

# Lawyers in 21st-Century Societies

*Volume 1: National Reports*

Edited by  
Richard L Abel  
Ole Hammerslev  
Hilary Sommerlad  
and  
Ulrike Schultz

• H A R T •

OXFORD • LONDON • NEW YORK • NEW DELHI • SYDNEY

HART PUBLISHING

Bloomsbury Publishing Plc

Kemp House, Chawley Park, Cumnor Hill, Oxford, OX2 9PH, UK

1385 Broadway, New York, NY 10018, USA

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First published in Great Britain 2020

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A catalogue record for this book is available from the British Library.

ISBN: HB: 978-1-50991-5-149  
ePDF: 978-1-50991-5-163  
ePub: 978-1-50991-5-156

Typeset by Compuscript Ltd, Shannon

Printed and bound in Great Britain by CPI Group (UK) Ltd, Croydon CR0 4YY



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## Preface

THE STORY OF the project on *Lawyers in 21st-Century Societies* goes back almost 50 years. At the end of the 1970s Philip Lewis from Wolfson College, University of Oxford and Richard Abel from University of California, Los Angeles decided to launch an international comparative project on the history, constitution and role of lawyers in society. After preliminary meetings at conferences of the Law and Society Association (LSA) and the International Sociological Association's Research Committee on Sociology of Law (RCSL), the group gathered for a week in the summer of 1984 at the Rockefeller Foundation's Villa Serbelloni in Bellagio, Italy, ultimately producing the three volumes on *Lawyers in Society*: one on the common law world, one on the civil law world, and one on comparative theories (Abel and Lewis 1988a; 1988b; 1989; 1995). These pathbreaking books became the foundation of socio-legal research and teaching about lawyers for decades.

Because the successful collaboration created an intense identification with a common intellectual enterprise, the contributors decided to found a Working Group (WG) on Comparative Studies of Legal Professions within the framework of the RCSL. The WG has met biennially since 1986, mainly in France, and has a blog;<sup>1</sup> its work is described on the RCSL website.<sup>2</sup>

The WG has grown from the 32 contributors to the original volumes to more than 300 members, 60–70 of whom attend any given meeting. Developments in various countries are presented and discussed in the WG's 12 subgroups on Ethics and Deontology; Family, Policy and the Law; International Lawyering and Large Law Firms; Judiciary; Lawyers and Clients; Legal Aid; Legal Education; Legal Professional Values and Identities; Regulatory Reform; Women/Gender in the Legal Profession; Histories of Legal Professions; and Lawyers and Imperialism. This collaborative enterprise has produced many monographs, articles and international comparative volumes, including three comprehensive books on women in the legal profession (Schultz and Shaw 2003; 2013; Schultz et al 2019). Several subgroups have held their own meetings, often as workshops at the International Institute for the Sociology of Law (IISL) in Oñati. William Felstiner (2005), then WG chair, published an update of changes in ten countries. At the fifteenth WG meeting in Frauenchiemsee, Germany, Hilary Sommerlad and Ole Hammerslev suggested that, given the dramatic transformation of the geo-political order since 1989 and its impact on national societies and their legal professions, the 1988/89 project should be revisited. Ulrike Schultz, then WG chair and contributor to the 1988/89 volumes, lent her full support, and the three of them recruited Richard Abel. Because socio-legal scholarship has flourished globally in the intervening three decades, we have been able to involve colleagues from many more countries (46 rather than the original 19),

<sup>1</sup> See [iwglp.wordpress.com/](http://iwglp.wordpress.com/).

<sup>2</sup> At [rctl.iscte.pt/rctl\\_wg\\_professions.htm](http://rctl.iscte.pt/rctl_wg_professions.htm).

including categories that were omitted or barely covered: Africa and the Middle-East, Latin America, Asia, and former communist countries. This new project has been greatly facilitated by the enormous technological improvements since the time when contributors wrote on typewriters, corrected with Wite-Out, rarely made the very expensive international phone calls, and were limited to snail mail for communicating and transmitting drafts. The contributions have been presented and discussed at the annual LSA conferences in Seattle (2015), New Orleans (2016), and Washington, DC (2019) the third ISA Forum of Sociology in Vienna, Austria (2016), the international socio-legal meeting in Mexico City (2017), a special workshop at IISL in 2017, the RCSL meetings in Canoas, Brazil (2015), Lisbon, Portugal (2018), and Oñati (2019), the joint LSA/Canadian Law and Society Association conference in Toronto, Canada (2018), and the WG meetings in Andorra (2016 and 2018).

We are grateful to LSA (which obtained funding from the US National Science Foundation) for generously supporting the travel expenses of colleagues who otherwise would have been unable to attend the meetings in Mexico City, Oñati, and Washington, DC, and to Hart Publishing for subsidising the Oñati meeting. Richard Abel is grateful to the UCLA Academic Senate's Council on Research for support in organising and attending some of the above conferences. Hilary Sommerlad thanks the University of Leeds for making her attendance at project meetings possible through its 'Dowry' system. Ole Hammerslev is grateful to the Department of Law, University of Southern Denmark, for generous strategic funding. And the editors wish to thank all the contributors who have invested so much time and effort in writing and revising their national reports. For quite a few, time-consuming field work was necessary to excavate data on their legal professions. We also wish to thank the contributors for their engagement at all the meetings and conferences, which made these volumes truly collaborative in the spirit of the original project.

The present volume contains reports by 76 authors on legal professions in 46 countries. In the companion volume, 45 authors will make use of those reports and other data to engage in cross-national comparisons (in Africa, Asia, former communist countries, Latin America, and the Islamic world) and address a wide variety of theoretical issues, including: comparative methodology, lawyers in the EU and international tribunals, large firms, emerging economies, ethics and regulation, state production, gender, ethnicity, the construction of law, access to justice, legal education, the rule of law, corruption, casualisation, masculinity, information technology, cause lawyers, and sociology of the professions. We had invited an eminent legal historian, Wes Pue, to contribute to Volume 2 but sadly Wes was already extremely ill and consequently declined. He died 3 April 2019. His scholarship on the legal profession was inspirational and a contribution from him would have greatly enhanced our project. He is sorely missed.

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Richard Abel, Santa Monica, California, United States

Hilary Sommerlad, Leeds, United Kingdom

Ole Hammerslev, Odense, Denmark

Ulrike Schultz, Hagen, Germany

1 September 2019

# *Lawyers in a New Geopolitical Conjuncture*

## Continuity and Change

HILARY SOMMERLAD AND OLE HAMMERSLEV\*

### I. INTRODUCTION

IN CLASSICAL WESTERN sociology the view of law as a master discourse through which rational authority, social solidarity and the moral foundations of society are articulated assigns the legal profession a central role in the construction of modernity (Durkheim 1957; Weber 1978; Parsons 1954b, 1962; Aubert 1976; Luhmann 1981).<sup>1</sup> The performance of this socially constitutive role rested on lawyers' claims to systematic, rational knowledge, political neutrality and social detachment, denoted by a distinctive ethical code, service ethos and lengthy, standardised training (Carr-Saunders and Wilson 1933; Parsons 1954a). These traits grounded lawyers' moral, cultural and intellectual authority, facilitating and legitimising professional closure and lawyers' consequent capacity to extract monopoly rents and enjoy a special, relatively autonomous, status in the institutional environment of the modern Western state (Weber 1978; Larson 2013).<sup>2</sup>

The intimate connection between this professional model and the processes of state formation in the West<sup>3</sup> was the outcome of particular historical, cultural and political

\* We are very grateful to Richard Abel and Ulrike Schultz for their close readings of this chapter, and helpful comments. We also thank Andrew Francis and Joan Loughrey for taking the time to read an early draft, and for their helpful comments.

<sup>1</sup> This is not to overlook such classical legal sociologists as Eugen Ehrlich (1936), whose understanding of law extended beyond state law to encompass informal (or unofficial) forms of normativity and regulation generated within groups, associations and communities. Modernity is an equally complex concept (Bayly 2004; Eisenstadt 2000), related to the fact that both it and Europe are 'reference cultures' (Delanty 2015).

<sup>2</sup> The multiple definitions of the state range from a centralised set of institutions wielding coercive power to conceptualisations of it as a cultural process, a (contingent) assemblage of rationalities and technologies, practices, techniques, programmes, knowledges, rationales and interventions (Miller 1990: 317). Weber's work on the construction of rational-legal authority in modern Western states exemplifies this understanding of the state as always in formation, and this view informs the present project, which similarly conceptualises the profession as a social process (Liu 2013).

<sup>3</sup> The labelling of geo-political divisions is ideological and increasingly meaningless as globalisation fragments national societies, eroding some of the characteristics once believed to define different world regions,

conditions which made lawyers' claims credible and ensured the superiority of state consecrated normative judgements over competing ones (Cotterrell 1998: 177).<sup>4</sup> Nevertheless, diverse histories, socio-economic contexts and political institutions generated different paths to modernity and a positivist legal order (see eg Jerneck et al 2005), and corresponding variations in professional forms. Most notably, whereas the Glorious Revolution in England and Wales (1688–89) enabled the profession to claim and link its autonomy to the (circumscribed) role of the liberal state (Sugarman 1996), the historical trajectories of civil law countries led to the establishment of professional service as part of a state bureaucracy, resulting in different forms of regulation and qualifying processes.

However a unifying feature in the development of Western modernity, frequently overlooked in classical and subsequent mainstream sociologies of the profession (Delanty 2015), was its grounding in relationships of domination with most of the rest of the globe (Johnson 1973; Bhambra 2016). It is correspondingly vital to recall how the colonial experience shaped the development of modernity in non-Western societies.<sup>5</sup> Even allowing for the huge variations *between* these societies, a common feature was the sharp divergence between their pre-modern modes of legitimacy and governance models and those in the West (Eisenstadt 2000; and see, eg Harrison 2001 and Pomerantz 2002 on China; Gordon 2009 on Japan), and these divergences were not entirely eradicated by formal or informal colonialism. For instance, while both types of imperial domination entailed the importation of Western institutions, local dispute resolution forms generally persisted (see eg Aiyedun and Ordor 2016 on Africa). A further common, distinguishing feature was the relative lack of autonomy of the formal legal order from the state: the combined and uneven development suffered by societies subject to imperialism (Hilferding 1981: 322–23) and frequent absence or weakness of an indigenous bourgeoisie (Alavi 1972) constricted the base for professional practice. Consequently, where Western style professions developed, the state was usually its primary client (Johnson 1973), and post-independence reforms generally failed to eradicate the 'over-developed administrative/military apparatus' (Alavi 1972) and weak internal structural interdependence characteristic of the colonial era.

such as political stability. It is also problematic for our aim of capturing the nuances in the development of different states and their professions. However, the need to reference longstanding debates mandates these shorthand terms (and their conventional meanings). By the West, therefore, we refer to those states which, from roughly the late eighteenth century until recently, dominated the globe and which include most of Europe, North America and Australasia. Global South refers to those regions which were, overwhelmingly, subject to Western economic and cultural imperialism; it includes most countries in Africa and Central and South America and parts of Asia. However, the term originally encompassed states which are now global economic powers such as China, South Korea, Indonesia and India. An alternative shorthand term for technologically advanced, economically developed and dominant societies is the Global North, encompassing Europe, North America, Australia, Israel, South Africa, and some other wealthy states. There are also the terms First, Second and Third World.

<sup>4</sup>As Terence Johnson (1995) argued, following Foucault, the professionalisation of legal expertise represented a fundamental technique of liberal governance. Ogiati (2006) similarly describes the professional form as particular to Western development.

<sup>5</sup>There is of course an extensive literature – apart from mainstream sociologies of the state and profession – on both the relationship between modernity and colonial domination (eg Fitzpatrick 1992; Duncanson 2003; Dezalay and Garth 2011) and on non-Western 'roads to modernity' (eg Moore 1966; Jaguaribe 1973) and an extensive post-colonial and international law literature (eg Sinclair 2015).

In short, the complex, variable relationship between professionalism and modernity underlines Abbott's warning that 'thinking about professions developing independently [is] ... foolish' (2001: 9): it is only by considering both the domestic and global socio-economic and cultural context that we can gain insight into the consequences for legal professionalism of the entanglement of different historical traditions with exogenous forces. Such 'connective sociologies' (Bhambra 2016) are essential if we are to deepen our understanding of the dynamics shaping contemporary meanings of legal professionalism (Bellini and Maestriperi 2018).

The project which this chapter introduces is grounded in such a connective sociology. Modelled on Richard Abel and Philip Lewis's landmark comparative work *Lawyers in Society* (1988a; 1988b; 1989b), it comprises a two-volume comparative analysis of contemporary forms and meanings of the legal profession. In the intervening three decades since the Abel and Lewis volumes 'inherited professional forms' have been 'daily assailed by forces associated with globalisation, the centrifugal pulls of the new market economy and the disintegration of cultural or national bonds' (Pue 1998: 127). This volume seeks to map how these forces impacted on national professions through 42 chapters which report on a total of 46 jurisdictions. Volume Two then addresses the key themes which these reports disclose. This chapter introduces the project, beginning with a brief outline of some key features of the Abel and Lewis volumes. We then consider the main dimensions of the transformation which marked the period between 1988 and 2014, when this project was conceived. The subsequent sections summarise the research design of the project, followed by a discussion of the data.

