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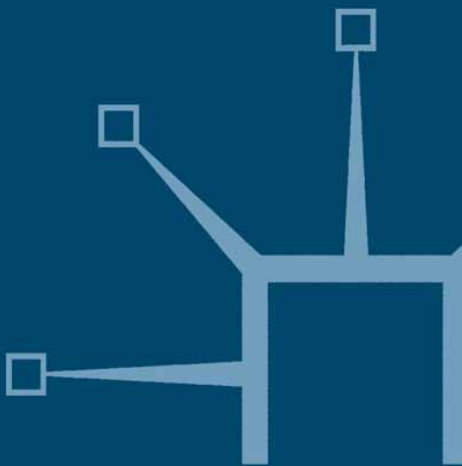
Redirections in the Study of Expert Labour

Established Professions and New Expert Occupations

Edited by

Daniel Muzio, Stephen Ackroyd and Jean-François Chanlat



Redirections in the Study of Expert Labour

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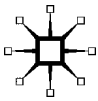

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1

Introduction: Lawyers, Doctors and Business Consultants

Daniel Muzio, Stephen Ackroyd and Jean-François Chanlat

This book presents a collection of new research papers offering accounts of three of the most important expert occupations in the Western world today: lawyers, medical doctors and business consultants.[1] In this introduction, we suggest that, despite the differences in the organisation of the occupations considered and some differences of analytical focus and methodological approach adopted by the authors who write about them, it is possible to discern some general trends of contemporary development in this area. There have been, in recent decades, some striking processes to be observed in both areas of the traditional professions and new business services. It is not clear, however, that the main reasons why this is occurring have been established nor have any but the principal trends of development been convincingly identified. In this introductory chapter, we outline the detailed work contained in the chapters which follow and we use the discussion of them to cast some light on the general issue of what is happening to expert occupations.

Concern about what was happening to the most skilled occupations and their role in the developing economy (Starbuck, 1992; Knights *et al*., 1993; Brint, 1994; Alvesson, 1995; Blackler, 1995; Fincham, 1996; Reed, 1996; Scarborough, 1996) first re-emerged about ten years ago. Noticing the rapid advancement of some new occupations (such as management consultants, information systems designers and public relations specialists) and that these groups were lacking the extended training, qualifications and modes of regulation associated with traditional professions, there was a general tendency to question the prospects of professionalism remaining as the dominant pattern for the organisation and delivery of expertise. The new occupations and their organisational patterns which now became the focus of attention were identified as doing 'knowledge work' and as undertaking 'expert labour', as

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opposed to professional work. There was a new emphasis on the way that occupations are active in the construction of knowledge through their use of language and relational skills. Academics were, in fact, quick to develop a characteristic thesis about 'Expert Labour' and to suggest that change towards a new pattern of knowledge construction and organisation had already been extensive (Blackler *et al*., 1993; Knights *et al*., 1993; Alvesson, 1995; Blackler, 1995; Burrell, 1996; Reed, 1996). This was seen crucially to involve the development of new forms of knowledge and also different methods for its production, organisation and delivery.

The expert labour thesis argued that the emergence of new forms of knowledge is at the root of fundamental changes in the social organisation of skilled labour (Starbuck, 1992; Blackler *et al*., 1993; Brint, 1994; Wikstrom and Normann, 1994; Blackler, 1995; Reed, 1996). In addition to new knowledge, it was also asserted that there were some new patterns of work emerging that were very different from those found within the traditional professions. New knowledge-based occupations were thought of as adopting participative and cooperative patterns of workplace relations and, as a result, as being much more responsive to the needs of consumers. The new organisations accompanying these developments were variously described, but in terms of orthodox organisational theory, these could be characterised as project-based or matrix structures. There was also a widely held assumption (Starbuck, 1992; Blackler *et al*., 1993; Alvesson, 1995; Blackler, 1995; Clark, 1995; Reed, 1996, 2006; Stehr, 2001, 2002; Clark and Fincham, 2002) that since these forms of expert labour were new developments, new terms and concepts emphasising their unique characteristics were necessary to understand them. New forms of expert labour were held to be changing the rules of the game so much that, by implication if not direct assertion, they were increasingly challenging and displacing traditional forms of professional knowledge and organisation.

The contribution of new research

Ten years on, the expert labour thesis has, in its turn, been challenged. It seems clear from much of the existing scholarship (Abel, 1988, 2003; Flood, 1999; Hanlon, 2004; Morris and Pinnington, 1999; Pinnington and Morris, 2002, 2003; Kirkpatrick *et al*., 2005; Muzio and Ackroyd, 2005; Ackroyd and Muzio, 2007), that change has been less revolutionary than was initially imagined. The rise of some new occupations, it is true, has been dramatic in some cases, and there are

some very different patterns of work and organisation to be observed in them. On the other hand, the demise of the traditional professions has not occurred, though there have evidently been some changes in them that are both extensive and extremely important (Broadbent *et al.,* 1997). As can now be clearly seen, both of the traditional professions that are considered here have more than simply survived; they have developed significantly in their numbers and their contribution to economic growth. But they have done so by changing in some distinctive ways. Thus, as we will argue from our interpretation of current research, and particularly from the chapters presented in this book, the legal and medical professions have responded in rather different ways to similar external pressures. In this essay, we begin to develop and apply the concepts that allow us to interpret the data and findings in the research papers that are now abundantly available.

Today there are many empirically rich and insightful studies of expert groups (Abel, 1988, 2003; Flood, 1989, 1995, 1996, 1999; Hanlon, 1994, 1997; Clark, 1995; Sommerlad, 1995, 1999; Kipping, 1999; Kipping and Engwall, 2002; Dent, 2003; McKenna, 2006). The problem, if there is one, is that the best studies are often conducted by subject specialists, who focus in detail on a specific occupation. These studies are extremely detailed and insightful, but are usually not aspiring to give any general account of occupational change. Against the background of detailed studies undertaken by specialists and a lack of comparative analysis (but see Leicht and Fennell, 2001, for an important discussion of doctors, lawyers and managers in the United States), we have selected the occupations which we have focused on, very carefully. In particular, we are committed to the view that it is important to study occupations whose activity and situation are theoretically interesting as well as substantively important. Hence, we have sought to develop some concepts and ideas that allow us to consider a range of traditional professions and new expert occupations in similar terms, without seeing either as necessarily or inherently superior to the other. The two professions which are analysed in this book, medicine and law, have a traceable genealogy which leads back to the middle ages. By contrast, the new occupations such as management consultancy and project management, which are also considered here, have histories that are, at the very most, less than a century long. However, by using similar concepts to characterise them, we can see good reasons why they are likely to follow through particular (if somewhat different) trajectories of development.

We are led to the view that the salient question is not which type of occupation and associated organisational structures will survive into

the future, but why there has been the rapid development of some new patterns of organisation for expert occupations and the removal of the monopoly of the traditional professions. Although traditional professions are clearly more than simply surviving, it is not the case that they are being adopted as the pattern of organisation by new forms of expertise. Rather, new forms of organisation have been developed to deliver these new types of expert services. Thus, the general approach we adopt is analogous to understanding a process of biological speciation, in which there is simultaneous development of a number of species, as opposed to explaining the extinction of one species by the emergence of another.

Three types of expert occupation

Our starting point and initial proposal is that there are at least three distinctive types of expert occupation that can be identified and are extant at the present time. We identify them as traditional or collegiate professions, organisational professions and new expert occupations.[2] Indeed, the three occupations under consideration, law, medicine and consultancy, have been chosen insofar as they represent examples of this typology.

Law represents one of the most successful and authoritative examples of a *collegiate profession* (Johnson, 1972). It has a strong professional body with mandatory membership which issues credentials, thus limiting access to this field of practice (control over the production *of* producers) and regulating the behaviour of qualified practitioners (control over the production *by* producers) (Abel, 1988). Secondly, lawyers traditionally work in autonomous professional organisations (Larson, 1977); they are organised as partnerships, where the professionals themselves own and control the means of production[3] and jointly share the risks, responsibilities and rewards connected with practice. Finally, these professional arrangements and practices (and the vested interests they support) are legitimised in terms of functional arguments, stressing quality, ethical competence and public interest.

By contrast with this, in what we call *organisational professions* (cf. Reed, 1996) such as contemporary medicine, engineering and large sections of accountancy,[4] the organisations using professional skills are typically not owned or controlled by members of the profession itself. These occupations too have powerful professional bodies issuing mandatory credentials and causing professional labour to be scarce, but

in occupations of this type the majority of the members are employees. Because of the scarcity and value of their expertise, corporate professions typically have a good deal of *de facto* control over their own work in their employment, with quality and public interest as their primary rhetorical resources. However, crucially in contrast to collegiate professions, their authority and autonomy are often circumscribed by technical matters; long-term strategic decisions are taken by external business owners and senior managers or, in the case of medicine, governmental agencies, whilst everyday management is increasingly located in a dedicated cadre of administrators, who are guided by considerations of efficiency and value for money (Mintzberg, 1979). Medicine, despite its historical origins as a *collegiate profession*, has been increasingly captured and rearticulated as an *organisational profession*; doctors are, today, largely employed in public bureaucracies and subjected to the discipline of new public sector management and quasi-markets (or in the case of the United States, as discussed by one of our contributors, Theresa Domagalski, to the for-profit logic, typical of the private sector).

By contrast with both of these, however, new forms of expertise, such as management and systems consultancy, which in recent years have become very influential, have adopted radically different strategies and organisational configurations. These new forms of *expert occupations* or, as named elsewhere, *entrepreneurial professions* (Reed, 1996), typically present, if any, only embryonic professional associations with no mandatory membership or official credentials. Access to such fields of activity is largely open and subjected almost exclusively to regulation by market mechanisms. Furthermore, with the exception of a declining number of small- and medium-sized partnerships and sole practitioners, these professionals are employed rather than self-employed and/or are the owners of their organisations. Because they do not have either professional credentials or other independent sources of knowledge, the *de facto* control over their own work is often weak. Finally, we should note significant differences in the kind of rationale offered to justify and defend these types of expert services. As discussed, the rhetorical defences of all of the traditional professions, typically, invoke quality and reliability and have, as a minor modality, claims of public service and concern for the common good. New occupations, such as business consultants or project managers, by contrast, appeal to a market-orientated rhetoric of entrepreneurship, competition and efficiency to account for the value of what they do and the services they provide (Brint, 1994).

Of course, the typology proposed is a set of ideal types which captures predominant tendencies only; as recognised in our footnoted

qualifications, empirical reality is more complex. In particular, occupational boundaries are not always clear, whilst occupations often contain different tendencies and motivations within them. Yet, we suggest that the categories of collegiate, organisational and entrepreneurial profession are useful in capturing some of the key distinctions between the typical motivations and patterns of organisation found amongst occupations supplying expert services. Among other things, these categories combine the consideration of typical patterns of motivation (conceived broadly to include reference to values and the formation of identities) with the analysis of specific organisational configurations. It is this that makes the categories useful and allows analysts to understand the relative importance of motivations and the trajectories of development that occupations have experienced. It also allows more soundly based judgements about the ways in which occupations may develop in the future. Analysed in this way, some of the key changes to be observed at the present time can be understood as movement across categories (specifically, from collegiate to organisational and/or entrepreneurial forms of professionalism). Our categories and mode of analysis suggest this may be more useful as a means to understand contemporary change amongst professional occupations than more established propositions such as de-professionalisation and proletarianisation (Aronowitz, 1973; Haug, 1973, 1975; Oppenheimer, 1973; Derber, 1983; Derber *et al*., 1990; Derber and Schwartz, 1991; Burris, 1993; Aronowitz and Di Fazio, 1994; Macdonald, 1995; Reed, 1996, 2006). Nor do we see much evidence, in the Anglo-Saxon economies at least, to support the view of Furusten and Garsten (2005), that traditional and new entrepreneurial professions will converge on a 'new' pattern of professionalism.

Rethinking expert labour and its organisation

The underlying values and motivations of expert groups are important because they constitute the motor driving the collective mobility projects that different occupations conceive and develop. We argue that the initial self-conception of any occupation will be influenced by the original institutional and ideological context in which occupational development was first formulated; but, once securely founded, such motivation and outlook display a remarkable durability.

Hence, it is important to identify how occupations have come to understand themselves, their work and the way in which this should be legitimately performed and organised, before proceeding to consider

the ways in which the institutional context, through which these motivations continue to find expression, actually shapes policy and conduct. The institutional context in which occupations subsequently operate is certainly likely to have an impact on what happens to them; but this is likely to be of variable and, often, limited effect. Occupations do not readily change their character, but, instead, adapt their existing motivations to new circumstances (Cooper *et al.*, 1996; Covaleski *et al.*, 1998; Ackroyd and Muzio, 2007; Faulconbridge and Muzio, forthcoming). Hence, in understanding what is happening, information is needed on both the original pattern of group motivation and the current context of operation, both organisational and socio-economic (Archer, 1995, 2003; Hanlon, 1997, 2004; Kirkpatrick and Ackroyd, 2003). Ideas about both group motivation and context are necessary if we are to decide in what manner groups are likely to formulate and to direct their agency.

Considered in terms of their occupational development projects, the expert groups we have singled out for study in this book are of interest for their distinctiveness with reference to the three types of expert occupation we have distinguished. The legal profession, despite enormous external pressures and some very significant internal developments, has so far,[5] generally, persisted with refurbished patterns of collegiate professionalism. However, evidence from large global law firms[6] (see contribution by John Flood in this book but also Empson, 2007 and Faulconbridge and Muzio, 2008) reveals how, even within a context in which (elite) professionals retain ownership and control over productive structures, collegial organisations are expediently adopting the practices and vocabularies of management and managerial organisation. Although these very large practices remain *autonomous professional* organisations (Larson, 1977) and retain an attachment to collegial forms of ownership and governance, their development can be understood in terms of a trend towards organisational professionalism (Faulconbridge and Muzio, 2008).

Such tendencies, which are increasingly relevant in sections of the legal profession, are more fully realised within the medical profession. Our interest in this profession is precisely because, in substantial parts of the Western world including especially UK and the USA, doctors have completed a transition from being a collegiate to an organisational profession. Confronted by somewhat different but equally strong external pressures as the lawyers, largely from corporations in the USA and from government in UK, the medical profession has given ground. As many researchers suggest, in the USA, doctors are increasingly

becoming corporate employees and also resigning themselves to having their autonomy increasingly eroded by external interests including, in particular, health care-corporations and insurance companies (see Domagalski, Chapter 6 of this book). The existence of similar changes has been masked in the UK because the Government, as the backer of the public health system (the National Health Service), has sought to enhance the pay and conditions of doctors, whilst at the same time attacking their practising autonomy (see Dent, Chapter 5 of this book). Not only have professional activities been increasingly scrutinised and regulated but the *de facto* autonomy of doctors in hospitals has been progressively limited by the extension of the powers of a new cadre of public sector managers.

Finally, new knowledge-based occupations formed in the twentieth century such as business consultants are, for a number of reasons we shall consider in this chapter, organised differently from collegiate and organisational professions. Largely eschewing partnership or the formation of powerful professional associations and mandatory entry qualifications, they have minimised the specialised education their members are expected to acquire prior to becoming practitioners. Detailed inspection of business consultants and their activities, as is undertaken in later contributions to this book, shows that they exhibit only superficial resemblance to the properties of established professions (Kipping *et al*., 2006a; McKenna, 2006). True, in some areas they have borrowed features from the traditional professions, but this has generally been a limited and often purely symbolical exercise. For reasons we shall consider, consultants have not adopted the standard forms of professional organisation. They are not making, nor in our judgement are they likely to make, despite the efforts by certain sections of this occupation, a transition from their current entrepreneurial pattern of organisation to the patterns exhibited by the traditional professions. There are important reasons why this is so, which will be discussed again later in the conclusion to this chapter.

The main points we have to make here are two: that, currently, neither the roles that new occupations play in relation to the capitalist organisations that are their main clients, nor the broader institutional context in which they were formed, favour or foster traditional professional modes of organisation. The first point here relates to what Giddens has referred to as 'proximate structuration', in which institutions adopt some of the features of the other institutions to which they are in proximity (Giddens, 1979, 1984). This is an effect that is not very dissimilar to what some institutional theorists have referred to as 'mimetic isomorphism' (Scott and Meyer, 1994; Scott, 1995), in which

established patterns of organisation are copied by other institutions. But since law firms have historically operated in close association with big business without abandoning their basic, collegiate configuration, it is unlikely that these are the only forces in play. Hence we also point to broader and in some ways more coercive features of the economy and the polity at the time of the formation and institutionalisation of a particular occupation, as being the most important formative factors. By the beginning of the twentieth century, the economy of UK and the USA had come to be dominated by large businesses, and the willingness of the state to make regulatory bargains with the professions had significantly diminished. In short, we suggest that the allocative regime,[7] jointly constituted by the priorities of the economy and the state, had significantly changed. Lash and Urry (1987) make similar points regarding the transition from 'liberal' to 'organised' capitalism around the turn of the twentieth century. See also Aglietta's arguments concerning the transition between regulatory systems (Aglietta, 1979; Lipietz, 1987).

Thus, we argue that changes in the socio-economic allocative regime extant in the twentieth century, played an important part in shaping the occupational projects of the expert occupations that were formed from early in that century onwards. These generally did not adopt traditional professional projects, nor did they usually aspire to the patterns of organisation pioneered by the traditional professions. Indeed, we think the institutional pressures and ideological climate associated with the allocative regime that emerged in the twentieth century in UK and the USA, worked the other way around. As we shall suggest, it is difficult to read the history of management consultancy as involving movement towards traditional professional patterns; whilst it is also clear that the collegiate and organisational professions were increasingly being pushed towards the adoption of managerial and entrepreneurial models of organisation. In the late twentieth century, as testified by several chapters in this collection, pressure was on collegiate and organisational professions to become entrepreneurial in outlook and organisation, and these pressures, especially from government, became particularly intense in the closing decades of the last century (Hanlon, 1997, 1998, 2004). And yet, despite the strong pressures exerted by the context, such is their continuing appeal in favourable circumstances that professional models are seen to be relevant and actively pursued by some management occupations. The project managers written about by Damian Hodgson in this book (Chapter 11), not to mention human resource

managers, are patently pursuing updated professional development projects, as classically described by Magali Sarfatti Larson (1977).

