

England & Wales: A Legal Profession in the Vanguard of Professional Transformation?¹

I: Introduction

Until the late 1970s the legal profession of England and Wales largely preserved its core traditional traits.² However, by the time *Lawyers in Society* was published in 1988, complex, interlocking forces were beginning to erase the conditions supporting the classical profession, including the radical politics generated by post-war social citizenship, the neo-liberal challenge to Keynesian economics, technological innovation, the emergence of the 'new legal order' under the European Court of Justice (ECJ) (Loughlin 2000: 150-7), and the impact of globalisation on networks of finance, employment, media, communication and travel. From the 1960s, social modernisation was weakening the profession's control over the reproduction of lawyers. The expansion of higher education (a response to the decline in traditional, male-dominated industry) together with civil rights discourses was fostering women's entry into higher education and elite professions and a 'new breed of lawyers interested in human rights' (Lester 2017, 3-4), whose radical and capacious approach to law work challenged traditional lawyering and legal positivist scholarship. The increasing pace of globalisation was reconfiguring the state, and private institutional orders, especially those linked to the global economy, were displacing the centrality (and monism) of state law (Sassen 1999). Margaret Thatcher's neo-liberal government was a response to, and active agent of, this new order, introducing a range of liberalisation policies, including de-regulation of the City of London financial markets in 1986. Finally, the authority of traditional expert knowledge and the profession's claim to a distinctive ethicality were starting to crumble in the face of the normative fragmentation generated by these changes. In sum, the professional project was in 'serious disarray' (Abel 1988:189).

Since 1988, the disintegration of the traditional professional model has accelerated.³ For instance, the expansion and (partial) democratisation of higher education diversified the law student population, ending the profession's relative

¹ Thanks to our research assistants, Opemiposi Adegbulu (University of Leeds) and Lloyd Brown (University of Birmingham) for their sterling efforts in navigating a significant amount of data.

² The United Kingdom (UK) comprises several jurisdictions. This report describes England and Wales because Scotland and Northern Ireland have separate legal systems and professional structures.

³ This process of disintegration has been comprehensively described and analysed by Abel, who summarises it in his description of the profession as caught 'between market and state' (2003).

homogeneity, while the continuation of Thatcherite de-regulation policies has supported the reconstruction of the state and legal order in the interests of global capital (Douglas-Scott 2013). The corporate hemisphere of the profession (both barristers' chambers and law firms) has been a leading player in the new global order (Flood 1995). Large firm lawyering now represents one of the UK economy's most profitable sectors,⁴ employs a majority of lawyers, and is highly feminised – at the lower levels. In-house lawyering has also increased in size, power and capabilities, reorienting some sites of professional practice and regulation and reinforcing a more general shift in the balance of power from legal services producers to consumers. However, while the corporate sector's dominance and wealth have increased, neo-liberal policies have tended to impoverish the high street sector. The monopolies enjoyed by firms dealing primarily with individual private clients and small businesses have been dismantled, forcing them to compete with regulated and unregulated entities, qualified and unqualified law workers. At the same time, 'the de-nationalization of the state agenda – namely the Keynesian agenda' (Sassen 1999: 2) has generated successive reforms of legal aid, reconstructing the sector as a market, constraining practitioner autonomy, re-organising service delivery, and reducing scope, eligibility and funding. These measures culminated in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), which effectively ended legal aid as a viable source of business, creating 'advice deserts' and a crisis in criminal justice.

The last 30 years, therefore, have seen changes in the profession's work (and hence the skills, forms of knowledge and technologies entailed in legal practice) and in its work sites, size, composition, coherence, and traditional values. One consequence has been a blurring of professional boundaries. This is due, in part, to government marketisation policies, ending restrictions on law firm ownership, allowing solicitors and barristers to practice together (Legal Disciplinary Partnerships (LDPs)) and with non-lawyers (Alternative Business Structures (ABSs)). But it is also the result of a general de-differentiation of professional work exemplified by similarities between the work of corporate lawyers and business (Mueller et al. 2011) and the entry of other players, such as accountants, into the legal services market.

⁴ Turnover in the legal services sector grew by 60 per cent between 1995 and 2003 to £19bn and by another 35 per cent by 2010 (despite the recession) to £25.6bn (LETR 2013: 77).

In summary, many of the profession's traditional structures and strategies are obsolete, leaving it 'factionalised, heterogeneous and fragmented' (Paterson 2011: 9). Yet the changes have been neither uniform nor uncontested. In sites of multi-professional work strong disciplinary connections to law survive, despite regulatory liberalisation and increased external control. Furthermore, the profession retains a large proportion of legal work, and the global corporate sector is a world leader – although its future has been thrown into doubt by the UK's exit from the European Union (Brexit). The radical approach to law engendered by civil rights movements persists in some firms and barristers' chambers and also parts of the academy. Finally, vestiges of traditional professionalism remain—for instance in its imagery, certain archaic rituals, and the cultural and social capital the profession values.

II: Mapping the Legal Profession of England and Wales

A) Size and Shape of the Legal Services Market in England and Wales

We focus primarily on the two traditional professions—solicitors and barristers— and, to a lesser extent, legal executives. However, the opening of the field to non-lawyer competition and such innovations as LDPs and ABSs require us to discuss the new legal services providers.

i) Solicitors

In 1988, 66,380 solicitors were registered on the Roll, 50,247 of whom held practising certificates (known as PC holders). On 31 July 2016 there were 175,160 solicitors on the Roll and 136,176 PC holders (Law Society 2017), representing 63 per cent of the estimated 370,000 people employed in legal services. This expansion, however, varies by region, sector, specialism, demography, and organisational type, and by differences in working practices, structure, cultures and income.

Traditionally, solicitors' firms were small partnerships whose kinship character represented the primary form of (collegial) regulation and means of occupational closure. Typically, they consisted of two or three lawyers: equity partners, assistant solicitors (most of whom could expect to become equity partners), and trainees (originally termed articled clerks). Solicitors had direct access to clients, enjoyed a

monopoly over land transactions (conveyancing) and, apart from criminal practitioners, generally worked outside courts (for instance handling the pre-trial stages of litigation or non-contentious matters).

In July 2016 of the total of 9,430 firms, the majority were still small, general practices catering to private clients and small and medium-sized businesses: 86 per cent had fewer than five partners, and just under half of all PC holders practised in firms of fewer than 11 partners. Furthermore sole practitioners (4,144) remained the largest category of firms (id.); however they are a smaller proportion than in 1988, and liberalisation policies have made their future precarious. By contrast, the corporate sector has thrived under liberalisation. The 0.7 per cent of firms with over 80 partners⁵ employ 29.2 per cent of all PC holders, account for more than two-fifths of the legal services market's total turnover, and are better understood as Professional Service firms (PSFs) rather than law firms. The City of London (hereafter the City) hosts 62 per cent of their head offices. The general dominance of the UK economy by London and the South East is exemplified by the fact that the region contains over two-fifths of all private practice firms. London was home to just over half of all trainee solicitors starting in 2015, and firms with more than 80 partners offered 38 per cent of all training contracts (id.).

