

Reformers or Reinforcers: an exploration of how legal educators perceive their role and its relationship with the legal profession

The aim of this study was to explore legal educators' perceptions of the evolving relationship between legal education and the legal profession. Through their work, do legal educators see themselves as positively influencing the development of the legal profession for the benefit of society ("reformers"), or as merely supporting and responding to what the profession says it needs ("reinforcers")? Using the jurisdiction of England and Wales as a case study, the authors conducted 30 semi-structured interviews and identified common themes using template analysis. The data suggest a crisis of identity, purpose, and empowerment within this legal education community. Few participants felt they had any significant opportunity to influence reform within the legal profession, with some rejecting outright the notion that this might even be an appropriate aspiration for legal education. By contrast, most believed that law firms had a significant and increasing influence on their curricula, though there was no consensus on the legitimacy of this power. The authors argue that – in the case study context and beyond – legal educators, regulators, and policy makers must proactively monitor and respond to the evolving power dynamics within legal education, to ensure that it maximises its value for society.

Keywords: legal education; legal profession; SQE; value; bildung; solicitor

INTRODUCTION

In September 2021, the Solicitors Regulation Authority (SRA) introduced radical changes to its qualification and admission requirements for what is by far the largest branch of the legal profession in England and Wales.¹ These changes included significant deregulation of legal education and the introduction of a centralised "Solicitors Qualifying Examination" (SQE).²

Whilst to a limited extent the Bar Standards Board continues to regulate the content of so-

¹ See 'Regulated population statistics' available at <https://www.sra.org.uk/sra/research-publications/regulated-community-statistics> (last accessed 14 February 2023) and 'Statistics on practising barristers', available at <https://www.barstandardsboard.org.uk/news-publications/research-and-statistics/statistics-about-the-bar/practising-barristers.html> (last accessed 14 February 2023).

² For an overview of the new requirements, see 'Solicitors Qualifying Examination (SQE)', available at <https://www.sra.org.uk/students/sqe/> (last accessed 14 February 2023).

called “qualifying law degrees” for aspiring barristers,³ on the face of it the SRA’s new framework would seem to offer legal educators in England and Wales greater autonomy to design and differentiate their courses, in order to maximise the “value” of these programmes.⁴ This raises an important question about the specific aspects of value that legal educators might choose to focus on developing in this new landscape.

In recent years, much of the rhetoric surrounding UK undergraduate degrees has had an economic flavour, with significant emphasis placed on the idea of students as consumers,⁵ who are each individually entitled to receive “value for money”, and there are examples of students now seeking to enforce what they consider to be their strict legal right to the same.⁶ However, arguably there is far more to the value of a law degree (or indeed a degree in any discipline) than simply its potential to help graduates secure lucrative employment.⁷ One potential aspect of this value is “community value”: the idea that studying a course can have benefits that are realised not only directly by the student, but indirectly by the wider communities of which the student is part.⁸

This so-called community value could be said to be inherent within the well-established notion of higher education (HE) as a public good, though in recent times even that notion has sparked debate,⁹ and has been related to individual employability, potential earnings, and

³ See ‘Academic component of Bar training’, available at <https://www.barstandardsboard.org.uk/training-qualification/becoming-a-barrister/academic-component.html> (last accessed 14 February 2023).

⁴ A Nicholson ‘Creating “valuable” legal education’ *ALT Blog* (21 July 2022), available at <http://lawteacher.ac.uk/values-in-legal-education/creating-valuable-legal-education/>.

⁵ For an overview and critique of this shift towards consumerisation see S Collini *Speaking of Universities* (London: Verso, 2017), 155-176.

⁶ See for example R Dex, ‘University College London urged to agree a deal with Covid-hit students’ (*The Standard*, 17 July 2023), available at <https://www.standard.co.uk/news/uk/university-college-london-deal-covidhit-students-ucl-fees-b1094926.html>.

⁷ A Nicholson ‘The value of a law degree’ (2020) 54 *The Law Teacher* 194.

⁸ Nicholson, above n 4, 194.

⁹ See S Marginson and L Yang ‘Has the public good of higher education been emptied out? The case of England’ (2024) 88 *Higher Education* 297.

social mobility.¹⁰ When the publicly recognised benefits of HE are confined so directly to individuals' economic situations, the rationale for HE as a public good, deserving of public funding, is weakened.¹¹ The benefits with which the authors are primarily concerned in this paper, are those that accrue not to the students who go to university, but to their communities: their family; their local area; their nation; or even international and/or minority groups with which they identify. Such benefits may or may not have an overtly economic dimension.

In the legal education context specifically, equipping students with knowledge and skills to enable them to influence reform within the legal profession and related fields arguably has the potential to deliver value of this kind and perhaps to contribute towards some of the public good, which has been emptied out of the larger policy language around HE.¹² This – the authors contend – constitutes a worthy cause around which some legal educators might wish to unite. Where legal education is in any way publicly funded¹³ this arguably becomes an even more justifiable aim. Though any such reforms may benefit the individual students and/or their future employers, the more significant value is to the profession as a whole,¹⁴ and potentially therefore also to society more broadly. Of course, for a wide range of reasons, individual students may not themselves prioritise (or even recognise), such aspects of value, but that is not to say they do not exist or that they lack legitimacy. Society at large, legal professionals and all who interact with them, each have a vested interest in the positive

¹⁰ J Williams 'A critical exploration of changing definitions of public good in relation to higher education' (2016) 41 *Studies in Higher Education* 619.

¹¹ S Marginson 'Higher education and public good' (2011) 65 *Higher Education Quarterly* 411, 414.

¹² Marginson and Yang, above n 9, 313.

¹³ As is the case for most students in the UK, predominantly through student loans. See Paul Bolton, *Briefing Paper Number 917: Tuition Fee Statistics* (House of Commons Library, 19 February 2018).

¹⁴ In the light of significant disaggregation of the legal profession in recent decades, it may be more accurate to speak of value to legal practice in its various forms. See H Sommerlad et al 'Paralegals and the Casualisation of Legal Labour Markets' in R L Abel, H Sommerlad, O Hammerslev and U Schultz *Lawyers in 21st-Century Societies Volume 2: Comparisons and Theories* (Oxford: Hart, 2022).

development of the legal profession as the primary vehicle for the administration and enactment of justice.

All aspects of society have scope for reform in the name of progress, and the legal profession is no exception. Indeed, in recent decades, academics have variously levied a wide range of criticisms at the legal profession, and have identified systemic issues, for example in relation to: equality and diversity;¹⁵ ethics;¹⁶ cultures plagued with work-intensification, sex discrimination, and sexualisation;¹⁷ employee wellbeing;¹⁸ and levels of stress and loneliness amongst lawyers that correlate to an increased risk of suicide.¹⁹ Given there is apparently so much about the legal profession that is less than desirable, might legal education have a role to play in enabling positive change in these and other areas?

In theorising the relationship between legal education and the solicitors' branch of the legal profession in England and Wales, this paper will draw on Bourdieu's notion of the 'field' and will position the two realms as co-existing and interacting 'fields of forces'.²⁰ For Bourdieu, a field is a 'particular social space that involves a network or configuration of relations between

¹⁵ L Webley 'Legal Professional De(Re)Regulation, Equality, and Inclusion, and the Contested Space of Professionalism within the Legal Market in England and Wales' (2015) 83 *Fordham Law Review* 2349; L Webley et al 'Access to a career in the Legal Profession in England and Wales: race, class, and the role of educational background' (2016) in S Headworth et al (eds) *Diversity in Practice: Race, Gender, and Class in Legal and Professional Careers* (Cambridge: Cambridge University Press, 2016); S Aulakh et al 'Mapping advantages and disadvantages: Diversity in the legal profession in England and Wales' (Final Report for the Solicitors Regulation Authority, Centre for Employment Relations and Innovation and Change October, 2017) available at <https://www.sra.org.uk/globalassets/documents/sra/research/diversity-legal-profession.pdf?version=4a1ac7>.