At this point it would be helpful to set out in more detail what the chapters in this book cover and the evidence and argument that the authors of the chapters adduce, showing how they relate to the argument developed in this collection.

The studies of the legal profession

In Chapter 2, Muzio and Ackroyd provide an account of how the legal profession in England and Wales has reorganised itself in response to a series of rising difficulties and external pressures over the last 20 years or so. Whilst there is little doubt that solicitors operate in a more sceptical if not hostile ideological and institutional climate, this contribution shows, by reference to Law Society data, that solicitors in private practice in England and Wales have managed to develop a series of appropriate defensive mechanisms in their patterns of organisation, and so to adapt successfully to new circumstances. This it has done by developing rather than abandoning the traditional partnership form of professional ownership and control (Empson, 2007). The changes that are documented in the chapter suggest that a range of structural transformations within law firms have taken place affecting the profession's organisation and extending to its social composition and labour process. Defence of professionalism in this example has involved a reworking of professional closure. External mechanisms, that is control of access to the labour market which sanctions access to the profession, are being increasingly superseded in the profession's economics, by internal controls which regulate promotion within the structure of firms. The result is an increasingly elongated professional hierarchy, where the elite of leading practitioners in the shape of a declining proportion of partners, exists alongside a rapidly increasing cohort of rank-and-file salaried solicitors (Freidson, 2001). This is symptomatic of an increasingly formalised and exploitative labour process, which is allowing professional elites to retain and maximise rewards despite operating in a less favourable ideological and institutional context. The key point in this contribution, however, is that these changes have allowed the elite of the profession – the partners of law firms – to control the expansion of their firms in a manner that does not threaten their superior earnings, status and autonomy. The emergence of very large, highly profitable legal practices (sometimes having hundreds of partners, thousands of employees and an international reach) is evidence that the legal profession has

effectively refurbished what is recognisably the collegiate professional project, so that it is viable to operate under new business circumstances and despite the hostile stance of the state.

John Flood focuses his analysis in Chapter 3 on corporate law firms. Such firms are generally assumed to be at the forefront of the processes of industrialisation, managerialisation and commercialisation of legal practice. Flood's chapter leads to a series of important contributions. Firstly, it indicates how commercialism is not a new tendency which is curtailing and displacing professionalism; indeed, a commercial logic and opportunistic, entrepreneurial outlook have historically characterised leading sections of the legal profession (Sugarman, 1993; Hanlon, 2004). This awareness of the profession's history should caution against the seemingly obvious but actually erroneous contraposition between professionalism and commercialism. Secondly, whilst corporate law is often viewed as a coherent field of activity, John Flood's case studies draw our attention to the considerable degree of differentiation and complexity that characterises this area of legal practice. He shows convincingly that the social organisation of legal expertise can and does vary a good deal. This observation leads him to draw a distinction between two types of legal organisation (and two distinct approaches to lawyering): on the one hand there are what he calls 'global integrators', who in many ways are undergoing a shift towards organisational forms of professionalism, and on the other hand there are local 'niche firms'. Whilst the former are displaying increasing signs of bureaucracy and standardisation and developing some specialised management functions, the latter are characterised by a strong attachment to purely collegiate structures and professional practices. In the latter type of firm, of which there are many contemporary examples, firms have made much more limited concessions to modern management and organisation than is often expected. There is little evidence here of the managed professional business (Greenwood and Hinings, 1993, 1996; Cooper *et al*., 1996; Brock *et al*., 1999) which was held to be the predominant type of professional service firm. This is significant because these are still very large, complex and successful firms, which operate in extremely sophisticated legal markets. Accordingly, despite some dramatic changes in the context and nature of legal practice, 'professional' arrangements, methods and values are not only still viable but may also be resurgent.

Finally, Chapter 4, by Pinnington and Suseno, completes our set of accounts of the contemporary legal profession by examining in-house lawyers working for large Australian corporations. This study is a counterweight to our concentration on legal firms in private practice.

Accounts of employed lawyers are a largely untold chapter in the story of the legal profession. Not only has this sector experienced a marked growth in size and importance but its employed status within the structure of large corporate organisations would suggest that these professionals are particularly exposed to the forces of routinisation, standardisation and bureaucratisation. Yet, this analysis suggests the power and independence of corporate lawyers and their ability to negotiate new temporary settlements involving continuing employee status combined with occupational privilege. In particular, Pinnington and Suseno's analysis reveals very limited instances of inter-jurisdictional poaching. It seems that even in the light of the inevitable corporate programmes of routinisation, commodification and rationalisation, the professional jurisdictions of employed lawyers have remained relatively stable. Indeed, the new allocative regime connected with the liberalisation and internationalisation of business, which has subjected the legal profession to some considerable pressure for reform, has at the same time, created new opportunities for expansion and profitable survival for this occupation within the corporation itself. Corporate restructuring in particular has increased the reliance of large firms on externalisation and competitive tendering (Ackroyd, 2002), and has recast in-house lawyers into a new strategic role as purchasers, brokers and project managers of external expertise. In this context, whilst accepting an inevitable reduction in their autonomy and self-regulatory capabilities, in-house lawyers are shown to retain control over their own work and to benefit from their increasing role as intermediaries between corporate and professional elites.

The studies of medicine

In Chapter 5, the first of the studies of medicine in this book, Mike Dent looks at changes in health-care provision over the last couple of decades in the UK, and in particular at the changing roles of medical practitioners and other occupations in the National Health Service (NHS). Dent's argument has two aspects: on the one hand, he suggests that external controls of medical practice have altered doctor's work considerably, but this has also shifted significantly the division of labour between doctors and other health professionals, most obviously, the nurses. Thus, one effect of government policies and actions has been to assist changes in the jurisdictions of doctors and nurses. The policies of government towards the medical profession has, Dent shows, entailed putting in place more extensive and increasingly effective controls over their

practitioner autonomy. This involves establishing, and then gradually and incrementally increasing in scope and inclusiveness, controls over day-to-day medical practice, both amongst hospital doctors and general practitioners. Dent enumerates both the new agencies involved and the new procedures which they have introduced. He shows that these processes have had a considerable impact on what doctors do. He also suggests that they have had the effect of changing the sources of legitimacy for medical practice in the UK. In the past, legitimacy was largely a result of the existence of the professional body, and its activities such as control over education and training and its powers to discipline members. However, today, legitimacy has to be achieved by demonstrating conformity with pre-established procedures and set performance targets. Although the National Health Service, which is by far the main organisation in which doctors work, is not a private organisation and it is certainly not operated for profit, it is increasingly exposed to some market mechanisms and managerial systems (Bennett and Ferlie, 1996; Baggott, 1997; Kirkpatrick *et al*., 2005; Pollock, 2004). Indeed, some of the procedures that are being followed by managers and regulatory agencies in the UK, originated in the private sector of the USA. But the point here is that, although the context is different and any disciplinary power arising from the new controls and procedures are exerted by state employees and state agencies, as opposed to corporate management, many of the effects are the same.

The next two chapters also deal with the medical profession, and are written largely on the basis of what has been and is happening to this profession in the USA. American experience is, we think, an appropriate focus for debate in view of the fact that so much of what is being introduced in the way of specific reforms in UK and elsewhere, as Dent (in this book) and others (Pollock, 2004) have shown, is drawn from experiences in that country. Furthermore, the consequences of the reforms actually undertaken here also have an uncanny resemblance in many respects to what has already occurred in the US.

In her contribution, Theresa Domagalski reviews a great deal of research into the US medical profession, only some of which will be known already to non-specialist audiences outside North America. Domagalski begins Chapter 6 by summarising the work of various groups of American researchers, beginning by paying attention to the 'de-professionalization' thesis of Haug (1973, 1975) and others (Derber, 1983). This argument suggests that the medical profession has been losing status as well as its earning capacity for some time, and current change simply represents a continuation of well-established

trends. Domagalski clearly prefers the more nuanced account offered by McKinlay and colleagues (McKinlay and Arches, 1985; McKinlay and Marceau, 2002), which acknowledges the decline but also points to such things as the growing trends of specialisation within medicine, and the increasing participation of doctors in management, both being developments which counter the otherwise continuous decline in status of the medical profession in the USA. However, this author insightfully sharpens the focus of the debate by pointing to two really important but, hitherto, somewhat neglected aspects of current trends in medical organisation. First, she identifies the increasing influence of corporations on hospitals and other institutions providing health care and the impact of these organisational developments on the conditions of work of practicing physicians and surgeons. Among the most telling facts and figures she records is the very high proportion of US doctors who are now under contract to managed care corporations (88%). Secondly, Domagalski points to and discusses the collective agency of doctors, which is much more varied and developed than is often imagined. For instance, in some enclaves, doctors have formed negotiating organisations not dissimilar to trade unions. According to the evidence and arguments assembled in this chapter, the increasing corporatisation of medical services and the resistance by doctors are, at least in part, causally related.

In Chapter 7, Paul Adler and Seok-Woo Kwon propose a different theoretical and empirical interpretation of the development of the American medical profession from that of Domagalski. Adler and Kwon's interpretation is produced within a broader theoretical argument about the trajectory of change in the professions as a whole. These authors suggest, as we do, that there has been change in the dominant tendencies in the organisation of the professions and point to the original pattern of the organisation of the professions. They propose, again in our view rightly, that there has been movement from pre-modern Guild-type structures to the more hierarchical, but still in its own way communitarian, pattern of the liberal professions. Adler and Kwon then postulate a contemporary movement from the pattern of the liberal professions – which they imply has been the dominant model of expert labour in the modern period – to something new, which they describe as 'collaborative professionalism' and see this emerging, in embryo at least, in current changes in the medical profession. The argument depends on suggesting that historically significant models of professional organisation are constructed around different 'organising principles'. There are, Adler and Kwon suggest, three different types of organising principles: the hierarchy principle (which relies

on authority); the market principle (which relies on price) and the community principle (which relies on trust). Each historically durable model of professionalism is constructed from unique combinations of these elements. For historical and other reasons, it is argued that contemporary professionalism is making a transition from being organised on the basis of hierarchy and/or market principles to giving greater centrality and importance to community. What is emerging, it is claimed, is a new form of professionalism that makes collaboration its strongest suit.

Adler and Kwon's argument is subtle and plausible. However, we must confine our attention to what sense it allows these writers to make of current change in the American medical profession. Suffice it to say that Adler and Kwon also find many of the trends that others have tended to pick out and cite as evidence for continued decline in the medical profession. But they point to other interpretations of these trends and, perhaps more importantly, also suggest that these features are often balanced by positive developments. Taken together, they point to trends which they take to suggest the emergence of the new forms of community. They note, for example, that the increased specialisation amongst doctors goes hand in hand with increased interdependency between them, and this brings to the fore increased collaboration between specialists. In this and other ways, Adler and Kwon note the rise of community values and practices in contemporary American medical services. However, these authors, unlike the exponents of the expert labour thesis of a decade ago (Starbuck, 1992; Blackler *et al.*, 1993; Alvesson, 1995; Blackler, 1995), are not over-optimistic about the ease with which these new forms of communitarian work relations will be developed. Specifically, they conclude their paper with the suggestion that the development of these new forms of community in US medicine (and presumably elsewhere) will be 'a difficult evolution'. On the other hand, these authors do point to developments in this hitherto very conservative profession that are not unlike the developments identified by the expert labour writers within the new occupations. However, here we have a proposal that very similar developments can occur in the context of a relatively slow and evolutionary transformation of well-established traditional professions. Despite their differences, neither the argument proposed by Theresa Domagalski nor that of Adler and Kwon is incompatible with the suggestion that the professional status of the doctors is changing dramatically; a transformation which we have chosen to characterise as movement from a collegiate to an organisational profession.

Assessing the fate of the professions

Reviewing the arguments and evidence presented regarding the legal and the medical professions in this book, then, it is clear, that although the traditional professions may be under some pressure, they are far from defunct. Clearly, the traditional professions have been changing enough to remain viable but are doing so in ways that are quite varied. Indeed, we argue that unless their development project and their context are both taken into account, there is little chance of understanding what is happening. Sometimes change is specifically held to include, as in the argument of Adler and Kwon, developments that would be felt to be unlikely by an earlier generation of researchers. However, ultimately, traditional professions can be seen to be responding to external pressures and have proved themselves to be, to an unexpected extent, both adaptable and resilient (Ackroyd, 1996; Ackroyd and Muzio, 2007).

In some ways, this may be regarded as merely a continuation of the long-term process of occupational rivalry and jurisdictional negotiation (Abbott, 1988). Professions have commonly faced competition over their jurisdictions from rival occupations. For example, solicitors in the UK have faced and are facing competition from occupations such as claim handlers, will writers, negotiators and licensed conveyancers, which are constantly nibbling away at their territory from below (Muzio and Ackroyd, 2005); then, there are also the ongoing jurisdictional threats posed by the incursions of established professions, such as accountants, and increasingly by the new forms of business advisors (Dezalay, 1995; Sugarman, 1995; Dezalay and Garth, 2001). However, this recognition should not lead us to overlook or minimise the point that, at the present, the current encroachments on the autonomy of the professions come consistently from still bigger battalions: business corporations and governments. In recent decades, led by business interests, competition over jurisdictions has been deliberately intensified by government policies aimed at breaking down professional monopolies (Abel, 1988, 2003; Burrage, 1997; Hanlon, 1999; Leicht and Fennel, 2001; Kirkpatrick *et al*., 2005; Muzio and Ackroyd, 2005; Pollock, 2004). In this context, the deregulation of the institutionalised markets for professional services is being extensively undertaken. There have also been ideological attacks on the legitimacy of professional self-regulation which, potentially, could deprive the professions of their moral authority and cultural capital. In sum, business interests and governments dispose of significant ideological and material resources, and pose a serious threat to the professions. However, despite the forces ranged against them, we are

not seeing the demise of the professions nor their transformation into new expert occupations.

If the above discussion is a reliable guide, we have an important remaining puzzle: why did distinctively new patterns for the organisation and delivery of expertise arise in the twentieth century? Why did not these new expert occupations simply conform to the traditional patterns established by collegiate and organisational professions? To consider these questions, we now turn to the research record concerning the organisation of business consultancy and related occupations.

Studies of management consultancy and allied occupations

In Chapter 8, our first in the section on business consultancy, Matthias Kipping and Ian Kirkpatrick provide an overview of the historical development of this occupation and its patterns of organisation as manifested by its leading firms. These authors argue that the process of historical development of management consultancy is characterised by distinct waves of activity, each associated with different protagonists, products, strategies and organisational configurations. Whilst there have been, clearly, heterogeneity and diversity throughout the history of management consulting, Kipping and Kirkpatrick concentrate on what they identify as the leading firms in the world at a particular point in time. They emphasise how through a number of successive waves of development, dominant firms have tended to provide distinctively different services and to adopt radically different organisational configurations and operational models. The initial consultancies (dominant from 1930 to 1950) relied heavily on engineering knowledge and tended to employ qualified engineers who brought with them their own professional background as well as aspects of their old occupational identity. The second wave of consultancy firms espoused some of the values and symbols of professionalism by emulating the behaviour, appearances and rituals of established professions. Identified as strategic consultancies (and dominant between 1950 and 1970), these firms typically did not employ experienced former professionals but, rather, young MBA graduates from the leading US business schools. Third-wave firms (dominant from 1970 to date) go in for even higher levels of leveraging, and are reliant on their own internal labour markets for the recruitment and promotion of staff. They tend to define whatever professionalism they aspire to, internally, on the basis of their own corporate standards, knowledge and credentials.

The leading firms in the current wave of consulting, Kipping and Kirkpatrick argue, are largely involved in supporting the information and communication technology (ICT) needs of large, multinational and increasingly dispersed client firms. This wave of consultancy firms, as extensively documented in this chapter, are unlike their predecessors in that the knowledge they purvey is subject to processes of commodification and standardisation. This, in turn, allows a more formalised and hierarchical labour process, than was utilised in the past. Today, leading consultancies such as Accenture, Capgemini and IBM, expect their junior consultants, who form the bulk of their employees, to work within a framework of guidelines, procedures and methodologies, and to draw on specific in-house knowledge resources. This challenges the widely held assumptions that management consultancies have developed more decentralised and collegial ways of organising, as well as more trusting working relationships (Starbuck, 1992; Blackler *et al*., 1993; Blackler, 1995; Reed, 1996; Alvesson, 2000; Drucker, 2002). Clearly, the different waves of consultancy firms are underpinned by particular kinds of knowledge as well as different conceptions of professionalism and attitudes to professionalisation. Indeed, attachment to professional models seems to be declining over time (Kipping *et al*., 2006b). If this sample of firms is a reliable guide, then consultancy is moving away from traditional patterns of professional work and organisation, rather than towards them. The routinisation of their work, the reliance on unqualified graduates and in-house training, and the controlling labour process, all point away from traditional patterns of professionalisation. In support of this conclusion, recent research by Greenwood and Empson (2003) and Greenwood *et al*. (2007) also suggests that the largest consultancy firms are increasingly adopting the form of limited liability public corporations and moving away from the partnership pattern of governance, which we associate with collegiate professionalism.

Chapter 9 is a research report by a well-known team of British researchers, Robin Fincham, Timothy Clark, Karen Handley and Andrew Sturdy. This shifts the focus away from the historical development of consultancy as a field to the practice of management consulting. This contribution examines closely two different management consulting projects in the UK. If the reasons for management consultants' distinctive patterns of organisation are contained in the kind of work they do, then this study is likely to be highly revelatory, as it brings us face to face with the social processes involved in doing consulting. In the first case study, undertaken in an energy company, we have a

consideration of the kind of strategic consultancy project that many would automatically associate with this occupation. In this project the consultants were developing operating models for sectors of the business. This objective involved them in data analysis, but they were also expected to be 'challenging the presuppositions of client management .... [and] to use their familiarity with the data to guide the evolution of ideas within the strategy process.' However, these researchers suggest that their work was not at all like the conventional professional one of providing either tools or knowledge that the clients just did not have. 'Client and consultant spoke a more or less identical language and the tools ... were mostly the client's own.' The second case considered by these authors was much more technically circumscribed, in that it was concerned with the implementation of a new IT system – both hardware and software – in a regional financial institution. IT consultants sometimes describe themselves as software engineers, among other things in the hope (one supposes) of making the implementation process seem to be as routine and deliverable as designing an artefact or installing a production sequence. However, as this research amply shows, even in the case of a stringently defined project, the difficulties involved in tailoring an IT package to the needs of the client and financial regulators can be considerable.