Globalisation has resulted in the largest City firms developing a network of overseas offices or 'best friend arrangements': about half their lawyers work outside the UK. Some PSFs have also opened regional UK offices to conduct 'back office' and commoditised work, retaining high value bespoke work in London. Their main competitors are other UK based global firms, international firms (primarily US, with over 200 offices in London), and the large accountancy firms (The City UK, 2016). Regional commercial law firms have also internationalised, though to a lesser degree. In sum, it is the extraordinary growth of the corporate legal services sector that drove the expansion of the legal profession by almost 70 per cent between 1995 and 2015 (Galanter & Roberts 2008). In-house counsel now account for just under one quarter of all solicitors; a handful of in-house teams, such as those at large banks, each employ more than 1,000 solicitors (Law Society 2017).

⁵ The largest firms are considerably bigger. Slaughter and May – the smallest 'Magic Circle' firm - has 100 UK partners, and DLA Piper has 243. Clifford Chance has 550 partners worldwide.

ii) Barristers

Traditionally, barristers enjoyed higher status than solicitors, partly because they were the specialists, insulated from clients on whose behalf solicitors sought 'opinions', and partly because their monopoly over litigation in the higher courts made them the only source of judges. Excellence in advocacy is recognised by the award of Queen's Counsel (QC), consistently restricted to 10 per cent of the practising Bar. A majority of barristers, about 13,000 out of 16,000, are self-employed and grouped in 'chambers' serviced by a clerk (Flood 1983). Their representative body is the Bar Council. Most chambers are located in London, varying significantly in size from one or two barristers to 200 in the largest commercial sets. Other barristers work for a wide variety of employers; each of the following employs more than 10 per cent: the Government Legal Department (GLD); the Crown Prosecution Service (CPS); law firms, and businesses (Bar Council 2016).

The Bar nearly trebled between 1960 and 1990 and then virtually doubled by 2004 (LETR 2013) but grew only 3 per cent between 2007 and 2015 (LSB 2016). Like the solicitors' profession, it became increasingly differentiated and stratified between regional and London practices and between the corporate bar (which increasingly resembles corporate PSFs) and chambers specialising in legal aid (primarily criminal) and/or private client work, which have seen revenues plummet. The ending of barristers' monopoly of advocacy in the higher courts and of solicitors' intermediary role (barristers now have 'direct access' to clients) has affected both barristers' traditional roles and their relationship with solicitors (Flood & Whyte 2009).

iii) Legal Executives

Legal Executives were originally solicitors' assistants, known as Managing Clerks. Towards the end of the 19th century they began to pursue their own professional project, establishing the Solicitors Managing Clerks Association (SMCA) in 1892 (Francis 2002). With Law Society support, this became the Institute of Legal Executives (ILEX) in 1963, introducing regulations on training, including examinations and a qualifying period of employment. It is now the Chartered Institute of Legal Executives (CILEX), and its members can qualify as solicitors, apply for judicial office and become partners in LDPs and ABSs (exemplifying the erosion of professional

boundaries). Nevertheless, they continue to be overshadowed by solicitors and despite the recent (state driven) enhancement of their status suffered a 7 per cent decline in numbers between 2012 and 2015, from 7,552 to 6,645 (LSB 2016).

iv) *Licensed Conveyancers*

Because the conveyancing monopoly was the bedrock of high street firms, the creation of licensed conveyancers (by the Administration of Justice Act 1985) represented a far more significant attack on solicitors' professional privilege than legal executives' elevated status. Regulated by the Council of Licensed Conveyancers (CLC), these practitioners qualify via diploma and 1200 hours of practical experience. In 2015, the approximately 1,300 licensed conveyancers practised in 214 regulated conveyancer firms, which had a median of four managers and 16 employees: a mix of licensed conveyancers, solicitors and non-authorized persons (LSB 2016). Although they can also be authorized to undertake probate, in 2015 88 per cent of their work was residential conveyancing (id.). However, this represented only 10.3 per cent in value of property transactions at the Land Registry (CMA 2016), while solicitors (through advertising and new pricing practices) retained 66 per cent of the market and other legal professionals, including Chartered Legal Executives, served the rest (LSB 2016).

v) *Paralegals*

The expansion of the profession's supply base and technological innovations have fostered the casualisation of legal services, and whereas once paralegals were not lawyers an increasing proportion are law graduates who may also have the Legal Practice Course (LPC) or Bar Professional Training Course (BPTC)⁶ qualification (some are even qualified lawyers) (Sommerlad 2015). Their position is generally precarious and their work routinized and low level and the majority aim to obtain a training contract or pupillage (Gustafsson & Empson forthcoming). Nevertheless, the increasing significance of paralegals and change in their composition prompted a professionalization project and in 2005 the Department of Trade & Industry granted institute status: <https://theiop.org/>. According to their Chief Executive there are "circa 60,000 paralegals within solicitors' firms and 6,000 paralegal law firms .. have developed over the past 10 years" (id.)

⁶ The LPC and BPTC are the professional education courses for solicitors and barristers respectively, followed by the training contract or pupillage

vi) *Government Lawyers*

The GLD employs 2,000 lawyers, 1,600 of whom are solicitors or barristers, who provide legal advice (including drafting legislation) and conduct litigation. The Civil Service Code requires them to act on the instructions of the relevant minister but remain politically impartial and observe their professional code of conduct. The CPS employs 2,131 frontline prosecutors and 2,970 legal caseworkers and support staff. Both institutions are accountable to the Attorney General, a political appointee, government minister, and chief legal adviser to the government. The ancient role of the Lord Chancellor (now Justice Secretary) is legally responsible for the efficient functioning and independence of the courts. However, the Lord Chancellor is also a political appointee, and, controversially, since 2012, non-lawyers have occupied the role and have been criticised for failing to defend judges from media and political criticism and for presiding over cuts to legal aid and the judiciary that have threatened its efficiency (Logan Green & Sandbach 2016).