¹⁶ A Sherr and L Webley 'Legal ethics in England and Wales' (1997) 4 *International Journal of the Legal Profession* 109; F Phillips *Ethics of the Legal Profession* (first published 2004, Oxon: Routledge, 2012).

¹⁷ H Sommerlad "'A pit to put women in": professionalism, work intensification, sexualisation and work-life balance in the legal profession in England and Wales' (2016) 23(1) *International Journal of the Legal Profession* 61.

¹⁸ R Collier 'Wellbeing in the legal profession: reflections on recent developments (or, what do we talk about, when we talk about wellbeing?)' (2016) 23 *International Journal of the Legal Profession* 41; E Jones, N Graffin, R Samra and M Lucassen *Mental Health and Wellbeing in the Legal Profession* (Bristol: Bristol University Press, 2020).

¹⁹ P R Krill et al 'Stressed, Lonely, and Overcommitted: Predictors of Lawyer Suicide Risk' (2023) 11(4) *Healthcare* 536.

²⁰ P Bourdieu *The Rules of Art: Genesis and Structure of the Literary Field* (Polity 1996) 30.

positions’,²¹ in which ‘people and groups of people struggle for and with different forms of economic, cultural and social capital to maintain and increase their power and social position in that particular field’.²² Importantly for this paper, for Bourdieu, fields are not constant or stable, rather, they are ever-changing.²³ Loïc Wacquant builds on Bourdieu’s work to describe fields as ‘historical constellations that arise, grow, change shape, and sometimes wane or perish over time’.²⁴ This movement is, in part at least, due to the work that individuals occupying positions within fields are constantly doing to define the boundaries of the field in ways most favourable to themselves.²⁵

Historically, the field of HE has been significantly shaped by the concept of *bildung*.²⁶

Emerging from the work of the philosopher Wilhelm Von Humboldt during the time of the Enlightenment,²⁷ the idea is rooted in the German word “bilden” – meaning “to cultivate”. It speaks of more than education (its closest English translation)²⁸ and is perhaps best articulated by Gert Biesta, as follows:

The concept of Bildung brings together the aspirations of all those who acknowledge – or hope – that education is more than the simple acquisition of knowledge and skills, that it is more than simply getting things “right,” but that it also has to do with nurturing the human person, that it has to do with individuality, subjectivity, in short, with “becoming and being somebody”.²⁹

²¹ A Bathmaker ‘Thinking with Bourdieu: thinking after Bourdieu. Using “field” to consider in/equalities in the changing field of English higher education’ (2015) 45 *Cambridge Journal of Education* 61, 65.

²² A Franz and H Peters ‘Diving beneath the surface of major curriculum reform using Bourdieu’s field theory’ (2023) *Medical Education* 761.

²³ M Grenfell and D James ‘Change in the field—changing the field: Bourdieu and the methodological practice of educational research’ (2004) 25 *British Journal of Sociology of Education* 507, 519.

²⁴ L Wacquant ‘Pierre Bourdieu’ in R Stones (ed) *Key Sociological Thinkers* (2nd edn, Basingstoke: Macmillan Press, 2007) 268.

²⁵ Bourdieu, above n 20, 223.

²⁶ M N Olesen ‘Bildung--Then and Now in Danish High School and University Teaching and How to Integrate Bildung into Modern University Teaching’ (*Forum on Public Policy Online*, 2010) available at <https://eric.ed.gov/?id=EJ903471>.

²⁷ W von Humboldt ‘Theory of Bildung’ in I Westbury, S Hopman and K Riquarts (eds) *Teaching as a Reflective Practice: The German Didaktik Tradition* (first published 2000, Oxon: Routledge, 2000).

²⁸ B Karseth and T D Solbrekke ‘Curriculum Trends in European Higher Education: The Pursuit of the Humboldtian University Ideas’ in S Slaughter and B J Taylor (eds) *Higher Education, Stratification, and Workforce Development: Competitive Advantage in Europe, the US, and Canada* (London: Springer International Publishing, 2016) 219.

²⁹ G Biesta ‘*Bildung* and Modernity: The Future of *Bildung* in a World of Difference’ (2002) 21 *Studies in Philosophy and Education* 343.

When it emerged, *bildung* drew on Enlightenment goals such as commitment to progress, belief in individual self-improvement and the potential of HE as a vehicle for social change.³⁰

While it ostensibly focusses on the formation of individual minds and souls,³¹ *bildung* encompasses broader social goals, since it is through this attention to the inner life of individuals that universities might realise their broader potential for the transformation of society.³² Relatedly, there have been many calls from prominent legal scholars in recent decades to spurn purely doctrinal, “black-letter” approaches to legal education in favour of more liberal approaches, which develop students into independent critical thinkers who are primed to make a positive difference in the world.³³ This prominent perspective within the legal education literature embodies the concept of *bildung* and makes a compelling case for building law programmes that treat community value, and HE as public good, as priorities.

Arguably, the concept of *bildung* suggests a need to separate entirely university education from the vocational demands of the professions.³⁴ However, in the context of legal education, Kahn-Freund famously offered a more nuanced perspective, contending that *bildung* actually necessitates a holistic approach: the blending of practical instruction in the law with the development of critical thinking and a deep understanding of the law’s social implications.³⁵ Similarly, Hepple described the distinction between academic and professional legal education as a ‘false antithesis’ that actually hinders *bildung*.³⁶

³⁰ C A Taylor ‘Is a posthumanist *Bildung* possible? Reclaiming the promise of *Bildung* for contemporary higher education’ (2017) 74 Higher Education 419, 422.

³¹ Biesta, above n 29, 346.

³² Taylor, above n 30, 432.

³³ See for example A G D Bradney *Conversations, Choices and Chances: the liberal law school in the twenty-first century* (Hart Publishing 2003); R Brownsword ‘Law Schools for Lawyers, Citizens, and People’ in F Cownie (ed) *The Law School – Global Issues, Local Questions* (Dartmouth 1999); F Cownie ‘Alternative Values in Legal Education’ (2003) 6 Legal Ethics 159; and B Hepple ‘The Renewal of the Liberal Law Degree’ (1996) 55 The Cambridge Law Journal 470.

³⁴ *ibid* 421.

³⁵ O Kahn-Freund ‘Reflections on Legal Education’ (1966) 29 Modern Law Review 121, 122-123.

³⁶ Hepple, above n 33, 471.

In any event, the reality is that the relationship between universities and the legal profession has a long history,³⁷ and much of the data collected as part of this study suggest that, for legal educators today, vocational training is seen as a significant part of what they do. Furthermore, Bourdieu argues that fields never exist in isolation. Rather, ‘every field is ...the site of an ongoing clash’,³⁸ caused and sustained by forces from both within and without the field itself.³⁹ In that sense, excluding the vocational entirely from university education may well be impossible.

Another key element in Bourdieu’s field theory is the degree of autonomy that fields hold, which is critical to their success or otherwise.⁴⁰ Loïc Wacquant defines a field’s autonomy as ‘the capacity it has gained in the course of its development to insulate itself from external influences and to uphold its own criteria of evaluation over and against those of neighbouring or intruding fields’.⁴¹ Changing notions of the value of public good in HE suggest challenges to the autonomy of the field, which has led to a decline in the field’s capacity to transform external pressures into educationally relevant forms.⁴² The spirit of *bildung* arguably indicates that legal educators have a role to play as agents for change (or “reformers”) of the legal profession, but their capacity for influence depends at least in part on the relative strength of the forces within and emerging from these two neighbouring fields.

Many students choose to study law for highly instrumental reasons,⁴³ and recruiting law firms have their own ideas about the knowledge, skills, and experience that graduate applicants

³⁷ See L C B Gower ‘English Legal Training: A Critical Survey’ (1950) 13 *Modern Law Review* 137.

³⁸ Wacquant, above n 24, 269.

³⁹ *ibid.*

⁴⁰ Bathmaker, above n 21, 66.