In their account of these diverse examples of consulting work, Fincham *et al*. emphasise the indeterminacy of the consulting relationship, and the ways in which consultants deployed particular narratives to account for, explain and legitimate their procedures. Even where, as in the first case study, the consultants were drawn from a premier international strategy firm that obviously has a long track record of successful involvement in such work, the expertise of consultants was constantly at stake and under test. The chapter presents an impressive array of data on the way in which consultants dealt with the uncertainties of the process of delivering their services, and, in a context marked by power asymmetries in favour of the client, of representing their work and their conclusions as not only reliable but valuable. Although, on the face of it, dealing with a much more technical matter, somewhat similar concerns surfaced in the second case, which was concerned with an IT implementation. Here, the researchers do emphasise more pronounced differences between the ideas and thinking of the consultants and those of their clients. On the other hand, this did not in any way absolve consultants from having to develop narratives to translate and explain their procedures and actions. While it seems highly likely that all expert groups employ similar procedures in their dealings with their clients, it

is also very likely that consultants necessarily go further than other groups in developing and offering knowledge narratives to accompany, translate and represent their work. These authors aver, wisely we think, that there are differences between professional and other types of expert knowledge, the former being more systematically codified. However, the examples of codification revealed in these two studies were not in the expected direction, with IT consulting having a less systematised knowledge management than strategic forms of consultancy.

As we argue more fully below, the context in which an occupation is established is influential on the forms its development project takes. We think, in particular, that the characteristics of the allocative regime current at the time are very important in shaping the occupations that have emerged. This clearly applies to the occupations formed in the early modern period, before the capitalist economy had begun extensive development, as it does to those formed more recently in the nineteenth and in the twentieth centuries. In the next chapter concerning management consultancy, Christopher McKenna recognises the importance of external relations, including relations between occupations and the state in the process of occupational development. His discussion of the experience of management consultants in the USA, from the period of their first formation in the early twentieth century until more recent times, also touches on the projects and patterns of organisation of several other business-related occupations as well as consultancy. He finds some intriguing parallels and differences between them.

McKenna contends, in particular, that business-related occupations may develop themselves in rather different ways. He suggests this is not simply a question of whether an occupation has a relationship with the state. Instead, he argues occupations make a trade-off between individual status of leading practitioners, the power of firms and state regulation. This results in three different types of occupational patterns. Traditional professions, such as law and medicine, emerged in a context when regulation-bound individual practitioners and professional organisations were of limited size and importance. Conversely, management consultants have emerged in a context characterised by the power of big business and by an already developed capacity for regulation of the economy by the state. In this context, because of the rapid expansion of demand for consultancy by large corporations, we see the development of large and powerful professional services firms. By turning attention to the peculiarities of the institutional context in which management consulting as an occupational group was first developed, McKenna is attempting to deal with what is clearly a key issue. What he says certainly

helps to explain why so few occupations in the twentieth century have sought to reproduce the patterns of the collegiate or organisational professions. Interestingly also, McKenna links the possibility that consultancy may yet professionalise in the future to the likely effects of reaffirmed state regulation. In particular, the seismic shocks which have followed the Enron debacle and the introduction of the Sarbanes–Oxley legislation, which have intensified and formalised the role of professional oversight in corporate governance, might, it is argued, push consultants, as certifiers of executive decisions, to develop occupation-wide standards; not to mention standardised credentials and other regulatory devices and procedures.

In the final contribution to this book by Damian Hodgson, Chapter 11, the author focuses on the development of project management. Here there is much more to support the idea that some occupations are developing towards recognisably professional patterns. Hodgson's work suggests that neither recent formation nor proximity to and complicity with private capitalism, are necessarily inimical to the pursuit and the achievement of professional organisation. Thus, Hodgson's contribution draws our attention to the extent to which the strategies pursued by this new occupation may be considered to involve processes of professionalisation. The expertise of project management is clearly in strong demand in the age of 'fast-capitalism', as corporations restructure themselves through and around the use of projects. In this context, this group has also seen some clear benefits in adopting an occupational project that shares at least some of the features of organisational professionalism.

Hodgson's discussion illustrates the importance of the social construction of knowledge in accomplishing professionalisation. Indeed, as it is documented by the case of project managers, the struggle for professional jurisdiction is often the struggle for a monopoly over what constitutes 'truth' in a particular domain. Thus, Hodgson's analysis captures the efforts to promote project management outside of its original context, which is provided by the world of heavy engineering. This occupational development project has entailed the partial re-definition of project management as a crucial business competence which secures the timely, efficient and effective accomplishment of defined goals in uncertain and challenging environments. This process of 'projectification' (which is evocative of the imperialistic tendencies associated with the established professions) is a good example of how a professional project inevitably begins with the need of creating a stable market for a particular service (Macdonald, 1995; Larson, 1977). It does

this by establishing a strong link between an occupation's cognitive base and areas of practice which it seeks to institutionalise. Hodgson's contribution documents the efforts made by the members of this occupation through its professional associations to achieve closure on its occupational domain. We see, here, some of the traditional features of professionalisation such as the development of a coherent and systematised body of knowledge. Interestingly, the case of project management, also, reveals a new strategic element: the close collaboration with large corporate clients (effectively the employers or users of such expertise), who must be closely involved in the formation of an organisational profession and in the demarcation of this new occupational field.

Sources of differences in occupational development projects

Perhaps the most interesting and theoretically important question that arises from the discussion presented in this book is why new forms of expertise have not usually adopted traditional professional strategies and configurations. The literature has often emphasised such factors as the difficulty of the further commodification and routinisation of consultants' expertise, the challenge of establishing the reliability and legitimacy of consultancy knowledge, the role of large professional services firms in the development of this field, the uniqueness and constantly evolving nature of clients' needs, and the significant resources of clients especially when taken in conjunction with their increasing tendency to act collectively (Alvesson, 1994, 1995; Clark, 1995; Kyrö, 1995; Reed, 1996; Clark and Fincham, 2002; Fincham, 2006; Kipping *et al*., 2006a). On the other hand, the extent of the differences between the consultants' knowledge base and that of traditional professions can be easily exaggerated. In particular, the suggestion that there is something intrinsic to the knowledge of consultancy that makes it inherently fluid and elusive, and unlike other types of knowledge, is somewhat problematic. We should recall that many professions were regarded, especially at earlier points in history, as having similarly heterogeneous, fragmented and elusive knowledge bases (Kipping *et al*., 2006b). Indeed, professions such as accountancy or engineering have succeeded in establishing formal credentials and exclusive jurisdictions only in recent history. In many ways, a formalised body of knowledge is a result and not a prerequisite of a professionalisation project. Furthermore, IT systems implementation, which is regarded by many as a core activity of much modern consulting, can, indeed, be seen as a highly formalised activity.

We wish, alternatively, to draw attention to the external relationships which form the context in which new expert occupations operate. We begin by pointing to the relationships between business services firms and their clients. This we have briefly alluded to using the term proximal structuration as discussed by Anthony Giddens (1979, 1984). Whether or not we accept that the proximity of the client and the consultant is formative, it has to be admitted that the interests of the service provider and the client are only closely tied together for the duration of the work undertaken, and perhaps for some period after this. The nature of this dependency varies, but it is easy to overestimate it. In the case of business consultants, what they do is often regarded as crucial for the client organisation: setting the strategy of the organisation for a period of years, for example, or implementing an IT system that will decisively affect the capacity of a business. Importantly, however, although there is a close tie between the interests of the provider and those of the client, consultants cannot usually promise either exclusivity to their clients, or absolute confidentiality concerning what they know about their affairs. If consultants are to continue in business, they are obliged to move from client to client – often serving, successively, organisations in the same industry which are in competition with each other. A business strategy sold to one client is often also sold to the next, including any lessons drawn from the experience of advising the first (McKenna, 2006). The possibility of passing on any details whatsoever of a client's affairs, would contravene the ethics of professionals such as doctors and lawyers, which are closely bound to notions of confidentiality and involve the careful observance of conflicts of interest. Hence, some features of the consultant–client relationship therefore render the explicit adoption of professional ethics and service rhetoric problematic. There is also the matter of the risks arising for consultants from the implications of the 'joint and several liability' associated with partnership forms of governance (McKenna, 2006). More specifically, consultants and their firms would be routinely vulnerable to being sued by client firms as a result of their strategic advice being faulty. Indeed, this explains how consultants, unlike accountants, managed to escape with very little consequence from the Enron debacle, despite playing a crucial role in the transformation and failure of this company (Kipping *et al.*, 2006a; McKenna, 2006).

But we do not wish to connect unwillingness to adopt professional patterns of organisation on the part of new expert occupations, simply to the nature of their ties with clients. There are also more general features of the socio-economic context in which all expert groups operate that

are formative of their activities and, if they are at an early point in their development, also formative of their distinctive occupational projects. For example, the new expert occupations formed in the early to middle part of the twentieth century were not so centrally implicated, if they are at all, in the regulatory system for industry, as were the organisational professions formed in the latter part of the nineteenth century; nor were they typically in any compact with government over such matters. McKenna (2006), amongst others, points out that consultants in the US were originally part of a putative system of corporate regulation. But the commitment of US governments to this was very weak, and the system of control highly rudimentary. As McKenna argues, business consultancies were only willing to move into regulatory spaces opened up by legislation opportunistically and for a limited time. Their allegiance to the state was not consistent. Consultants in the USA sometimes expediently inclined towards the priorities of government, but, much more often, they inclined towards the interests of their corporate clientele. Hence, there never was a regulatory deal of the kind accountants, doctors and engineers had stuck with governments in both UK and the USA in the previous century. There was no comparable, semi-formal exchange of a regulatory role in respect of business practice, in which recognition of professional incorporation and independent status was agreed as the other side of the bargain (Cooper *et al*., 1994). As the century progressed, the tendency of government and industry has been away from centralisation and regulation, making more opportunities for entrepreneurial behaviour.

The contemporary growth of consultancy and other forms of new expertise (as well as the changes experienced by the established professions that have been discussed here) and their entrepreneurial developmental project can be connected to recent changes to the nature of the allocative regime. This features the re-articulation of governmental agendas around the new priorities of international competitiveness, inward investment and financial rigour (Aglietta, 1979; Lash and Urry, 1994). In particular, the deregulatory and cost-containment policies espoused by successive neo-liberal administrations in the closing decades of the twentieth century have had significant implications for the typical patterns adopted by new expert organisations (Abel, 1988, 2003; Brint, 1994; Brock *et al*., 1999; Hanlon, 1999; Leicht and Fennell, 2001; Morgan and Quack, 2005; Muzio and Ackroyd, 2005). Furthermore, at a more ideological and symbolic level, the new vocabularies of efficiency, choice and competition, together with the redefinition of traditional categories of client groups (such as patients, students and

victims) as consumers, have certainly multiplied pressures on existing occupations to recognise commercial priorities and to adopt more efficient patterns of organisation. In other words, contemporary capitalism has reformulated the nature of its expectations and the timeframe of its relationship with its professional advisors. Professional expertise is increasingly viewed as a commodity, an esoteric commodity but still, essentially, a commodity to be purchased on an increasingly contractual basis in what are ideally open and competitive markets. As restrictive practices are questioned and dismantled, long-term relationships are replaced by more overtly competitive procedures such as tendering processes and one-off transactions. Market mechanisms and the sophisticated techniques developed by increasingly professionalised purchasers and in-house professionals are used to make sure that corporations procure the right professional skills at the right price for the right amount of time. In this commercialised version of professionalism, traditional expectations of quality, independence and trust are supplemented with new priorities stressing value-addition, cost-effectiveness, real-time delivery and business awareness (Hanlon, 1997, 1999). To use Brint's (1994) influential terminology, this process can be characterised as a shift from a 'social trusteeship' to an 'expert' conception of professionalism, whereby professional advice is stripped of its moral authority and social relevance and recast as a technical resource subjected to corporate needs and market mechanisms.

It is impossible to present here all the relevant features concerning our conception of the allocative regime; yet, hopefully, we will have said enough to show that external changes are playing an important role in driving the current re-shaping of the organisation of expertise. Collegial professions such as law, which continues to exhibit many characteristics developed under a previous allocative regime, have nonetheless experienced significant changes, including having to adopt a more pronounced commercial focus (Hanlon, 1999), and to pay increasing attention to efficient management and organisation (Cooper *et al.*, 1996; Brock *et al.*, 1999; Faulconbridge and Muzio, 2007). Nevertheless, solicitors in particular have succeeded in developing various defensive mechanisms which have allowed their profession to persist with many of its traditional features and patterns of organisation. Other professions such as medicine have been more significantly affected by changes in the allocative regime (see McKinlay and Marceau, 2002; Domagalski, Chapter 6 in this book). In the UK, this profession has been, to a considerable extent, captured by the bureaucratic state, whilst

in the US the medical profession is, increasingly, coming under the control of private sector corporations. Thus, medicine has in many ways shifted from a collegiate to an organisational configuration and mode of operation.

Finally, consultancy and other forms of new expertise, which were established in the first half of the twentieth century but which have really taken-off in the context of the increasingly de-regulated, globalised and footloose economy of the last 30 years or so (Jessop, 1994; Lash and Urry, 1994), have clearly thrived through entrepreneurship and the active engagement with markets for the services they provide. In a context characterised by, on one hand, burgeoning demand for its services and, on the other hand, a sometimes marked ideological scepticism and institutional hostility towards professional claims, the consultancy industry has generally adopted entrepreneurship and limited liability to cast its own occupational project. It is worth noting that the professional associations of consultants today organise only a tiny fraction of the potential membership: their role is not exclusive and membership is not mandatory. Furthermore, from their origins, consultancy firms developed their own expertise and proprietary knowledge-base, jealously guarding this as a private resource. If they wanted to expand their businesses, as Kipping and Kirkpatrick have suggested, they did not, after a very early stage, take on apprentice professionals so much as hire numbers of smart, but malleable young employees. The occupational development project of the consultants was not modelled on any professional template: it was conceived from its inception, and consolidated throughout its history, as an entrepreneurial project which justified itself in terms of its ability to support the priorities of business rather than of a broader social relevance, as traditionally claimed by the established professions.

We argue that the context in which an occupational project is conceived, formed and initially carried out will continue to have a considerable impact on the configuration of a specific form of expertise. The original context will shape the conception that practitioners have of their expertise, their work, their role in society and, through this, of how they construct and construe the markets for their services. It also has a big influence on the organisational forms they choose to serve their clientele. Despite the significance of later contextual developments, the assumptions, motivations and institutions developed during the period of formation and occupational take-off will exercise a lasting legacy on the constitution and modus operandi of an occupation. Of course, lying behind these assumptions and motivations and shaping

them, in turn, are exogenous factors providing the context of action and channelling the aspirations of actors.

We think that, in the recent past, too little attempt has been made to compare the projects and activities of different expert occupations, as well as there being a tendency not to give sufficient consideration to their context. This is important, since as we argue, the explanation of why new forms of expert labour have abandoned traditional structures and forms, may have more to do with the characteristics of their context of formation and development (referred to here as the allocative regime), than with the intrinsic properties that the services they produce may be deemed to posses.

Notes

1. This is a very broad term which includes a range of related but fairly distinct occupations, all of which lack both professional closure and statutory regulation. This collection reflects this breadth and broadness, as its contributors cover a range of different forms of consultancy, including management consultancy, strategic consultancy, systems consultancy as well as project management.
2. Of course, these categories are ideal types which capture predominant tendencies only; empirical reality is more complex, ambiguous and overlapping. Yet, we believe that these categories are useful in capturing some of the key distinctions between the principal forms of expertise and to understand their likely trajectories of development.
3. This statement must be qualified by the experiences of the increasing numbers of qualified lawyers who are employed in heteronomous organisations, such as the legal departments of large commercial firms, which are the subject of Pinnington and Suseno's contribution in this book. Furthermore, even in autonomous professional organisations, such as legal practices, a great number of solicitors are in a salaried employment enjoying somewhat decreasing opportunities for promotion. Yet, an elite of professionals, as opposed to external shareholders and their managerial representatives, own and control their employing organisation. Furthermore, despite some moves in the industry towards life-long status as salaried employees, the expected career trajectory for practising lawyers is still for them to become partners, and so, in the long term, to become part-owners of the firms in which they work.
4. There are many firms of accountants, consulting engineers and doctors that are partnerships or private companies, but our point would be that the great majority of these professionals are employed, and their career aspiration and trajectories are located within the corporate sphere.
5. Yet, in the UK, the Legal Services Bill, which is currently been discussed in parliament, may unleash another period of dramatic change which could compound some of the developments here described and radically alter the shape of the legal profession.

6. And even in this context, as indicated by John Flood in this book, there is great variation in the extent to which large firms have adopted more organisational models of professionalism.
7. This term was first used by Lazonick and O'Sullivan (2000) within the context of changing organisational policies. Here, this concept is extended to include socio-economic relations more generally.

Part I

Developments in the Legal Profession

2

Change in the Legal Profession: Professional Agency and the Legal Labour Process

Daniel Muzio and Stephen Ackroyd

Introduction

The claim that the legal profession has been experiencing a period of extensive change is a long-established one. Research inspired by a range of theoretical perspectives is agreed on this point (Abel, 1988, 2003; Flood, 1989, 1996, 1999; Lee, 1992; Sommerlad, 1995, 1999; Kritzer, 1999; Sommerlad and Wall, 1999). Whilst the idea of extensive change appears not to be contentious, there is, nonetheless, considerable disagreement over the way such change should be interpreted and explained. This is interesting not only because what is happening concerns the legal profession itself, but also because the fate of this key occupation is relevant to the consideration of broader questions on the prospects of professionalism as a distinctive type of work-organisation.