## II. LAWYERS IN SOCIETY: THE ORIGINAL PROJECT

The three-volume collection *Lawyers in Society* edited by Abel and Lewis (1988a; 1988b; 1989b) represents a seminal, and enduring, contribution to connective sociology. The profession's contingency was exposed through explorations of the histories and status of lawyers in both common law and civil law jurisdictions, which elucidated 'the demographic, economic, ideological, and cultural background to the ways in which lawyers are organized and choose and carry on their work as well as to the changes that have affected or are likely to affect them' (Lewis 1988: 2). The authors' concern, therefore, extended beyond analysis of the distinctive relationships between lawyers, the state, civil society and the market to encompass such issues as the impact of national patterns of social stratification, culture and educational environment on the composition, practice and functions of the profession.

The scale and depth of the collection's comparisons were one of its major strengths: eleven civil law and seven common law countries were studied – substantially more than those covered by other ground breaking studies, such as those by Larson (1977), Rueschemeyer (1973; 1983) and Abbott (1988), and this was achieved despite the lack of large scale quantitative data and difficulties in identifying national reporters for some societies (Abel and Lewis 1988b: xi). However, the primary problem for the project was the semantic and conceptual difficulty of comparing different 'families' of legal professions. 'Profession' has long been a contested term, even within the Anglo-American field, where its distinctiveness from other occupational categories has been primarily asserted

(Saks 2012; Larson 1977). Furthermore, as discussed above, its generic use occludes its origin in Western environments and trajectories. While culturally specific terms such as ‘attorney’, ‘barrister’ and ‘solicitor’ serve to signal structural and functional differences, this proliferation of designations and categories hampered the identification of commonalities in the social and political meaning of the profession (Schultz 2003: xxxi; see also Abel 1989: 101). Yet, since the project’s comparative approach centred on engaging with that meaning and exploring its differentiated forms by situating lawyers in the space-time conditions of the social systems in which they were embedded, it was vital to establish a conceptualisation that could work cross-culturally but was neither too confining nor empty. The solution was a definition of legal profession with two components: a credential (whether conferred by profession, state, or university) and a set of functions (which also varied across societies). This approach made it possible to engage with the profession’s status project and examine its jurisdictionally specific patterns. Abel (1989) described the highly privileged relationship between the profession and state in common law jurisdictions, which resulted from the construction of the professional autonomy essential to the rule of law; and by deploying a neo-Weberian interpretation of the data from these jurisdictions, he showed how lawyers’ consequent right to self-regulation and market shelters gave them control of entry through the apprenticeship mode of legal training. By contrast, in civil law countries the profession’s origins as a university-educated state service meant that it only later developed as a private profession. The data from these countries confirmed that this ‘professionalisation from above’ (Siegrist 1990) made practitioners dependent upon, and regulated by, the state. Thus, the project not only delineated the key characteristics of professional institutions in common and civil law countries but also succeeded in deepening our understanding of the contingent relationship between lawyers and society – and hence of the distinction between the rule of law and the Rechtsstaat.<sup>6</sup> In this way it shed light on the professional project’s various modalities – such as differing entry and closure mechanisms and ways of structuring and controlling the market for legal services. The significance of the state-lawyer relationship for shaping these key structural elements was fundamental to generating research questions about, and theories of, the professions (Abel 1988: 8; see also Heinz and Laumann 1982; Halliday and Karpik 1997).<sup>7</sup>

As a product of an epoch of counter-hegemonic engagement and critical scholarship, *Lawyers in Society* itself exemplifies the historical and geographical contingency of both the profession and its sociology. Written against the backdrop of the Cold War and the dramatic socio-economic and political upheavals and ideological challenges to the post World War II settlement, the collection engaged with many of the processes that were beginning to de-construct the basic tenets of the professional model that, in the West, had enjoyed a ‘golden age’ until at least the early 1960s (Freidson 2001: 182; Galanter and

<sup>6</sup> The position of the civil law profession reflects the near-identity of the law and state in the civil law tradition: the continental Rechtsstaat was not only subject to law but also its legal source. By contrast, English constitutional jurisprudence comprises plural and competing conceptions of the sources of law, and by tradition the ‘common law’ was preferred to the commands of the King (ie the state) (Krygier 2013).

<sup>7</sup> Some issues examined in the Abel and Lewis volumes have developed into distinct research fields with their own conferences and journals, and comparative studies have been undertaken by members of the original Legal Profession Working Group, which came out of the *Lawyers in Society* project; see, eg, Schultz and Shaw (2003); Felstiner (2005a).

Palay 1991: 20–36). Concluding that the professional project was in ‘serious disarray’, Abel (1989:189) and other contributors speculated on the likely future for professionalisation. Szelenyi and Martin (1989) enriched the volume’s predominantly structural analysis by drawing attention to the significance and extent of critical discourse in the legal field to reflect on Larson’s ‘collective mobility project’ and Gouldner’s (1978) ‘new class project’. This approach echoed Weber’s view of the profession as particularly suited to ‘the role of representative of the under-privileged’ (1978: 875). The Janus-faced character of the profession is also a feature of Halliday’s (1989) discussion of the state/profession relationship and the variable types of collective organisation by, and political behaviour of, national professions.

Other chapters focused on such drivers of change as the impact of developments in higher education (Neave 1989), the growing participation of women in the profession (Menkel-Meadow 1989) and the changing nature of law, legal representation and the trend to de-professionalisation (Larson 1989; Falcão 1988). While recognising that change was occurring unevenly across both jurisdictions and the profession, Abel argued that national professions would increasingly display institutional isomorphism as a result of these drivers and other developments

some ... [of which are] economic: progressive concentration within industry and commerce, the expansion of the service sector and the internationalization of business (accelerated by the EEC). Some are political: the increased role of the state in all economies, the growth of welfare programs, and the emergence of movements to oppose the growing dominance of the state and to equalize access to law. Some are cultural: the availability of divorce, the demand by racial and ethnic minorities for equal opportunity. (Abel 1988: 43)

It is a mark of the ambition and richness of *Lawyers in Society* that it provided both a benchmark for assessing the strength of these theoretically grounded predictions concerning professional change and a resource, in the form of the country reports, for scholars to develop their own comparative frameworks and investigations. The reports in the present volume provide the raw materials for a similar framing of the transformations currently affecting legal professions and are thus the basis for in-depth explorations in the second volume.

### III. LAWYERS IN A NEW WORLD ORDER: GLOBALISATION AND NEOLIBERALISM<sup>8</sup>

By 2014, when the current project was conceived, some of Abel’s predictions had been fulfilled, but others had been confounded. Business had been progressively internationalised and concentrated: the deregulation of financial markets had led to an exponential growth in the size and political and economic power of transnational corporations

<sup>8</sup>Contingent, complex and therefore ambiguous concepts, globalisation and neoliberalism have generated multiple interpretations – for instance, neoliberalism encompasses a policy framework, a political discourse and ideology, and a form of governmentality (Larner 2000). Nevertheless, they do have sufficient common features to give them conceptual validity, and as the primary drivers behind the new world order, must be deployed. We understand globalisation as the intensification of world-wide relationships, including trade, culture and technologies, leading to both internationalisation and de-nationalisation. Also viewed as the latest phase of imperialism, it entails economic and cultural penetration by hegemonic states (the ‘core’) of the Global South (the ‘periphery’), based on and reinforcing their asymmetrical relationship – for instance, JK Galbraith described

(TNCs) (Strange 1996; Crouch 2011)<sup>9</sup> and associated super-clusters of producers, technological infrastructures and institutional networks. These ‘private sector quasi states’ (Beck 2005: 75) generated a multiplicity of laws, quasi-laws, other forms of regulation, and new fora and procedures for litigation, arbitration and ‘cross-sanctioning’ (Scott 2001). The creation of this patchwork of transnational jurisdictional geographies and virtual regulatory spaces by international (primarily Anglo-American) corporate law firms greatly expanded their size, reach and wealth (Trubek et al 1994: 407; Dezalay and Garth 2002; Dezalay and Sugarman 1995; Halliday et al 2007; Wilkins 2013).<sup>10</sup> Their interdependence with corporate clients also dismantled the traditional professional form, logics and production techniques,<sup>11</sup> while their location in different jurisdictions dissolved their characteristic national and local embeddedness.<sup>12</sup> Furthermore, although the new legal order was implemented by *national* legislatures, judiciaries and lawyers, it was harmonised through transnational institutions, subject to a *non-national* organising logic and temporal frame.

This de-nationalisation (Sassen 1999) fractured ‘the coherence, wholeness and unity of individual societies’ (Urry 1989: 97), dividing and commercialising national sovereignty (Picciotto 2008: 457) and weakening states’ capacity to pursue an independent economic policy. Once relatively self-contained geographical units, national economies and institutions have splintered, rescaled into new configurations tailored to the needs of global capital. The systematic concentration of developmental capacities within certain geographical zones has consigned peripheral regions to chronic marginalisation (Brenner 2004).<sup>13</sup> These fissiparous tendencies are mirrored in the legal profession, while legal monism has weakened in the face of new centres of power (such as financial markets and independent central banks) and consequent proliferation of normative orders within nation states. Once a master discourse which, by articulating state theory, political values, and collective ideology, crystallised the state/society/citizen relationship, national law has come to assume ‘the characteristics of contemporary society ... open,

globalisation as a ‘term invented to conceal the current policy of economic penetration’ (1997). However, it also has a humanitarian face, in the form of the globalisation of human rights. A key feature of neoliberalism, which facilitates the penetration of global capitalism, is the installation of markets as the organising principle of political-economic governance (Birch 2017), grounded in the principle of possessive individualism and anti-statism (Hall 2011: 10–11).

<sup>9</sup>As our above comments indicate, we frame this phase of capitalism as imperialism (Hirst and Thompson 1996), its key agents being not only the most developed market economies and powerful states such as the US and China but also TNCs.

<sup>10</sup>US-style corporate law firms proliferated between 1988 and 2008, and the number of overseas offices in the National Law Journal’s list of the 250 largest US firms nearly quadrupled, while the number of lawyers working in these offices increased by a factor of 12 (Silver 2011: 1–2).

<sup>11</sup>Although, evidently, the traditional professional form varied between the common and civil law worlds, and between jurisdictions, the professional project was grounded in its attempt to establish itself as a distinctive autonomous field – detached from the world of business (and politics) thereby legitimising the profession in the name of the common good and the rule of law or Rechtsstaat.

<sup>12</sup>The disembedding of sectors of once deeply-rooted, local professions is also apparent in the increasing mobility of individual lawyers, both between firms and regions (Dinovitser and Hagan 2006) – since, of course the structure of the profession mirrors the structure of the economy.

<sup>13</sup>Marginalisation has been exacerbated in many societies as a result of the austerity programmes adopted following the financial crisis of 2008.

decentred, fragmented, nebulous and multiform' (Douzinas and Warrington 1994: 3).<sup>14</sup> In the process it has lost the 'metaphysical dignity' (Douglas-Scott 2013: 56) which made it central to the foundation of the modern Western state.<sup>15</sup>

The profession's constitutional role of boundary-agent between the state and civil society (Loughlin 2000; Olgiati 2010) has also been undermined by popular scepticism about its claims to special ethicality (Leicht 2015). This evaporation of lawyers' moral, cultural and intellectual authority<sup>16</sup> justified the removal of the monopolies which, in many jurisdictions, supported the private client sector, while the commoditisation and marketisation of domestic legal services infused that sector with the commercial/entrepreneurial ethos characteristic of international corporate firms, generating the concepts of commercialised and corporate professionalism (Hanlon 1998; Muzio et al 2011). Concurrently, in jurisdictions where neoliberalism had become particularly dominant (such as England and Wales) discursive constructions of public sector professionals as a *rentier* class eroded the legitimacy which accrued to the legal aid or public service sector, facilitating its subjection to new public management measures (Sommerlad 2008). The related managerialisation/de-politicisation of governance (Cerny 1996) dissolved the 'complex inter-dependencies between rights and obligations, power and the law' characteristic of the Keynesian nation state (Sassen 2006: 3). As a result, rather than the predicted expansion of welfare programmes (Abel 1988: 43), socio-economic rights have been cut and/or transformed into conditional benefits, even while the significance of (individual) human rights has increased in political discourse and law making.

All of the above indicates the need to modify the traditional focus on state, power and national law (Teubner 1997) and highlights the fact that even former imperial powers are now objects of neo-imperialism, exercised primarily by the US, China and TNCs (Bakan 2005). However, globalisation and neoliberalism are multi-faceted, uneven processes, and these characteristics are accentuated by their imbrication with other forces, including those that result from historically specific trajectories, posing problems for generalising about their impact on national professions.