⁴¹ Wacquant, above n 24, 269.

⁴² K Maton ‘A question of autonomy: Bourdieu’s field approach and higher education policy’ (2005) 20 *Journal of Education Policy* 687, 698-700.

⁴³ A Nicholson and P Johnston ‘The value of a law degree - part 3: a student perspective’ (2021) 55 *The Law Teacher* 431.

should have.⁴⁴ When the first English universities were formed, their purposes were initially framed by Parliament as being to further ‘education, religion, learning and research.’⁴⁵ Since that time, the commonly understood purposes of HE institutions have evolved almost beyond recognition, arguably most significantly influenced by a neoliberal re-ordering of society over the last few decades.⁴⁶ Though not all academics agree,⁴⁷ in recent times, HE in the UK has frequently been conceptualised as a consumer market,⁴⁸ and highly skilled (and highly paid) graduate employment has become a key metric within the sector.⁴⁹ Much has been written about the appropriateness of employability as an aim of the academy, and there are opponents to such a notion,⁵⁰ but it is difficult to imagine any significant diminishing of its importance for the sector any time soon. With these market forces at play, do legal educators perceive that the recent deregulation of legal education in England and Wales *in fact* hands them any genuine freedom to design their courses with the aim and ambition of reforming the legal profession for the betterment of society as a whole, and – if so – are they minded to do so? Alternatively, is the SQE simply the latest in a line of neoliberal reforms, which further entrench the idea that legal education exists purely to serve the market?

⁴⁴ A Nicholson ‘The value of a law degree – part 4: a perspective from employers’ (2022) 56 *The Law Teacher* 171.

⁴⁵ Universities of Oxford and Cambridge Act 1877 (40 & 41 Vic c 48), s 15.

⁴⁶ In the legal education context specifically, see A Boon, J Flood and J Webb ‘Postmodern Professions? The Fragmentation of Legal Education and the Legal Profession’ (2005) 32 *Journal of Law and Society* 473.

⁴⁷ Collini, above n 5.

⁴⁸ Competition & Markets Authority *UK Higher Education Providers – Advice on Consumer Protection Law* (2015) available at

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/428549/HE_providers_-_advice_on_consumer_protection_law.pdf.

⁴⁹ For a critique on this recent shift in emphasis see M Tomlinson, J Enders, and R Naidoo ‘The Teaching Excellence Framework: symbolic violence and the measured market in higher education’ (2020) 61 *Critical Studies in Education* 627.

⁵⁰ See for example R Naidoo, A Shankar and E Veer ‘The Consumerist Turn in Higher Education: Policy Aspirations and Outcomes’ (2011) 27 *Journal of Marketing Management* 1142.

The relationship between legal education and the profession has been studied extensively.⁵¹ Some more recent research has also specifically considered the impact of the SQE on this relationship in England and Wales.⁵² However, to the authors' knowledge, no study to date has explored how the legal educator community as a whole perceives this relationship. Yet, we do need to understand this key stakeholder perspective in order to identify, maintain, and expand opportunities for legal education to effect positive change within the legal profession, for the benefit of law graduates, practitioners, clients, and society more broadly.

The aim of this study was to explore legal educators' perceptions of the evolving relationship between legal education and the legal profession. Through their work, do legal educators see themselves as positively influencing the development of the legal profession for the benefit of society ("reformers"), or as merely supporting and responding to what the profession says it needs ("reinforcers")? Alternatively, could they be both? Using the jurisdiction of England and Wales as a case study, the authors conducted 30 semi-structured interviews and identified common themes using template analysis.

The data suggest a crisis of identity, purpose, and empowerment within this legal education community. Few participants felt they had any significant opportunity to influence reform within the legal profession, with some rejecting outright the notion that this might even be an

⁵¹ See for example E Chemerinsky 'Why not clinical legal education?' (2009) 16 *Clinical Law Review* 35; C Strevens, C Welch and R Welch 'On-line legal services and the changing legal market: preparing law undergraduates for the future' (2011) 45 *The Law Teacher* 328; L Bleasdale-Hill and P Wragg 'Models of Clinic and Their Value to Students, Universities and the Community in the post-2012 Fees Era' (2013) 19 *International Journal of Clinical Legal Education* 257; Guth and Ashford, above n 75; P McKeown 'Pro Bono: What's in it for law students? The students' perspective' (2017) 24 *International Journal of Clinical Legal Education* 43; A Bradney 'The success of university law schools in England and Wales: or how to fail' (2018) 52 *The Law Teacher* 490; C Ashford, N Duncan and J Guth (eds) *Perspectives on Legal Education: Contemporary Responses to the Lord Upjohn Lectures* (Oxon: Routledge, 2016); J Knox 'Embedding employability skills for the legal professionals of the future' (2019) 53 *The Law Teacher* 90.

⁵² M Davies 'Changes to the training of English and Welsh lawyers: implications for the future of university law schools' (2018) 52 *The Law Teacher* 100; L Mason 'SQEezing the jurisprudence out of the SRA's super exam: the SQE's Bleak Legal Realism and the rejection of law's multimodal truth' (2018) 52 *The Law Teacher* 409; R Bowyer 'Regulatory Threats to the Law Degree: The Solicitors Qualifying Examination and the Purpose of Law Schools' (2019) 30 *Law and Critique* 117.

appropriate aspiration for legal education. By contrast, most believed that law firms had a significant and increasing influence on their curricula, though there was no consensus on the legitimacy of this power. The authors argue that – in the case study context and beyond – legal educators, regulators, and policy makers must proactively monitor and respond to the evolving power dynamics within the field of legal education, to ensure that it maximises its value for society.

METHODOLOGY

The research aim to explore perceptions necessitated a qualitative study.⁵³ The authors employed a single, holistic case study research strategy to collect rich data from a sample of legal educators in England and Wales, focusing exclusively on their relationship with the solicitors' branch of the legal profession, which is by far the largest. A case study research strategy mitigates the non-generalisability of qualitative research since it is acknowledged to be capable of producing insights of broader application, notably to theory.⁵⁴ Using interviews facilitated the pursuit of depth of insight,⁵⁵ allowing for the collection of sensitive information from knowledgeable participants.⁵⁶ The interviews were positioned as social encounters,⁵⁷ which required ongoing negotiation of the permeability of the authors' positions as both insiders (as educators and, in the first author's case, as a legal academic) and

⁵³ A Sayer *Method in Social Science: A Realist Approach* (rev. 2nd edn, Oxon: Routledge, 2010); R Bhaskar, *Reclaiming Reality: A Critical Introduction to Contemporary Philosophy* (Oxon: Routledge, 2011); B Danermark, M Ekström, J C Karlsson *Explaining Society: An Introduction to Critical Realism in the Social Sciences* (2nd edn, Oxon: Routledge, 2019).

⁵⁴ A Dubois and L Gadde 'Systematic Combining: An Abductive Approach to Case Research' (2002) 55 *Journal of Business Research* 553; B Flyvberg 'Case Study' in N K Denzin and Y S Lincoln (eds) *The SAGE Handbook of Qualitative Research* (4th edn, London: SAGE, 2011); P Bansal and K Corley 'From the Editors: The Coming of Age for Qualitative Research: Embracing the Diversity of Qualitative Methods' (2011) 54 *The Academy of Management Journal* 233; R K Yin *Case Study Research and Applications: Design and Methods* (London: SAGE, 2018).

⁵⁵ E Knott and others 'Interviews in the social sciences' (2022) 2 *Nature Reviews Methods Primers* 73.

⁵⁶ N Burton M Brundrett and M Jones *Doing Your Education Research Project* (London: SAGE, 2nd edn, 2014), 64.