A common theme of several schools of thought is that professions must adapt to the changing business context, which is becoming more competitive as well as increasingly critical of professional practices, claims and arrangements. A move towards more managed patterns of operation is, thus, thought to be likely because management provides the efficiency which professional forms of organisation and procedures are assumed to lack. (For a discussion of similar debates within medicine, see Chapters 6 and 7 by Domagalski and Adler and Kwon). Even if they do not go so far as exponents of the de-professionalisation thesis (Derber *et al.*, 1990; Derber and Schwartz, 1991; Burris, 1993; Aronowitz and Di Fazio, 1994), who suggest that professional workers will lose their traditional abilities to control the definition, execution and evaluation of their work, so far as most observers of the legal profession are concerned, external pressures will bring about the abandonment

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of the profession's established traditions and modes of organisation. Despite much evidence that professional patterns of organisation have shown considerable durability (Abbott, 1988; Ackroyd, 1996; Muzio, 2004), it is held by many that the work of lawyers will become progressively subject to external control, whilst traditional forms of professional organisation will be radically changed and eventually abandoned (Cooper *et al*., 1996; Hanlon, 1997, 1999; Brock *et al*., 1999).

Whilst a review of the extensive literature on this topic is beyond the scope of this contribution (see Muzio and Ackroyd, 2005), this analysis recognises the significance of the challenges and transformations which have impacted on the contemporary legal profession. Indeed, today's professions operate in a much more hostile and sceptical institutional climate. The state is pursuing a neo-liberal agenda which is less tolerant of professional monopolies and self-regulatory arrangements. Globalisation has brought up new competitive threats as well as opportunities. Professional jurisdictions are becoming more porous and permeable, with even solicitors becoming exposed to competition by new types of expert labour, equipped with alternative forms of cultural capital and more entrepreneurial modes of organisation. Consumers, especially the large corporate clients on which the profession is overly reliant, are abandoning the cosy long-term relationships of the past and embracing value for money through beauty parades and short-term transactions (see also Chapter 4 by Pinnington and Suseno in this book). All of this is certainly shaking the ideological and institutional scaffolding of an increasingly embattled profession whilst challenging established values, practices, and structures.

However, recent work often fails to take into consideration the agency of the professions in responding to and managing these challenges (Kirkpatrick and Ackroyd, 2003; Ackroyd and Muzio, 2007). Specifically, existing work does not give sufficient importance to the strategies developed by solicitors and others engaged in the provision of legal services and to the extent to which professions may be able to accommodate, deflect or resist current change. These omissions are important and a concerted effort will be made to redress them in this paper by considering the different outlooks and opportunities for motivated action available to groups within legal firms. This is highly consistent with a neo-Weberian analysis of the profession and is indebted to Larson's (1977) notion of the 'professional project' and to the related concept of closure – both in its external or occupational and in its internal or organisational forms (Collins, 1979; Murphy, 1988). These concepts, which, of course, are not new to the analysis

of solicitors (Abel, 1988, 2003), will be used to frame and support the discussion, as we account for current restructuring processes in the legal profession in England and Wales. What we add to the use of such concepts is the attention to the *labour process* (Braverman, 1974; Thompson, 1989; Thompson and Warhurst, 2003) that occurs within legal firms, by considering such questions as by whom (and for what reasons) changes in organisation and practice are sought. Labour process analysis adds a valuable degree of specificity in the consideration of the motivations and actions of groups in this context. Specifically, labour process analysis assumes that work is organised in ways that allow profits to be realised from work activity, and that these will be differentially distributed according the ownership and/or control of the relevant assets. Accordingly, the tactics developed by professional elites in defence of their traditional privileges and rewards, become an important key to understanding contemporary changes in the legal profession. In other words, some of the legal profession's most significant transformations are centred on the reorganisation of its internal division of labour. Thus, the consideration of developments in the legal labour process provides valuable insights into the current trajectory of this particular professional project and demonstrates the ability of some sections of the profession to defend its position in the face of current challenges.

Our contribution rests on the extensive analysis of Law Society data (Law Society SRU, 2003–1983);[1] data which were largely unavailable at the time of Abel's seminal analysis (1988). The consideration of these data leads us to the identification of a series of distinctive empirical trends, which are connected to broader changes in the configuration of firms and of their internal division of labour. The trends identified include: (1) a strong drive towards organisational consolidation; (2) the revision of leverage ratios and elongation of professional hierarchies; (3) the reduction of non-fee-earning staffing levels and (4) the increasing reliance on aggressive headcount management policies with regards to non-fee-earning staff. It is argued that these trends are best understood as defence mechanisms mobilised by an increasingly embattled profession, or, more precisely, by its controlling elite, in the context of increasingly hostile ideological and operational conditions. (See Chapter 6 by Domagalski for discussions of related tactics and developments in the medical profession in the US, whilst Chapter 8 by Kipping and Kirkpatrick offers a similar discussion within the context of management consultancy). These developments have uneven implications for the various sections of the legal professions, since, whilst it seems clear

that salaried solicitors are increasingly faced by work intensification, the uncertainties of an up-or-out culture and declining promotion prospects, equity partners have often continued to enjoy sizeable and relatively stable rewards. Indeed, it seems that in the last 20 years or so, professional elites, despite some very important changes which are discussed in this chapter, have been able to refurbish and retain traditional forms of collegial organisation. This, however, in accordance to Freidson's (2001) 'continuity thesis', has been secured at the price of an increasing degree of internal stratification between professional elites and rank-and-file workers.

The political and economic context and its effects

As others have suggested (Dezalay and Sugarman, 1995; Hanlon, 1999; Abel, 2003), there has been considerable pressure from the state to reform the provision of legal services. Despite a generally expanding demand for legal services, especially in such fields as corporate and commercial law, the situation of the solicitor profession has been consistently adverse as a result of state action. Professions in every society are, of course, dependent on the policy of the state. Professional development projects rely on governmental sponsorship (or, at least, complicity) because professions depend on a monopoly of provisions which, at the end of the day, only government can guarantee (Larson, 1977; Burrage and Torstendahl, 1990; Torstendahl and Burrage, 1990).

The need to readjust to state policy and to arrive at a new accommodation with the state was made urgent with the emergence of the new right governmental agenda in the early 1980s.[2] This brought a severe attack against both the practices of the established professions and the ideological scaffolding which supports traditional professions and their activities (Kirkpatrick and Martinez-Lucio, 1995; Reed, 1996; Halliday and Karpick, 1997). Having mounted its successful campaign against organised labour, the first and second Thatcher administrations became particularly vocal in criticising professionalism in general and the legal profession in particular. Somewhat ironically, the government proceeded appropriating some of the erstwhile criticisms typical of the left. Mrs Thatcher herself took the trouble to brand the professions as 'lesser governments' or 'little republics', which besides being inefficient are unaccountable to public scrutiny (Burrage, 1997). In this climate, professionalism was out whilst the alternative ideologies of entrepreneurship and managerialism

were celebrated and put forward as offering more efficient and ethical procedures (Kirkpatrick and Martinez-Lucio, 1995).

These attacks aimed to de-legitimise the professions, and were rapidly followed by substantive reforms which sought to weaken professional monopolies, dismantle restrictive arrangements and challenge some of their entrenched privileges. The system of the professions was criticised as self-interested, inefficient and/or unaffordable (Halliday and Karpick, 1997; Abel, 2003). These attacks struck a popular chord, as many polls suggested that lawyers were an unloved occupational group. As a result, over the last 20 years or so, many areas of legal practice have been severely affected (for a discussion of similar trends within medicine, see Chapters 5 and 6 by Dent and by Domagalski in this book) with many being effectively eroded by governmental initiatives deliberately designed to weaken monopolies and increase competition (Sherr, 1994; Kirkpatrick and Martinez-Lucio, 1995; Burrage, 1997; Halliday and Karpick, 1997; Hanlon, 1999; Abel, 2003). The partial liberalisation of the lucrative conveyancing monopoly, which historically provided the bread and butter of legal practice, is the main instance of the effects of this deregulatory agenda. Reforms of other areas of legal practice such as criminal work or probate have, in practice, failed to make an equally significant impact on the profession (Moorhead and Sefton, 2005), however these provide further evidence of a deteriorating institutional climate (Abel, 1988, 2003; Hanlon, 1999).

In parallel with its new ideological stance and deregulatory mission, by the early 1990s, government became increasingly intolerant of the costs associated with the provision of publicly funded professional services (Sherr, 1994; Abel, 2003). It retreated from its traditional commitment to the ideals of universal service, citizenship rights and free access to professional expertise. Legal aid, which in the 1980s had become, following the slump in conveyance fees, the fastest growing area of public expenditure, was a natural target for cost-containment (Sherr, 1994; Abel, 2003). The government, through a combination of eligibility cuts and cost-control measures such as franchising, quality audits and peer review processes, was able to stem the growth of legal aid expenditure and then reverse its long-term trend from rapid growth to decline (Jenkins, 1999; Paterson and Goriely, 1999).

By such policies, government action significantly affected demand for legal services, leading to steep decline in many traditional areas of practice. However, the consequences of governmental intervention might not have been so damaging were it not for the fact that, at roughly the same time, the profession itself partially lost control over

occupational closure. Historically, professions have relied on artificially limiting the numbers of their qualified membership by such expedients as controlling access to qualification. Control of entry to an occupation, termed by theorists 'occupational closure' (Parkin, 1974; Murphy, 1988; Macdonald, 1995) has obvious benefits. Indeed, effective supply-side management is the cornerstone of successful professional formation and the advancement of professional status. Such practices have been extensively documented for solicitors in the last century. Research by Abel (1988), for example, has linked the selective relaxation or tightening of occupational entry barriers to the profession's attempts to compensate – for example, for sudden demand-side developments, such as unforeseen financial crisis or the demographic effects of large-scale conflict. However, over the last 30 years or so, the legal profession has experienced a progressive weakening in its underlying closure regime. This development was brought about by the mass expansion of legal education in universities, and the consequent loss of exclusive control of recruitment by practitioners themselves. This is particularly significant as it implied a shift of priorities away from the profession's traditional concern with effective supply regulation to academia's opposite preoccupation with its own expansion through 'bums on seats' policies, as caustically remarked by a recent Law Society vice-president[3] (Abel, 2003). The effects of this on the profession have been dramatic with professional headcount expanding from nearly 42,000 members in 1982 to approximately 90,000 in 2002. Indeed, it seems that 'the production of producers is occurring at levels lawyers did not choose and through mechanisms over which they exercise little influence' (Abel, 1997: 19).

The combination of unfavourable supply- and demand-side trends has exposed the profession to rising financial pressures and exercised a negative impact on its performance. In particular, the analysis of gross fees per solicitor patterns reveals a particularly lacklustre performance, with per capita fees stagnant throughout most of the 1990s (Muzio and Ackroyd, 2005). The situation becomes even bleaker if we consider how, as discussed in *The Times Legal Supplement* (25/9/03), the costs of running a solicitor firm have also increased significantly.

The organisational response

The effects of these changes have been extensive. The crisis facing the legal profession has abetted major processes of organisational change amongst solicitor firms, including a significant process of organisational consolidation. In the closing decade of the last century, there was the

emergence of large legal firms, including many that are, by historical standards, very large indeed. In addition, there have been changes affecting the division of labour in legal firms and the legal labour process. Three related aspects of internal change are discussed, namely: (1) the reorganisation of staffing ratios and the elongation of professional hierarchies; (2) the reduction of non-fee-earning staffing levels; and (3) reliance on more aggressive headcount management policies.

Organisational consolidation

Until quite recently, solicitor firms in this country were dominated by sole-practitioners and small family-based partnerships (Abel, 1988; Sugarman, 1993). Until 1967, of course, the size of partnership practices was restricted by law. However, consolidation only accelerated from the early 1980s onwards. Table 2.1 illustrates this trend and indicates that, in recent years, solicitor firms have been re-organised into larger units with relatively large numbers of partners and salaried solicitors. A clear indication of the extent of this development is provided by the fact that, in the year 2000, very large practices, despite accounting for barely 2% of all firms, employed over a third of all solicitors.

It is also clear that large solicitor firms enjoy substantially higher levels of profitability, and generate higher levels of gross fees per individual solicitor than smaller firms. Thus, as we can see, the largest firms generate no less than 50% of the total revenues. The large firms are also the most innovatory in internal reorganisation. It is in relation to the example provided by such firms that ideas regarding the commercialisation and managerialisation of the legal profession have been formulated. One way of understanding these trends is to propose that there is a

Table 2.1 Percentage and absolute number of firms, solicitors and revenues across size bands (1989–1990 and 1999–2000)

	1989–1990			1999–2000		
	% of all firms	% of all solicitors	% of all revenues	% of all firms	% of all solicitors	% of all revenues
Sole practices	37(3018)	9 (4056)	6 (317M)	41 (3468)	9 (5417)	5 (558M)
2–4 Partners	44 (3512)	28 (12456)	20 (1031M)	42 (3454)	23 (14432)	16 (1674M)
5–10 Partners	14 (1172)	24 (11160)	20 (1034M)	11 (950)	18 (11149)	14 (1473M)
11–25 Partners	4 (306)	16 (7509)	16 (824M)	4 (320)	15 (9457)	15 (1730M)
25+ Partners	1 (94)	23 (10538)	38 (1927M)	2 (127)	35 (23100)	50 (5279M)

growing bifurcation between large commercial practice and high-street firms (Abel, 1988; Flood, 1996). (For a discussion of some of the largest practices, refer also to Chapter 3 by John Flood.) However, we must also stress how, in recent years, the size of the average law firm across all size categories has markedly increased. Thus, organisational consolidation and the advantages connected with increased scale are being actively pursued throughout the profession.

It is easy to exaggerate change over continuity since, despite recent developments, the majority of solicitor firms are still of modest dimensions. Ninety-five percent of firms employ less than 11 partners and less than 40 employees. This is easily within the stringent European Union (EU) definition of a small- and medium-sized enterprise (SME). These firms can be defined in organisational terms as unitary forms of business (Chandler, 1977). Only the largest category marginally exceeds a total headcount of 500 employees, which in Britain is normally used as the cut-off point for SMEs (Ackroyd, 2002). Moreover, even the largest firms within this group are of negligible dimensions when compared to the large accountancy and consultancy firms.

Changing employment ratios

Turning now to the internal division of labour in solicitor firms there are some important general trends to be identified. As indicated in the next graph (Figure 2.1), following developments in the professional labour process, the majority of solicitors are in salaried employment. This is, again, a fundamental departure from the profession's traditional configuration.

The data depicted in Figure 2.1 suggest a consistent, long-term tendency towards increasing the proportion of salaried professionals to partners. This reflects the pronounced headcount growth differential separating associate solicitors (+140%) from their profit sharing superiors (+25%). Thus, the ratio of associates to partners progressed from the 1985–1986 value of 0.5:1, or 1 associate for every 2 partners, to a 1999–2000 ratio of almost 1:1. This equates to a remarkable 90% rise in the underlying ratio. The situation has moved further in the same direction in the early years of the new millennium and now a rapidly growing majority of the profession is in salaried employment.

These developments are not confined to larger, commercially orientated practices, but have been reproduced by all sectors. In particular, the reorganisation of the labour process and the increase in leverage ratios has been most pronounced in the small and medium partnership

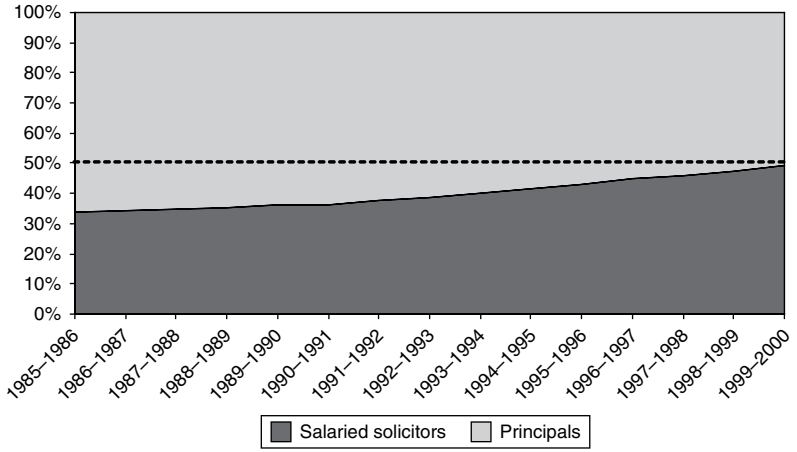


Figure 2.1 The proportion of principals[4] and associates in the English and Welsh solicitor firms
These figures are obtained from Solicitors Indemnity Fund, as published annually in *Trends in the Legal Profession: Annual Statistical Report*, by the Law Society Strategic Research Unit. The term 'principal' refers both to partners and sole practitioners.

sector rather than in the largest practices. During the 1990s, in these two size bands, the underlying ratio of salaried to profit sharing solicitors increased by over 80%. Conversely, the very large firm category has, over the same period of time, experienced a much more limited rise (less than 20%). There are several potential explanations for these differences;[5] furthermore, the way in which the Law Society data account for salaried partners may also have some significant implications, as it is likely to lower the growth ratios for the largest practices. Despite these qualifications, contrary to common beliefs, the whole profession is undergoing a process of structural transformation. These changes are certainly not limited to (or most significant within) the relatively small number of very large practices. This is a somewhat unexpected finding.