The complex analytics of change are illustrated by contrasting the English profession with that of Northern Italy. As one of the first adopters of the neoliberal policies required by globalised capitalism, the expansion and enrichment of the corporate sector and decline of the private client and 'social service' sectors of the profession in England and Wales took place early and swiftly. By contrast, Italian law firms largely retained their traditional kinship structure and resisted globalising forces (Muzio and Faulconbridge 2013), successfully lobbying governments to obtain re-regulation and protect their jurisdictions (Bellini and Maestripietri 2018). Access to justice offers another instance

<sup>14</sup> These processes of fragmentation, inherent in the dynamics of neoliberalism, have been all encompassing, fracturing both social bonds and 'our sense of ourselves as integrated subjects' (Hall 1992: 275). The rich scholarship generated by these 'liquid times' (Bauman 2000) includes concern with their impact on the self – see eg theories of psycho-social fragmentation (Sennett 1999) and the 'extended reflexivity thesis' (Giddens 1990).

<sup>15</sup> Again, however, the differences between jurisdictions must be noted; for instance, in Germany administrative law only started to be systematised in the course of the 1960s and needed at least two decades to develop a dogmatically clear structure.

<sup>16</sup> We are not asserting that lawyers were always distinctively ethical but that their claim to possess particular moral, cultural and intellectual authority was a fundamental component of the professional project and their position in the social order.

of national variation, even within the same region. Whereas generously supported legal aid systems suffered significant cuts (eg in England and Wales and the Netherlands), they either remained stable in other comparable states or were outsourced to private practitioners, through legal expenses insurance providers, and the ‘third sector’, as in Scandinavia (Hammerslev and Rønning 2018),<sup>17</sup> while in Belgium and Brazil provision was expanded. The differential trajectories of East European states after the fall of communism underscore this patterning of change by both endogenous and exogenous factors (Mrowczynski 2012; Hammerslev 2011) and hence the fallacy of assuming that the importation of capitalist law will naturally generate liberal democratic state forms and professions (Fukuyama 1989: 3).

The impact of globalisation on former colonies (both formal and informal) underscores the fact that the last 30 years have been characterised by continuity as well as change. The articulation of different modalities of power and economic and cultural production is a longstanding feature of the colonial state, where the national space was never unitary even if institutionally constituted as such (Sassen 2006: 381). Indigenous law and the profession were articulated with Western legal and institutional frameworks, developed in the Age of Empire – in those colonies with resources – to support extraction by the West. The current policy of economic penetration has been underpinned by re-colonisation by Anglo-American law and forms of practice and the co-option of indigenous lawyers as negotiators of transnational relationships (Dezalay and Garth 2011). The legal field in the Global South has thus been a key site in the current stage of imperialism and dependency.

However, law’s capacity to act as a mechanism for social justice and political contestation (Sinclair 2015) is also evident, as transnational law and legal institutions based on human rights – representing a ‘humanist’ form of globalisation – have been deployed as counter-hegemonic forces to counteract neo-colonial power hierarchies (Santos and Rodríguez-Garavito 2005), fostering professional political activism. For instance, Ghai (cited in Douglas-Scott 2013: 327) has argued that the universalism and inherent diversity of human rights discourse and legal forms have provided a basis for intercultural dialogues and consensus in post-conflict societies and protection against the state, which sectors of the profession in post-colonial societies have exploited.<sup>18</sup>

Neither globalisation nor neoliberalism can fully account for the development of contemporary professional forms and practices. Technological developments have been fundamental to the processes of neoliberalism and globalisation, including their impact on ‘the space of flows’ (Castells 1996: 405). Sassen (2006: 378) argues that globalisation’s digital networks changed the micro-level features of the state’s spatio-temporal

<sup>17</sup> The widespread use of insurance schemes to provide access to justice is consistent with the neoliberal ideology of individual responsibility. Furthermore, the pressure to reduce expenditures in these countries is strong, and the move to digitise services is a common solution.

<sup>18</sup> Bolivia’s experiment with pluri-national constitutions that accorded the legal systems of subordinated indigenous populations parity with state law appears to illustrate Ghai’s contention; however, it is argued that human rights law has been ‘colonised’ by neoliberal discourses, resulting in a commercial, de-politicised humanism (Douglas-Scott 2013: 298). As a result human rights have been critiqued as a new form of oppression (Barrantes Reynolds 2016). This interpretation is supported by Pue’s (1998) argument that American Bar Association and Canadian Bar Association ‘missions’ to teach the virtues of the rule of law to the Chinese represented neo-colonial agents; see too Gilroy 2004 and Ranciere 2004.

order and that the organisational logic of the global, largely electronic, market circulates through the public domain where it emerges as de-nationalisation. The cumulative effect is to accentuate the incoherence of national society. Correspondingly, technological developments underpinned the reconfiguration of professional work, in particular its decomposition, economisation and commodification (Susskind 2013). This has intensified the stratification of the legal field within and between firms both nationally and internationally, facilitating the consolidation of firms, and the practices of off- and near-shoring, entrenching the dependency of professions in the Global South.

Incomplete transformations from the previous era represent another variable in the processes of change. By 1988 many Western jurisdictions had expanded and (to a degree) democratised their higher education systems, due in part to the Keynesian state's equal opportunity programmes, reinforced by the demands of civil rights movements including anti-racists and second wave feminists,<sup>19</sup> and in part to governments' concern to reconstruct their economic base by building a 'knowledge economy'. While the abandonment of the Keynesian agenda de-politicised this modernising impulse, neoliberal discourses of pure market rationality, together with the demand for professional labour generated by globalisation, furthered the opening of both higher education and the profession across the globe. As a result, from the late 1980s onwards legal professions in the overwhelming majority of jurisdictions expanded and underwent a rapid process of feminisation (Schultz and Shaw 2003; 2013) and, later, the progressive inclusion of other subordinated groups. However, lawyers drawn from 'non-normative'<sup>20</sup> categories have largely been incorporated into the profession as 'semi-professional' adjunct labour (Hagan and Kay 1995; Thornton 1996; Sommerlad and Sanderson 1998; Sommerlad 2016; Wilkins and Gulati 1996; Carbado and Gulati 2000), a role legitimised by the resilience of traditional stereotypes. Evidently, this confounds the argument that markets dissolve traditional social categories and enhance the potential for individual agency and meritocracy (Giddens 1994). Nevertheless, the neoliberal discourse of the classless, post-racial, post-gender society has made diversity a key criterion for establishing the legitimacy of social institutions in many jurisdictions, placing pressure on BigLaw<sup>21</sup> – whose global business depends on an increasingly multicultural client base – to ensure that at least a proportion of these 'outsiders' occupy prominent roles in their firms.

Yet, the counter-hegemonic political movements and thought which developed in the 1960s have not been extinguished and, together with the growing presence of women and those drawn from other non-normative groups (for instance racial minorities in the US), continued, in many jurisdictions, to stimulate radical (explicitly socially embedded) lawyering and scholarship. This has contributed to the erosion of the traditional

<sup>19</sup> Although the phrase civil rights is generally associated with the US, here we use it as a shorthand term to describe the democratic wave and counter-hegemonic struggles that swept many parts of the world from the late 1960s – for instance the West German '68er Studentenbewegung', the Prague Spring, the Paris 'événements', and the civil rights movement in Northern Ireland.

<sup>20</sup> Since professions are preeminent 'status groups' – that is, communities based on ideas of proper lifestyles who 'had honour' and were hence owed deference by wider society (Weber 1946: 180) – a common feature has been their relatively homogeneous class, ethnic and gender profile, achieved through closure. We therefore use the term 'non-normative' to refer to the diverse groups which have entered the profession as a result of the changes described in this book; however, we also deploy the term 'outsiders', used by Carbado and Gulati (2013).

<sup>21</sup> Originally a US nickname for the largest firms, now in general usage as a shorthand term for the mega-law firms.

professional paradigm in two ways: first by challenging the material and ideological conditions which support white male dominance of the profession; and second by exposing the artificiality of law's masculinity (Rackley 2009) (and race and class). Similarly, 'political' lawyering, committed to the use of law as a social justice mechanism (Sarat and Scheingold 1998), contributed to the fracturing of a unitary professional paradigm, including its traditional collegial form (Evetts 2014). The resulting fissures have formed part of the more general social and value fragmentation (Bauman 2000; see also Pue 1998; Santos 2000), which, as noted, have been accentuated by neoliberal globalisation.

#### IV. NEW THEORETICAL TURNS

Since 1988, when neo-Weberian approaches to the profession were dominant, social theorising has taken new turns. Postmodern scepticism (identified by Leicht (2015) as a key factor in the profession's changed status) forms part of a wider epistemological turn away from meta-narratives (Lyotard 1984: xxiv), including, it is argued, the sociology of the professions (Gorman and Sandefur 2011: 281). In its place, stimulated by changes (outlined above) such as those in the profession's structure, markets and demographic profiles, there has emerged a rich scholarship in other fields. For instance, feminist theory since 1988 has made a major contribution to thinking about professions and their role in maintaining the wider status order (Walby 1990; see also Glucksman 1995), underlining such factors as the temporal frame of globalised capitalism (see eg Epstein et al 1999) and how the relationship between 'on-demand' professional practice and the gendered division of labour sustains the patriarchal order. Critical race theory (CRT) (eg Crenshaw 1991) has illuminated the salience of 'race' to law and professional structures and organisational practices, shaping individuals' careers (see eg Payne-Pikus et al 2010; Wilkins and Gulati 1996 on the US legal profession) and reinforcing wider patterns of social stratification. The later embrace by both feminist and CRT scholarship of post-structural insights about the role of language, symbolism, and culture in exclusionary processes sheds light on the role of the law and profession in constituting the meaning of gender and 'race' (Smart 1992; Butler 1990; Ramji 2009; Brubaker 2009).

*Contra* Gorman and Sandefur's argument, neo-institutionalism is directly concerned with professionalism. Arguing that the general erosion of self-regulation has meant that occupational (professional association) professionalism has been displaced by organisational professionalism, neo-institutionalists focus particularly on large law firms (now more closely resembling other professional services firms than traditional law firms). In this perspective, the market has become a primary regulatory force, and the distinctive actors in the processes of professional identity production are employing organisations. Pointing to the blurring of professional boundaries and hybridity of logics within large law firms, this perspective challenges the classical view of the profession as a discrete, bounded realm (see eg Noordegraaf 2007; Muzio et al 2013). The insight that a range of different logics co-exist within contemporary professions is compatible with Foucauldian perspectives, which focus on the discursive strategies professions use to motivate and control staff 'at a distance'. Contemporary professionalism is thus conceptualised as a disciplinary strategy (Fournier 1999), which realigns individual identities with organisational priorities (Tomlinson et al 2013). This concern with processes of normalisation

and subjectification<sup>22</sup> has been deployed in a range of studies (eg Ashley et al 2015) to explore the professional workplace as a site ‘where professional identities are mediated, formed and transformed’ (Cooper and Robson 2006: 416), producing subjectivities which conform to neoliberal rationality (Newman 2005). And this approach sheds light on how professional closure continues to operate but *within* the profession, as the restructuring of large law firms and the elongation of professional hierarchies have facilitated the confinement of ‘outsiders’ to lower status labour markets as transient employees (Tomlinson et al 2013).

Another lens for investigating the profession is offered by Bourdieu’s theory of social fields (1977a; 1984; 1990). Loosely defined as a structured autonomous social space or network of objective relations between agents and institutions, with rules of practice and logic, a field has its own mechanisms of production and reproduction. The agents in the field are occupied with the meta-issues produced historically in that field and with struggles over the different forms of capital – economic, social, symbolic, and cultural – through which power relations crystallise (Bourdieu and Wacquant 1992: 97). The characteristics of a field are produced and naturalised through its cultural practices, especially actors’ interrelationships and struggles over the economy of symbolic goods. Bourdieu’s (1987) application of this concept to the profession overcomes the dichotomy between theories that understand it as socially embedded and idealist theories that focus on law’s closed, abstract character.<sup>23</sup> The apparent contradiction between law’s relative autonomy and its proximity to the field of state power is expressed in and managed by the field’s constitution (Arnholtz and Hammerslev 2013), which in turn is determined by its characteristic power relations, modes of communication and social practices, all of which are disciplinarily and professionally defined. This patterning by traditions, pedagogies, discourses, practices, and codes is a major source of law’s legitimacy and therefore its power, giving it universal value and performative force (which other expert professions cannot rival) and endowing it with a sacral quality. These qualities also rest on law’s autonomy, which is fundamental to rule of law ideology, since it is legal formalism that makes law appear to transcend conflicts of interests. Boundary work between law and society, practitioner and client, is thus intrinsic to the legal field. Both the legitimacy of the legal enterprise and the success of the professional project therefore depend on lawyers’ demarcation of the legal as the domain of detachment and rationality, characterised by a logic distinct from either the market or bureaucracy (Freidson 2001), and hence able (apparently) to transcend the favouritism of politics, the corruption of personality, and the exclusiveness of partisanship (Pue 1998). Evidently, the changes which have taken place in the nation state and the legal field since 1988 have made this difficult.

<sup>22</sup> These terms are rooted in Foucauldian theory of governmentality, and allude to how the ‘subject’ is constituted through discourses which normalise asymmetrical power relationships.

