rhetoric of the incompatibility of being female, a 'successful' lawyer (implying career trajectory towards partner) and a mother. She has seen it work in another context. Clearly, both these approaches present the potential for 'professional' to be defined differently in the future at Benefics, provided the lawyers holding firm to these values achieve sufficient career success so that they move into more senior positions, ideally partnership. This in turn may depend upon how successfully they can enact the values and behaviours expected of them, without necessarily defining themselves by them. That is, it depends upon successful socialisation without identification.

The impact of second career lawyers on attempts to privilege internal definitions of valuable knowledge is less clear. It seemed at times to be a deliberate policy (of some partners at least) to break down the graduates' belief in their knowledge and competence to rebuild them in Benefics' image. The graduates found at times that their instructions were insufficient. Time would be wasted researching unhelpful issues or in attempting to define the problem. Work produced could be bluntly rejected or heavily criticised. However, those who had experienced success in a prior career appeared to possess a more robust sense of their own abilities and competence and were less willing to accept the criticisms. Potentially, this made them harder to initiate into the arcane knowledge of legal practice, but ironically made them more valuable with respect to client relationships. The positive self-assessments provided a basis upon which clients believe that they could offer a solution to the client problem, belief being all important in situations of knowledge ambiguity. Such positive value arising from identities forged in different fields opens up enormous potential for change in the profession. In both these situations, habitus, seen by Bourdieu (1977), Dobbin (2008) and Mutch (2003) as a force for stability and reproduction may actually act as a force propelling change.

Conclusion

This paper has looked at some ways in which changes in the way the legal profession is organised have impacted upon learning in a legal firm. It suggests that the practice of law is knowledge intensive and

that there is a high degree of ambiguity in respect of that knowledge. Knowledge ambiguity makes securing an identity in the profession critical to the newcomer to provide some certainty and self-esteem. It also makes identity regulation desirable for employers as a means of control in a situation where more familiar bureaucratic control is ineffective. The processes with which legal practices attempt to shape their newcomers may be as old as the profession itself. However, the profession is changing, in how it structures legal firms to cope with growth and in how and who it recruits. This paper has not had the space to explore the impact that the increase in non-legal specialists and managers may have had upon learning and practicing the law. That is an area for further research and discussion. It has shown how greater diversity in the recruitment of graduates opens up the possibility of a re-evaluation of what is true and useful knowledge in ways that the current profession may find both challenging and beneficial.

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