⁵⁷ L Cohen L Manion and K Morrison, *Research Methods in Education* (London: Routledge, 7th edn, 2011) 410; S Pink, *Doing Sensory Ethnography* (London: SAGE, 2nd edn, 2015).

outsiders (as members of different institutions).⁵⁸ Similarly, the authors' epistemological underpinnings led to recognition of the authors' own roles as data-collection instruments.⁵⁹

The research comprised 30 semi-structured interviews, each of up to 30 minutes in length. Participants were selected using a purposive sample (drawn initially from within the authors' own professional networks, and then through snowball sampling, which has been shown to be an effective strategy for ensuring access to elite participants)⁶⁰ to ensure a group of participants who were diverse, both in terms of their own personal characteristics (e.g. age, ethnicity, and gender), and also in terms of the type of institution that they worked for (e.g. Russell Group university; non-Russell Group, public university; or private institution), to account for the stratification of the HE system.⁶¹

Of the 30 participants, 10 were drawn from Russell Group institutions, 10 from non-Russell Group public providers, and 10 from private universities, since the authors were interested in the impact that participants' institutional affiliation would have on their perceptions. 12 were senior leaders and/or professors within their school or organisation, which means senior legal educators were somewhat over-represented in this study as compared with the wider sampling population. However, since senior staff (and leaders in particular) are more likely to influence the values, perspectives and working practices of legal education teams more broadly, it was felt that these participants were capable of offering insight that was particularly significant in the context of the present study. Pseudonyms are used throughout this paper to protect the identity of individual participants.

⁵⁸ R K Merton, 'Insiders and Outsiders: A Chapter in the Sociology of Knowledge' (1972) 78 *The American Journal of Sociology* 9, 37.

⁵⁹ A Bryman *Social Research Methods* (Oxford: 5th edn, OUP, 2016), 399.

⁶⁰ Y Liu and L Buckingham 'A Critical Approach to Interviewing Academic Elites: Access, Trust, and Power' (2023) 35 *Field Methods* 236, 239, Y L Morse 'Elite Interviews in the Developing World: Finding Anchors in Weak Institutional Environments' (2019) 19 *Qualitative Research* 277.

⁶¹ P Wakeling and M Savage 'Entry to Elite Positions and the Stratification of Higher Education in Britain' (2015) 63 *The Sociological Review* 290.

The specific objectives of the study were as follows:

1. To explore how legal educators in England and Wales perceive the culture, practices, and norms of the solicitors' branch of the legal profession.
2. To understand how legal educators in England and Wales perceive the current relationship between legal education and the legal profession.
3. To evaluate the extent to which legal educators believe that legal education and the legal profession can and/or should influence each other.
4. To explore what legal educators perceive as the likely impact of the introduction of the SQE on this relationship.
5. To evaluate the extent to which legal educators in England and Wales feel empowered to positively instigate and influence reform within the solicitors' branch of the legal profession and identify potential barriers that may prevent them from exercising any such influence.

Participants were asked broadly framed, open questions on each of these themes. The interview data were then analysed using template analysis to inductively identify key themes, thus limiting as far as possible the effect of bias.⁶² It was accepted that the individual participants in this study would differ significantly in their experience, expertise and interest in the relationship between legal education and the legal profession. However, individual educator perceptions on these matters – whether previously consciously considered or not – are in and of themselves likely to influence how those educators approach matters such as curriculum design. As such, the authors considered that understanding the collective perceptions of this key stakeholder group would provide valuable insight into the sociological forces at play within these related “fields” that, in turn, may help identify and highlight any

⁶² N King ‘Doing Template Analysis’ in G Symon and C Cassell (eds) *Qualitative Organizational Research: Core Methods and Current Challenges* (London: SAGE, 2012).

issues, opinions or perspectives that may currently be limiting the community value or *bildung* potential of legal education courses.

FINDINGS AND ANALYSIS

How legal educators perceive the legal profession

Over time, criticality has become almost synonymous with the academy.⁶³ Perhaps surprisingly then, when asked an open question about their perceptions of the legal profession, most participants in this study, at least initially, spoke exclusively positively about it. Across the sample, participants from all types of institution had good things to say about the solicitors' branch of the legal profession in England and Wales. For example, Adele, a Professor at a Russell Group university, felt that the legal profession had '... always been a very successful sector ...' and Wadia, a Tutor at a private institution, said '... the role that solicitors play in society is quite positive in obtaining the rights for people ...'. Similarly, Quentin, a senior executive at a private institution, said '... solicitors, de facto, are intelligent people, they're highly educated, [and] they understand the need for change ...', and Ursula, a Tutor, also at a private institution, felt that the profession had '... veered away from the male pale and stale ...'. Michelle, a Senior Lecturer at a non-Russell Group, public university, identified '... the drive to uphold ethical principles ...' as a key strength, and this was echoed by Claire, an Associate Professor at a Russell Group university, who described the legal profession as being '... underpinned by strong ethical principles, by a rule of law, [and] by a system, which has seemed to be, not perfectly ... but seemed to be, you know, just and fair'.

Collectively, these comments suggest that – in the eyes of legal educators at least – the legal profession has acquired substantial prestige and recognition (or, as Bourdieu describes it:

⁶³ G Dunn 'Beyond critical thinking to critical being: Criticality in higher education and life' (2015) 71 *International Journal of Educational Research* 86.

“symbolic capital”) that has the potential to insulate it from outside influence or reform.⁶⁴ In other words, the generally positive impressions within the data may go some way to explaining the agnosticism of some participants towards the role of legal education in reforming the norms, cultures, and practices of the legal profession (as to which see further below). In turn, this may constitute one of the forces at play in protecting the status quo within the “field” that is the legal profession.⁶⁵ Relatedly, when particular habits, skills or dispositions become deeply ingrained within a person, they become part of what Bourdieu terms the individual’s “habitus”,⁶⁶ and this in turn can influence and be influenced by the structures of the fields within which they operate. In order for legal educators to maximise their own value as agents of change in this respect, they must be vigilant in ensuring that uncritically favourable perceptions of the legal profession do not become part of their habitus.

However, when participants were positively encouraged to reflect on possible areas in need of development, most *were* able to highlight matters of concern, including a lack of diversity, problematic working conditions, and access to justice. On diversity within private law firms, Eleanor, an Associate Professor at a Russell Group university said ‘... they think they’re progressive, and they’re not ... if you’re always recruiting from the same tiny pool, you don’t get the best people.’ On working conditions, Michelle, a Senior Lecturer at a non-Russell Group, public university, said: ‘there’s no room for getting anything wrong ... there are temptations to cut corners, either to help yourself or to help your client.’ Additionally, Adele, a Professor at a Russell Group university, felt that solicitors sometimes lacked the capacity to think critically about their own work practices, or to innovate.

⁶⁴ P Bourdieu *Distinction: A Social Critique of the Judgement of Taste* (Richard Nice tr, first published 1984, Oxon: Routledge, 2010) 168.

⁶⁵ Bourdieu, above n 20.

⁶⁶ P Bourdieu *Outline of a Theory of Practice* (Richard Nice tr, Cambridge: Cambridge University Press, 1977).

By far the single most commonly highlighted issue however, was a lack of access to justice. Bradley, a Professor at a Russell Group university explained that ‘... the solicitors’ profession, due to a lack of funding, particularly through legal aid, is not wildly effective in ensuring access to justice for people who can’t pay ...’. Ben, a Professor and Head of School, also at a Russell Group university, added that ‘... the drip-by-drip downgrading of Legal Aid over a sustained period of time has rendered many aspects of the legal profession borderline unviable.’ On a similar theme, Georgia, a Professor and Head of School at a non-Russell Group, public university referred to the impact that this was having in her own local community. She explained:

... employment law, we’ve got almost nothing locally. Immigration law, we’ve got almost nothing locally. So, I think there are lots of legal needs, which aren’t being met very well, because there’s no funding. And partly probably because there’s no funding, then there aren’t the practitioners where they’re needed. And that’s an issue.