<sup>23</sup> In the attempt to overcome this dichotomy, Bourdieu bases his sociology on the fact that the very notion of profession is a ‘folk concept’, which was uncritically ‘smuggled’ into sociology; in other words, a ‘profession’ is neither a natural group of people nor a neutral term. Rather it ‘is the *social product* of a historical work of construction of a group and of a *representation* of groups that has surreptitiously slipped into the science of this very group’, which is then used to justify its monopoly of certain societal tasks. Moreover, the term hides differences among the members of the profession, whether derived from socio-economic status, gender or race (Bourdieu and Wacquant 1992: 242).

## V. REVISITING LAWYERS IN SOCIETY IN A NEW WORLD ORDER

The decision (taken in 2014) to revisit the Abel and Lewis project was stimulated by the unprecedented scale of the material changes of the previous three decades and the theoretical work they inspired, sketched above. However, these developments also accentuated the difficulty of devising a workable concept of profession. Yet, despite the destabilising impact of 30 years of denationalising processes, both national and international socio-economic orders continue to rest on lawyers' traditional function of negotiating the interchange between social relations and law. The legal professions' scientifically grounded form of esoteric but socially useful knowledge (Olgiati 2010) equips them to contribute solutions to the social 'co-ordination problems' (Finnis 1980: 245–52) generated by the increasingly complex structural and functional differentiation characteristic of the new orders. Furthermore, the professions' claim to exercise key social functions remains an active property of the field, while the capacity to perform these functions rests on social recognition (through state certification) of lawyers' special knowledge and fitness to practise (Parsons 1954a; Freidson 1970). We therefore adopted the original project's definition, which was based on functions and credentials. However, the question of definition is a central theme of this project: the contingency of professions and professionalism is related to their shaping by contests over systems of meaning – and their functions and credentials are only one part of these contests.

Our sample comprised 46 jurisdictions, drawn from all over the world. It therefore encompasses countries that have experienced multiple ruptures – from colonialism to independence, communism to capitalism and civilian to military rule – as well as tensions between secular and religious law and authorities, and includes countries drawn from both common and civil law traditions. This variety required us to allow contributors to develop research questions appropriate to their particular jurisdictions, a 'federated' research strategy which, emulating the original project, was grounded in 'the notion that ... comparative work should consist of research separately conducted in different countries, but taking into account common concerns and following common guidelines' (Felstiner 2005b: 1). In order to foster this coherence we therefore also asked all authors to address the following research questions:

- What is the contemporary relationship between the international order, the state, market, civil society and law and lawyers?
- How has this relationship changed over the last 30 years?
- What forces have produced that change?

These generated a number of subsidiary questions related to the developments outlined above. In addition, in order to facilitate comparisons, our authors were asked to include data on certain fundamental issues, such as demographic profile and size of the profession.

As the project progressed through regular meetings at international conferences our contributors raised other themes which their research was disclosing. These included: the capitalisation of firms; their transformation into service industries and penetration by managerialist discourses; the trend to outsourcing and increasing casualisation of the working conditions of many lawyers and increase in paralegal labour; the use of women and other non-normative lawyers as a sub-professional, transient labour force;

the intensification of work; changing modes of regulation; the decline in public deference towards the profession; and an erosion of access to justice (both civil and criminal).<sup>24</sup>

These, then, are some of the issues and themes that contributors to this volume have considered. Some hewed closely to our research agenda, but others followed their own theoretical and empirical interests. We see this as a strength, since it highlights the socio-institutional complexity and contingency of different jurisdictions and the significance of their histories in shaping their articulation with global capital and the reconfiguration of their professions. Yet all the national reports indicate that the forces of globalisation and neoliberalism, together with other macro-level developments such as technological innovations and the disintegration of cultural or national bonds, have ruptured state-centric governance and traditional understandings of lawyers' functions and credentialing. Nevertheless, the data also demonstrate the profession's retention of its socially constitutive role, as activists, moral entrepreneurs and brokers between TNCs and domestic state or private companies (Dezelay and Garth 2011). Much of the data is presented in Richard Abel's conclusion to this volume (2020). In a rich, theorised synthesis of the differences *among* countries (drawn from both the 1988/89 and the current sample), *within* them and *over time*, he focuses on fluctuations in the profession's size, their causes and the profession's response. Considering both supply and demand factors, he analyses the numbers of lawyers; their growing diversity; how they are 'made'; how competition is controlled and the structures of practice (including the decline in solo practice and the increase in the numbers of large law firms). His discussion encompasses variations in policies towards the surge in foreign lawyers as a result of globalisation and the growing competition from non-lawyers. The chapter is another rich contribution to the historically informed structural tradition initiated by Weber.

However, Weber's sociology also engages with rational action and the complex composites of calculative and value rationality, affective and habitual action, which enable actors to make sense of their activities in the social world. The thick descriptions contained in the country reports make this lens for viewing legal professionalism particularly attractive. Together with Geertz's semiotic understanding of culture as, following Weber, a web of inherited conceptions of social relations, institutions and discourses in which everyone is suspended (1973: 89), and Bourdieu's theory of cultural practice, this perspective permits an understanding of the practice of segments of the profession and individual lawyers as counter-hegemonic and value-driven.

In the following discussion based on data from this volume's chapters<sup>25</sup> we bear this perspective in mind, seeking to illuminate aspects of both structural and cultural changes of the last 30 years. While the data underline the fact that there is no typical country, our authors' responses to our research questions disclose patterns resulting from, for instance, shared histories and common legal systems.<sup>26</sup> We identify these patterns by sketching

<sup>24</sup> Our methodology is discussed in depth in volume two (Hammerslev and Sommerlad forthcoming).

<sup>25</sup> References to the data chapters are made without full citation beyond the authors' names.

<sup>26</sup> These shared histories and legal systems determined our categorisation of countries, which is thus intended to facilitate comparison (which will be done explicitly by contributors to the second volume and, we hope, encourage readers to do the same). We recognise that all categories are potentially over- and under-inclusive. For instance, Nigeria's legal system could have been placed in the Anglo-American law category; both Asia and North Africa and the Middle East are very diverse.

some of the most striking aspects of the relationship between different geo-political groups of states and the global order, including the periodisation of individual states' embrace of globalisation and neoliberal policies and the primary mechanisms deployed to liberalise their economies and professions. We then discuss the data on corporate law firms, their key role in the processes of globalisation, and the effect of this role both on their structure and logics and on the wider profession, including the relationship between their expansion and the profession's diversification. Finally, we consider how the above changes are crystallised in the legal education field.

## VI. THE DATA: VARIATIONS IN IMPACT OF GLOBALISATION

It is notable that the common law world was the vanguard in embracing globalisation and neoliberal policies. The UK<sup>27</sup> and US led the field, due in part to their histories as leading imperialist powers and the consequent dominance of the common law in global transactions and in part to the decline of manufacturing and their tradition of anti-statist ideologies (Gamble 1988; Hartz 1952; Somers 2008), which pre-disposed both states to neoliberal market policies. In economic and cultural conditions increasingly shaped by globalisation, they reconfigured the public realm, promoting individualism and entrepreneurship, furthering the privatisation and marketisation of both national industries and welfare provision, and accelerating the de-regulation of their legal professions. In England and Wales this extended beyond increasing competition among service providers, liberalising fee structures and ending the right to self-regulate: restrictions on law firm ownership were also removed, authorising Alternative Business Structures (ABSs) in which lawyers could practise with non-lawyers. Concurrently, the private client sector was weakened by further dismantling the profession's monopolies, and by 2014 the legal aid sector had been virtually destroyed. Though the US profession has not adopted ABSs,<sup>28</sup> its lawyers have been pivotal in globalising legal practice, creating new arenas of legal conflict, de-regulating economic activity, promoting corporate growth and leading the push to open new markets in areas of rapidly expanding legal business. Australian firms have also been leaders in the new global order, adopting ABSs and establishing law firms as public companies, while the state has cut back and reconfigured welfare. Although the Canadian profession is currently threatened with losing its monopoly over legal services provision and the number of legal outsourcers offering systematised, standardised, or routinised legal services is rising, it has otherwise been slower to adopt neoliberal policies; for instance, the Bar has retained its right to 'unfettered self-regulation' and multi-disciplinary partnerships are virtually non-existent. In Scotland, too, the profession has successfully resisted the extremes of liberalisation adopted in England and Wales, staving

<sup>27</sup> The UK comprises three jurisdictions: England and Wales, Scotland, and Northern Ireland; but the Supreme Court of the UK is the final court for interpreting law for all three. The UK government also retains its primacy; however, the limited devolution of power to Scotland and Northern Ireland enabled their governments to pursue less neoliberal policies in some arenas such as higher education and also with regard to the legal services market. Most of the reforms of the English profession, therefore, were not applied to the Scottish profession, which has generally resisted liberalisation. The two jurisdictions are discussed in separate chapters.

<sup>28</sup> Reflecting the conservatism of the non-global/non-international firms which comprise the large bulk of US firms, tend to dominate the ABA, and rely on a deep domestic market.

off the threat of ABSs by stressing the vital importance of professional independence. In all these states progressive policies on some human rights issues (eg LGBTQ<sup>29</sup>) co-exist with the dismantling of collectivist welfare policies.

The statism of the civil law professions and traditions of other Western societies made them initially more resistant to the market imperatives of globalisation. Italy has been described as a case of exceptional resistance. Micellota and Dorian write that its profession's 'most enduring characteristics ... are products [of nineteenth century] institutional upheavals', resulting in a 'complicated relationship between the state, professional associations, and legal professionals'. The political, social and economic traditions of both France and Germany also generated strong resistance to liberalisation and de-nationalisation and the marginalisation of welfare. However, by the end of the twentieth century the reconstruction of capitalism in the absence of colonies – through globalisation and neoliberal policies – had become fundamental to the European Union project, driving the creation of an internal market for legal services and requiring member states to adopt liberalising measures. Bessy and Bastard report the transformation in France of societal rights into conditional benefits, just as the growth of finance capitalism and economic globalisation was making law more procedural and complex and, in tandem with the 'juridification' of social relations and expansion of alternative dispute resolution, increasing the complexity of the types of practice and organisation in law firms. Similar patterns are reported elsewhere in Western Europe. Hammerslev narrates the ideological shift in Scandinavia towards neoliberal policies focused on austerity, financial control, and efficiency, reconfiguring the welfare state through market solutions. Boni-Le Goff et al recount how globalisation and the interdependence of national and international economic regulations have generated dramatic changes in Swiss legal practice, ranging from the ending of regional jurisdictions, the concentration of law firms, new forms of legal practice and competition from other professions, to the internationalisation of corporate management and relative decline in the centrality of lawyers and law graduates in the economic and political spheres. Van Houtte et al describe the growing hegemony of market discourses and de-regulation in Belgium and how the disintegrative impact on the profession mirrors wider social polarisation. Doornbos and de Groot-van Leeuwen comment on the increased hybridity of the Dutch legal services market<sup>30</sup> resulting from mergers and associations of law firms with other legal service providers and the emergence of other service providers (eg accounting firms opening legal departments). By contrast, sole practitioners and small firms are still predominant in Germany, whose profession appears to have resisted 'Europeanisation', largely preserving its 'guild-like' status.

The impact of neoliberal globalisation in other parts of the world suggests that there is *some* validity in the link Fukuyama (1989) posited between free trade and the spread of Western style democracy – or at least a thin version of the rule of law (Raz 1977). Although the predicted 'spillover' between laws designed to produce economic liberalisation has been limited, the data nevertheless suggest that the twin prongs of this stage of

<sup>29</sup> LGBTQ: that is lesbian, gay, bisexual and transgender; the Q stands for either queer or questioning.

<sup>30</sup> The description of the Dutch legal services market as increasingly hybrid is broadly applicable to all of the societies described above (and we discuss this in more detail in the next section) and the data suggest that it has even more relevance in other parts of the world.

imperialism – the pressure to open up to global capital combined with a discourse that links capitalist penetration to the rule of law and human rights – have, in some jurisdictions, generated a move towards a more substantive rule of law. Despite the evidence that where democratic measures have been implemented their impact has been relatively superficial, the data suggest that their provision of a vocabulary for contestation has stimulated resistance to state oppression by groups of lawyers, sometimes at risk of severe repression.<sup>31</sup>

The varied nature and impact of liberalisation and globalisation and the relevance of previous power structures are clearly illustrated by the former Soviet bloc's integration into the new global order. The fall of the Soviet Union inaugurated a dramatic intensification of globalised, financialised capitalism, which – as elsewhere – both facilitated great material progress and generated huge levels of economic inequality. Throughout the region, driven in large part by foreign investment in legal assistance projects and the ingress of American and British law firms, domestic lawyers were transformed from Communist Party cadres into independent practitioners, and new Bar associations were established, based on Western organisational models. The commercialisation of legal services in Russia is described as 'intense', leading to a proliferation of unlicensed practitioners who provide their services through commercial entities like limited liability companies and individual enterprises while lacking any professional attributes, such as educational and work credentials, an ethical code, licences, associations, or even a specific title. This swift embrace of the principles of economic rationality, marketisation, and neoliberalism, displacing the principles of equality and solidarity, also characterised Serbia, whose 1988 Law on Advocacy created a marketised legal profession, thereby transforming it into an independent field based on new logics and practices. The change to a market based system in Poland is depicted as having been a huge challenge. For many lawyers it marked the beginning of a boom period with an increased need for their services, leading to a significant increase in the number of qualified lawyers and the supply of legal services. For others, however, it entailed a transition to another legal profession or even an end to their legal careers. Access to justice is also extremely limited, with the free legal aid serving less than 3 per cent of eligible citizens in its first year.