Judges are neither government lawyers nor political appointees but, since 2005, are selected by the independent Judicial Appointments Commission (JAC), whose recommendations the Lord Chancellor must accept or reject.⁷ Supreme Court appointments, however, are made by a separate selection commission created by the LCJ.

vii) *LDPs, ABSs and Other New Entrants to the Market*

The creation of LDPs and ABSs as a result of the relaxation of professional rules on law firm ownership by the Legal Services Act 2007 (LSA) exemplifies the destruction of traditional forms of professionalism and embrace of the market. LDPs are partnerships of different types of lawyer and up to 25 per cent non-lawyers (though non-lawyers who are not managers cannot hold ownership interests). ABSs allow multi-disciplinary practices, non-lawyer ownership and outside investment. The rationale for this liberalisation was that integrating legal and other professional activities and attracting investment by corporations (such as insurance companies and

⁷ Established by the Constitutional Reform Act (CRA) 2005 in response to criticism of the archaic practice of using informal soundings to appoint judges, the JAC failed to fulfil its mandate to increase judicial diversity (Gee & Rackley 2017). As part of New Labour's modernising project, the Act also modified the office of Lord Chancellor, abolished the appellate jurisdiction of the House of Lords and established the Supreme Court.

supermarkets) would produce economies of scale, lowering prices and generally improving consumer service (SRA 2009).

In July 2016, there were 485 ABSs, concentrated in high-volume, commoditised markets, particularly wills, trusts and probate,⁸ conveyancing, corporate restructuring and finance, and personal injury; together with LDPs they represented 11.7 per cent of the market (LSB 2017). They tend, however, to be conversions of existing law firms rather than new entrants; the handful that have received outside investment have overwhelmingly drawn upon a parent firm (Aulakh & Kirkpatrick 2016). Other innovative business models include practitioners working as freelancers and virtual and dispersed law firms. For instance, Carbon Law Partners is an umbrella company providing ‘a secure hosted platform, state of the art practice management system, compliance management tools, a comprehensive online legal library and precedent services’ for self-employed lawyers, all of whom form their own limited companies.⁹ There are also numerous on-line providers of bundled services, including legal documentation, in a range of areas such as criminal and family law.¹⁰

B) Regulatory Architecture

Abel’s prediction that the patterns of differentiation and stratification described above threatened ‘the capacity of lawyers to engage in self-governance’ (1988: 188) has been vindicated. The dissolution of solicitors’ and barristers’ associations as autonomous, self-regulating entities was formalised by the LSA, which effectively reduced The Law Society and Bar Council to representative bodies. The Act also created an ‘oversight regulator’, the Legal Services Board (LSB), empowered to ensure that regulatory and representative functions were exercised independently. The former were allocated to ‘front line regulators’, including the Solicitors Regulation Authority (SRA) and the Bar Standards Board (BSB), which regulate both individual lawyers and the chambers/law firms in which they work (known as entity-based regulation), and three accountancy bodies, which license probate activities. Although the LSB must approve rule changes, set performance targets and sanction defaults (including removing the regulator’s licence), the SRA and BSB produce professional

⁸ In 2014 the Institute for Chartered Accountants in England and Wales licensed over 100 accountancy firms to offer non-contentious probate services (LSB 2016).

⁹ See <https://www.carbonlawpartners.com>.

¹⁰ See <https://www.cambridge-news.co.uk/news/cambridge-news/cambridge-university-students-design-interactive-12077890>; <https://www.divorce-online.co.uk/>.

Codes of Conduct and are responsible for prosecuting misconduct allegations. Complaints about poor service are handled separately by the Legal Ombudsman, established by the Office for Legal Complaints (OLC) (again subject to LSB oversight) to provide an independent form of consumer redress for unresolved complaints. However, the fact that several of the front-line regulators—including the SRA and BSB—are operationally but not structurally independent of their representative bodies has created concerns (LSB 2017a; 2017b), and the SRA has complained that its lack of structural independence has impeded pro-competitive regulatory initiatives (SRA 2013; CMA 2016). The Ministry of Justice (MOJ) nevertheless rejected calls from the Competition and Markets Authority (CMA 2016) for an overview of the regulatory framework and full independence for the regulatory bodies (MOJ, 2017), though the LSB is likely to initiate reform within the current regulatory framework.

C) Key Developments in the Regulatory Landscape

i) Regulatory Fragmentation and Private Forms of Regulation

The complexity of the new regulatory architecture is compounded by the existence of other regulatory mechanisms—hard and soft, public and private—generated by the profession’s fragmentation. The plurality of normative orders includes both norm-making by powerful corporate clients, which tend to express dissatisfaction by threatening litigation to remove their business (or actually doing so), and complaints by high street clients to the Legal Ombudsman (OLC Annual Report 2015). Other important sources of norms include ‘soft’ professional bodies (e.g., specialist interest and lobbying groups, often linked to particular practice areas) and firms themselves. Lawyers in large corporate firms have little awareness of the SRA Code of Conduct’s provisions (Vaughan & Coe 2015; Vaughan & Oakley 2016) because the firm itself is the primary site of normative control. This latter development may be accentuated by the SRA’s focus on entity regulation and its recent requirement that law firms have ‘Compliance Officers for Legal Practice’ (Loughrey 2014; Aulakh & Loughrey 2017). Law firm insurers and LEXCEL, a quality standard awarded under Law Society auspices, also play a regulatory role, encouraging firms to institute systems and processes that reduce the likelihood of a breach of regulatory norms (including competence requirements), thereby affecting premium levels.

ii) *Regulation of Competition in the Legal Services Market*

Competition as a regulatory mechanism has been largely driven by front-line regulators using powers delegated by primary legislation (e.g., the Courts and Legal Services Act 1990, Access to Justice Act 1999 and LSA 2007). The SRA has been particularly dynamic, reforming the ‘separate business rule’ which prohibited solicitors from owning or managing unregulated businesses, and initiating changes that will let solicitors offer legal services in other business forms, for instance on a ‘freelance basis’ (SRA 2017). However, competition is constrained by the maintenance of ‘reserved’ activities—probate, immigration, conveyancing, notarial functions, rights to litigate, and rights of audience—which can be conducted only by persons authorised by the approved regulators, including individual lawyers, regulated firms, and non-authorised employees of an authorised firm (which may consist of a single authorised lawyer). The extension of authorisation for conveyancing and probate work to multiple actors (notaries, chartered accountants, and others) has intensified intra-professional competition. The ending of solicitors’ traditional monopoly over client access has also generated competition with barristers and re-shaped how both work.

Lawyers also compete with non-lawyers for unreserved work. While immigration advice, claims management and insolvency work are subject to separate regulation and authorisation requirements, will writing and a range of other legal services (including employment advice, family law, and much transactional work) is entirely ungoverned by legal services regulation, covered instead by consumer protection. Non-lawyers operating in the unregulated sector include paralegals, claims agents, ‘McKenzie Friends’ (who assist litigants-in-person),¹¹ will writers, and accountants. Lawyers, who are regulated by title, remain subject to regulation of all their work, whether or not reserved. Despite this, in 2013 only 15 per cent felt pressure from competition (LSB 2016), and the for-profit unregulated sector comprises only 5.5 per cent of the legal services market, though a higher proportion in family, property and construction, wills, intellectual property, and employment (LSB 2016a).