Relatedly, a number of participants spoke about the impact that different levels of resource in different areas of law was having on graduate career choices, and what this means for justice. As Claire, an Associate Professor at a Russell Group university explained: ‘[it] funnels the best students into the better paying ... part[s] of the professions ... and leaves family, employment, criminal, immigration, in a weak state.’ On the same topic Sarah, a Tutor at a private institution, lamented ‘bright people should be everywhere’, and James, a Professor at a non-Russell Group, public university, added:

... the pull of large city firms, and their massively inflated first-job salaries ... it must be very, very hard to resist that as a final-year undergrad ... you don’t get that in medicine ... you’ve got to be the most self-sacrificing, lovely 22 year old, haven’t you? Thinking “I’m going to do, you know, housing law, social welfare law, environment or whatever, and starting a job on 25,000, and all my mates are starting on 75,000”. And I genuinely think it’s absolutely lovely that enough of them still do. But that number is dwindling and dwindling.

Therefore, despite a tendency amongst participants to view the legal profession generally positively, when pushed most were able to identify areas where there was a compelling need

for reform and, in any event, the literature provides clear evidence that such areas exist.⁶⁷ In that context, the authors were keen to understand how legal educators perceived the evolving power dynamics (or “forces”) at play between the relevant fields, and the potential implications for social progress. Did legal educators feel they had the mandate and the opportunity to influence reform within the legal profession as part of the public good, community value or *bildung* within their programmes, or that they must simply play along to the legal profession’s tune?

The profession’s increasing influence on curricula

Worryingly, few participants felt that legal education was currently having any significant positive influence on the legal profession or playing any significant role in addressing the systemic issues they identified. Rather, there was an overwhelming consensus that it worked the other way: the legal profession was expanding the strength and boundaries of its own field by having an increasingly strong influence on the legal education curriculum. The following quote illustrates how in general the sample perceived the power dynamics at the boundaries of these two related fields:

I think at the moment, from my perception, the influence is very much one-way. And I think that our [educational] practice is very much influenced by [legal] practice. I don’t know what scope there is for it to go the other way. And from my own experience, there hasn’t been an opportunity to feed into discussions from that direction, it’s very much always from the profession down ... we’re at the bottom of the chain, we’re the ones that are starting students off on their academic journey, their progression into practice. And I don’t see it that we have the power to have influence the other way around. Whereas I see that those in practice have the power to influence what we’re doing.

Naomi, Senior Lecturer, non-Russell Group, public University

⁶⁷ Webley, above n 15; Webley and others, above n 15; Aulakh and others, above n 15; Sherr and Webley, above n 16; Phillips, above n 16, Sommerlad, above n 17; Collier, above n 18; Jones, Graffin, Samra and Lucassen, above n 18; Krill and others, above n 19.

Whilst there may be those who argue that Naomi's account overstates the *actual* interest and/or influence of the legal profession, it represents a commonly held view amongst the sample and thus a potentially powerful element of the "habitus" within legal education, which is likely to be pushing the sector in a particular direction. Linda, who works in a similar institution, was one of many participants who reflected the same sentiment. She said, 'I would say that the way that these degrees look and are shaped are entirely influenced by the profession itself.' Even Dimitri, a Professor and Head of School at a Russell Group university reported a strong influence and conceded '... we want our students to be sought after by the legal profession ...'.

In one sense, this may be surprising in the context of educators who at least on paper enjoy significant academic freedom.⁶⁸ In another sense, however, it is worth remembering that the academic discipline of law as we know it is a relatively recent phenomenon, and until the middle of the twentieth century, solicitors qualified through an apprenticeship-style route, over which the profession had complete control.⁶⁹ In the context of this history, and the neoliberal forces that have influenced legal education in more recent decades,⁷⁰ it is perhaps to be expected that law firms are at least perceived as wielding this power.

In this respect, participants specifically characterised the legal profession's influence on legal education as a product of employer expectations that students themselves are keen to meet, and course teams who feel that they must support students in that endeavour. For example, Kevin, a Principal Lecturer at a non-Russell Group, public university, said he felt there was '... a perception about what the employers of solicitors want from legal education, which

⁶⁸ A Bradney 'Who controls university legal education? The Case of England and Wales' in B Golder et al (eds) *Imperatives for Legal Education Research Then, Now and Tomorrow* (Oxon: Routledge, 2020).

⁶⁹ A Boon and J Webb, 'The Legal Professions as Stakeholders in the Academy in England and Wales' in F Cownie *Stakeholders in the Law School* (Oxon: Hart Publishing, 2010).

⁷⁰ Boon, Flood and Webb, above n 46.

then affects how courses are designed ...'. Imogen, an Associate Head of School at a similar institution, also reflected this sentiment when she said '[w]e're primarily looking at developing graduates that are able to be employable. And we have to have that end market in mind.' Many of the participants talked about producing graduates who would meet law firm expectations. As Henrietta, Head of Law at a non-Russell Group, public university, put it: '... ultimately, you're not going to attract students to courses if they're not then going to be able to go on and get a job.' In the context of the high levels of debt that university students now take on, and the corresponding pull (noted above) that students feel towards high-paying graduate jobs, it is easy to see why participants feel under pressure to design curricula for the profession as it is, rather than as it should be.

Francesca, working in a Russell Group institution, explained that:

... because there's that demand from students, law schools, therefore – because we're in a marketised society – feel the need to advertise themselves as helping students get a place in the legal profession. . . And then when you're in the law school, obviously, employability is like this huge discourse throughout the whole of higher education.'

Particularly for participants working in private institutions, the influence of the legal profession was seen as heavily weighted towards large corporate firms. Richard, a senior executive at a private institution, put it as follows:

... [it's] limited to kind of big law, that have had that influence. So, firms that have got pockets deep enough to fund future talent pipelines have got the ability to command what they want, because they set the agenda effectively as to what they want their training to look like, what legal training providers should be incorporating into the curriculum, what added bits they want, in their trainees, or professional development programmes.

The tutors at private institutions shared the same view. Yvonne, explained '[w]e do a lot of work with consortium firms, so the City firms, so they're obviously used to having a course that's available for their students ...', and Xena agreed, adding that '... bigger [law firms] have more power.' Most strikingly, speaking about large corporate firms with which her

institution had contracts for training their recruits, Zara explained ‘... you’ve got to keep the client happy. So, you’ve got to be ticking the boxes that they want ...’. She then went on to say: ‘if you’ve got, you know, firms that are guaranteeing they will send X number of students to you each year, you’re sort of a bit beholden to them, really, because you want to maintain that relationship.’ Whilst this influence may be concentrated primarily on private institutions at present, the authors contend that competition for students, the deregulation of legal education, and the rise of solicitor apprenticeships could all potentially lead to this kind of market pressure becoming even more pervasive in the coming years.

Indeed, in the data there were hints of larger, commercial firms, already having some influence on public institutions. As Claire, an Associate Professor at a Russell Group university put it:

‘You know, wanting more arbitration, more alternative [dispute] resolution, more focus on international modules... probably a commercial pushing. And that might be that it’s those large, powerful, commercial magic circle firms [that] are probably having maybe a disproportionate influence on what law schools are teaching.’

In general therefore, participants in this study felt that the legal profession had far greater influence on their practice than they themselves were able to have on the profession. Contrary to the authors’ expectations, this was the case even amongst participants from Russell Group universities, who are likely to be under less market pressure in general due to the relative financial position of those institutions. Bourdieu’s field theory offers possible insight that may help explain why this is the case, and what the potential implications might be.⁷¹ While the concept of *bildung* emerged from within the HE field and is arguably a core element of its “habitus”, it is clear that more recently neoliberal forces, originating outside the field, have pushed the acquisition of vocational skills and the transmission of knowledge to the forefront

⁷¹ Grenfell and James, above n 23, 519.

of the HE agenda.⁷² At the same time, political interventions, such as the introduction of tuition fees and national league tables have positioned fee-paying students as consumers and have increased marketisation of the HE field as a whole.⁷³ The impact of this shift can be seen in the participants' reflections. Notions of personal achievement, growth and fulfilment for the social good, which were associated with the concept of *bildung*, stand in conflict with the idea that HE is 'about the development of human resources and economic prosperity'.⁷⁴ In turn, this potentially weakens legal education as a force of positive influence on the legal profession and therefore on the promotion of justice within society.