Although independent judiciaries and other rule of law features were adopted throughout the region, these reforms have been largely subverted (eg in Poland, following the election of the Law and Justice party). Moreover, the kleptocratic setting into which Western legal forms were sometimes introduced (eg in Russia) has facilitated the use of law as an instrument not simply of capitalist development but also of dispossession. The Czech Republic provides another illustration of how insertion into the global system generated unregulated and highly predatory forms of capitalism and legal practice. Its high inward rates of return swiftly attracted foreign investment, leading to the privatisation of the entire economic and property sector as well as the bailiff's profession. The vigour with which bailiffs now pursue debt collection is reported to be exacerbating the

<sup>31</sup> See eg Koskenniemi 2005. This emphasis on the Janus face of law – which does not simply mystify and apologise for power, but also holds out the promise of constraining it – echoes EP Thompson's description of the rule of law as an 'unqualified human good' (1975). The law's ambivalence is mirrored in the contradictory yet symbiotic relationship between the profession's 'aptness for justice' (Green 2008) and the fact that it is a commercial and status project.

vulnerability of private citizens resulting from the dismantling of the formerly extensive welfare system.

There are parallels between the adjustments made in the former Soviet bloc following its opening to the global economy and those adopted in China and Vietnam (which remain communist). The revival in 1980 of the Chinese legal profession, based on the Soviet model, made all lawyers state employees. However, from the late 1980s to 1999 the Chinese Bar was transformed into an almost fully private profession. As in Russia, modernisation and economic growth rather than political liberalism drove the reforms. Restrictions on handling ‘Chinese legal affairs’ limited foreign law firms’ expansion, stimulating the development of local firms, and the lawyer population virtually tripled between 2000 and 2017. However, politically embedded lawyers continue to enjoy significant advantages in their practice, including greater business opportunities. It is anticipated that the ‘Belt and Road Initiative’ (launched in the mid-2010s) will mean that more Chinese law firms will become global. In Vietnam, the impact of increasing integration into the global economy on demand for legal services and law’s role in state governance led to some institutional restructuring, including constitutional reform and commitments to human rights. Nevertheless, as in China, the party-state retained leadership of economic, political and legal institutions.

This state-centric model of development is the norm throughout the region; one of its primary functions is to manage the articulation of two apparently contradictory modalities of social relations: pre-modern, patron-client relations of reciprocity (such as *guanxi*), manifest in the significance of political embeddedness, and the development of Anglo-American style professions and rule of law reforms. The Indonesian profession is exemplary: on one hand, globalisation has promoted human rights, stimulating public interest litigation and civil society organisations while also generating the growth of the sector that serves the globalised world of investment, business and finance; on the other, the traditional ‘fixer who cares little about law and uses any means, including bribes and thugs, to resolve the client’s problem’ remains a feature of the profession. Kouwagam and Bedner present this divide as characteristic of developing countries – although, as the reports indicate, it has various manifestations. Myanmar has also seen both the emergence of lawyers who advocate for rule of law and social reforms (thereby risking imprisonment, physical harm and death) and, following the shift to a market economy in 2011, the establishment of the first generation of commercial lawyers and a corporate law market, which is described as the most crowded and least regulated market in Southeast Asia. South Korea’s incorporation into the US informal empire shaped its globalising policies from the 1980s, leading to the importation of American legal professionalism and consequent modification of traditional legal professions. At the same time, lawyers’ sense of social responsibility and commitment to the rule of law and human rights were stimulated by the ‘candlelight revolution’ against state authoritarianism: lawyers played pivotal roles, helping citizens understand the constitution and impeachment process and challenging those lawyers more closely aligned with state power.

The persistence of (layers) of Western legal imports also provides the basis for anti-authoritarian struggles even while they mould legal fields in the interests of global capitalism. Hong Kong exemplifies this pattern, which is found in other non-Western parts of the world. ‘Foreign’ or expatriate lawyers have long dominated Hong Kong; today increasing numbers are Hong Kong people, as China’s booming economy shapes

the evolution of the profession, inducing its glocalisation.<sup>32</sup> Although Thailand was never a formal colony, its early economic development was shaped by foreign domination, including the establishment of international firms (the first in 1894) by Western-trained foreign lawyers. This pattern of foreign ownership has persisted but in partnership with Thai lawyers and there has been a shift in international legal services towards Asia. The influence of the World Bank and IMF on Thailand's adoption in the 1990s of liberalisation and modernisation reforms highlights the imperialist role played by transnational entities in the Global South.<sup>33</sup>

Japan's trajectory is distinctive. US pressure in the early 1980s to liberalise and open its legal services market to American lawyers was resisted until the late 1990s, when the economy, especially finance, was deregulated. The increased demand for business lawyers led to a rise in the number of practising attorneys. By contrast, India was an early adopter of economic market reforms (1991), which made 'the Indian economy one of the fastest growing in the world'. Ballaskrishnen's description of the reshaping of the legal profession emphasises lawyers' centrality to this process:

The dramatic expansion of international trade and transactions, an essential by-product of this liberalisation, required new laws and regulations and, consequently, lawyers to implement them ... [O]ver the last three decades, India has seen the burgeoning of both new kinds of legal practice and new kinds of lawyers who could perform such transactions.

Many of the features and patterns of development described above – including the emergence of an external facing corporate/commercial/international sector and of human rights lawyers, and the struggles between those who challenge the state versus those who are politically embedded – characterise other non-Western states. For instance, our group of North African and Middle Eastern countries generally exhibit the co-existence of Western style professions and jurisprudence with Islamic systems and the conjunction of strong authoritarian states (albeit now collapsed in Libya), a profession that lacks autonomy, and close relationships between ruling powers and the state. The colonial legacy which marks this region is of course most evident in Palestine's subordination to Israeli control. Its mixed legal system comprises Jordanian law in the West Bank, largely derived from the Egyptian/French legal system, and British law in Gaza with some Egyptian-influenced legislation. This legal pluralism, professional factionalism, and the physical separation of the two regions delayed the emergence of a Palestinian Bar Association until 1999. A free trade agreement with the EU and the presence of some international firms, including major banks, link Palestine with the global capitalist order. There is also a strong global non-governmental organisation (NGO) presence, closely connected to the Muslim Brotherhood and including European countries' aid agencies.

Mixed legal systems deriving from the colonial past also co-exist with Sharia courts in Libya, Iran and Egypt. Libya exemplifies the pattern found in other resource rich economies, where the demand for lawyers generated by multi-national domination of the

<sup>32</sup> For further discussion of the concept of glocalisation, see Bauman 1998.

<sup>33</sup> As noted throughout this chapter, while the growth of international organisations was and continues to be posited as integral to the ongoing process of modern state construction on a broadly Western model, others conceptualise it as an extension of colonial domination, the latest form of imperialism (see eg Koskenniemi 2001; Pahuja 2011).

extractive sector unleashed a (limited) process of modernisation and secularisation of the legal profession, eroding the dominance of the Sharia courts in civil, criminal and family cases. However, Gaddafi's nationalist and socialist policies and consequent ambivalence towards Western-style modernisation and, by extension, 'modern' legal professions, generated contradictory policies, which included nationalising the profession in 1981. As a result, the domestic legal services market dramatically expanded and continued to grow during the final decade and a half of the Gaddafi regime, despite subsequent relaxation of the nationalisation policy. The concurrent rise in international investment following the lifting of sanctions led to a massive boom for firms serving the oil industry, dividing them from the mass of lawyers representing domestic clients.

The struggle in Egypt between secularism and Islam and the relapse into authoritarian rule following the demise of the Arab Spring have affected the legal profession. As elsewhere in the region, Egypt's legal system is a hybrid and its profession polarised between generalist private practitioners and the small minority of elite lawyers employed by American and British firms established after the 1980s privatisation reforms. However, relatively strong civil society traditions have generated human rights activity supported by humanist globalisation (for instance, the Center for Human Rights Legal Aid depends mainly on foreign funding). Human rights NGOs engage in disputes over labour and social and economic rights, and their lawyers suffer harassment and restrictions on their freedom of expression. The divisions within the profession (intensified by the increased power of the Muslim Brotherhood) are illustrated by the Bar association's failure to defend these lawyers or protect human rights, despite the association's long history of confrontation with the government in defence of the rule of law.

Tunisia's colonial legacy includes its French civil law system and secular tradition: Sharia courts are used only in some family cases. The tension between the liberal tendencies inherent in French law and the Ben Ali regime's authoritarianism stimulated the divisions found elsewhere in the global South between politically embedded lawyers who had enjoyed a virtual monopoly of state litigation, lawyers seeking to enlarge their market share based on their expertise, lawyers engaged in defensive cause lawyering (eg to end torture and protect workers' rights), and a small group specialising in commercial law, acting for American and European professionals who cannot settle in Tunisia or plead before Tunisian courts.

Islamisation of laws and legal institutions was a priority following the 1979 Iranian revolution: the new Constitution required all laws to be consistent with 'Islamic criteria', and the judiciary was replaced by Islamic jurists and clerics. After the end of the war with Iraq, repression of human rights and attacks on lawyers diminished, and defendants were granted the right to representation, though not necessarily by a qualified lawyer. The profession struggled to remain a civil society organisation, as clerics have repeatedly attempted to subordinate it to the Ministry of Justice. Nevertheless, a few corporate law firms exist, operated by small groups of international lawyers who are often educated and trained abroad, associated with foreign international law firms and deal exclusively with shipping and international trade law.

In Turkey, rapid economic liberalisation after 1983 was accompanied by the reorganisation and further centralisation of the state apparatus but also a growth of civil society; and the new century saw the most comprehensive legal reform since the early Republican period. Turkey's bid for EU membership generated further democratic and

market reforms, liberalising rules on advertising and opening the profession to competition in dispute resolution processes. However, Erdogan's incremental authoritarianism and the erosion of state-imposed secularism and rise in threats to judicial independence since 2009 have increasingly provoked clashes between the state and the legal profession.

While Israel's legal system is also a hybrid and includes Ottoman jurisprudence, it most closely resembles English common law. The country's wealth and advanced technology, intimate links with the US, and colonising policies make it unique in the region. However, its exceptionalism also rests on strong social democratic traditions that have made public interest lawyering an important part of the profession's identity.

The influence of history on the response to and relationship with global capital and neoliberal policies is also evident in Latin America, which is again characterised by mixed legal systems (generally borrowed from continental traditions and, more recently, the US), weak civil society institutions, and the importance of patronage. For instance, Böhmer explains how judicial careers in Argentina involve an ongoing exchange of favours, which are later translated into such privileges as the capacity to influence the appointment of law officers. Democratic and rule of law reforms have been impeded by US informal colonialism and military dictatorship; yet these reforms have also stimulated strong human rights movements, exemplified by participation in international instruments such as the Inter-American Convention on Human Rights. The transformation of the Argentinian political system following the end of the dictatorship in 1983 was particularly legal, constitutional, and lawyerly, generating corresponding changes in the profession and the law, including the nature, scope and litigation of rights. Public interest law clinics were established in Argentina, as they have been in Chile following its liberalisation over the last two decades, similarly transforming lawyers into spokespersons on rights issues. In Brazil, too, there has been an increase in rights groups and greater access to justice, delivered through the Office of Public Defender and the expansion of small claims courts.

However, globalisation's impact on the (legitimation) crisis of democracy is also reported: the growing importance of extra-national rule creation and enforcement has multiplied the loci within which legal professionals may act but simultaneously limited the regulatory capacity of domestic democratic institutions by allowing external deliberation. Bilateral and multilateral agreements in the areas of international trade and foreign investment under the aegis of transnational agents (World Bank, IMF, WTO, etc) have furthered this globalisation of public policy issues and consequent subversion of national sovereignty. In Mexico, for instance, GATT and NAFTA acted as constitutional substitutes for democratically elected political bodies, enforcing techno-political programmes, reinforcing dependent, subaltern relations with the US and Canada and opening Mexico to the global economy. As occurred elsewhere, liberalisation policies extended to the legal profession, leading to expansion, diversification and polarisation. Chile offers the most striking example of the region's dependent relationship with the US; as the testing ground for Chicago School economics under the Pinochet dictatorship, it occupied the vanguard of the neoliberal revolution and globalisation. The 1980s boom, based on mass privatisations and the ingress of numerous international investors, encouraged the development of large firms on the US model. By contrast, Brazil began liberalising and privatising its economy in the 1990s; thereafter, growing demand from TNCs for specialised legal knowledge initiated a rapid expansion of both the domestic profession and international law firms. The history of Venezuela and its legal profession resembles that of other

Latin American states in its asymmetrical relationships with global capital, oligarchic politics and struggles for democracy. As in Brazil, the abundance of natural resources led to an influx of TNCs and mega law firms in the 1990s. However, the intensification of inequality following the ‘Oil Opening’, together with human rights violations, led to the 1989 riots and, ultimately, the election of Hugo Chávez in 1998. The early promise of structural reform degenerated into an increasingly uncertain institutional landscape accentuating the need to ‘know who’ in order to conduct legal work. The legal profession (which, as elsewhere, has undergone, a dramatic expansion) extended along a spectrum from the international corporate sector to human rights lawyers and ‘revolutionary lawyers’ produced by government-sponsored law schools, and large numbers of Venezuelan lawyers have left the country.