We argue that the reasons for this key development are related to the earlier points made about organisational consolidation. As far as existing partners are concerned, there is a clear financial motivation entailed in increasing the ratio of partners to salaried solicitors (Spangler, 1986). Under normal circumstances, the revenues generated by each salaried lawyer outweigh the cost of their labour. Indeed, Abel (1988) suggests that the average associate generates between 2.5 and 4.8 times

as much income as his/her wages. Hence, even taking indirect costs into account, the employment of associates can generate significant surpluses. More recently Maister (1993), in his study of leveraging, estimated that in medium-to large-sized partnerships, the majority of partner profit can be generated in this way. Thus, partners can secure significant financial benefits by increasing the number of the people who 'bake the cake' (fee-earners) whilst at the same time, stabilising or even reducing the number of those who 'share the cake' (senior partners). By acting on the profession's gearing ratios, partners are, thus, able to safeguard and enhance their income levels (Maister, 1993; Lee, 2000). Surprising though it may seem, by acting defensively to protect their own incomes, partners are disposed to employ more salaried solicitors where the costs of doing so can justify it, thus allowing growth in the size of the average firm and of the profession as a whole.

This development has been made possible by a radical shift in the way closure is secured within the profession. The weakening of traditional forms of external (i.e. labour market) closure has been balanced by the toughening of internal (i.e. organisational) mechanisms. The partial failure of the profession to sustain an effective occupational closure regime has already been identified and discussed. Unable to control the numbers of places on university courses, and faced with a flood of graduates with degrees in law and LPC (Legal Practice Course) qualifications, the profession is likely to seek effective alternatives. This, however, has not featured an increased reliance on residual occupational closure mechanisms, such as the possibility of drastically reducing new training contracts or lowering the pass rates of LPC summer examinations. Rather, it seems that the legal profession has preferred to limit access to promotion, especially to partnership, as an alternative supply regulation mechanism. This development has been recognised, at least indirectly, in the relevant literature (Abel, 2003, 2004; Paterson, 2004). Whilst there have been attempts to explain this situation with reference to ethical and emotional considerations (Abel, 2003), this chapter highlights economic factors. In particular, we interpret recent developments as connected to the defensive attempts by senior partners to develop more profitable modes of organisation, which feature *inter alia* elongated professional hierarchies and higher ratios of salaried workers. As previously discussed, the financial benefits of this strategy are clear and are crucial to the professions' attempts to sustain established privileges and rewards.

The data of Figure 2.1 also imply a significant lengthening in average partner promotion times, a tendency that has been to some extent hidden by the widespread introduction of the position of salaried

partner. Using measures first proposed by Abel (1988), we find that once salaried partnership is taken into account, the period required for promotion to partner has effectively doubled between the mid-1980s (when it was an average of 5.5 years) and the late 1990s when it reached approximately 10 years (Flood, 1996; Lee, 1999). Other research[6] also suggests that promotion criteria may have also been toughened, reducing the percentage of associates that become partners. This implies the downgrading, or at least taking for granted, of traditional promotion criteria such as seniority and technical competence, and the increasing prioritisation of alternatives such as managerial ability, productivity and commercial awareness (Hanlon, 1997, 1999). The emphasis is very much on a candidate's ability to make immediate contributions to a firm's financial success. Partnership is not, any longer, an expected career progression step but an increasingly elusive reward, and one that reflects exceptional levels of performance and commitment.

The profession's current reorganisation has been aided by some external developments such as the emergence of new lifestyle tendencies, whereby many solicitors are becoming increasingly conscious of the personal costs and uncertainties connected with partnership and are pursuing alternative career paths (Lee, 1999). The profession has also experienced a dramatic feminisation process and, although women constitute the majority of salaried solicitors today, less than a quarter of partners are female. Thus, the tightening of internal closure regimes is in practice tied to the subordination of female professionals and to the emergence of a gendered division of labour (Hagan and Kay, 1995; Sommerlad and Sanderson, 1998; Sanderson and Sommerlad, 2000; Bolton and Muzio, 2007). Further research is required; but both of these developments have played a role in allowing the profession to expand its salaried headcount without compromising the effectiveness of internal closure regimes.

The reduction of non-fee-earning headcount

Figure 2.2 indicates that over the same period in which there has been a spectacular increase in the proportion of salaried solicitors, there has also been, contrary to some expectations (Susskind, 1996; Abel, 1998; 2003), a steady decline in the proportion of non-fee-earning staff to fee-earners in general and qualified solicitors in particular.

As Figure 2.2 indicates, throughout the 1990s, the numbers of non-fee-earning staff, which includes all managerial, clerical and administrative workers, has been heading inexorably towards parity with fee-earners.

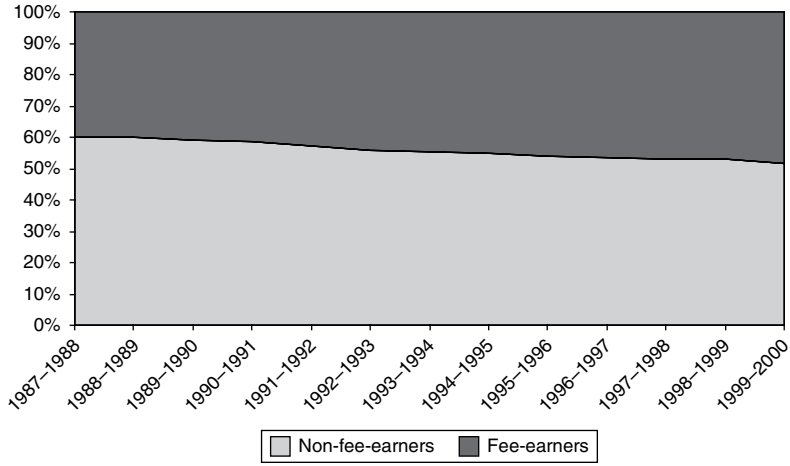


Figure 2.2 Ratio of fee-earners to non-fee-earning staff

The ratio of clerical and administrative workers to fee-earners has declined from approximately 1.5:1 in 1987 to almost 1:1 in 1999. Non-fee-earning headcount has, therefore, plummeted by almost a third against both other fee-earners (primarily legal executives) and qualified solicitors. This trend may be accounted for in a number of ways: one is a tendency for the substitution of non-fee-earning labour by technological solutions, so that specialised software packages are now available and may be used by solicitors themselves, without the assistance of clerical and administrative support staff.[7] There is also the likelihood of the intensification of the work of qualified solicitors as they are expected to take on the work of former support staff as well as their own. Here we must also acknowledge the contribution of a rapidly expanding cohort of trainee solicitors providing the profession with a relatively cheap, motivated and committed form of fee-earning labour.

It can be argued from the evidence of Figures 2.1 and 2.2 that partners within firms are safeguarding their occupational privileges through the intensification of the work of their salaried professional colleagues, rather than through the substitution of cheaper forms of untrained labour for qualified personnel. This is at odds with some of the classic arguments put forward by labour process theory and accepted in previous analyses of the legal profession (Sommerlad, 1995; Abel, 1988, 2003). In this view, the de-skilling of work is an almost universal tendency.

The problem with this argument applied to legal services is that there are many activities which are still the sole preserve of legally qualified staff. Accordingly, legal training is not merely an advantage but, in many respects, an indispensable requirement. Moreover, following the expansion of university courses, there is an abundance of potential recruits with professional qualifications. But, perhaps the key point is that managerial, technical and clerical staff are not fee-earners; they merely provide support to and facilitate such activities. Hence, whilst they do not contribute directly to revenue generation, they contribute directly to overheads and have a negative impact on profitability. It therefore makes economic sense for law firms to reduce, whenever possible, the proportion of clerical and managerial staff to fee-earners and to try to operate with a lighter administrative structure. Thus, we argue that the motivation behind the trend described by Figure 2.2 is, again, mainly financial and orientated towards maximising the rewards associated with professional practice.

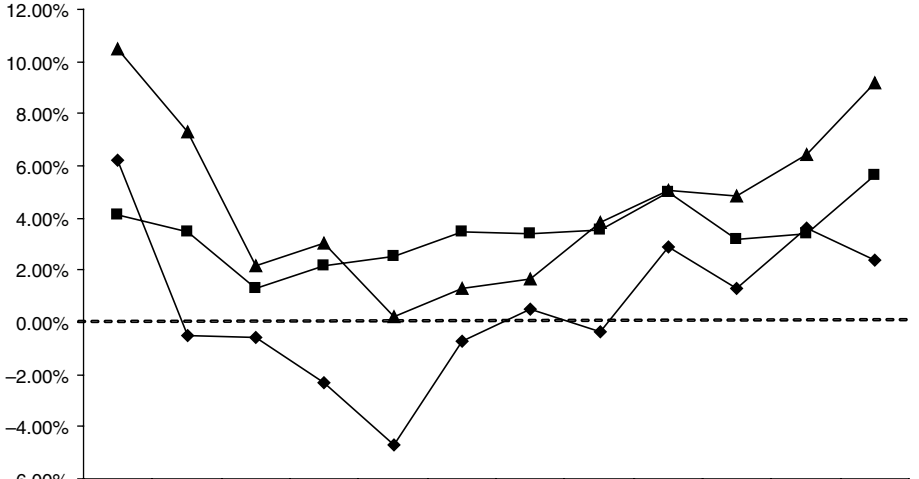
There are some important implications for the professional labour process here, involving the intensification of the work of junior professionals and support staff. In particular, the trend depicted in Figure 2.3 is consistent with the work intensification opportunities offered by information technology which allow law firms, like other firms, to 'achieve more with less' (Thompson and Warhurst, 2003). Thus solicitors can operate with less clerical support whilst higher productivity can be squeezed both from solicitors themselves and from the decreasing periphery of non-fee-earning support staff. The oversupply of qualified employees, and the relative decline in the employment of support staff suggests that there is a widespread deterioration in conditions of work and job security for all remaining staff, including associate solicitors (Spangler, 1986). Research in other occupations shows that increasing competition over jobs and scarce promotion opportunities give rise to work intensification and support a 'culture of presence' (Beirne *et al*., 2003). This has certainly been noticed in the legal profession, and it is indicated by the progressive rise in both billable targets and overall working hours (Spangler, 1986; Lee, 1999; Abel, 2004). In this context, traditional notions of professional autonomy, at least with regard to junior solicitors, are gradually being suspended and replaced by a 'can do' attitude, where solicitors are increasingly expected to embrace a long-hours culture and to show commitment by enthusiastically exceeding contractual obligations.

Headcount management

If salaried solicitors have been hard hit by such work intensification processes, their situation is more secure than that of clerical and support staff. Clearly, the work of these non-fee-earning employees is not only subject to standardisation, but their contribution is often defined as potentially disposable.

Figure 2.3 which charts the percentage change in gross fees per solicitor together with the percentage change in the number of solicitors and non-fee-earning support staff is revealing. This juxtaposition of data reveals how, as earnings progressively declined in the 1990s, the employment of qualified solicitors nonetheless continued to expand steadily. By contrast, non-fee-earning headcount presents a strong positive correlation with gross fees patterns. As professional revenue growth begins to decelerate, non-fee-earning headcount also shrinks, for several years disproportionately quickly, returning to growth only in 1994–1995 when the industry was firmly set on the road to recovery. From 1990, there were 6 years of either consecutive reductions or zero growth in the absolute size of non-fee-earning staff, with the relevant headcount ratio shrinking by approximately 10 %. Furthermore, this headcount data includes only full-time workers and excludes the increasing number of part-time, temporary and agency workers (Abel, 1988, 2003). If these other employment categories were included, the trends described would be even more apparent.

The sharp decline in the numbers of non-fee-earning support staff in solicitor firms can be understood as a consequence of aggressive headcount management, concerned with reconciling labour costs with fluctuations in revenues. The ability to vary headcount according to demand has historically been an aspect of business management in this country (Atkinson, 1984; Ackroyd, 2002), but is not a trend that is usually found in white collar and professional occupations. However the need to limit costs is obviously necessary for many solicitor firms faced with a failure to generate adequate earnings. Redundancies of solicitors limit the capacity of firms to earn fees whilst being relatively costly and problematic for a number of cultural, technical and symbolic reasons.[8] For these reasons, even if we have some evidence that the largest firms have recently began to reduce senior partner headcount, professional lay-offs (Abel, 2003; Chapter 3 by Flood in this book) are still relatively rare. Thus, at least historically, non-fee-earning staff, and, to a lesser extent, para-legal workers have been used as a convenient buffer. In a situation of falling revenues, many firms clearly adjust the numbers



	1988–1989	1989–1990	1990–1991	1991–1992	1992–1993	1993–1994	1994–1995	1995–1996	1996–1997	1997–1998	1998–1999	1999–2000
Non fee-earning headcount growth	6.25%	–0.53%	–0.60%	–2.29%	–4.68%	–0.69%	0.49%	–0.38%	2.92%	1.32%	3.59%	2.41%
Solicitor headcount growth	4.15%	3.50%	1.32%	2.15%	2.52%	3.44%	3.38%	3.54%	5.01%	3.19%	3.37%	5.61%
Gross fees (1993 prices)	10.47%	7.33%	2.16%	3.01%	0.18%	1.32%	1.68%	3.82%	5.09%	4.84%	6.41%	9.20%

Figure 2.3 Annual percentage change in the employment of qualified solicitors and non-fee-earners and annual percentage change in gross fees to all solicitor firms 1988/1989–1999/2000

These figures are obtained from the Solicitors Indemnity Fund, as published annually in *Trends in the Legal Profession: Annual Statistical Report*, by the Law Society Strategic Research Unit.

of these workers, by recruitment freezes, non-renewal of temporary contracts as well as outright redundancies. Equally, notwithstanding a strong long-term tendency towards the reduction of non-fee-earning headcount and its associated overheads (as indicated by Figure 2.2), firms will, in the short term, embark on significant recruitment drives in order to meet the immediate capacity pressures connected with an expanding business cycle.

Partner interest and the professional labour process

This evidence should not be taken as indicating that there is more managerialism in solicitor firms, though there may be more use of managerial procedures and rhetoric to justify change. Current developments are better understood as tactical responses mobilised by the elite of an embattled profession to protect its economic and occupational privileges. In particular, the evidence is consistent with the view that partners are compensating for their difficulties by employing more junior staff and tightening internal closure mechanisms. The financial benefits of these strategies safeguard the privileges of professional elites. The effects of adopting them, however, produce substantial changes in the profession's organisational configuration. In particular, solicitor firms are adopting an increasingly elongated, formalised and hierarchical division of labour, and using such commercially orientated practices as headcount management, cost cutting and corporate restructuring. Clearly, there are some negative implications for the experience of work and future prospects of sizeable groups of subordinates, including both professional and support staff.

The proposition that assistant solicitors are bearing the costs of the defensive tactics deployed by partners is widely attested in contemporary research. This suggests a deterioration in working conditions in terms of increasing workloads (such as increased billable targets), lengthening of working hours (a culture of presence, unpaid overtime) and deteriorating promotion prospects (Spangler, 1986; Sommerlad, 1995; Lee, 1999). As has been argued, achieving partnership is becoming increasingly difficult for salaried solicitors. Following the reorganisation of the professional labour process, and the new concern amongst partners for effective leveraging, partnership is no longer an expected step in career progression, but an area of sustained competition. Average promotion times have been stretched and partnership has been made conditional on increasingly demanding requirements and on exceptional contributions. Female solicitors are often particularly affected by

these developments, as they are often employed on less favourable terms and conditions, whilst the combination of domestic commitments and gender-typing processes reduces their career progression opportunities. Hence, the new closure mechanisms, which are increasingly pivotal to the profitability of firms, work more effectively against them and fuel processes of gender-based stratification (Bolton and Muzio, 2007).

Competition over increasingly sparse promotions reinforces the possibility of the exploitation of associates, as it fuels processes of work intensification and internal competition. Clearly, the ancient strategy of divide and rule is being used in this modern context, with the allure of potential partnership co-opting salaried solicitors in their own exploitation and regulation. This exploitation is particularly ruthless in the context of an up-or-out culture, whereby the increasingly probable failure to make partnership is inevitably met with the expectation of resignation. This whole situation conceals a particularly strong tension since associates are at the same time expected to display higher levels of commitment and dedication whilst being ultimately considered as potentially disposable (Legge, 1995; Lee, 1999, 2000). Work intensification is therefore paradoxically met by deteriorating prospects and rewards. Besides the considerable human costs involved, it is also necessary to question the economic benefits of such practices which may be depriving law firms of some of their most experienced assets (Lee, 2000).

Non-fee-earning staff, however, are in a yet more insecure position. These groups face the prospect of paying the ultimate price, in terms of redundancy and the loss of career continuity, as they are used as a disposable buffer to guarantee an element of numerical and labour-cost flexibility. Their staffing levels and occupational significance have been reduced, as partners seek to boost profitability and individual income levels through labour substitution and staff reduction policies. Given the weakening of the profession's own closure mechanisms, the ability to reconcile supply and demand is secured at the expense of the job security of these subordinate occupational groups. Indeed we can say that current processes of occupational re-organisation can be linked to attempts by partners to safeguard their income levels at the expense of subordinate groups in an increasingly hierarchical and gendered division of labour.

Conclusions: implications for the professional project

As we have argued, change in the legal profession has involved some radical developments in the profession's organisational structures as well

as related changes in the organisation of its work. There is a widely noticed disciplinary impact on the everyday practice of legal work. The majority of the profession, contrary to its historical situation, is today in salaried employment and increasingly likely to work in large organisations, with an average headcount of over 500 employees (Lee, 1992; Flood, 1996; Hanlon, 1997). In the solicitor branch of the legal profession we are witnessing separation of ownership from work execution, which Marx claimed to be a generic tendency in capitalism (Marx, 1967). More generally, there is an underlying process of polarisation between (a) the shrinking elite of partners, who manage and regulate the activities of the rest of the profession and enjoy a disproportionate share of its associated rewards, and (b) a rapidly expanding cohort of salaried professionals, who are excluded from many decision-making processes, and are faced by supervised work and deteriorating employment conditions. The traditional relationship of colleagueship is therefore being transformed into one of hierarchical control (Johnson, 1986).