¹¹ The origin of the term is the divorce case *McKenzie v McKenzie* [1970] 3 All ER 1034, CA. Unable to represent Mr McKenzie due to the refusal of legal aid, his solicitor enlisted the services of a barrister who, having no UK rights of audience, hoped to provide McKenzie with ‘quiet assistance’; the Trial Judge’s refused to allow this, but on appeal it was held that this had deprived McKenzie of the assistance to which he was entitled.

The current regulatory regime is further complicated by the uneven implementation of marketisation. For instance, the 'client' (rather than the 'consumer') still figures in professional codes of conduct; the promotion of the public interest remains an objective of legal services regulation; and entity regulation potentially strengthens the power of professional regulators. Also, despite the discursive mobilisation of the 'sovereign consumer', the information asymmetry between clients and providers has been neglected. Consequently, the current regime is described as a 'regulatory maze' (Dixon 2016), and research suggests consumers are confused about avenues of redress (Graham et al. 2011). There is also evidence that consumers tend to assume that all legal services are regulated (LSB 2016), less than a quarter 'shop around' (CMA 2016), and legal services remain unaffordable for most (LSB 2016). Further, data is lacking on the quality differential between regulated and unregulated legal service providers (LSB 2011). And while the greater availability of fixed-price work may be reducing the cost of some services, and for-profit unregulated providers may charge lower prices than regulated firms (LSB 2016), the services provided by the two sectors are not always directly comparable.

However, current policy is guided by 'the rigid belief that unfettered and unregulated free markets will deliver higher quality professional services at lower prices' (Leicht 2016:1). The SRA in particular has prioritised competition to the neglect of the other regulatory objectives in the LSA 2007 (including promoting the public interest by supporting the rule of law and access to justice). Yet the ability of competition to raise the quality of credence goods like legal services is questionable. Declaring that 'competition in legal services... is not working well' (CMA 2016), the CMA proposed a range of measures to empower the consumer. Meanwhile, the marketisation agenda suffered a setback when the MOJ rejected an accountancy regulator's application to further regulate legal activities, despite support for it from both the LSB and the CMA (Hyde 2017).

D) Professional Associations

Because a key characteristic of traditional professionalism was the coherent, single-discipline, self-regulating association, their displacement by the complex constellation

of representative bodies, regulators, specialist sections, campaigning organisations and large law firm private regulation is one of the most obvious manifestations of 'post-professionalism' (Kritzer 1999). Front-line regulators and representative bodies (e.g. The Law Society and Bar Council) are complemented by the Inns of Court (an archaic residue of the Bar's history, offering barristers and students educational activities and dining facilities) and a range of special interest associations grounded in demographics (e.g., the African Women Lawyers' Association and the Society of Asian Lawyers), practice areas (e.g., The City of London Law Society and the Association of Personal Injury Lawyers (APIL)) and geographic locations (e.g., Birmingham Law Society). These several dozen groups represent and further the fragmentation of the profession, including its knowledge base.

While the traditional professional paradigm rested on mastery of the 'whole field' - an essential element of the claim to profession-wide competence - globalisation and the growing complexity and juridification of society (Teubner 1998) require increasing specialisation. Many special interest associations are sites of education, representation and socialisation, often setting and operationalising the norms governing members' day-to-day practices. Their most significant segments are relatively old (APIL was founded over 25 years ago). All specialisation disrupts the myth of equal professional competence, and although The Law Society has attempted to manage disciplinary differentiation and maintain unity through its Accreditation Schemes, these tend to underline the benefits of consulting an expert rather than a generalist. Moreover, the Society's capacity to utilise these schemes to manage the fragmentation of members' interests and knowledge is further undermined by the development by discipline-specific associations of accreditation and training schemes (Moorhead 2010; Francis 2011). However, regulators have sought to re-establish standards for shared expert knowledge through reforms to legal education and training.

E) Legal Education, the Academy and the Relationship to the Legal Profession

The traditional links between the profession and the academy, underpinned by the latter's role in certifying entrants, have ensured that legal education has been influenced by developments affecting the profession. Successive governments'

liberalisation and marketisation of the university sector (BiS 2016) have represented another source of change. However, the latest SRA proposal to liberalise the solicitors' labour market is likely to utterly transform the relationship between the profession and the academy.

The frequently troubled nature of this relationship (Cocks & Cownie 2009) largely stemmed from disagreement about whether law should be a free standing liberal arts degree or a vocational course (ACLEC 1996), a dissension expressed in the profession's sporadic attempts to gain greater control over degree content (CLLS 2010), provoking defence of academic freedom (Bradney 2003). The existing qualification framework is the regulatory exemplification of these tensions and ambiguities. The undergraduate LL.B.—the qualifying law degree (QLD)—is a certified route into the profession (although not required), but while most enrol in it with the objective of becoming a lawyer, significant numbers (approximately 40-60 per cent) do not enter the profession (Hardee 2012; Francis & Sommerlad 2009). Although this appears to be largely the result of employers' closure practices (Sommerlad et al. 2013), facilitated by the dramatic expansion of legal education since 1988 (LETR 2013), the increasing diversity of professional fields open to law graduates may also contribute.

Both Conservatives and New Labour aimed to open higher education through marketisation and expansion, leading to the re-badging (in 1992) of polytechnics as universities and the introduction (in 1998) of tuition fees, with the result that the number of LL.B. degrees doubled between 1989 and 2011 (and increased 24 per cent between 2006 and 2016). In 2009, 19,882 of the 29,211 applicants to study first-degree courses in law were accepted (68.1 per cent) (Law Society 2010; 2017). In 2015/16, there were just over 50,000 undergraduate law students (HESA 2016). Governments also sought to encourage access by previously excluded groups. However, whereas in 1980 local authority grants were provided to almost three quarters of students at the College of Law (Abel 1998: 3), at the end of the 1980s these were eliminated for all but the poorest. As a result, the proportion of lower socio-economic groups at universities (particularly the most selective) remains very low. By contrast, the last 30 years have seen a progressive feminisation of the student body, with women now about 60 per cent of law students (Law Society 2017). In the early

1990s the numbers of Black, Asian and Minority Ethnic (BAME) law students also began to rise, reaching 32.1 per cent of students starting a first degree in law in 2008, significantly above their representation in the population and above average for BAME participation in higher education generally (ECU 2010, 87).