Our African sample was also characterised by the co-existence of Western systems of law (facilitating the persistence of asymmetrical relationships with global capital) and traditional dispute resolution processes in ‘a fabric of pluralism’ (Aiyedun and Ordor 2016). In South Africa the role played by a handful of lawyers in the struggle against apartheid exemplifies the split between law’s functional significance for capitalism and the state and its capacity to act as a tool for and symbol of social justice (Abel 1995). However, the inequalities stemming from prioritising the drive to meet the demands of the global economy are mirrored in the divisions within the legal profession between the corporate and private client sectors. The failure to fulfil the post-apartheid promise of social democracy has stimulated the current de-colonisation movement, which includes greater efforts to diversify the profession.

The trajectories of the legal professions of Zimbabwe, Nigeria, Ghana and Kenya have been shaped by a range of factors. These encompassed indigenisation as governments sought to create national professions; oscillations between dictatorship and moves to establish liberal democratic institutions and the rule of law; political manipulation and patronage to control and destabilise Bar associations, causing intense internal friction and reducing lawyers’ moral authority; and the significance of both human rights and economic globalisation. For instance, the Zimbabwean report highlights the impact of the ‘democratic wave’ that supplanted military regimes, personal dictatorships, and one-party states across Africa in the 1990s and how this, together with the increased legitimacy and currency of human rights discourse, led to the rise of lawyers’ organisations focused on human rights. Lawyers also engaged in human rights struggles in Nigeria when, in the first decades following independence, the military harassed and detained them even while recognising their potential to legitimise military rule. The Kenyan postcolonial experience is also characterised by tensions between championing justice and the rule of law on one hand and the ‘bread and butter issues’ that require lawyers to respond to market forces and globalisation on the other. The unregulated nature of globalisation and the mixed benefits for the domestic profession are illustrated by the Nigerian report: while TNCs import legal services from international law firms (without regard for municipal licensing laws), this activity has nevertheless spawned a domestic corporate sector. In Ghana,<sup>34</sup> globalising policies date from early 2000, although President Nkrumah warned against

<sup>34</sup> JJ Dawuni (2017) ‘Lawyers in Ghana’, presented at the International Meeting on Law and Society, Mexico City.

this new imperialism as early as 1970. Dawuni recounts how neoliberalism and globalisation shaped the Ghanaian legal corporate sector, establishing a symbiotic (junior partner, subaltern) relationship with the growing numbers of multinational law firms, since, as in Nigeria, foreign lawyers cannot practise in Ghana.

Burundi offers an extreme example of the trends that characterise the legal field in the Global South. Dezalay explains how external interests and interventions have produced a patrimonial state built on ethnic affiliation and extraversion. She shows how this (typically colonial) intensely bureaucratic state contributed to the rising demand for lawyers and how massacres, wars and dictatorship generated formidable investment by NGOs from the mid-1990s, focused on reforming a justice sector seen as both a root cause of the 1993 massacres and a potential vector for peace and development. As a result, the domestic market suffers from ‘a double bind: dependent on and vulnerable to the volatile demand from international donors and organisations and weakened as a buffer between international diplomacy and a repressive government’. Dezalay’s conclusion, which highlights the ambivalence of human rights interventions (and see eg Sinclair 2015), applies – as she notes – elsewhere in the Global South:

the coupling of structural adjustment policies and political liberalisation echoed the contradictory dimensions of the impact of neoliberal globalisation found elsewhere in the world ... while opening the possibility of a domestic space for human rights activism attuned to the international market for human rights, liberal reforms in Burundi also deepened the capacity of the state to shape and neutralise political opposition.

## VII. ETHOS, LOGICS AND NEW INSTITUTIONAL AND SOCIAL STRUCTURES

As the above summary of the data indicates, international corporate law firms are primary engines of economic globalisation. They also act as vectors of cultural imperialism, transmitting neoliberalism’s market dogma and thereby, as Thornton and Wood note, profoundly affecting the structure of private legal practice, shifting its logics from professionalism (denoted as lawyers’ work autonomy, collegiality and public service) to profit maximisation, accentuating law’s business orientation, and generating its re-organisation according to contractual relationships or managerial hierarchies. The profession’s expansion and diversification are also related to this transformation. However, as the above outline of the data indicates, the degree and pace of the impact on private practice is highly variable, and change is also driven by other forces (such as the increasing complexity of society). Furthermore, some of the traditional claims of professionalism are still invoked by BigLaw (Muzio and Faulconbridge 2013). In this section we sketch the expansion of BigLaw and then consider some of the challenges this poses for traditional professionalism.

Thirty years ago, BigLaw was a US phenomenon (Abel 1989), but in 2015 just four of the world’s ten largest firms were US based. Nevertheless, US law firms were critical in furthering US imperialism, as Murayama’s reference to Americanisation illustrates. He recounts the demand in the early 1980s that Japan open its legal services market to US firms and how, following adoption in the late 1990s of deregulation policy, large

Anglo-American firms established offices in Tokyo. This pattern is repeated across the world. For example, global firms led by Baker McKenzie entered the Russian market as soon as the borders were opened. Corporate law firms operated by small groups of international lawyers (often educated or trained abroad and associated with foreign international law firms, and dealing exclusively with shipping and international trade law) exist even in Iran, as noted above.

This global dominance depended on the dramatic expansion of US and UK corporate firms over the last 30 years: by 2015, the UK corporate legal services sector accounted for more than two fifths of total turnover of the UK legal services market and included firms with over 550 partners worldwide, half of whose lawyers work outside the UK. While there are fewer international mega law firms in other Western countries (constraining the impact these firms have had on those legal markets), the twenty-first century did see their numbers increase: for example, by 2016, eight law firms in Canada had over 500 lawyers, two of which are merged with foreign firms, and the Netherlands (which has a long tradition of international firms) had 13 law offices with 100 or more lawyers, the largest with 301.

However, the growth of international corporate firms in China, reflecting its extraordinary economic boom, is now outpacing growth in the US, UK and other Western nations. The restriction on foreign lawyers handling Chinese legal affairs and practising Chinese law has supported this expansion. By the mid-2010s, there were Chinese mega-firms (modelled on UK and US global firms) with thousands of lawyers, and Liu describes how this expansion has continued in the years since then. For instance, in 2012 an elite Chinese law firm with more than a thousand lawyers announced a merger with a large Australian law firm with 800 lawyers, creating King & Wood Mallesons, and in 2015, Dacheng made an alliance with the global law firm Dentons, creating the largest law firm in the world with over 7,000 lawyers and more than 100 offices around the globe. With the launch of the Belt and Road initiative, China is now a major rival to Western-centric imperialism.

The ingress of international mega-law firms has stimulated the development or expansion of domestic corporate firms, which then work in partnership with BigLaw and shape the host state's integration into the global system. Protectionist regulation requiring foreign-owned firms to refer litigation to the domestic profession (as in China) is in weaker states either being diluted or abandoned (as in Thailand) or circumvented, entrenching the 'comprador' status of their firms. For instance, large foreign law firms (mainly from Austria) operate in Serbia through partnerships with domestic offices, which are *de facto* (if not *de jure*) their country offices. Nigerian firms subcontract unfamiliar subject matters to overseas law firms and then superficially comply with the Local Content Law requirement by rubber-stamping their work. Domestic firms are also used as sources of cheap labour, receiving outsourced projects from global law firms. Nevertheless, even junior partner corporate firms occupy a different domain from the rest of the national profession, which everywhere is divided into two hemispheres (Heinz and Laumann 1982: 319 ff; Galanter and Palay 1991: 1), exemplifying the dependent development that results from the spatially and temporally uneven processes and outcomes characteristic of, and functional to, global capitalism (Gregory et al 2009).

### A. Impact on Structure, Logics and Coherence of the Profession

Many reports describe how Anglo-American law firms have acted as conduits for a new form of profession: for example, Indonesian firms have adopted the Cravath model,<sup>35</sup> and Hammerslev notes the influence exercised on Danish firms by the ABA, lawyers who had worked in the US, management consultants and legal economists. Descriptions of the (interlinked) features of this new form of profession (such as the intensification of work, a commercial ethos, specialisation and technicisation,<sup>36</sup> the commoditisation of legal services, loss of autonomy, routinisation and stratification) recur throughout the data. Villalonga (describing Chile) writes of the departmentalisation of competences and the employment of large numbers of salaried lawyers and non-lawyers, facilitating the provision of services through scale economies.<sup>37</sup> Bonelli and Fortes similarly comment on the repetitive mass litigation of small claims in Brazil and note that it is accelerating the casualisation of professional labour. New regulatory forms – such as computational methods based on top down standardised procedural grids for assessing quality through algorithms and information technology – underpin these industrialising and de-professionalising processes. The displacement of the professional doxa of expertise and contextual knowledge, tailored to complexity and variability, by technicised, standardised knowledge is facilitated by new technology, and in many Western jurisdictions (eg England and Wales; the Netherlands) by the colonisation of the public sector by managerialism and penetration of the public realm by entrepreneurial discourses.

Evidently, traditional professionalism is also eroded by specialisation. As a key way in which professional expertise is becoming unbundled, specialisation compromises the ideal of equal professional competence and claim to mastery of the whole field. This in turn erodes the profession's capacity to establish and maintain the confidence of its clients, the state, and overlapping professions, thereby challenging the profession's legitimacy and ethics (Moorhead 2010). Specialisation also contributes to the field's internal differentiation, and hence its ongoing fragmentation. However, again there are wide variations in the extent to which specialisation is taking place; for instance, the data suggest that it is more marked in Germany than in England and Wales.

The threat to the profession's coherence posed by specialisation has been intensified by the incremental juridification of societies as a consequence of their increasing differentiation. Kalem illustrates this development in Turkey by pointing to the creation of specialised jurisdictions like consumer courts.<sup>38</sup> In England and Wales, juridification

<sup>35</sup> In the early twentieth century, the Cravath firm hired graduates from top universities on the understanding that they might progress to partnership after an extended probationary period (during which they would be assigned to a partner and/or specialised practice) or would leave (Galanter and Palay 1991).

<sup>36</sup> Technicisation is the shorthand term used in adult education to describe the shift to training professionals to perform their jobs as 'lifelong learning technicians', effectively renouncing the humanistic, critical and transformative dimensions of their work (see eg Broek et al 2010). See too Caserta and Madsen's (2019) discussion of how the processes of change associated with digitalisation are further accelerating the economisation and commodification of the practice of law.

<sup>37</sup> Though this is not always true; for instance the trend in Germany to specialised boutique firms is found elsewhere.

<sup>38</sup> Although the creation of multiple specialised courts in other substantive areas, such as family, juvenile, small claims and patent, is a longstanding and widespread feature of legal development, as society itself becomes more complex.

has greatly expanded (and differentiated) the legal services market and, together with liberalisation measures, exposed the profession to competition from non-lawyers, eg will writers. In France, lawyers also face competition from 'law-related' practitioners and accountants. In Russia, as in many other civil law countries, rather than a single profession, there are several discrete legal occupations administered by different agencies and following different professional rules, as well as practitioners who have no legal qualifications, all of whom compete in the legal services market. Other reports (eg Germany) focus on the emergence of highly specialised boutique law firms. In the US the last 20 years have also seen this development, as both the number of firms and types of expertise offered have grown: small groups of elite lawyers leave big firms to set up lower-priced, lower-overhead specialty shops, sometimes trading income for greater control over hours, fewer disqualifying conflicts of interest, and less formal work environments. Boutiques challenge large firm dominance in practice areas such as real estate, information technology, intellectual property licensing, defence-side employment, trial work, and complex litigation. Another developing form of practice, described in the Australian report, is termed NewLaw and entails remote-working technology, replacing the billable hour with alternative pricing structures, such as fixed pricing or risk-reward billing, and utilising cloud-based computing and storage systems, together with task-oriented apps.