Because of supply-side developments connected with the expansion of higher education, practices which have traditionally controlled access to the legal labour market have been substantially weakened. The profession has also been unwilling to rely on the remaining possibilities for external control of the labour supply. Although clearly caused by exogenous developments, it is essentially internal developments which are having such an effect on the contemporary profession. External pressures, which include declining levels of state support, economic slowdown, weakening closure and the pressure exercised by increasingly demanding and cost-conscious customers (see Chapter 4 by Pinnington and Suseno in this book), have been responded to by senior members of the profession in particular ways. We argue that what is happening is the reworking of professional closure, centred on the progressive tightening of internal mechanisms. The objectives and methods of closure are, therefore, increasingly being shifted from controlling entry to regulating promotion and progression through the organisational ranks. These mechanisms are within the profession's own control and have clear implications for profitability as well as for the profession's typical labour process. In defence of their privileges, senior professionals have sought to protect their remuneration and status through processes of internal restructuring culminating in the development of new patterns of operation and modes of organisation, which have uneven implications for the various sections of the legal profession and for its subordinate occupational groups.

But, crucially, we argue that these complex changes have not implied so far the end of professionalism.[9] They are tactical responses initiated by the action of professionals themselves and they are motivated by the attempt to defend the privileges of the profession. The changes merely imply that fewer individuals will become equity partners and enjoy the highest rewards achievable by professionals, but the whole point of the change in closure regimes is to preserve a hierarchy dominated by professionals and from which professionals primarily benefit. When these changes are properly understood, therefore, it is clear that accounts of change in legal services which propose the demise of professionalism, or its substitution by other forms of work organisation, do not fully understand some of the processes involved. While the controlling positions in the organisational hierarchy of legal firms continue to be occupied by senior professionals, who regulate access to the advantage of senior members, it is difficult to describe change as involving de-professionalisation or managerial takeover. On the contrary, what is observed is consistent with the traditional motivations of the legal profession (and indeed professionals generally) which is to use mechanisms of closure to enhance and protect its status as well as its earning power (Abel, 1988). We argue that, as a response to recent circumstances, professional control has simply taken a more inward facing and exploitative turn; as a profession, which is facing a loss of control over recruitment and in other ways finds its market control threatened is increasingly attempting to extract value from its own internal organisation and division of labour.

Properly understood, the changes that have been discussed are an indication of the flexibility and basic resilience of professional practices and institutions. Crucially, this includes the maintenance of collegial forms of governance and organisation, which, despite some important adjustments, are still a prominent feature of this profession (see also Chapter 3 by John Flood). In this context, new organisational configurations, work practices and even the use of managerial procedures may be delivering a more hierarchical and organised pattern of operations, but these do not reduce the profession's ability to define, control and evaluate its own work. The use of managerial thinking and practices, which are co-opted in the pursuit of processes of professional change, should not be confused with the displacement of professionalism by management. Whilst today managerial practices and vocabularies may be increasingly significant, senior professionals continue to retain control over their organisations and the shift to the use of internal closure mechanisms is an indication of this. As we have seen, there is, in general, little evidence of the tendency to substitute cheaper

untrained labour for qualified and skilled employees, which is often assumed to be occurring. Indeed, such elements which are taken as evidence of managerialism, such as a distinctively commercial outlook and an attention for efficient organisation, can also be interpreted as components of the refurbished professional project identified here. We argue then, that the professional project of English solicitors is entering a new historical phase, characterised by raising levels of occupational hierarchy and organisational stratification.

Many of the changes that have been discussed in this research are similar to trends in the organisation of professions recently set out by Freidson (2001), which involve, *inter alia*, the elongation of professional hierarchies, the emergence of highly privileged professional elites and a significant process of intra-occupational polarisation. In particular, the professions are seen as becoming increasingly divided into a rapidly expanding cohort of rank-and-file workers (who engage in routine activities and are increasingly exposed to authority and market pressures), and a relatively shrinking professional elite, which has secured a solid grip on all the prestigious executive and controlling positions, within the professional associations and, more importantly, the leading practices. The former are concerned with day-to-day routine problems, while the latter face completely different experiences and concerns such as strategic planning, operational control, and organisational/occupational development. Within the professions generally, Freidson argues that, just as we have here concerning solicitors, occupational conditions and prospects are increasingly differentiated. For the majority, professional activity means competition for salaried and increasingly supervised work in a hierarchical organisation. The elites, on the other hand, share substantial profits, retain most of their power and prestige and continue to live by the rules of professional etiquette. This scenario seems to be increasingly applicable to the legal profession in England and Wales.

Notes

1. All graphs, unless explicitly stated, are compiled using Strategic Research Unit data. This information, which covers the development of the entire profession, is either routinely captured by the Law Society, which uses critical junctures in a solicitors' career path (traineeship, qualification, partnership, etc.) as convenient measuring points of the profession's status and development, or it is disclosed by solicitors as part of their legal obligations and risk-management strategies (turnover and staffing data were compulsorily collected by the Solicitors Indemnity Fund for the purposes of professional indemnity insurance).

2. These reforms have been continued by the Labour Government, which, for instance, has been responsible for the scaling back of the Legal Aid system. Whilst, the Legal Services Bill, which is currently under discussion in parliament, would allow for, wide ranging changes at the level of the profession's regulation and organization.
3. The recent decision to allow a private sector company (BPP) the power to issue university degrees represents an ulterior step in this direction (Turner and Griggs, 2007).
4. This category includes sole practitioners.
5. For instance these firms started from a much lower base and are, therefore, likely to show a more significant percentile improvement. Moreover, these firms were faced by more serious financial difficulties than their larger peers and were, therefore, in more need of urgent reorganisation. Finally, it may simply reflect the fact that the less efficient practices in these segments may have gone out of business, leaving behind their more efficient and better leveraged peers.
6. This includes a series of conversations that we have had with recruitment agencies specialising in solicitors as well as with partners in large law firms.
7. A somewhat unexpected finding that emerged from this dataset is the realisation that the ratio of non-fee-earning staff to solicitors decreases as we progress across size barriers. Thus, the largest practices operate with the lowest proportion of clerical, administrative and managerial staff. This finding may seem to challenge the hypothesis of managerial takeover (see footnote 5); however, in order to make further progress in this area, a more detailed break-up of the non-fee-earning category (separating managerial workers from clerical support staff) is required; especially, in light of mounting evidence that over the last 15 years or so law firms have tended to bring in external experts to manage (often subject to the ultimate control of a partner) the daily provision of specialist functions and activities (IT, HR, Marketing) (Hanlon, 1997).
8. Lawyers and their knowledge are the primary asset of a law firm. The replacement costs of an assistant solicitor have been estimated at £125,000 (Lee, 2000). Moreover, professional redundancies are expensive in more than monetary terms. They exercise a negative psychological and cultural impact, and are costly in terms of staff morale, attrition rates and positioning in the labour market.
9. The Legal Services Bill, may unleash new challenges, which could strike right at the heart of the legal profession. Yet, the events described in this chapter, illustrate how the profession was able to accommodate and resist the equally threatening challenges of the late 1980s and early 1990s. This historical antecedent should act has a note of caution to those predicting the demise of the profession.

3

Partnership and Professionalism in Global Law Firms: Resurgent Professionalism?

John Flood[1]

The nature of the problem

There is a tension between the values of professionalism and of business in law, which, although it has been present for a long time, has taken a new turn with globalisation. Professionalism is undergoing a crisis of confidence as the state is intervening more in the regulation of the legal profession and the nature of legal work is becoming more mechanised and commodified. While the practice of law has traditionally been organised around the concept of partnership, often combined with some form of charismatic authority, partnership, as opposed to corporate structures, is now being stretched to its limit as a coherent form of governance in professional service firms. We may instead legitimately state the 'industrialisation' of legal practice is emerging (Bierman and Gely, 2003: 970).

In order to make sense of these issues it is worth attempting to specify variables that might help analyse the problem, which are: *size*: large/small; *reach*: global/local; *structure*: hierarchical/collegial. Although redolent of the distinctions drawn between megalaw and ordinary lawyering, my approach is different in that I draw a distinction within the corporate category, not between hemispheres (Heinz and Laumann, 1982). The focus is on megalaw both as an organising principle and as a type of practice. I take as my starting point a chapter by Becker *et al*. of McKinsey on law firms in the 'winner takes all economy' (2001). It hypothesised that in order to be a winner in the globalised era, law firms were faced with two choices: either to be full-service 'integrators' with a global footprint, or to be small with a strong local presence and a network of 'best friends', or to be specialist and focus on a particular niche area. These choices left a large number of law firms in limbo,

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neither truly global nor truly small (niche). They lacked direction or a sense of mission, they drifted and were subject to unpredictable forces. It is not possible to verify this hypothesis empirically – for that we would need a laboratory – but we are capable of understanding some of its consequences by investigating the variables mentioned above. This examination will entail an analysis of the histories of law firms as well as the theoretical elements of professionalism and partnership.

The economic context of law firms is only part of the problem, and the only one on which McKinsey focused. For professionals, however, other sociological aspects such as self-regulation have always been crucial constituents of their identity. Once core knowledge is transmitted to the novitiates, they are left to their own devices in order to produce their work product. There is monitoring and assessment, but it has a subsidiary role. Another missing component from McKinsey's analysis is the role of values in defining work and identity. In order to capture these, it is necessary to go beyond the analysis of organisation and into that of work and knowledge. The two interact and help shape the professional world.

While corporate law is here presented as a coherent field of activity, it is highly differentiated.[2] The McKinsey analysis brings this out where the polar extremes are represented by, first, the likes of Baker and McKenzie and Clifford Chance, law firms which cover the entire range of corporate work and the world, and by, second, the likes of Wachtell Lipton and Boies Schiller which concentrate on specific areas like mergers and acquisitions and corporate litigation.

Various commentators have written on the changes occurring in the structure and governance of law firms (Nelson, 1988; Galanter and Palay, 1991; Flood, 1999), and these are usually envisaged as moves from professional partnerships towards more bureaucratic forms of control, which ultimately divest partners of control. One apt expression of this model of change is articulated by Cooper *et al.* (1996) and Hinings *et al.* (1999). They posit two archetypes, the P^2 and the MPB;[3] however, reality probably presents hybrids that meld characteristics of each (Freidson, 1986).

The P^2 is the traditional form of organisation for professional service firms and law firms in particular. It has both objective and normative elements. Partnership is based on collegiality not hierarchy, collective decision-making not authoritarianism, and decentralised patterns of professional work. On the normative side there are values that inhere within professionalism such as particular ethical stances, respect for partners' equality, and often unlimited personal liability. A firm organised along P^2 lines is more like a linked set of individuals rather than a corporate structure.

The MPB form, according to Hinings *et al*. (1999: 140), is an emergent response to the dynamic changes of the twentieth century – increased competition and globalisation chief among them. The managed professional business captures features from modern business. Hierarchies are more defined with concomitant status differences. Financial planning through cost controls and target setting is an established mode of working. Specialisation becomes a mainstay of the business and with it enters more bureaucratic forms of management, which entails professionals abdicating control to an executive. Normative controls give way to rational management orthodoxies. Firms which employ the MPB form are more highly segmented than P^2 firms. Perhaps what is more telling is that the influence of the MPB form then spills over into the profession as a whole, increasing segmentation. Segmentation here is to be distinguished from de-professionalisation which focuses more on deskilling as the operative function whereby status and identity are redefined downwards.

One difference between P^2 and MPB that needs reinforcing is that of the role of the employee (Spangler, 1986; May, 2001). MPBs are more oriented towards the hiring of salaried employees than P^2s which focus on partnership. Of course P^2s hire employees: associates are the profit creation device of law firms (see Chapter 2 by Muzio and Ackroyd). It is that within MPBs, progress to partnership is diluted both in form and practice. MPBs are more active in creating two-tier, or even multi-tier, partnerships and senior associate positions (non-tenure track) than are P^2s.[4] Within the sphere of the MPB the extensive role of the employee is the norm.

The role of knowledge within professional organisations is of paramount importance. In law, especially, there has been an explosion of law making and regulation which has intensified the work experience of lawyers incalculably (cf. Pashigian, 1977). Gilson (1984) has argued that lawyers can be perceived to create value by providing safe harbour for their clients against the regulatory maelstroms that arise in transactions. The role of knowledge creates a tension in itself between the role of the generalist and the specialist. Whilst in medicine the role of the general practitioner (GP), as gatekeeper, is perceived to be inferior to that of the specialist (although the status of the physician was otherwise in eighteenth century England [Johnson, 1972: 73]), in law there is no such equivalent to the GP, in part because of the hemispherical division between the corporate and personal plight sectors. In corporate law, therefore, it appears that the entire population is composed of specialists. Yet, some generalists do play significant roles. In this field, generalists are typically

senior members of firms – oligarchs – with considerable experience, who operate as counsellors giving advice on a wide range of topics. They are assumed to have charisma, gravitas and wisdom that exceed their identifiable specialty (Flood, 1991). Stanley Berwin, a banking lawyer, for example, started two law firms in his career and acted as adviser to many banks.

I will examine the examples of four law firms, using American and English examples, and their fit with the archetypes and theory outlined above. The data are largely derived from law firm histories and accounts, and from my own research. Finally, I attempt to discover if professionalism as a value system is decaying or is resurgent.

Organising lawyers: Partnership or herding cats

Within the legal profession, modes of organisation vary, but for analytical purposes I focus on lawyers in private practice. This means ignoring lawyers who work in corporate law departments (in-house counsel) (e.g. Rosen, 1984) (see also Chapter 4 by Pinnington and Suseno in this book) and those who work for government (e.g. Lewis, n.d.). These groups are generally located within hierarchically organised structures with express chains of authority, super and subordination. However, concentrating on lawyers in practice also raises analogous concerns. 'Practice' is one of those terms often taken for granted, but within the context of profession it should carry some meaning. MacIntyre's idea of practice is a set of complex activities carried on by humans in a collaborative context that generate internal goods of satisfaction and excellence (1984: 175). External goods such as prestige and money may also derive from it, but are not the constitutive elements. Indeed, MacIntyre sees external goods as intrinsic to institutions and therefore have a 'corrupting power' (1984: 81). In this sense he identifies a tension between institution and practice, yet it is not really possible to conceive of legal practice without considering the institutions within which it takes place.

For law, the paradigm institution is the partnership, what has been referred to as the P^2 model.[5] P^2 is exemplified in Emmanuel Lazega's analysis (2001) of a north-eastern American 'old line' law firm, 'Spencer Grace and Robbins' (SGandR). There were no formal departments within the firm. Partners considered the firm democratic with few formal rules. Management was in the hands of an executive committee consisting of a managing partner with two deputies. Consistent with the firm's informality, it operated a lockstep system of remuneration where compensation was based on seniority: partners reached the full partner share

after 14 years of partnership. The lawyers believed lockstep avoided backstabbing and enabled sharing more than would be feasible in an 'eat what you kill' environment. The downside to lockstep was the free-rider problem – how did one cope with lawyers who did not pull their weight?

Organisations, such as law firms, are, according to Lazega, composed of microstructures or niches. These are not defined groups but coalitions that share interests and allow for the exchange of resources to achieve particular ends. They have a strategic rationality. And, since financial rewards are not a distinguishing feature among partners because of lockstep, other status criteria come into play. Niches are multifunctional and depend on three types of resources, which are commitment to work, advice, and friendship. Their interplay helps explain the mechanics of cooperation and competition among peers. The first is important because the lawyers must cooperate in order to serve clients. Cooperation varied according to need: the need of the file – what lawyers are needed to carry out the transaction, and the need of the client – would the client benefit from being cross-sold other services? Moreover, variation came about with intensity of work, so that alliances would shift according to how busy lawyers were. Managing uncertainty which is a considerable part of an attorney's effort creates demand for advice from others on how to cope with situations (Flood, 1991). For advice, it depends on whether the advice sought is in another area of law or not. Advice is generally sought from superiors or equals, hardly ever from one's inferiors. The third resource, friendship, was an amalgam of elements which were not always connected to work, but could be relied on at such moments when status games provided negative results, as exemplified by expulsion votes from the firm where abstention by two partners could deadlock the vote.

Niches ensure that organisations tend towards integration despite the power of centrifugal forces to push towards break-ups. If niches become established as groups, there is the problem of defection. What stops a group leaving and joining another firm if it wishes to seek greater economic rewards or status? According to Lazega, it is achieved by balancing the distribution of power through controlling access to resources. If members have complete access to all the resources outlined above, their capacity to defect is high. If, however, access is restricted to a single resource, their capacity is attenuated. Balancing power in these ways and creating interdependencies is referred to as a 'Montesquieu structure': instead of distributing power equally throughout the organisation, inequalities, which create oligarchies, are allowed to develop, thereby counterbalancing patronage and solidarity.

In knowledge-intensive firms work is often a collaborative exercise. Partners generate profit by bringing in cheaper associates to undertake the bulk of the work. No law firm wants to have a surplus of associates because of the wasted expense, so a slight shortage of associates creates a competitive market for them. Associates are, in effect, bid for by partners who can offer rewards in terms of interesting work that may lead to increased responsibility and the possibility of partnership through sponsorship. Access to associates indicates status among partners and among associates. Associates, though, may find some of the features of the firm daunting. While they must depend on patronage for election to partner, an overdependence on a single partner may be counterproductive if that partner is not of sufficient status to argue the associate's case. Changing patrons can be difficult.

Lazega emphasises the negotiation of precarious values. How do partners cope with pressures for change? What is acceptable change? The sorts of issues that arise in these negotiations are compensation rewards and peer review. The idea of rewarding 'rain making' was anathema to many partners who saw it as divisive and creating disharmony. Avoiding competition in the compensation stakes also meant that peer review was not warmly welcomed. It could lead to similar outcomes.

Only the senior oligarchs, with the charisma that engaged others' respect, could lead the firm into new directions, yet not too radical. They guarded against defection and protected the common good.

There is something enchantingly timeless about the depiction of SGandR. It embodies all the values that create the quintessential professional, yet in the twenty-first century it is more of an anomaly than normal – globalisation has had no impact on the firm. So, while SGandR serves to demonstrate the extent of the P^2 archetype, it is at variance with corporate law firms now.

In order to understand fully the tensions inherent in modern professionalism, I explore two types of law firm that exemplify the approaches outlined at the start of the chapter. They are global integrators and local niches. Although they are presented as opposites, there are some shared characteristics.