The SQE effect(s)

In general, participants felt that the introduction of the SQE was likely to increase rather than decrease the influence of the legal profession on legal education in England and Wales in the coming years. In theory, the reforms have eased the regulatory requirements on university law schools within the jurisdiction. In practice however, participants generally believed that student and employer expectations mean that many providers will feel they have no option but to align their programmes to the assessment specification of the new centralised exam, which will necessarily reduce the space for more critical, reflective, and normative content. As with the participants' perceptions more generally, the authors contend that these views have significant potential to become self-fulfilling.

The indirect influence of the SQE was referred to by participants across the sample and across all three types of institution. As Eleanor, an Associate Professor at a Russell Group university, put it:

⁷² R Barnett 'The Purposes of Higher Education and the Changing Face of Academia' (2004) 2 *London Review of Education* 61; J Jameson, K Strudwick, S Bond-Taylor and M Jones 'Academic principles versus employability pressures: a modern power struggle or a creative opportunity?' (2012) 17 *Teaching in Higher Education* 25; Taylor, above n 30; C Sin, O Tavares and A Amaral 'Accepting employability as a purpose of higher education? Academics' perceptions and practices' (2019) 44 *Studies in Higher Education* 920.

⁷³ *ibid* 420.

⁷⁴ C Lambert, A Parker and M Neary, 'Entrepreneurialism and critical pedagogy: reinventing the higher education curriculum' (2007) 12 *Teaching in higher education* 525, 526.

I think there's clearly a risk at the moment that some universities will be adapting their entire provision to focus on "SQE-ready", [and] it will turn out that that's not actually something that is wanted, or that is helpful. So, there's risk on the institutions.

Victor, a Tutor at a private institution, reported that 'quite a few universities, [his] included, have literally rewritten syllabuses to make [them] completely in line with the SQE', and Georgia, Professor and Head of School at a non-Russell Group, public university, said that she felt that she was now '... very much working under the shadow of the syllabus of SQE ...'.

Relatedly, Bradley, a Professor at a Russell Group university, felt that the influence of big City law firms in particular could increase following the introduction of the SQE. He explained:

If you look at certainly the big consortium of city law firms, they are in a bigger position to go to your BPPs or Universities of Law and say, "This is what we want our training programme to look like. We're no longer required by the Joint Standard to have these particular things. We want this." And then you do it.'

However, some participants expressed the view that the impact of the SQE reforms would not be felt equally across the sector. Clive, a Senior Lecturer at a Russell Group university was one who suspected that the impact would vary, he explained:

I think it's impacting more upon kind of new universities and more practically-oriented universities, who ... I suppose in SWOT analysis had the opportunities and the threats there, in terms of kind of adapting into an SQE-delivery mode.

Francesca, a Senior Lecturer at another Russell Group university, had the same thought. She said: 'there's likely to be differences between different types of institutes involved. And I would suspect that there are at least some post 1992s, for example, who, because of market pressures, have gone more down that route, and will go more down that route.'

If these participants are right, it may lead to further systemic issues within the legal profession. For example, if only the more selective institutions believe that they have sufficient freedom to incorporate critical perspectives into their curricula, and students from these institutions are less likely to go into private client areas of law, such as family, employment, criminal, or immigration (see above), then reform may be slowest in the very areas where social justice demands it most.

While history suggests that any changes to the way that lawyers qualify are likely to have a significant impact on the legal education market,⁷⁵ there is no guarantee that attempts to further vocationalise legal education curricula will actually benefit aspiring practitioners. Indeed, there have long been question marks about the utility of the outgoing qualifying law degree (QLD) in this respect.⁷⁶ However, aspiring lawyers studying the QLD (or equivalent) did invariably learn to critique the law within its wider social context. Whether or not particular legal educators were in fact proactive reformers of the legal profession (and/or perceived themselves to be) under that model is open for debate. However, it seems likely that they did at least have greater *potential* to do so than they may have as market pressure to prepare students for legal practice, and for the SQE, continues to intensify.

Under the new framework, the opportunities for curricula that have the potential to provoke and inspire such positive change may be more limited. Aspiring solicitors now no longer need to study a law degree at all, and even those who do choose to do so may be inclined – if they are instrumentally-minded – to select courses that *they feel* will best prepare them to pass the SQE. In order to be effective on this metric, some HE legal education providers may

⁷⁵ J Guth and C Ashford ‘The Legal Education and Training Review: Regulating Socio-Legal and Liberal Legal Education?’ (2014) 48 *The Law Teacher* 5; P Leighton ‘Legal education in England and Wales: what next?’ (2021) 55 *The Law Teacher* 405.

⁷⁶ A Hunt ‘The case for critical legal education’ (1986) 20 *The Law Teacher* 10.

feel that they have to cut back on more critical or more normative content,⁷⁷ and few if any are likely to find space for modules specifically exploring systemic issues within the working practices of the legal profession. Furthermore, some providers (perhaps most readily private universities) may strategically elect to focus exclusively on meeting employer expectations in preparing students for practice, with only the most progressive law firms opting in to more normative content. In that context, will the community value offered by more critical, liberal arts degree courses be enough to persuade aspiring practitioners to choose them, at the expense of more tailored, employment and SQE-focused programmes? If aspiring practitioners do not make this choice, the potential consequences are multifaceted. For example: SQE assessment methodology may encourage surface learning;⁷⁸ and the content of the Stage 1 assessments arguably ‘... redefine[s] the nature of law, or at least legal knowledge, itself’.⁷⁹ More broadly, the authors argue there is a risk that programmes lacking this critical content may significantly diminish the reformatory potential of legal education. Admittedly, through solicitor apprenticeships, it has for several years in theory already been possible to qualify as a solicitor *without* undergraduate education in the traditional sense at all.⁸⁰ Apprenticeships are by their very nature ‘employer designed and employer led’, albeit the Solicitor Apprenticeship Standard replicates exactly the standards set by the SRA.⁸¹ In that sense, the horse has long since bolted. It is already possible for solicitors to qualify through a route designed *by* the profession *for* the profession. But the introduction of the SQE is nevertheless highly significant, as the study’s participants believe it is likely to have a much more widespread and immediate impact on the content of mainstream legal education,

⁷⁷ Mason, above n 52.

⁷⁸ D Morrison ‘The SQE and creativity: a race to the bottom?’ (2018) 52 *The Law Teacher* 467.

⁷⁹ L Mason and J Guth ‘Re-claiming our discipline’ (2018) 52 *The Law Teacher* 379 380.

⁸⁰ HEIs that provide the relevant teaching to solicitor apprentices may however incorporate a degree award within their provision. See C Hood and C Simmonds ‘The solicitor apprenticeship’ (2022) 56 *The Law Teacher* 420.

⁸¹ *ibid* 421.

and such views have the potential to influence the choices legal educators make when designing their courses. In this context, it is at least possible that the field of legal education will lose further ground to the more powerful forces within the field of the legal profession.

A crisis of identity, purpose and empowerment

Such a pivotal moment for legal education demands a strong, united response from legal educators who are committed to the community value of education. However, perhaps the most remarkable finding within this study was that, whilst participants overwhelmingly felt that the legal profession had a far stronger influence on legal education than the other way around, the authors found no consensus on whether this was how things should be. In other words, participants had varied and opposing views on the purposes of legal education. Given their different historical roots, one might have expected to see sharp dividing lines between the opinions of participants from different types of institution.⁸² However, these dividing lines were not as clear as might be expected. Instead, the data point to a crisis of identity, purpose and empowerment, and a lack of unity that the authors contend in and of itself is likely to undermine the community value of legal education programmes in England and Wales.