The law degree (or its equivalent) represents only the first stage of professional qualification. It must be followed by the one-year LPC and two-year training contract (which includes a Professional Skills Course) for solicitors or a one-year BPTC and one-year pupillage (apprenticeship) for barristers. Non-law graduates can qualify by taking a one-year law 'conversion' course, followed by the stages described above. In 2013-14, 77 per cent of admitted solicitors had a QLD (3,087) or were graduates of the conversion course (1,965). A further 16 per cent were overseas qualified lawyers, and others were admitted through cross-qualification routes (e.g., barrister to solicitor) (SRA 2016). In 2015, 1,096 students on the BPTC were law graduates, and 270 were graduates of a conversion course (BSB 2017: 109). Traditionally, however, a degree was not required to become a solicitor, and a minority still take a non-graduate route: 3-4 per cent qualify as CILEx Fellows and then transfer; and 1 per cent qualify through 'equivalent means' whereby paralegals gain exemptions from various stages of the qualification process. Finally, the government's 'Trailblazer' solicitor apprenticeships will enable qualification after 6 years of working while studying at a law firm. Although these alternative routes were designed to enable individuals from lower socio-economic groups to enter the profession, research suggests that their ambitions are likely to be frustrated by employers' preference for trainees or pupils with the cultural and/or social capital acquired at elite universities (Sommerlad 2011; Sommerlad et. al. 2013; Ashley & Empson 2013). The shift from occupational to organisational professionalism (Evetts 2013) is reflected in the fact that individual firms (and barristers' chambers) now control the numbers and types of people who qualify through training contracts and pupillages (Francis 2011). Moreover, the policies of massification, diversification and marketisation have intensified the pre-existing stratification of higher education and its students. And the preference of the profession's elite sectors for trainees from high status universities, and their bias against the 'new' universities (former polytechnics), has meant that the diversification and expansion of the student body has had little effect on these sectors' class composition (Kirby 2016).

Competition for contracts (generally beginning before the LPC application) is intense, and many fail to gain a traineeship.¹² In 2014 there were 4,382 applications for the LPC (Hall 2014); after a decline following the financial crisis, training contract numbers recovered in 2015 to 5,457 (Law Society 2016: 41). Attrition of law and non-law graduates before the LPC application stage is a further reason why people who want to be solicitors may be unable to. Becoming a barrister is even more competitive: in 2015, 2,910 applied for 1,500 BPTC places; 777 students graduated,¹³ but only about 450 obtained pupillages (BSB 2016). Given the importance of fee income to all university providers and the dominance of professional legal education by a handful of private providers, students who can pay for the LPC or BPTC are unlikely to be turned away even if it is clear they may struggle to obtain a contract or pupillage. However, finance plays a major role in excluding those from a lower socio-economic background (as it does at the undergraduate stage): the BPTC costs £13-19,000 and the LPC around £12,000. The Inns of Court offer some scholarships and grants for the BPTC, and larger law firms sponsor their future trainees on the LPC, but the majority must self-fund. And while training contracts are paid, firms are only required to pay the national minimum wage (£7.83 per hour), leading to a sharp rise in trainees paid less than the recommended Law Society minimum (£20,913 in London) (Walters 2018). Trainee barristers (pupils) earn a minimum of £12,000 a year (significantly more in commercial chambers).

Despite the continuing barriers to professional diversification, the Legal Education and Training Review (LETR), set up by the SRA, BSB and CILEX, concluded in broad terms that the current system worked well (2013: ix). In 2015, however, in part to widen access to the profession, the SRA proposed a new qualification route for solicitors termed the Solicitors Qualifying Examination (SQE) comprising: (i) possession of a degree (not necessarily in law), apprenticeship, or equivalent; (ii) success in stages 1 and 2 of a centrally set SQE (combining the law degree's knowledge content with the practical content of the current vocational stage);

¹²While the relationship between training contracts and LPC numbers fluctuates (Moorhead 2013 <https://lawyerwatch.wordpress.com/2013/12/11/lpc-and-training-contract-numbers-market-corrections/>), the general disparity between them has raised concerns about encouraging students to undertake the LPC without having secured a contract (Fouzder 2015)

¹³ The non-pass outcomes are - Not Yet Complete (11%)/Fail (14%)/Withdrawn (4%)
https://www.barstandardsboard.org.uk/media/1835435/bptc_key_statistics_report_2017_-_all_parts.pdf

and (iii) a requisite period of workplace training (likely, in most cases, to resemble the existing training contracts). A law degree would offer no exemptions, effectively abolishing the QLD. Stage 1 of the SQE (mostly multiple choice questions) could be taken after graduation and Stage 2 any time after Stage 1.

The SRA's rationale that the SQE will create a 'more open market' articulates its conviction about the benefits of liberalisation: 'competitive pressures raise standards and reduce costs' (SRA 2016: 6). These claims were, however, questioned by law schools, employers, and representative bodies, which criticised the proposals on grounds of cost, likely impact on standards, and access to the profession (Bindman 2016). The City of London Law Society concluded that the proposals failed 'to demonstrate high standards of learning or to deliver a modern and relevant syllabus of study which provides newly qualified solicitors with a knowledge base and the skills to be effective in providing a broad range of advice in the most appropriate areas of practice' (CLLS 2017: 140). A survey (commissioned by BPP, a major private legal trainer) of firms ranging from small practices 'to the biggest in the City' found they had 'not become more receptive to the SQE' and those 'feeling negative about it outnumber those feeling positive by more than two to one' (Trendence UK 2017: 3). Despite this opposition, in March 2018 the LSB approved the application for the SQE framework and will later be asked to approve specific SRA rule changes to introduce the SQE.

However, it appears that if the SQE is introduced, many firms (particularly the largest) are likely to continue recruiting based on university performance, strongly preferring elite universities (CLLS 2017: 143; Francis 2015). The general higher education policy is important. Successive reforms, including the rise in undergraduate fees (£9,250 per year in 2017, to be repaid at rates above inflation) and the use of proxies to measure teaching quality through a new government initiated Teaching Excellence Framework (TEF) (including graduate destination statistics) have intensified the 'employability' discourse (Browne 2010), reconstructing universities as markets whose ultimate function is 'wealth creation' (Collini 2012; Bradney 2011: 60). The concomitant transformation of law degrees into positional goods and the rise of audit has intensified emphasis on law school rankings, accentuating the stratification of higher education (as in the US). As a result, irrespective of the formal qualification

framework, market imperatives require law schools to present a compelling narrative of their capacity to facilitate students' access to the profession (Thornton & Shannon 2013).