The concentration of the new mega-law firms and their domestic corporate partners in one or two large (global) cities (and particular zones within those cities) represents a further dimension of professional polarisation and fragmentation. This pattern mirrors the generally uneven concentration of economic activity and wealth which has followed the 'unbundling' of the nation state (Urry 1989; Sassen 1999). The de-nationalisation of domestic corporate firms is also illustrated by their external referent; the decreased relevance of national professional codes of conduct (Loughrey 2011) and the firms' focus on international rather than national law creation – even while, as noted above, much of the law they practise remains national. This spatial concentration of the corporate sector is widely reported; for instance, in South Africa it is primarily located in Johannesburg, with the six largest firms (each employing 250–600 lawyers) based in the suburb of Sandton. In Zimbabwe, both corporate and private law practices are concentrated in the two main towns: 263 law firms are based in Harare and 41 in Bulawayo, while the other 111 firms are spread among 26 towns and cities. In Brazil, the growing presence of international law firms is concentrated in São Paulo and Rio de Janeiro. While China's size and the vibrancy of its regional economies mean that at least four or five cities boast a corporate legal sector, in many rural counties in western China non-lawyers are the main providers of legal services. The split in the Indonesian profession is more profound than those in most other jurisdictions. At one extreme is the modern corporate law firm in South Jakarta, whose professionals deal mainly with large foreign clients and operate according to international standards, serving the globalised world of investment, business and finance; at the other are the 'fixers', who deal with corrupt bureaucracies, incomplete registers, and inconsistent laws.

The mass ingress of women represents a further way in which the profession is fragmenting. Over the course of the last 30 years, the demographic profile of virtually all the professions in our sample has gone from being largely male to being diverse and in some jurisdictions, majority female. However, while in many jurisdictions women have developed professional niches to suit their needs there is nevertheless an intricate

reciprocal relationship between this numerical feminisation (and, to a lesser extent, ethnic diversification) of law graduates and practitioners and the profession's need for more labour, the de-composition of professional work, and its re-constitution into a number of hierarchically organised tasks. This relationship is reflected in the elongation of professional structures to facilitate this new mode of professional production and the disproportionate placement of women and other non-normative practitioners in lower level professional strata. The reconfiguration of professional work through the processes of standardisation and specialisation discussed above make possible this occupational segmentation and segregation; 'low value' work is allocated to different strata through outsourcing, on-shoring, subcontracting and the use of 'contract' lawyers on zero hours, fixed-term contracts. The reports overwhelmingly indicate that women (regardless of intersections with other identity categories) and, more recently, lawyers not drawn from the jurisdiction's dominant ethnic group and those from lower socio-economic groups are over-represented in the lower status specialisms in the large corporate firms and also in small, less profitable forms of practice. For instance: the execution of routine tasks in Brazilian corporate firms is highly feminised; while Chilean women have increased their participation in practice, they have not gained an equal share in the higher positions; the Belgian professional culture is described as deeply masculine; and the US report points to ongoing disparities in compensation, barriers to partnership, and higher exit rates from the profession, all of which they attribute to organisational structures and biases favouring men's success in private practice. However, women's increased presence has led some sectors of the profession in some jurisdictions (eg England and Wales) to develop diversity and inclusion initiatives designed to support caring responsibilities. Nevertheless, the data point to a number of mechanisms that enforce gendered divisions and serve to legitimate them, such as the impact of work intensification on work-life balance, which complements the concern with and maintenance of 'natural' gender roles (in Zimbabwe private practice is deemed too demanding for women), reinforced by breadwinner ideologies (Switzerland). There is also evidence of bullying and sexual harassment (eg South Korea; China; Australia; US), racism (eg England and Wales and the US), and misrecognition of class affinity as merit (eg England and Wales).

The profession is also fragmented in that alongside the corporate law firms there remains, in most societies, a predominance of small practices and/or sole practitioners, complicating the picture of BigLaw dominance.<sup>39</sup> The size of this sector is related to several factors, including a country's culture (this type of practice is traditional in many societies – eg Germany, Italy, and Tunisia) and the resilience of the private client market (related in turn to juridification). The commercialisation and consequent growth of legal education and individuals' social mobility projects have also led to a proliferation of lawyers (Katvan et al 2016), many of whom cannot find employment with the big firms. In South Africa nearly 40 per cent of attorneys practise alone; in England and Wales in 2016, 86 per cent of firms had fewer than five partners, and sole practitioners were the largest category of firms; in the US, 63 per cent of private practitioners work in very small firms (1–5 lawyers); in Canada in 2014, about three-quarters of all establishments

<sup>39</sup> Although not all sole practitioners practise alone; in some jurisdictions (eg England and Wales) some sole partners will preside over firms with other qualified lawyers/employees.

of lawyers and notaries with employees were ‘micro’ sized, with one to four employees; in Italy, where a substantial number of lawyers may never practise, only 4.7 per cent of lawyers work in firms of more than 10, while the majority are in studios of 6–8, and the kinship structure of business persists. In Denmark in 1998, more than a third of the nearly 1,800 law firms were solo practitioners, and only one per cent had more than 50 employees. In Tunisia, almost 90 per cent of lawyers are self-employed generalists representing individual clients and, to a lesser degree, enterprises; the few law firms (about 100 in 2010) containing 5 per cent of the Bar were often composed of just two or three lawyers, sometimes belonging to the same family, three-quarters of those firms with 1–4 employees. In Palestine, most lawyers practise alone, although some belong to firms, groups or companies; only 12 law offices are formally registered.

Cummings et al prefer to describe the contemporary US profession as ‘disaggregated’ rather than ‘fragmented’, arguing that this term better captures the differentiated impact of globalisation, technological innovation, and neoliberalism. Their argument – that this professional disaggregation mirrors the disintegrative impact of these forces on society and its occupational structures, creating a significant growth in inequality since the 1970s – applies to many other jurisdictions. However, as indicated above, the resulting fissures are cultural as well as structural. Commercialisation challenges the classical view of the profession as a discrete, bounded realm, a distinct occupational form with unique advantages over markets and business, and a value system that socialises new professionals and maintains, stabilises and legitimises the normative order of the state. Resistance to commercialisation features in several reports; for instance, in Brazil there is competition between traditional and new business elites. Boni-Le Goff et al recount how a declaration that law firm incorporation was compatible with the principle of lawyers’ independence exposed opposing visions of the profession in Switzerland. Other reports (eg Belgium) focus on concerns about the impact of the contractual relationships and managerial hierarchies which characterise highly stratified forms of practice on traditional collegiality and practitioners’ capacity to exercise discretion in decision-making and hence control the content of their labour. Bessy and Bastard reflect on the ways in which the collegial organisation and social networks enabled by the *Ordre Professionnel* encouraged cooperation among lawyers, essential to the development and consolidation of high professional standards, and how competition is eroding this positive externality and widening the divide between the business law and traditional Bars. The challenge posed by neoliberal regulatory regimes to traditional legal professionals in dispute resolution processes in Turkey is also framed as a threat to their values. Kalem’s account of how these regimes have entailed the introduction of a more ‘complex system of rules whose legality is more often than not assessed in terms of its technicality and only secondarily in terms of metaphysical legal concerns such as justice and legitimacy’ echoes our earlier discussion of the displacement of creative professional expertise by technicised, standardised knowledge.

But variations in the patterns and time frames of and resistance to the dissolution of traditional forms of professionalism are also visible. For instance, Micellotta and Dorian note that while Italian business law firms have started advocating for changes in organisational forms and professional rules in order to maintain their international competitiveness, Bar associations and other institutions constrain change by shaping professional practices and structures, successfully obstructing multiple attempts by

governments since 1994 to update and reform the codes, rules, and practices that regulate lawyers. The complex motivations behind these conflicts, the class struggles that underpin them and their relationship to different visions of the future and the power to make law are captured by Banakar and Ziaee's description of Iran as:

a clash between two legal cultures over the most valuable symbolic capital of the juridical field – the authority to determine the law – grounded in political conflicts between reformist political groups seeking the separation of state and religion and supporters of the hierocracy. What is at stake is no less than the future of Iranian modernity ... Our IBA attorneys are agents in the juridical field, competing with the judiciary for the 'monopoly of the right to determine the law' .... But they are also members of the middle class and the intellectual elite in Iranian civil society – a segment that continues to argue for the rule of law in a country organised under clerical rule in accordance with Islamic ideology.

### VIII. LEGAL EDUCATION AND STATE (RE-)CONFIGURATIONS

Since lawyers' capacity to perform key social functions rests on socially recognised certification of their special knowledge and fitness to practise, possession of credentials was one of the components of our working definition of profession. The key role played by legal education in the production and reproduction of social hierarchies and the conceptions and categorisations of professionals is underscored by the reciprocal and recursive relationship between changes in the educational field and the transformations of traditional professionalism generated by neoliberalism, globalisation and technological innovations.

The majority of chapters report a massive expansion of legal education. This is driven in part by governments' recognition of the centrality of the knowledge economy to success in the global order and in part by law's market appeal as an avenue of social mobility. Furthermore, because law degrees are cheap to deliver, they are very attractive to profit oriented higher education institutions. Expansion has therefore not only taken the form of increases in the numbers of public law schools but also has generated substantial private sectors. For instance, the 'virtually unstoppable demand for law places' in Australia has resulted in 40 law schools, several of which are private, serving a population of less than 25 million.

This increase in private legal education, facilitated by higher education deregulation and marketisation, is reported elsewhere. For instance in Mexico in 1970, 5,953 students were taking advanced law degrees; by 2003, they numbered 139,669. Russia offers an extreme illustration of unregulated private provision: any university can launch a law programme, and two-thirds of law students pursue their degrees through correspondence courses involving minimal classroom attendance. Alongside this 'Wild West education', mirroring the disaggregation of the profession, is the separate system for state legal professionals and other lawyers (for example, law schools whose students are trained specifically to work for law enforcement agencies).

This disaggregation is widespread, but its form varies. For instance, in Chile the types of school are shaped not only by the range of markets (affecting enrolments, whether classes are day or evening, quality of the professoriate and socio-economic background of the students) but also by traditional political or religious affiliations: the Universidad La

República is linked to the Masonic movement and Universidad ARCIS to the Communist Party. The significance of tradition in legal education is evident elsewhere. For instance, Kober describes how Czech students are overwhelmed by historical and theoretical disciplines including legal history, Roman law, legal theory, and legal philosophy. The Turkish curriculum is highly positivistic and doctrinal, despite recent (cautious) ventures into private legal education. Nevertheless, in general classical models of education have been or are being eroded. In many jurisdictions this erosion was originally driven by the egalitarianism generated by the 1960s/70s civil rights struggles – for instance, in the Netherlands, Latin and Greek ceased to be entrance requirements in the 1960s. By the 1990s a more common driver of change was the need to harmonise jurisdictions with the global order by adopting (usually) American models of education. In South Korea, growing military, diplomatic and economic ties with the US led to the replacement of a Japanese model of legal education by a US model. Similarly in Japan, US style law schools were adopted in order to qualify students for globalised legal practice (although this change is now being reversed); and in the late 1980s, India established a ‘Harvard of the East’, supported by wide range of institutions and external agents such as the Ford Foundation, with the explicit aim of achieving global competitiveness.

However, legal education is also central to state-building projects. This is most evident in Africa, where legal education policies were shaped not only by the pressures of international capital but also by the need to reconfigure the state following the end of colonial rule, leading to the establishment of law schools and a drive to create an indigenous profession. For instance, the University of Zimbabwe enrolled more black students in order to weaken the dominance of non-black lawyers. At independence in 1957, Ghana had no law faculties; one of the first acts of the post-colonial government was to establish a Department of Law, the first in sub-Saharan Africa (outside South Africa). The tenth Ghanaian law faculty was opened in 2014.<sup>40</sup> Colonisation had similarly offered limited educational opportunities for Libyans, but the growth of the oil sector following independence in 1950 stimulated a demand for lawyers (mainly driven by foreign companies), leading to the founding of the University of Libya in 1955 and the emergence of a secular legal profession. However, the Libyan report also reveals the persistence of other forms of legal education as non-commercial legal issues continued to be settled by traditional or Sharia courts presided over by tribal authorities. Law schools were prohibited under the Israeli occupation of Palestine; the first year after it was established, the Palestinian Authority founded a law school, and there are now 11. Venezuela also demonstrates the centrality of legal education to state construction projects: under Chávez, new public universities were launched and the curriculum infused with political ideology to create loyal state bureaucrats. This significance of education as a political site is underscored by the closure in 1988 of all universities in Myanmar following the military coup. The University of Yangon did not reopen until 1993, when the military introduced a strategy of expanding higher education, including law. Similarly, in post-unification Vietnam the need for legal expertise in state building led to the reopening of law schools in the late 1970s. These links between major political shifts (and related changes in legal systems)

<sup>40</sup> JJ Dawuni (2017) ‘Lawyers in Ghana’, presented at the International Meeting on Law and Society, Mexico City.

characterise developments in legal education in other jurisdictions. In Bosnia and Herzegovina, for example, legal education has been deeply affected by the radical transitions between Sharia and civil law, socialism and capitalism.