Some participants were very clear in articulating their desire for complete separation between the fields. David, a Lecturer at a Russell Group university believed that, regarding curriculum development at least, there should be no interaction between solicitors and legal educators. James, a Professor at a non-Russell Group, public university also wanted to see clear separation. He felt that the use of tax-payer money to provide training for jobs in the private sector was problematic and noted that some law firms were ‘laughing all the way to the bank’ after using employability to convince universities to undertake vocational training for their new recruits while they ‘make millions of profits for their partners’. James’ concerns chime

⁸² Boon and Webb, above n 69.

with a conception of *bildung* that insists university education should be wholly separate from professional vocational education.⁸³

This implicit appeal to ideas associated with *bildung* was also evident elsewhere in the data.

Amanda, a Professor at a Russell Group university argued that ‘undergraduate legal education is like any other area of study’ and was clear that the purpose of a law degree was not to ‘provide professionals’. Francesca, a Senior Lecturer at a Russell Group university agreed that ‘law is an academic discipline, it is not a vocational subject’. These ideas also resonate with Bradney’s work, which cautions law schools against over-vocationalisation.⁸⁴

Eleanor, an Associate Professor at a Russell Group university, argued that while big firms might want to mould their own people, ‘part of [the legal educators’] job is to make them unmouldable ...’. Perhaps creating “unmouldable” students speaks to the role of education in creating social change through the formation of educated individuals, which is so central to *bildung*.⁸⁵ Distinctions between academic undergraduate study and vocational postgraduate provision are also echoed in the opening line of the subject benchmark statement for Law, which reads ‘[s]tudying law at undergraduate level is an academic matter.’⁸⁶

The traditional ideas associated with *bildung*-inspired visions of HE did not figure in the thinking of all participants though. Many – even within the Russell Group – were comfortable with increasing vocationalisation, demonstrating a keen awareness of employability as part of student motivation.⁸⁷ Tom, a Tutor at a private institution, contended that, at both undergraduate and postgraduate level, many students are motivated by potential future careers, and Dimitri, a Professor and Head of School in the Russell Group, said that

⁸³ Taylor, above n 30, 421.

⁸⁴ Bradney, above n 51.

⁸⁵ Taylor, above n 30, 432.

⁸⁶ QAA *Subject Benchmark Statement: Law* (March 2023) available at https://www.qaa.ac.uk/docs/qaa/sbs/sbs-law-23.pdf?sfvrsn=c271a881_6.

⁸⁷ J Jameson et al, above at n 72.

legal educators ‘... wouldn’t be doing [students] any favours if [they] didn’t provide them ... with the necessary tools in order to embark successfully on the legal profession.’ In making a similar point, Adele, a Professor at a Russell Group university said she would worry if what she was teaching was ‘... totally irrelevant’.

Neoliberal notions of students as consumers⁸⁸ can be read throughout the data, and some participants went so far as to actively argue for closer ties with the legal profession. For Linda – a Senior Lecturer at a Non-Russell Group, public university – students who want to be solicitors should be provided with a degree that is ‘[geared] up ... for them to be a solicitor’. Similarly, Xena, also working at a private institution suggested that leaving educators to teach whatever they wanted was ‘irresponsible’.

Beyond making students employable, some participants explicitly stated that big City law firms *should* have a significant role in determining what should be in the curriculum. Zara, a Tutor at a private institution, said:

... you’ve effectively got the [big City] firm up here sort of dictating what the students are being taught, which I think is good in some ways. Because, you know, ultimately, if these students are going to particular firms, they need to have the knowledge for, you know, joining those firms.

Other participants articulated models in which legal practice should have an even stronger impact on the field of legal education going forward. Ben, a Professor, and Head of School at a Russell Group university said that, over the next two decades, he would like to see the further development of the legal clinic model with a specific relationship with local firms. Wadia, a Tutor at a private university called for more practical work experience within undergraduate legal education to enable students to ‘see how it is in practice’.

⁸⁸ Taylor, above n 30, 420.

As such, while the data is clear that legal educators recognise the influence of the legal profession on legal education, it is much less clear around whether they perceive this as a problem. Indeed, there would appear to be no clear consensus amongst legal educators on the purposes of HE and – amongst the participants in this study at least – no clear dividing lines between the perceptions of participants at different types of institution on this issue. This complexity is reflected in the existing literature on the relationship between legal education and the profession, which acknowledges the need for greater co-operation between legal education and the profession,⁸⁹ but also reveals a sense that the vocationalisation of the undergraduate stage of training contributes to deprofessionalisation.⁹⁰

Nearly four decades ago, Hunt wrote:

There is impressionist evidence that law students are increasingly adopting this vocationalist rationale both in their decision to study law and in their expectations of legal education. Not only does the special pleading couched in the rhetoric of vocationalism desert colleagues in those disciplines most under attack, but, more immediately, it undercuts the progressive developments that have occurred within legal education since the 1960s which had made legal academics less subservient to the anti-intellectualism of the professional organisations.⁹¹

If, as is inherent in the idea of *bildung*, societal reform is accepted as one of HE's core purposes, significant questions remain around how that reform might be enacted when the field of legal education is so significantly influenced by the field of legal practice.

Finally, whilst there were differing views on the appropriate relationship between legal education and the profession, most agreed that they had little power to bring about any positive change in any event. The idea of voicelessness came across strongly in the data. A

⁸⁹ A Boon 'History is Past Politics: A Critique of the Legal Skills Movement in England and Wales' (1998) 25 *Journal of Law and Society* 151.

⁹⁰ A Boon et al, above at n 46, 479.

⁹¹ A Hunt 'Jurisprudence, philosophy and legal education—against foundationalism: A response to Neil McCormick' (1986) 6 *Legal Studies* 292, 293.

claim made by Sarah, a Tutor at a private institution, who said ‘we don’t really have a voice’, was the most obvious example of this.

Others were clear in their assertions that academia has no, or very limited influence on the profession. Oluwa, a Lecturer at a non-Russell Group, public university, said, ‘I’m not too sure whether academia actually influences the solicitors’, while Georgia, Professor and Head of School at another similar institution said, ‘legal education doesn’t have a great impact on the profession’. Furthermore, the advent of the SQE was perceived as making all of this worse, rather than better because, as Amanda, a Professor at a Russell Group university put it: ‘[the] SRA have essentially said, “we’re not interested in legal education anymore”. So, they’re not interested. So why would we be interested ...?’

The reasons given for this powerlessness were diverse. Some participants referenced their career stage, or institution type. Victor, who is a Tutor at a private institution, described himself as ‘... a small fish in a big pond ... [without] any realistic ability to affect change’. Others attributed their powerlessness to workload, a lack of time and competing priorities. On this theme, Georgia added:

We’re all pulled in 100 different directions in our day jobs. Sitting down and giving that extra thought to well, you know, “how can we strategically impact on the development of the legal profession?” might come ... I kind of hate to say it, but relatively low down the list of priorities, because the priorities are keeping our courses running and keeping our students happy.

For other participants, the root of their powerlessness lies in their lack of practical expertise. Ben, a Professor and Head of School working at a Russell Group university recognised that legal educators have mostly never been practising lawyers, or if they have, they are now very out of touch. For Ben, this means that legal educators are not the best people to influence how solicitors operate.

Some of those interviewed went further and indicated that not only did they not feel that they had the power to influence reform within the legal profession, but that they did not think that this would be an appropriate goal. Amanda, a Professor at a Russell Group university, referenced her view on the purposes of legal education to argue that she was not sure that educators need to have any more influence on the profession. She also talked about her university's privileged status as a member of the Russell Group:

... as a Russell Group university, who are mostly getting very good students ... our research is really important for us. Why would we get involved in [reforming the profession]? What's in it for us, to be very blunt, given our experiences? They weren't interested in our views anyway, why put the effort in?