Global professionals/integrators

The archetypal global professionals/integrators are Baker and McKenzie, Skadden Arps and Clifford Chance. In this section I focus on the first two.

Baker and McKenzie

The law firm was started with the explicit aim of being an international law firm. Russell Baker, the charismatic founder, had been inspired at the University of Chicago to think of the world in internationalist terms (Bauman, 1999: 11). During the 1940s, Baker realised that he could exploit certain American tax provisions designed to assist trade with Latin America (id.: 32). One result was that Baker and McKenzie began its global spread in Latin America rather than in Europe. Baker's approach was different from other firms' ways of opening overseas offices. Instead of opening an office in a foreign city and staffing it with expatriate American lawyers, Baker used local lawyers. As one partner said: 'You can't clone US lawyers all around the world' (id.: 44). Nevertheless, there was significant movement of partners as new offices were established, in order to inculcate the firm's philosophy to new lawyers. For example, the China and Hong Kong offices received a number of lawyers from the United States, the United Kingdom and Australia (id.: 193–216). The principle was that all lawyers would be part of a single partnership – although Baker was *primus inter pares* – and that democracy would be the guide.

While partners deliberated in equality, compensation had to allow for differences in types of working practices among lawyers. The firm adopted 'The Formula' (id.: 47–50). It had four elements of which the first was the most important: this was Work Credit calculated by adding up the amount of fees collected for each partner. The second element was Client Credit which meant that partners who bring in new clients would receive 12% of the fees generated by those clients, except some was placed in a fourth element called Fund A. The third element was Associate Profit which was the profits left over after associates' expenses were deducted. Finally, Fund A was derived from a series of points allocated to partners according to how long they had been with the firm. Although Baker was organised to emphasise the centripetal aspects of partnership, the adoption of the Formula produced centrifugal effects because it emphasised the partner as profit centre. One partner commented, 'without the structured freedom of the Formula, I don't think you could have set up a multi-office, multi-jurisdictional partnership with people trained in different fields of law without the Formula. It got rid of all subjectivity. Everybody could see why everybody else was making the money they were making. The Formula sucks the venom out of what otherwise is a poisonous battle for control of the distribution of money to the partners' (id.: 50). Nevertheless, the promotion of partners strained the integrity of the partnership and complaints multiplied.

To quash complaints a new class of partner, the Income Partner, was created, who were treated the same under the Formula, but were unable to vote for several years (id.: 125).

For the first two or three decades, Baker, even though it had opened over 20 offices throughout the world, was sufficiently small that its partners could meet and take decisions easily. As growth increased the pressures on the partnership were felt keenly. Growth remained important but deciding how and when to open new offices caused friction. Certain offices, as in Australia in the 1980s and 1990s, were subsidised to remain operational. The Formula's strictures disallowed cross-subsidies as they meant a diminution in partners' compensation. In Australia, where a slump had forced up costs, the offices needed close to $1 million. The subsidy was granted but the management of those offices shifted to younger partners (id.: 99). In the case of Hong Kong the firm had to partially abandon the enshrined Formula and create a Hong Kong version. Partners who rotated through there found that, because of the Formula's ruthlessness as an 'eat what you kill' paradigm, their incomes could drop by as much as 30% or more and so were reluctant to relocate. For Hong Kong, a more communal approach was taken whereby all the elements were pooled and the partners decided on a fixed amount to be paid each year. Slight variations for seniority pushed this Formula towards lockstep (id.: 215–16).

The rate at which Baker was growing produced enormous strains on the management. It was amateurish. Again, the Formula made it impossible for any lawyer to devote most of their time to management. Baker had no provision for remunerating lawyers for lost legal work. Moreover, there was resistance as it signalled the end of democracy with individuals possessing the power to issue orders (id.: 123). As much as Baker believed in democratic governance, its founder could exert considerable pressure on other partners while he was alive and prevent rebellions.[6]

As Baker graduated towards a more bureaucratic form of executive committees and chairpersons, there was a chipping away at the structure of the partnership. One essential component of the democratic style was the 'all save four' rule. No partner could be ejected from the firm if he and four others objected. It effectively guaranteed lifetime tenure for partners. At the start of the 1980s the rule was attenuated gradually making it easier for Baker to lay off partners (id.: 229). The final step towards MPB was Baker's decision to appoint a full-time chairman instead of a series of part-timers. When the first full-time chairman was elected, he was inoculated from the effects of the Formula by being given

a salary equivalent to the average of the top 50 earning partners in the firm. With the institution of a full-time chairman, Baker tilted towards complete management, which included a move away from organically grown partners to more lateral hiring of partners.

Baker and McKenzie is a behemoth among law firms, but not compared to all professional service firms. It started with a goal to be a global firm but one with collegiality at its core. Collegiality embraces trust which is a prime constituent of a collective based on shared principles. As long as the partners could know each other, take account of others' cultural values, and be part of a known entity, partnership could be articulated as a value-laden concept. With its extraordinary growth, Baker had no choice but to become a corporatised entity with multiple tiers and bureaucratic management. Ultimately, a firm like Baker becomes a set of interlocking networks, virtual arm's length relationships tied together by strategic goals, but lacking trust, especially since de-equitisation is made easier. In sum, Baker started with two divergent aims: to be a global law firm and to be a collegial partnership – never to be conjoined.

Skadden Arps

Skadden, Arps, Slate, Meagher and Flom started as a home for discards from other law firms. Lawyers passed over for partnership at elite law firms or young lawyers out of Harvard Law School ignored by the mainstream firms found Skadden a congenial home in the 1950s and 1960s when the New York bar was extremely conservative (Caplan, 1993; Gordon, 2006). The firm decided not to invest in organic growth by training up its own associates into partners: it hired partners laterally (Caplan, 1993: 46), which it was said, 'kept the firm nimble and fresh' (id.: 156). As Caplan notes: 'From [its] point of view, its hallmarks were pragmatism and openness. Skadden had a mix of Democrats and Republicans, and of Catholics, Jews, and Protestants' (id.: 47). Skadden's early work, which drew notice, was handling proxy fights in hostile takeovers. The work did not have the glamour of high-status corporate legal work and most mainstream New York law firms ignored it. In the 1970s, Skadden's expertise in contested takeovers gained it work from investment banks like Morgan Stanley and Lazard Freres (id.: 57). Skadden distinguished itself from other firms by a commitment to seeing the work performed quickly. The hours worked were notoriously longer than at others, in some cases more than 2500 billable hours a year. Skadden earned a reputation as a sweatshop. It also leveraged its partners more than other firms with partner/associate ratios of 1:4 or

more. By the 1970s, Joe Flom, the senior partner envisaged Skadden as a megafirm.

Most law firms build a stable of regular clients paying retainers. During the 1970s, corporations began to realise that paying external counsel to do routine legal work was expensive and, instead, expanded their in-house legal departments (Gordon, 2006). One of the effects of the rapid increase in hostile takeover work was that it 'unbundled' lawyer–client relationships. Since the mainstream firms rejected this work, it had to be outsourced to others, such as Skadden. This meant that corporations were no longer exclusively dependent on their regular counsel; they could go elsewhere for specific tasks – expertise shopping. It created a more open market for legal services, one based on transactions rather than relationships. Lawyers sought out clients and took over clients who had been referred to them.

Skadden employed two tactics. One was to treat professionalism and commercialism as the same thing, not polar opposites. The other was to use the media as a means of expanding its empire (id.: 76–7). 'White shoe' law firms were shy of the media. It was ungentlemanly to market oneself and unethical to advertise. Yet, the 1970s was a time when the legal media market grew with newspapers like *The American Lawyer* and *The National Law Journal* (Flood, 1996: 171). On the first tactic, because of the nature of hostile takeover work, many clients were concerned to 'sterilize' Joe Flom and have him conflicted out of cases (Caplan, 1993: 83). Since there were only two main law firms in the takeover business, Skadden and Wachtell Lipton, conflicts could radically reduce the level of business if successful. Flom therefore inserted a waiver clause in his retainer that said: 'Should your corporation or any person affiliated with it seek to acquire or invest in any company which is a client of our office we will be free to represent that client and the same shall not result in a reduction of the retainer' (id.: 83). A number of legal ethics experts countered that the waiver was unprofessional, greedy and unethical. The retainers, however, funded Skadden's moves to diversify into new areas of practice that depended less on mergers and acquisitions. Another example of its commercialism was the use of premiums or performance fees in legal work. If a deal was successfully consummated the resultant fee could be four times as much if the deal had failed. Skadden thought of itself as being a functional equivalent of the investment bank and should be rewarded accordingly (id.: 104).

The way Skadden treated its lawyers was at first unusual. The firm realised that doing work quickly was to be one of its hallmarks, so that no client would have cause to complain about tardiness.

Arrangements for simplifying lawyers' lives in order that they could concentrate solely on work included in-house gyms, food and snack supply services throughout the day, constant support services for photocopying, messages and word processing. It even offered the use of free psychiatric services and handled partners' investments. It was in Caplan's terms, 'the American idea of the Japanization of the law firm' (id.: 112).

Skadden had moments of introspection about what kind of firm it was and hoped to be. In the 1980s it tried to determine its 'culture'. Skadden's answer was summed up in the word, merit. It had two interpretations: one was in the quality of work, and the other was in the 'excellence in individual performance on the job' (id.: 157). It was not a culture derived from long relationships with clients. Some even argued there was no culture at Skadden: 'The way you can tell that there is no culture here is that people try to get away with things that people at firms with established cultures wouldn't. I think there's more dishonesty about hours – with people inflating them. People here will try to take credit for things they shouldn't' (id.: 171).

Like Baker and McKenzie, Skadden used an 'eat what you kill' system of remuneration. Up until the mid-1980s, the distribution was decided informally by Joe Flom with a few others. It led to some dissension because the money seemed to flow predominantly to the M&A lawyers in the New York office. At one stage when Skadden had made more money than it anticipated, it was decided that the money should be distributed in bonuses rather than partner units. The fund was known as the 'Pig Pool' (id.: 184). The bulk of the fund went to the M&A lawyers, causing many lawyers to feel the firm was on the road to destruction, with the result that the compensation system was overhauled and given to a committee to operate a more rational system.[7] Nevertheless, compared to Baker's 'Formula', Skadden's compensation system is more subjective with a significant amount of its value based on perceptions and impressions as well as hard figures.

Skadden's senior partners ran the firm as an oligarchy with Joe Flom as its titular head. Younger partners demanded a say in the election of the executive partner, but older lawyers saw this as a recipe for chaos and corruption. Compromises were found that allowed the firm to muddle through the situation without giving everyone what was wanted. But then Skadden was set up in opposition to mainstream law firm values. Joe Flom has referred to those who talk of the decline of professionalism as those 'creeps who keep talking about their gentlemanly practice' (id.: 153).

Local/Niche but networked

The archetypes representative of this section are Cravath Swaine and Moore, Wachtell Lipton and Slaughter and May. Here I treat the latter two.

Wachtell Lipton

Wachtell, Lipton, Rosen and Katz is unusual compared to most corporate law firms. It has a single office with 190 lawyers, a one-to-one partner–associate ratio, and average per partner profit of $2.35 million (vault.com). Both Baker and McKenzie and Skadden significantly leverage their partners. According to Gilson and Mnookin (1985: 585) the higher the leverage, the higher the firm's per partner profit. In this fundamental respect Wachtell is different and deviates from the norm.

Wachtell was started by a small group of lawyers in 1965 with the express aim of doing transactional work in a partnership without hierarchy (Starbuck, 1993: 898). These lawyers also refused to enter retainer relationships with clients (contra Skadden), thereby hoping to reduce the potential for conflicts of interests. Wachtell believed in not undertaking routine legal work, which meant turning down work; for example, due diligence which required extensive use of labour. The firm wished to keep itself small.

One decision by the firm was to have far-reaching consequences – that of defending targets in mergers and acquisitions. A former Wachtell partner characterised the decision this way:

> Opposing [Michael] Milken positioned Wachtell Lipton as primarily a defense firm. The choice was not a necessary one. Skadden Arps flourished representing both sides. But limiting representation to target companies was a choice that Goldman Sachs had made years earlier, and it had proved very profitable for them . . . The early decision of Lipton to say that the firm would not join with Skadden Arps in raids [also] proved very successful. [. . .] When the poison pill defense was developed by Lipton and validated by the courts at the end of 1985, Wachtell Lipton's place as the premier defense firm was assured.
>
> (Lederman, 1992: 211)

Wachtell's Marty Lipton was, along with Skadden's Joe Flom, one of the few to realise that hostile takeovers were a growing area of legal business. Thus he and Flom became the *enfants terribles* of M&A. But legal work has a curious residuum. Once a piece of work has been done, it

cannot be protected in the same ways as other intellectual property. For example, Harvey Miller, then the doyen of New York bankruptcy lawyers, surmised that his original legal work gave him a two-week advantage over other lawyers before they could imitate him (Flood and Skordaki, 1997). So, even though Flom and Lipton had an advantage in M&A, they had to capitalise on it. Lipton crowned his fame by inventing the 'poison pill'. In order to make companies less attractive as targets, Lipton devised a means of multiplying shareholdings among current stockholders when the takeover occurred, thus diluting the acquirer's shareholding (Powell, 1993). Even though the poison pill has been copied and developed over the years, it is still indelibly associated with Marty Lipton.

Like Skadden, Wachtell was composed of outsiders, attractive to Jewish law students at New York University (NYU). As one partner said, 'For years, two-thirds to three-fourths of the Wachtell lawyers were NYU graduates' (Starbuck, 1993: 902). Wachtell's approach to hiring was unusual. Typically a firm runs a large summer intern programme from which it makes a number of offers of employment for the following year. Law firms always hire more associates than they expect not only to make partners to account for attrition, but also to provide for a tournament between associates at the time of partner selection. Moreover, during the probationary period firms adopt the Cravath method of training, which essentially takes complex transactions and breaks them down into manageable parts, each of which is taken by an associate under supervision. As associates accumulate more experience, they are able to take on bigger tasks and begin supervising others. So they learn the art of being a corporate lawyer (Swaine, 1946).

Whereas Skadden takes in over 100 summer interns, Wachtell chooses no more than 20 to 25. Offers are made to around 15 of them with 6 or 7 accepting. According to Starbuck, 'Associate lawyers receive appraisals after three, four, and five years. The senior partners make these appraisals quite frank so that the final partnership decision surprises no one. The partnership decision occurs earlier than at other leading firms. Of those who start at Wachtell, over 40% become partners' (1993: 902). For associates the Cravath method is not the norm, which Kelly interprets as bureaucratisation by stealth (Kelly, 1994: 204). Wachtell associates are expected to become self-sustaining autonomous units early in their careers in order to become part of teams comprised of different specialities.

The collegiality of the firm is mirrored in its compensation system which is based on lockstep. One partner presented it thus, 'The three

founders get 125% of the average. Other seniors get 100%. Younger partners progress toward 100%. A new partner would get around 33%. These percentages are determined entirely by seniority. No one is compensated for client clout' (id.: 906). An 'eat what you kill' system would intensify differences and foster a high degree of individualism manifested in the harbouring of work, as the recipients of Baker's Formula found. Other partners at Wachtell emphasised,

> This compensation system can only work where everyone is sharing the workload. No one is seriously considering changing the system. It requires trust among partners, sharing, beneficence by the seniors. No one came to this firm for dollars; no one stays for dollars. We can move associates around because no partner is responsible for a specific client. Also, there is no reticence to bring someone else into a client relationship. Lockstep is very important.
>
> (Starbuck, 1993: 906)

Unlike Skadden, Wachtell's culture discourages internal competition in order to foster the group.[8] As Marty Lipton summarised it: 'The Firm is not a business; it is an old fashioned professional partnership; there is no partnership agreement – only a handshake among friends' (id.: 908). The administration of the firm appears to follow the same informal route with partners assuming administrative roles according to desire. Another aspect of the firm's reluctance to promote the individual is seen in its attitude towards billing. It shies away from billing by the hour preferring instead to charge a price for the transaction that reflects the value the firm contributed to the deal. This often includes a substantial premium, as Skadden did, for successful transactions. Although clients could, and occasionally did, query the premium, in which case it would be discounted, they would not be able to employ the firm again. The firm had sufficient work to be selective about its client roster and so chose to base its relations on a system of trust in the value of its work.

Slaughter and May

Slaughter and May is the quintessential British 'Magic Circle' law firm with around 750 lawyers.[9] Although it has offices in Paris, Brussels and Hong Kong, these are tiny compared to the London office: over 650 of their lawyers are based in London (Legal500.com). Compared to the other firms mentioned above, Slaughter's has the longest history, being founded in 1889 (Dennett, 1989).

Slaughter was an offshoot of another City law firm, Ashurst Morris Crisp. Both the founders had trained at Ashurst, which in the 1880s was considered a large law firm with three partners (Slinn, 1997). Partnership was generally difficult to obtain at this period since sons were favoured over others and the 1862 Companies Act capped the number of partners at 20 (Dennett, 1989: 227). This meant fission rather than fusion was the usual course. Hence both Slaughter and May, through necessity had to leave Ashurst to form their own firm, but they were assisted by John Morris of Ashurst who passed work and clients their way (id.: 34). As Slinn (1997: 86) notes, 'Such an arrangement clearly worked to the benefit of all concerned, since Ashurst, Morris, Crisp and Co. had clients and enough to spare and young men who had shown themselves to be able and ambitious were trusted by John Morris to do their best for the firm, the clients and themselves'.