Even in those parts of the world that have not suffered the sorts of major disruptions described above, the centrifugal tendencies generated by neoliberal globalisation have influenced the direction of legal education policy. For instance, Canada has implemented legal education reforms with the aim of restoring a ‘sense of common cause and common culture amongst new entrants’; and Paterson and Robson describe how Scotland has resisted the extreme market model of education adopted by England and Wales in favour of a more consensual (neo-contractual) model. The aim of building a ‘supra-national’ entity prompted the harmonisation of the European educational market, although the reforms were motivated less by concerns with social solidarity than with economic reconstruction. As Doornbos and de Groot-Van Leeuwen note, their primary objective was to make ‘European higher education more competitive with other world regions’ and thereby impede domination by BigLaw. As a result, 29 European countries created the European Higher Education Area (EHEA) and implemented the Bologna model of a three-tier structure. However, although Bologna also aimed to facilitate European cultural and legal interchange,<sup>41</sup> the impact of national traditions is again apparent, exemplified by Germany’s and Norway’s retention of their own models. The distinctive system of German legal education, centred on the concept of the *Einheitsjurist* (unified jurist), continues to entail training students in the Roman law tradition with a focus on doctrinal law.

Shifts in the curriculum reflect these multiple drivers of educational change, some of which pre-date the 1980s. The social democratic dimension of legal education’s expansion, in part a result of the late 1960s/70s civil rights movements, generated critique – in some Western jurisdictions – of legal positivism and the development of socio-legal, critical and feminist studies, courses which addressed almost every field of social activity, and a focus on professional skills. This flowering of socio-legal scholarship is attributable not only to social democratic rationalities but also to the increased significance of human rights, legal education’s contribution to increased political activism, and struggles against theocratic powers and colonial legacies. The general expansion of legal clinics (eg in South Africa, Palestine, Turkey, Argentina, Chile, Germany, the Czech Republic) is also connected to this move away from the traditional positivist focus; but their perceived capacity to fill some of the gaps in the provision of legal services following cuts to legal aid has provided another reason for their popularity. The spread of the clinic movement is also due to the influence of US models of legal education, exemplifying their role as a key vector of imperialism, transmitting Western forms of law and values (including entrepreneurialism and individualism). The Canadian report describes the increased use of clinics as representing a shift in pedagogic practice away from an ‘intellectual approach to law’ and towards ‘experiential learning’, making graduates ‘ready to practise’ when leaving law school, and suggests that they thus form part of the move away from the apprenticeship model of learning, which underpinned traditional professionalism. The emphasis on experiential learning can also be linked to a utilitarian conception

<sup>41</sup> According to the four pillars of the European Treaty, here: movement of labour.

of education, the corollary of its commodification and the related ‘mercantilization of knowledge’ (Lyotard 1984: 51).<sup>42</sup> England and Wales illustrates how this has driven curriculum change focused on enhancing employability/entrepreneurialism and privileging the teaching of skills and ‘appropriate’ values and an increased focus on commercial law.<sup>43</sup>

Doornbos and de Groot-Van Leeuwen also report a shift to commercial law in the Netherlands; from the end of the 1990s there were cutbacks in education funding, a backlash against the democratisation of the legal curriculum, and a reversion to the narrow positivist focus on civil, criminal, constitutional, administrative and procedural law, supplemented by international and European law. This policy of educational expansion and greater accessibility combined with inadequate funding is reported elsewhere. Doornbos and de Groot-Van Leeuwen argue that it indicates the co-existence of a ‘leftist’ agenda of access with a ‘rightist’ agenda of cuts. Alternatively, these two dimensions may be seen as reflecting the conjuncture of the neoliberal market ideology of category-blind meritocratic selection processes and global capitalism’s need for skilled labour, with education’s commodification and hence the withdrawal of the state from responsibility for its funding. This latter interpretation is supported by the clear correlation between enthusiasm for neoliberal policies and the marketisation of higher education and imposition of fees. Thus, in states which have generally been slow to liberalise, the public sphere funding regimes have been unaffected; for instance in Germany, Scandinavia, France, Slovakia, Serbia, the Czech Republic and Austria, higher education is free for EU citizens, and other countries (for instance Switzerland) have very moderate fees. However, both Australia and England and Wales have instituted high fees, with a concomitant shift to a user-pays regime comprising government-funded, low interest loan schemes and income-contingent repayment, and across Canada law school tuition doubled between 2006 and 2016. The resulting rise in high levels of student debt is justified as engendering individual responsibility and has reinforced the importance of employability in the curricula and intensified the stratification of legal education. The expensive, elite institutions tailor their education to serve the global world order, and their graduates occupy a different space from graduates of middle and lower tier institutions. These inequalities have then been accentuated by the creation of international markets, particularly located in the US, UK and Australia, and the high fees charged to international students in the UK and Australia.

This disaggregation and stratification of legal education can also be interpreted as a reaction by elite groups and institutions to the threat to their social and cultural capital posed by educational expansion and the usurpatory projects pursued by non-normative groups (Witz 1992). The data indicate that the diversification of legal education has been a virtually universal trend, primarily in the form of an exponential increase in the number of women students – whose low social standing evidently threatens the profession’s status. This is most clearly illustrated in Myanmar where feminisation of the profession (women *already* make up a majority of the legal profession, a majority of judges and *all* law professors) has been part of the military’s strategy to reduce its status. In most Western

<sup>42</sup> Grounded in turn in the neoliberal economisation of the public sphere (Brown 2015).

<sup>43</sup> But see Francis (2015) for a nuanced evaluation of the increased significance of employability in the curriculum in England and Wales, where the shift to commercial law may be largely designed to cater to international students.

jurisdictions the percentage of women law students has equalled or exceeded 50 per cent for several years (for instance, in Australia, England and Wales, Poland and Belgium). This pattern is also found in Latin America; for example, in Mexico female students rose from 33.3 per cent in 1985 to 48.1 per cent in 2000, reaching 50.1 per cent in 2015. It is clear that diversification in terms of socio-economic background and ethnicity is also taking place. However, the data show that poorer and ethnically diverse<sup>44</sup> students are concentrated in low status schools, and the asymmetrical terms on which these ‘outsiders’ are included are legitimated by the stratification of the institutions from which they graduate. Katvan et al apply the two hemispheres metaphor to Israeli legal education, which is then reproduced in the profession. A similar divide characterises Venezuelan legal education: out of its 26 law schools, just two attract the best students and professors; they offer a curriculum that includes foreign language skills and problem-based learning, and their graduates constitute the vast majority of the corporate legal sector. This link between educational stratification and the bifurcation of careers is widespread. For example, Chilean legal education is described as a hierarchical market of law schools and programmes, reflecting the social capital and skills of students and instructors, thereby reproducing the profound segmentation of primary and secondary education. In Brazil, too, despite both dramatic expansion and the adoption of affirmative action policies, higher education is deeply stratified. Indonesia reports enormous status differences among its more than 300 law faculties; students seeking to enter a corporate law firm must attend one of the two most prestigious state universities or a few expensive private universities. It appears, therefore, that everywhere massification is shaped by pre-existing social hierarchies; for instance, there is a clear correlation between the status of Belgian institutions, their intake from higher socio-economic groups, and the success of their graduates in the legal labour market. The role played by this stratified system in reproducing social hierarchies, while apparently offering the possibility of social mobility, is formalised through national and international university league tables (eg US, UK, and Australia).<sup>45</sup>

In summary, the data underline the intimate relationship between the changes to legal education and legal professions across the world in their response to neoliberalism and globalisation. These forces have produced a system stratified in a way that responds to the needs of deeply polarised national professions, despite the evidence that diversity and inclusion initiatives and human rights and rule of law issues are important features in many law schools. The traditional curriculum and teaching methods in the most disadvantaged parts of the system have generally been modernised (and Westernised in the Global South and Asia), standardised, and technicised and involve transmission to large numbers of students, sometimes conducted on-line, completely free of regulation. By contrast, while the most prestigious parts of the system are oriented towards the global order and thoroughly modernised, some have retained elements of the classical curriculum and include foreign language courses and in-depth instruction, all of which represent

<sup>44</sup> This patterning is, however, very nuanced: ethnicity is as an extremely fluid term and its intersection with other categories, particularly class, accentuates pre-existing ethnic hierarchies. But although higher class minorities, and also women, are more likely to attend high status schools, the demerit of belonging to an ethnic minority or being female tends to undermine the advantage of attending a prestigious school.

<sup>45</sup> Again we see a difference from some civil law countries; for instance in Germany rankings featured in tabloids for a while but were found not to work.

valuable cultural capital. However, a unifying feature of both hemispheres of the education system is the capitalist logic which now informs them and their shaping by the global legal order.

## IX. CONCLUSION

The legal order was the key capability for the development of the Western nation state and the inter-state system, making law the ‘cutting edge’ of Western imperialism (Chanock 1985). Yet law is also central to state construction in former colonies (both formal and informal). The characteristics that equipped it for this role included the grounding of the profession’s expertise in formal training and credentialing (that is, in achievement rather than ascription); its (relative) autonomy from state, society and capital and the law’s related ‘eternalisation’ (Bourdieu 1987) and connection to the ideals of liberty and justice. All these interlinked dimensions, which underpinned the profession’s legitimacy and ‘social magic’ (Sommerlad 2015), were eroding by 1988 as the institutional forms of both nation states and the global order were transforming. Since then the rate of change has been exponential and, as the conceptive ideologists (Cain 1979) and agents of neoliberal global capitalism, (some) lawyers, supported by technological innovations, have been central players in this transformation. As a result, the contemporary legal field is everywhere splintered and the meaning of the profession contested. As the data indicate, such fundamental traditional characteristics as professional autonomy (and the illusion of objectivity) have eroded, and the doxa of the legal field has been challenged by the discourse of entrepreneurialism, which has re-shaped the logics and organisational practices of the corporate legal sector, and, in many jurisdictions, marketised the legal academy.

The national chapters attest to these transformations. However, even while they depict socially constitutive roles played by the profession (both nationally and internationally), they also reveal the inflection of these transformations by pre-existing socio-structural capacities in the national fields of power, exemplifying specific dynamics which shape the profession across time and space. The result is a fluid, ‘messy’ social reality (Law and Urry 2005). The data reveal other continuities; for instance, how – despite the struggles of subordinate groups – the profession remains patterned by social hierarchies and instrumental in their reproduction, and yet how traditional ideals of justice, equity and the rule of law continue to inspire some lawyers, who are prepared, at great risk to their lives (or livelihoods), to struggle for social justice.

Our aim in this project, as in the 1988 collection, was to explore these transformations and continuities through a comparative, connective sociology of contemporary legal professions, thereby contributing to a deeper understanding of their current forms, meaning(s) and roles. This chapter’s outline of the reports’ accounts of the key consequences of incorporation into the global order and impact of neoliberal rationalities cannot do full justice to their rich data, which, like the original collection, represent a resource for further research. Although each report can be read alone, their riches will unfold only when read together.

The reports did not devote much space to the global financial crisis of 2008–09 and subsequent worldwide recession. Yet the crisis can be directly attributed to the interlinked processes of globalisation, liberalisation, financialisation and new technologies – processes

in which, as we have noted throughout this chapter, corporate lawyers are deeply implicated. It has been predicted that the crisis will be ‘known as an inflection point in world history because of huge revolutions under way in the world’, which make ‘this an electrifying time to be in the legal profession’ (Minow 2010). Wald (2010), writing about the US profession, describes the immediate impact of the economic meltdown as devastating; however the ‘huge revolutions’ clearly extend beyond such effects as ‘unprecedented layoffs’.<sup>46</sup> Birch (2017) speaks of a challenge to both market liberalisation, including from the IMF, and financial globalisation. However, the most striking aspect of the major political-economic shift resulting from the crisis is the resurgence of nativist ethno-nationalism in much of Europe, the US, Australia and Brazil, where it challenges the rule of law (described as at risk in the Netherlands). As austerity continues to bite, the position of populist politicians appears to strengthen, and the political tone hardens on issues such as immigration, security and law enforcement. It seems likely that continuing global instability, the climate crisis and consequential resource scarcity will produce further mass human displacement, which in turn will fuel populist movements (Semple 2019) – a scenario which raises new questions about the potential role of the profession.

The ongoing impact of the financial crisis, the related policies of austerity and increasing precarity in labour markets and the implications for liberal democracy and the profession thus form the backdrop to Volume Two, which will include a chapter on the rule of law. The volume will generally deepen the insights revealed by the data reported here by comparing central features of the impact on lawyers of neoliberal globalisation, and the development of new technologies such as AI, and will consider themes which refer back to the original collection and which are central to understanding how law and the profession have developed during the last 30 years. It includes chapters by the most eminent legal profession scholars comparing legal professions within rubrics (Africa, Latin America, the Islamic world, emerging economies, and former communist regimes) and addressing state production, regional bodies and international courts, large law firms, access to justice, technology, legal education, ethics and regulation, casualisation, cause lawyers, corruption, gender, masculinity, diversity, and sociologies of the legal, medical and accountancy professions. It is our hope that, taken together, these two volumes will inform and challenge our conceptions of the contemporary profession, stimulate and support further research and – at best – encourage reform.

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<sup>46</sup>See Bellini and Maestripieri’s discussion (2018) of how the crisis has magnified pre-existing trends within the professional labour market.

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