For teachers and researchers in the legal academy, the story of the last 30 years is less straightforward. Cownie's (2004) study of legal academics concludes that 'we're all socio-legal now', and Sommerlad (2015a) confirms the growing centrality of socio-legal studies from the early 1990s. This trend towards legal scholarship that challenges insular positivist thought (and has little to do with 'wealth creation') reflects a number of forces, illustrating the protracted and contested nature of social change. For instance, the radical social movements of the 1970s significantly influenced the academy, even as neo-liberalism was becoming hegemonic. Critical and socio-legal scholarship flourished in several law schools, supported by the Institute of Advanced Legal Studies, which played a fundamental role in making law a proper object of inquiry in the liberal arts. This approach was fostered by the Critical Legal Conference established in 1984 and the formation of the Socio-Legal Studies Association in 1990. The desire of New Labour administrations to ground policy in evidence also contributed. The result was a flowering of socio-legal research (and a growing number of outlets for socio-legal and critical scholarship), ironically reinforced by one of the key mechanisms deployed to marketise the academy. Introduced in 1986 as part of a wider reform of the public sector through New Public Management, the Research Excellence Framework (REF) is an external audit intended to introduce transparency and accountability into the allocation of university funding. The belief was that the effect on reputation and indirectly on finances would generate significant changes in academic culture and practice, making it more business-like (Blackmore et al. 2016). However, as the most recent REF Law panel reflected, traditional black letter law scholarship did not lend itself easily to this exercise: 'the volume of outputs submitted in property law and more traditional areas of mercantile law was surprisingly low, given their importance in undergraduate and postgraduate [and practice] areas'; instead, 'the field as a whole is shaped by socio-legal research methods and techniques' (REF2014: 71).

The diversity of intellectual and methodological perspectives over the last three decades have made English legal research and education highly successful on a global stage. Other developments include the increasing importance of clinical legal education and experiential learning (Thomas et al. 2018), and a growing focus on ethics (Moorhead et al. 2016; Vaughan & Oakley 2016), the result of increasing concerns about the effect of the profession's shift to an explicitly commercial rationality (Muzio et al. 2013). However, research into, and university courses on, the legal profession remain rare (for instance, the first sustained study of large law firm lawyers is Loughrey 2011). Also apparent is the impact of globalisation in law schools' attempts to internationalise their profiles and activities through research and educational exchange, study abroad, and the recruitment of international students (who represented 26.4 per cent of registered law students in 2016) (HESA 2016).

Whereas the majority of law teachers used to come from practice, today most have a Ph.D—a further indicator of the shift from a narrowly positivist approach to law and reflective too of the academy's changing relationship with the profession. Teaching qualifications have also gained greater significance and are now held by 47 per cent of academics (HEFCE 2016). However, this varies; those institutions which possess most cultural capital (largely grounded in research excellence but also in traditional association with high class status) have little need to be concerned with teaching qualifications: only 3 per cent of academics at the University of Cambridge hold such a qualification, whereas the proportion in 'new' universities can be as high as 82 per cent (e.g., Chester University). Nevertheless, data on the teaching qualifications of staff at all universities are likely to become an increasingly important feature of the TEF (BIS 2016a: 30).

The dramatic increase in female participation in formerly male dominated professions also characterises the legal academy, which now has 2,780 women and 2,665 men (HESA 2016). Furthermore, whereas women are 23 per cent of all professors they are 30 per cent of law professors (Vaughan 2016). However, as in the legal profession, women (and other 'non-traditional' workers) are more likely to occupy less remunerative and prestigious positions: women comprise only about a third of law academics paid the highest 'Contract Salary Range 6' (any figure above £57,032). And whereas 3 per cent of legal academics are 'Black' (HESA's catch-all term), they

are only 1 per cent of law professors; similarly, Asians are 5 per cent of legal academics but only 3 per cent of law professors (id.). As in other labour markets, academic work is increasingly casualised through short, fixed-term or hourly-paid teaching contracts, and research indicates that managerial pressures are having a deleterious impact on legal academics' wellbeing (Collier 2014).

III) Key Developments

A) Changing Work Patterns in the Profession

Some of the most striking changes since 1988 are found in the nature, organisation and ethos or logics of professional work. The financialisation of the large PSFs and the increasing capabilities of information technology have furthered the routinisation and commodification of professional work. Artificial Intelligence (AI) has facilitated the decomposition of professional labour into discrete packages (Susskind 2010), presenting one of the greatest challenges to traditional professionalism and its claims to expert knowledge (Abbott 1988).

The resulting reconfiguration of professional work and the division of labour has entailed a change from what Weber termed value rationality to calculative rationality or capitalist logic (Hanlon 1998; Boon 2014: 63-75). Sophisticated clients are seen as 'connected consumers', more likely to seek recommendations from peer-users of social media than to rely on traditional signifiers of quality and reputation (Solis 2014). Client-driven considerations of price, quality and the timing of service delivery gain primacy (Hanlon 1999). There is also a direct relationship between the profession's capitalist logic and industrialised processes, its expansion and diversification, and the need for a variety of (skilled, semi-skilled and relatively unskilled) workers (Sommerlad 2015).

B) Diversity in the Legal Profession

Changes in the nature of legal work, the profession's growing need for workers, and the diversification of the law student body combined to weaken closure from the late 1970s. Abel described the consequent transformation of the profession's demographic

profile as 'revolutionary' (1988: 202). The change has been most dramatic in the solicitors' profession, particularly its corporate sector. Yet this sector underlines the fact that continuities also mark the profession, including traditional rituals and status symbols, and its dominance by white men.

Women were 24 per cent of newly qualified solicitors in 1978/79, 41 per cent by 1991/92, and 60 per cent by 2008/09. Despite high levels of attrition, they were nearly half of all solicitors (48.8 per cent) by 2015 (Law Society 2016). In 1998/99, 13 per cent of newly qualified solicitors self-classified as BAME (compared to 9 per cent in the overall working population); ten years later they were 28 per cent. In 2007/08, 18.7 per cent of pupil barristers were BAME, and 53 per cent were women. The entry of women and BAME groups was thus pivotal in the solicitors' profession's increase by almost 70 per cent between 1995 and 2015 (Law Society 2016: 10). However, these 'non-normative' professionals were incorporated not as potential partners but as transient, 'adjunct' employees (Hagan & Kay 1995), effectively technicians (Dezalay 1995). Statistics reveal that this pattern persists, highlighting the gender, race and class gap between the profession's hemispheres and the increasing horizontal and vertical segregation that accompanied the profession's expansion (Aulakh et al. 2017). The restructuring of legal work entailed the elongation of professional structures, so that standardised, specialised components could be assigned to different strata of the legal profession's hierarchy through outsourcing, on-shoring, subcontracting and the use of 'contract' lawyers and paralegals on zero hours¹⁴, fixed term contracts. This development reflected the reciprocal relationship between the need for more low-level labour and the expansion and diversification of law graduates. Women (regardless of intersections with other identity categories), BAME lawyers and those from lower socio-economic groups are over-represented in these forms of work, and also in private client and 'female typed' specialities and under-represented in the prestigious specialisms in large corporate firms. Women are paid on average 10 per cent less than men and are less likely to be partners (in 2016, 18.8 per cent of all women solicitors compared to 41.7 per cent of all men) (Law Society 2017). Although BAME solicitors are 22.9 per cent of all partners, they are just 4.8 per cent of those in 81+ partner firms. Illustrating intersectionality, the BAME female solicitor is more likely