This view was echoed by Alice, also a Professor at a Russell Group university. She felt that neither the profession, nor the academy had any obligation to care what the other thinks:

... obviously, it's nice if everybody thinks in the same sorts of ways, and it's worth us talking to each other. But that's the thing, I think, is that nobody has to listen, universities don't have to listen to what the profession does, and vice versa. There's no, you know, kind of compelling incentive to do that.

There were however some participants who did feel that they had some limited opportunity to influence the profession through their roles and/or that it was their place to do so. Adele, a Russell Group Professor, identified "thought leadership" as part of her role, and recognised that, if done correctly, it should have an impact on the profession. Dimitri, a Professor and Head of School at a Russell Group university said that academics should 'reach out to the wider population' and called for an explicit focus on the legal profession, where he said there was scope for influence.

Henrietta, Head of Law at a non-Russell Group, public university explicitly recognised the role of academics in impacting society arguing, 'we are not here, we, academics, just for our own glory, just to write articles that a limited number of people are going to read. We are also here, critically, to have an impact on society'. While Henrietta recognised the value of a wide

impact on society, she was specific in her belief that, as legal educators, she and her colleagues have ‘an imperative duty to engage with the legal profession’.

The most common mechanism for influencing the profession identified by our participants was through influencing students. On this, Henrietta explained:

I feel like I have some place in [influencing the profession], through the students that I send out, through the programmes I design, through the programmes I deliver, through the employability schemes that we offer, through the culture that we try and engender in our students, through breaking down barriers in relation to all ranges of character, or the protected characteristics ...

Claire, who is an Associate Professor at a Russell Group university also hoped to influence reform through her students. While recognising her vision as ‘a bit utopian’, Claire saw a role for law schools in developing future lawyers who have an awareness of issues like social justice, the climate emergency and access to justice, so that they can positively influence the profession.⁹² However, Eleanor, also an Associate Professor at a Russell Group university identified the following problem:

I have a tendency to think that perhaps the people who go in and stick in the profession are perhaps the less critically minded students, and the ones who were a bit more, you know ... to some extent, we educate them not to want to go off and work in a big corporate firm.

For Eleanor then, some of the work that universities are doing on *bildung* may be lost because the students who are most successful in developing the inner life,⁹³ are less likely to go on to work in some of the areas that most need that influence.

Further empirical research would be needed to determine the extent to which legal educators have historically felt empowered to effect the positive development of the legal profession

⁹² On the role that clinical legal education can play in this endeavour, see D Nicolson ‘Legal education, ethics and access to justice : forging warriors for justice in a neo-liberal world’ (2015) 22 International Journal of the Legal Profession 51.

⁹³ Biesta, above n 29, 346.

through their education. However, it is the authors' view that the recent changes put considerable pressure upon legal education providers to design their programmes to fit the SQE specification and current employer expectations. If this pressure is sufficiently significant, and critical and/or normative content is forced to give way entirely, then legal educators arguably become mere reinforcers of the status quo.

CONCLUSIONS AND RECOMMENDATIONS

In 1971, The Ormrod Report recommended the ‘..integration of academic and professional teaching resources into a coherent whole’,⁹⁴ but warned that ‘...professional bodies ought not to attempt to specify the contents of the [legal education] curriculum...’ at the “academic” stage.⁹⁵ Following the recent SQE reforms, it is credible to contend either that the SRA has granted legal educators almost unprecedented freedom *or* that it has specified the contents of the academic curriculum in more detail than ever. The prevailing view across the sample appears to be that the solicitors’ branch of the legal profession has a high degree of influence on legal education in England and Wales, and that this influence is getting stronger rather than weaker, the SQE notwithstanding. Whilst some may claim that the participants in this study have overestimated the strength of this influence, the authors contend that the fact of this perception – if indeed it is common amongst legal educators more broadly – is likely to have an impact on curriculum design in and of itself and an inhibiting effect on the *bildung* of law courses.

The legal educators in this study did not agree on the legitimacy of this perceived power, or indeed on the nature of their own role vis-à-vis the legal profession. Prior to this study, it is likely that some had never even consciously considered such matters. However the authors argue that this perceived increasing influence poses an existential threat to social progress

⁹⁴ Report of the Committee on Legal Education (Cmnd, 4595, 1971), 34.

⁹⁵ Ibid 47.

that requires urgent attention, and that a lack of unity on this issue amongst the legal education community may be a contributory factor rather than merely symptomatic of the issue.

According to Bourdieu's field theory, the degree of autonomy that fields have is crucial,⁹⁶ particularly as they relate to fields' capacity to insulate themselves from outside influences, and to maintain their own evaluation criteria over those imposed by other fields.⁹⁷ The instrumental approach of contemporary HE policy risks a focus on income generation social participation above academic freedom and institutional autonomy.⁹⁸ In the context of legal education, there clearly exists – and arguably has always existed – strong links with the legal profession, which are not in themselves problematic: '[a]ll that is essential is that the profession should not seek to dictate to the university the method and scope of its teaching'.⁹⁹ Yet the data suggest that there *is* an intensifying reduction in perceived autonomy for legal education. One potential consequence is a threat to community value and the death of *bildung* within legal education programmes. There have been calls to action in the more general literature on HE,¹⁰⁰ but the extent to which it is possible to salvage this value in the context of post-SQE legal education is unclear.

It is not the authors' contention that there is no scope for practical or vocational elements within legal education – far from it! But what is crucial is that legal education retains and builds on its critical and community-focused outlook. In this regard, there is scope for optimism. New generations of students (and ultimately then lawyers) bring with them their own values and hopes for the legal profession of the future,¹⁰¹ and legal educators may

⁹⁶ Bathmaker, above n 21, 66.

⁹⁷ Wacquant, above n 24, 269.

⁹⁸ Maton, above n 42.

⁹⁹ Gower, above n 37, 160.

¹⁰⁰ Taylor, above n 30.

¹⁰¹ L Bleasdale and A Francis 'Great expectations: millennial lawyers and the structures of contemporary legal practice' (2020) 40 *Legal Studies* 376.

therefore find that there is student appetite for community value conversations in relation to the profession, and graduates who want to have a positive impact. In turn, law firms may find that they need to adapt in order to attract and retain the best talent. However, the data in this study point to significant hurdles to overcome if legal education is to have and sustain the kind of reformatory impact envisaged by *bildung*.

Admittedly, legal educators know all too well that, regardless of their aspirations at the outset of their studies, only a small proportion of university law students in England and Wales actually go on to qualify as lawyers. The SQE may reduce this proportion even further if future solicitors take advantage of the deregulation to make a different disciplinary choice at undergraduate level. Nevertheless, for the foreseeable future it is likely that many aspiring solicitors will continue to choose to study a law degree. In that context, legal education offers a unique opportunity to influence social progress in the legal profession specifically. Beyond that, by exposing law students to issues within the legal profession and equipping them to make a difference, it seems likely that those students will acquire knowledge and skills that, by analogy, could positively influence social progress whatever their destination.

This paper is the authors' rallying cry. Unless legal educators, regulators, and policy makers can unite around a shared vision for a genuinely reformatory curriculum, these stakeholders over time may inadvertently become complicit in merely reinforcing established and problematic cultures, norms, and practices within the legal profession and more broadly. This would not only constitute a missed opportunity to make a positive difference, but may also further entrench existing inequalities, discriminatory practices, and issues of wellbeing. The authors argue that – in the interests of justice – community value (or *bildung*) must to at least some degree be baked in to all legal education programmes, and legal educators (particularly those experiencing market pressures most acutely) may need further support from regulators and policymakers in order to do this.

Practical support in this respect might include: re-instating the admission requirement that aspiring solicitors obtain a qualifying law degree; broadening the scope of professional ethics training for aspiring solicitors; establishing a formal role for universities in lawyers' continuing professional development activity, specifically in relation to equality, diversity, and inclusivity and lawyer wellbeing; and/or incorporating assessments of reflective and critical thinking skills into the SQE. It is clear from the literature that there is still room for improvement within the legal profession, and if education loses its seat at this table, it raises the question: where exactly, is it going to come from?