¹⁴ Where the employer is not obliged to provide any minimum working hours, and the worker is not obliged to accept any work offered

than her white peer to work in low-status, less profitable sectors and to be a solo practitioner. Similar patterns characterise the Bar: women are over-represented in less prestigious chambers and specialisms and account for 12.4 per cent of QCs, while only 5.75 per cent of BAME barristers are QCs compared with 12 per cent of white barristers (BSB 2014).

Class also remains a major factor in careers. Class proxies like attending a fee-paying school and high-status university (Oxford, Cambridge or what is known as a 'Russell Group' university) vastly increase chances of obtaining training contracts or pupillages. Although just 7 per cent of the population attended fee-paying schools, their graduates were 33 per cent of solicitors in corporate firms compared to 16 per cent in criminal law firms, 26 per cent of law firm partners and 37 per cent of large firm partners (Kirby 2016).

Nevertheless, the meritocratic ideology of commercialised professionalism, with its bureaucratic recruitment and promotion processes, combined with pressure from 'outsiders' for inclusion on equal terms, has reduced *direct* discrimination. However, commercialised professionalism has also generated the 'business case for diversity', characterised by an individualised, de-politicised approach to equality (in contrast with the equal opportunities policies of the 1960s and '70s). As a result, the bureaucratisation of PSFs has proved double-edged: vindicating the neo-liberal discourse of the intrinsic rationality (and hence fairness) of labour markets while justifying the failure to recognise systemic causes of inequality, such as the constraints placed on women's agency by traditional gendered divisions of labour, the role of cultural practices in identifying insiders and outsiders, and the highly masculinised character of law firm networking and socialising, including practices that sexualise and de-professionalise women (Sommerlad 2016; and see survey in *The Lawyer*: Bernal, 2018). As a result, initiatives like The Law Society Diversity Charter and flexible working policies have been largely ineffective (Aulakh et al. 2017).

Therefore, while some groups have gained entry, the profession continues to relegate them to sub-professional roles and less prestigious work, while the commoditisation of work and outsourcing practices exclude some low status groups

altogether, resulting in rising numbers of paralegals, the majority of whom are law graduates, some with the LPC or BPTC.

C) Access to Justice and Legal Aid

1973 to 1986 has been described as a golden era when justice for all seemed an attainable goal (Hynes & Robins 2009:26). Building on the activism of earlier social justice and human rights organisations such as Liberty (established 1934), JUSTICE (1957), and the Child Poverty Action Group (1965), this period saw the foundation of Law Centres, radical barristers' chambers and firms such as Bindman & Partners (1974), and the Legal Action Group (1972), and inspired other NGOs (such as Shelter) committed to using law to pursue social justice. Re-election of a Conservative government in 1987 and its enactment of the Legal Aid Act 1988 is generally viewed as ending this period (id.). Nevertheless, it took several years and further legislation to reduce access to justice to the current skeletal provision for the poorest and to destroy the networks of organisations listed above and those of ordinary (non-political) high street firms, for which legal aid had become an important source of income.

The solicitors' profession initially was most concerned about the transfer of the administration of legal aid from The Law Society to the Legal Aid Board (LAB). But a more important feature was abolition of the connection between legal aid fees and the market rate and the subsequent erosion of professional autonomy through LAB control over the type of work and how it was delivered. The managerial techniques (applied across the public sector as 'New Public Management') were grounded in a franchising scheme specifying a set of (auditable) criteria for the conduct of transactions. Driven by 'supplier induced demand theory' (Bevan 1996) and justified by a discourse demonising lawyers as 'fat cats' and 'state funded Rottweilers', these measures (mimicking the transformation of the corporate sector) were designed to achieve the systematisation and routinisation of legally aided work and its delegation to low cost labour, and effect a change from a professional to a commercial rationality through the development of a market (Sommerlad 1995; Smith 1996: 574).

The policy of marketisation and cutbacks was largely continued by New Labour after 1997: the Access to Justice Act 1999 replaced the LAB with the Legal Services

Commission (LSC), split the provision and delivery of legally aided services into the Community Legal Service (CLS) and the Criminal Defence Service (CDS), imposed a budget cap, replaced legal aid for some matters (e.g. personal injury) with conditional fee agreements and imposed contracts that further constrained practitioner autonomy with the aim of creating a 'market of providers'. However, New Labour's programme for civil legal aid also initially aimed to enhance access to justice through support for specialist, quality certified firms and Not for Profit agencies and a focus on welfare law. This policy was largely abandoned in 2003, and a programme of progressive cuts in eligibility and scope and the institution of fixed fees (and reductions in fee levels) adopted. Through their obligation to assess eligibility, legal aid lawyers were made gatekeepers to the justice system on behalf of the taxpayer, attenuating their capacity to act as their client's advocate. The assault on civil legal aid culminated in LASPO 2012, enacted by the Coalition Government as part of its assault on the welfare state following the global financial crisis. Despite overwhelming opposition from the profession (Sommerlad 2015b), LASPO removed most areas of civil law from the CLS, except where that would breach the Human Rights Act 1998, further tightened eligibility criteria and reduced lawyers' fee levels (Bach Commission 2017). The Act also replaced the LSC – a non-departmental public body - with an executive agency, the Legal Aid Agency (LAA), with the express purpose of achieving greater ministerial control.

The impact of LASPO has been compounded by other cuts and 'reforms' of judicial review, with the result that the number of civil legal aid providers has halved since 2007 (LCN 2017) and the number of practices committed to 'cause lawyering' has been decimated. MOJ figures showed that in 2016, 846,000 people had not been helped by legal aid who would have been in 2013 (id.), and the LAA has acknowledged a country wide lack of 'access' for those with housing and debt problems (Hyde 2017a). The impact on family law has been particularly severe, generating widespread criticism, including from senior judges who have described the LASPO cuts as 'a false economy' (Lady Hale), a 'huge burden on judges, lawyers and litigants' (Lady Justice Hallett), and 'shaming' (Mr. Justice Bodey) (Bowcott 2017). The government's plea that the profession increase its pro bono work has gone largely unheeded; instead, the main resources for the expanding numbers of unrepresented litigants are McKenzie Friends and law students.

The CDS has also been restructured through marketisation based on competitive tendering, cuts and fixed fees, increasing pressure on clients to plead guilty (McConville & Marsh 2014: 167) and prompting concern about the sectors' commercialised business ethic. Since 2012 junior barristers' fees have declined by 8 per cent (Smith & Cape 2017, 76-77), and the number of suppliers has fallen by 16 per cent (MoJ 2014). Continued cuts led to a strike and boycott of new legal aid work (The Independent 2015) and a High Court challenge by The Law Society in 2018.

D) Lawyers and Contemporary Politics

The intimate connection between the legal profession and political power is manifest in the disproportionate representation of lawyers among politicians and other prestigious public office-holders. But whereas in modernity the law legitimated the power of the nation state and underpinned the profession's 'license and mandate' (Hughes 1981), the fragmentation of the contemporary profession and de-centering of state law have produced a more complex and often antagonistic relationship. Increasing government violations of democratic norms and the rule of law have prompted individual lawyers, sectional groups and professional bodies to intervene on such core issues as judicial independence and human rights; for instance both The Law Society and Bar Council played prominent roles in challenging LASPO.

The willingness to adopt a more independent and politically engaged stance also emerged in the priorities drafted by The Law Society prior to the 2017 General Election, including maintaining legal certainty in light of Brexit and safeguarding effective access to justice and human rights for every individual (Law Society 2017a). This stance was most evident following attacks on the judiciary in response to the High Court ruling requiring the Government to secure parliamentary approval before triggering of Article 50 of the Lisbon Treaty (which establishes the right to leave the EU). Noting that the Justice Secretary's silence contravened her statutory obligation to defend judicial independence, the Bar Council called for strong condemnation of the 'serious and unjustified' attacks on senior judges, and the Law Society President reminded ministers of the need to offer an unequivocal defence of the rule of law.

Government willingness to support or even provoke antipathy to ‘political’ lawyers (and experts in general) has long been evident with respect to legal aid lawyers. The denigration of public sector lawyers—an integral component of New Public Management reforms—recurred in 2014 when, days before a strike by criminal barristers against legal aid cuts, the MOJ published the legal aid earnings of top QCs, encouraging ‘fat cat’ headlines. Popular antipathy has also been fomented by depictions of human rights lawyers as disloyal, exemplified by the Prime Minister’s denunciation of the representatives of Iraqis pursuing torture claims against British troops, leading to SRA disciplinary proceedings. Although several lawyers were exonerated, the charges had a chilling effect on recourse to strategic litigation. Nevertheless, some firms have survived LASPO, and sectional groups remain active: for example, after the tower block fire in London causing multiple fatalities, BME Lawyers 4 Grenfell warned the Prime Minister about her failure to observe the Inquiries Act 2005 and the Equality Act 2010. Concern about the government’s apparent disregard for the rule of law has also been articulated by former Lord Chancellors (e.g., Falconer 2018) and the judiciary. However, the most damning critique was recently delivered in a Supreme Court judgment finding that Employment Tribunal fees were discriminatory and had impeded access to justice and hence the rule of law.¹⁵

IV) CONCLUSION

We have situated our analysis of the legal profession in the socio-economic and political transformations since 1988, especially the hegemony of globalised neoliberalism, which has reconfigured both state and law, leading to the de-regulation and marketisation of the profession (and legal education), the establishment of new legal services providers, and drastic restrictions in access to justice. This transformation, together with new technologies, has resulted in an expanded but highly fragmented and diverse legal services field and an industrialised mode of legal services production.

Because solicitors and barristers have been at the core of this revolution, we have focused on them, especially the corporate sector of the solicitors’ profession, which now dominates the legal landscape, making it a central player in the UK

¹⁵ *R (on the application of UNISON) v Lord Chancellor (Respondent)* [2017] UKSC 51.

economy. Transformations in the organisational structure of corporate firms have been essential to this sector's economic significance (leading it to employ the highest percentage of diverse lawyers, concentrated in its lowest tiers). However, the traditional sites of legal practice—the high street firm and regional Bar—have also been transformed. These practices—self-employed lawyers who, in 1988, still enjoyed monopoly rents and consciously reproduced other pre-capitalist traits—were destabilised by their loss of market shelters, especially the end of the conveyancing monopoly, and reduced legal aid funding.

The increasing juridification of society, diversification of clientele, and proliferation of normative orders have accentuated the 'competing conceptions of the role of law and of justice within the profession' (Johnson 1972:60). The contemporary English legal profession is so disaggregated that the most appropriate unit of analysis is the legal services provider. However, the field also is characterised by continuities, notably the significance of class, gender and ethnicity in career trajectories and the cultural practices and ideologies that naturalise and support professional hierarchies. Professional bodies, firms and individual lawyers continue to deploy the discourse of traditional professionalism, including the values of justice, the public interest, and the rule of law. Even though the services now delivered by some of the largest commercial firms overlap with those offered by other PSFs, they still claim to 'offer top quality *legal* advice' and describe themselves as 'globally minded *lawyers*'.

However, the transformations we describe may pale in the wake of Brexit. Implementing the EU (Withdrawal) Bill will transplant relevant EU law into British law (omitting the Charter of Fundamental Rights) and repeal the European Communities Act 1972. The extensive primary and secondary legislation this will require has led to predictions of a surge in demand for legal expertise and guidance. Some also argue that London will remain the jurisdiction of choice for commercial disputes. Others dispute this, expressing concern about lawyers' loss of the right to practise and base themselves in EU member states: *Oxford Economics* reported (2015) that legal services would be disadvantaged disproportionately by Brexit, and The Law Society warned that the legal services sector could be damaged by a post-Brexit free trade deal, arguing that 'the inevitable reintroduction of trade barriers with EU countries would hit legal services' (Walters, 2017). The outlook for the corporate sector depends

on 'the ultimate agreement relating to free movement of trade, people and financial services between the UK and the EU' (Croft 2016). At the other end of the professional spectrum, some fear the exclusion of the Charter of Fundamental Rights will let the government kindle a 'bonfire of rights' (Peers 2016; LCN 2017). Finally, the deep polarisation characterising both profession and society is reflected in the commodified and exclusionary nature of contemporary justice, especially the fragility of the legal aid sector, ongoing court closures, massive increases in court fees, and the drive to ADR. The future of both professionalism and law thus remains highly uncertain.

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