It was not only partner numbers that were low; the numbers of lawyers generally in English law firms were small. There was much greater use of unqualified managing clerks to do legal work. The 'ratio of partners to juniors and clerks could be as high as 1:20. In the 1840s the ratio at Baxter, Rose and Norton had indeed been as high as 1:100 during the height of the railway boom. By the 1860s, the number of clerks returned to its more usual seventy' (St George, 1995: 82).[10]

There is a significant difference between the way law firms practised in the 19th and 20th centuries. In Wachtell, the emphasis was always on being a good lawyer, not on being an entrepreneur. A partner said, 'Getting new business is irrelevant to people's performance. The criterion is always excellent legal work' (Starbuck, 1993: 910). In nineteenth-century imperial Britain, being entrepreneurial was the name of the game with London as the financial capital of the world.[11] Dennett records that John Morris was the director of '13 successful public enterprises . . . who had frequently been employed . . . to start at a few hours' notice, on a voyage across the Atlantic to assist in unravelling some vast complication in the American railway system' (Dennett, 1989: 23). Slaughter continued this tradition as they forged links with merchant bankers, such as Emile Erlanger, Schroders and Seligmans.[12] Their clients were involved in mining in the Far East and South Africa; in developing railways in several continents including South America; and in many of these William Slaughter was highly active in promoting the companies, especially at their flotations, as well as being on their boards. For example, Dennett describes Slaughter's activities with one special client:

> Slaughter's largest single commitment outside his legal practice was still Home and Colonial Stores. Although a managing director, Charles Blake, was appointed to the board of the Stores in 1899, Slaughter remained the company's front-line negotiator with suppliers. His close correspondence with Julius Drew, still the biggest shareholder in Home and Colonial, offers insights into a number of aspects of Slaughter's life, not least his continuing position as chairman, his health and integrity.
>
> (id.: 120)[13]

Slaughter grew almost haphazardly. In the UK there was nothing comparable to the Cravath system of associate training. Quite a number of partners joined after having practised elsewhere: for example, Donald Tewson was admitted as a solicitor in 1908, and then practised alone for 22 years as a tax lawyer before he joined Slaughter's (Dennett, 1989: 176). One partner, when an articled clerk in the 1930s, told us how he was introduced to Albert Pam of Schroders merchant bank with the expectation that he would work for the bank as one of their lawyers, 'however humble' (id.: 194, n. 7). Managing clerks were still used, especially in work that City lawyers considered *infra dignitatum*, like litigation. Slaughter's litigation department was run in that fashion for many years (id.: 223). Only in 1978 did the partners take over the running of that department (id.: 244).

Slaughter, until after the Second World War, had no formal division into departments, each partner considering himself a generalist who could turn one's hand to anything (id.: 224). Moreover, the governance of the firm was a simple matter. Charismatic senior partners essentially made all the decisions after informal discussion with other partners. In the 1950s, Slaughter started using a management committee of senior partners to manage the firm. It still had an ad hoc tone to its meetings and deliberations. In the 1960s, they commissioned consultants to examine firm governance. It was suggested that the senior partner should become a full-time manager. Slaughter rejected this, as the senior partner, who still carried a full workload, was too valuable a conduit to clients to lose. Instead they appointed an 'administration partner' to relieve him (id.: 230).

For British law firms at this time the most serious obstacle to growth was the limit on the size of the partnership to 20 lawyers. Slaughter reached its limit in 1957 and from that time until 1967, when the cap was lifted, had to lose potential partners to other firms, in-house

legal departments and banks. Dennett tells of how the situation was compounded by the merchant banks' move into 'the stage management of large public issues', which was normally done by the law firms (1989: 228). The banks started raiding law firms for their expertise. Slaughter and May lost partners to Hill Samuel, Guiness Mahon, Morgan Grenfell and Schroders. Following the changes to the partnership rules in the late 1960s, law firms in the City of London started to grow rapidly. While a number of firms sought expansion through mergers, Slaughter's continued to develop through organic growth and began to formalise its management (id.: 264). It has, however, remained faithful to the lockstep system.[14]

The reprise of professionalism?

Regulation of law firms and lawyers has increased in the late 20th and early 21st centuries compared to the 19th and early 20th. Lawyers then were more entrepreneurial and willing to join in their clients' activities. In London, solicitors were men of business as many attorneys were in New York. The early 1900s, however, saw the Cravath law firm break new ground with the modern corporate law firm. Both in London and New York, business interests are intertwined with their law firms. Lawyers became prominent in international politics. Men like John Foster Dulles and his brother became Secretary of State and the Director of the CIA, respectively (Lisagor and Lipsius, 1988). The Depression gave birth to the New Deal in the US which intensified the regulation of business and increased the speed of the revolving door for lawyers in and out of government and practice (Gordon, 2006). The UK developed the welfare state which gave rise to increased legal activity in rights. It was not until the 1980s that business regulation was given a new turn by the Thatcher government with the 'Big Bang' and a raft of state utility privatisations. By the last quarter of the twentieth century, the large law firm was well entrenched in the common law world. It was helping to shape globalisation by producing a system of private ordering transmitted through complex documents in the nature of, for example, franchise agreements, joint ventures, and increasingly sophisticated capital markets' instruments. These activities have multiplied as field of transnational organisations – for example, WTO, World Bank, NAFTA, EU – has grown ever denser.

While the accounting firms began to transform themselves into professional service firms full of multi-tasking collectivities, law firms largely hewed to their traditions, in common law jurisdictions. Despite

a mild flirtation with multi-disciplinary practices, law firms have remained single-purpose entities. Finance and commerce are unable to develop without law, so for lawyers there has been no comparative advantage to merging with other occupational groups.

The reverse is not the case, however. The directions indicated by the Clementi Review (2004) and the UK government's bill on legal services (DCA, 2006) suggest that the field may become open for non-legal institutions to offer legal services, for example, banks and supermarkets. These have been mainly driven by competition issues, which raise interesting concerns for the legal profession. For a long time the legal profession thought itself immune from competition issues by virtue of its professional status. Law was different. There was the fiduciary aspect combined with the tenets of lawyer–client privilege. Although the legal profession was able to justify a range of restrictive practices, including bars on unauthorised practice, it was not inoculated against challenge. As lawyers' preserves have been chipped away, pressure for greater regulatory control has emerged. In both the US and the UK a series of corporate scandals – for example, Savings and Loans, Enron, Maxwell, BCCI – have created much doubt around concepts of self-regulation.

All of this has taken place against a background of the legal profession announcing it would raise ethical standards, improve legal education (including continuing professional development), and promote better quality services (cf. Boon *et al*., 2005). The results of these promises are still awaited. Yet one of the key shibboleths of the legal profession, its independence from the state and clients has become less and less true.[15] This was exemplified when in 2004 the client of a bank was unable to find a City of London law firm willing to sue the bank in case it damaged relationships (The Lawyer, 2004). Gordon has further argued that

> [Lawyers'] moral standing has always been somewhat dubious because one of their jobs is to put the best face on even unattractive clients and causes, and because they are suspected over overselling their competence to profit from the misery of others. Valid or not, the critiques had a corrosive effect on attempts to defend professional values, good ones as well as bad ones, in terms of civic virtue or social trusteeship.
>
> (2006: 6)

It suggests lawyers are legal heliotropes. These developments have placed the professionalism of the legal profession in jeopardy. It can no longer rely on its old stock of nostrums to mount defences. One consequence of law firms' activities has been the growth in external regulation. In the US, the Securities and Exchange Commission (SEC) and other federal agencies now have regulatory oversight of lawyers, in addition to state bars. Within the UK, new regulatory structures are being formulated that will embody considerable external input. Self-regulation, one of the cardinal features of professionalism, is at risk of expiring.

The image of the classic P^2 type of professional organisation as presented by Lazega (2001) obtains less and less. Yet traces exist. Law firms still claim to be partnerships, even if it is the MPB type, not corporations, so their identification with the clients is not isomorphic. Even the most bureaucratic firms are subject to some of the same tensions as 'SGandR'. Partners, and departments, have to negotiate over resources, whether these are associates, clients or funds. While certain departments can influence outcomes more than others; for example, Skadden's M&A, they cannot exercise naked power as the M&A partners discovered when they attempted to promote more partners than they had agreed (Caplan, 1993: 254). In this they remain interlocking niches competing for resources.

Of course, this is brought further into relief when law firms adopt merit-based systems of remuneration over lockstep. Individualism then becomes the defining characteristic, virtually opposed to collective endeavour. Both Baker and McKenzie and Skadden typified this kind of behaviour among their own partners. Remuneration was often a divisive force in the firms pitting lawyer against lawyer and departments against each other.

There are situations where large law firms have stayed with lockstep but found it difficult to operate in a global context. When Clifford Chance merged with Rogers and Wells of New York, it had to integrate an 'eat what you kill' culture with a lockstep one. It attempted to do this by creating 'super-points' for the exceptional New York lawyers as a transition to the normal lockstep. However, many of the key New York rainmakers left for other firms which had merit structures.

It may appear that 'eat what you kill' is simply divisive and corrosive of evolving a true firm culture, but many law firms use it. It enables lawyers to claim their autonomy and identity at the expense of the firm. Realists might say that it reflects the nature of contemporary law firms. Partnership is now a transitory phenomenon not a lifetime match. If the converse, lockstep, achieves a longer-term relationship in

partnerships then it would be the obvious winner. But the very Magic Circle firms that have operated lockstep, apart from Slaughter and May, are now 'de-equitising' partners, creating two-tier partnerships, and suffering high churn rates among their associates (The Lawyer, 2006). The bargain implicit in the tournament has been broken. It is now a lifelong tournament for partners and associates alike with fewer winners than before (Henderson, 2006).[16]

There is one feature of professionalism that has been implicitly referred to but not made explicit yet. It is trust, one of the internal goods of satisfaction and excellence that MacIntyre (1984) believes characterises practice. One of the reasons for the success, I have argued elsewhere (Flood, 2007), is that large law firms have been able to engender trust in a globalising world because of the role they play in sanctifying transactions. Their system of private ordering enables economic actors, strangers to each other, to engage in business in the belief that most contingencies have been covered in their documents. They have a template of proper behaviour, so to speak. The features of the institutions that create trust include the fact that they themselves embody the values of trust by virtue of being professional partnerships, or at least presenting themselves as such. The question can be legitimately asked: are global law firms capable of sustaining the framework of trust given their size and structure?

Certainly, other institutions that have abandoned partnership for corporate life are finding difficulties in balancing self-interest and clients' interests. One example illustrates the dilemma. Goldman Sachs, the investment bank that was once a partnership, now a corporate entity, is a pre-eminent adviser to businesses. It also invests its own funds. With the rise in private equity investment, Goldman has participated in a number of hostile takeover bids in the UK and elsewhere (Wighton, 2006). It has now found that a number of its clients are suspicious of Goldman's good faith. They wonder if they too will become targets. The result is that clients are switching away from Goldman. Because the trust that made Goldman a valued broker and counsellor has been tarnished, its chairman had to command managers to abstain from participating in hostile bids. Clifford Chance almost committed a similar faux pas when it proposed categorising its clients into three prioritised strata: international, regional and national. The regional and national clients were not happy at being ranked second and third in the firm's value structure. The firm quickly dropped the overt classification.

All four law firms presented in this chapter started with the goals and values of professional partnerships.[17] Law would be a means of

earning a living but it would be a creative and enjoyable enterprise carried on among equals, as defined by MacIntyre (1984). Not all of them were able to sustain that vision, although I would question how far Skadden subscribed to such a vision. Baker and McKenzie was doomed by its very goal to fail. Russell Baker wanted the firm to be situated throughout the world. While the American lawyers dominated the firm through numbers, it succeeded in maintaining a semblance of unity. That has stretched beyond reason. Even though the partners occasionally meet, relationships are thin at best, non-existent at worst. What then is the meaning of the firm in this case? In a study of global insolvency one lawyer remarked 'I know most other insolvency practitioners around the world better than I do my own partners' (Flood and Skordaki, 1997: 126).

Two firms in this study started or adopted the aim early on to abandon traditional lawyer–client relationships. Skadden and Wachtell wanted to be transactional law firms, focussing on tasks rather than clients. This introduces a new dynamic to professionalism. It is almost appearing to behave like English barristers do, being at one remove from the client (Flood, 2002). The result is a reliance on brokers to supply or act as conduits for work, which can be a high risk strategy (a role played by the in-house lawyers described by Pinnington and Suseno in their own contribution). It therefore can only be an available option for a few. It pushes these firms towards Johnson's mediative category where a third party intervenes between the professional–client relationship (1972).

Because of their size and reach, Skadden and Baker have been forced to adopt sophisticated and bureaucratic systems of management. These have reduced the impact that partners are able to have within their firms unless they participate in the appropriate committees. Bureaucracy is also imbued with the idea of standards and standardisation that eventually supersede the values inherent in professional ethics. Alternatively, Slaughter's and Wachtell have introduced gradations of management on a scale of some to none. It means that partners must be involved in the running of their firms, which situates them in a participatory democracy.

Where does this leave the professionalism of the legal profession in the twenty-first century? There is a more industrialised workforce in law as commodification of work grows. Extended probationary periods for associates, full-time associate tracks, two-tier partnerships are the norm in corporate law firms. Traditional ideas of partnership are in retreat as firms defend their elites at the expense of the new legal underclass (see Chapter 2 by Muzio and Ackroyd in this book). The increased use

of standards and audit to control through 'self-verification' displaces the inculcation of ethical values, which legal education has largely given up. If professionalism is a combination of values, knowledge, and self-regulation, then it is a shrinking territory. Slaughter and Wachtell nevertheless raise the possibility of enduring professional values in a globalised world. Are they such outliers that they can never be considered normal? Or do they represent the new face of professionalism in the twenty-first century?

Notes

1. I am grateful to the Institute for the Study of the Transformation of the State at Bremen University for financial support for the research for this chapter. I also thank Avis Whyte and Eleni Skordaki for their helpful comments, and Richard Parnham for his incisive observations and useful sources. Two of the editors skilfully manoeuvred an earlier draft into a more presentable shape for which I am grateful. An earlier version of this paper was presented at the Law and Society Association Meeting 2006.
2. Although I will be concentrating on the large corporate law firm as my unit of analysis, the fruits of this chapter could spill over to other types of law firms. The UK government is proposing a series of deregulatory changes to the organization of law practice that will permit, for example, the offering of legal services through supermarket outlets, and the formation of multidisciplinary practices leading to increased corporatisation (DCA, 2005, 2006). Even without these changes the UK has one of the least restrictive regulatory frameworks on legal activities, especially when compared to highly restrictive jurisdictions, in terms of unauthorised practice, such as the United States, but cf. the analysis of Paterson, Fink, Ogus *et al*. (2003) at Table 3.7 where the UK falls midway on the regulatory spectrum for lawyers in Europe.
3. Neither archetype addresses the role of charismatic authority in professional service firms, which, as this chapter demonstrates, is important in the history of law firms.
4. There is a raft of roles emerging now: non-equity partners, salaried partners, non-voting partners; senior associates, senior counsel, off-track attorneys, professional support staff are a just few of these. See Baker and Parkin (2006).
5. I have intentionally excluded barristers' chambers from the argument.
6. Russell Baker died in 1979.
7. Although Skadden took a brutalist approach to compensation with its 'Pig Pool', the problem of the New York office is equivalent to the elephant in the drawing room. It is too big. Big law firms usually find their New York offices are the most profitable and the most highly remunerated compared to others. And law firm chairmen also find that the New York office is the most demanding in terms of their time and energy. If they do not give the office the time it demands, in the words of one law firm chairman I interviewed, 'The lawyers walk'.

8. This is an interesting observation as Regan (2004) suggests Lederman (1992) left Wachtell for Milbank Tweed because he disclosed too much about the firm in his book and was not sufficiently collegial.
9. Although Slaughter and May is not as little as Wachtell, within the Magic Circle it is the smallest law firm.
10. The use of managing clerks as a substitute for articled clerks and associates continued late into the twentieth century.
11. The nineteenth century was a remarkably prolific one in generating new business for law firms. City lawyers were involved in the development of the railways globally, the formation of telephone and telegraph companies and electricity companies. These kinds of innovations allowed London to become dominant in shipping and commodities markets (Slinn, 1997: 70–73).
12. London was special. According to Cassis, '... the City was the first modern financial centre where an unrivalled range of hitherto unavailable, or at least hard-to-find, services were provided ... the City teemed with private firms, both large and small, bankers ... financiers ... and lawyers, all gathered within one square mile' (2006: 83–84).
13. This is not to say that it was typical of American law firms not to have longstanding and complex relationships with clients. Throughout the 1930s John Foster Dulles, senior partner of Sullivan and Cromwell, helped US finance rebuild war-torn Germany assist the rise of the Nazis and actively supported Hitler (Lisagor and Lipsius, 1988: 119–142)
14. Slaughter followed a different path from its compatriots in the Magic Circle, shunning mergers in preference for a 'best friends' network of firms in strategic countries.
15. Indeed, the CCBE is arguing for more state regulation. See CCBE (2006).
16. In some ways law firms are coming to resemble their nineteenth century counterparts with high leverage rates that count associates and non-equity partners. Henderson (2007) supports this view in the US with an analysis of the changes in the *National Law Journal* 250 between 1995 and 2005 that shows that while the number of lawyers rose by 77%, the number of equity partners grew only by 32% but the number of non-equity partners increased by 234% and similarly senior associates rose by 160%.
17. There is not space in this chapter to discuss the role of charismatic leaders in law firms, but my four examples were beneficiaries of them: Russell Baker at Baker and McKenzie, Joe Flom at Skadden, Marty Lipton at Wachtell, and William Slaughter at Slaughter and May. It is apparent they helped frame the cultures of their firms and gave them defined identities.

4

Developments in the Jurisdictions of In-House Legal Advisors: Researching the Australian Experience*

Ashly Pinnington and Yuliani Suseno

Introduction

In-house counsel and in-house solicitors[1] have both organizational and occupational commitments. As a result of being employees of client organizations as well as practicing members of the legal profession, they face problems of divided loyalties in a more acute form than do self-employed professionals (Nelson and Trubek, 1992: 182). For this reason amongst others, in-house lawyers are often attributed a relatively low status. In addition, a common if somewhat unflattering view of them suggests they are professionals who are forced to seek the shelter of employment, having failed to succeed either in corporate law firms or in independent legal practice (Smigel, 1964). In terms of the academic theory of the professions, their position is decisively different from that of partners in law firms. As Johnson formulates it, employed lawyers are professionals who depend on corporate patronage rather than functioning autonomously, as the bulk of the profession does, under collegiate control (Johnson, 1972: 45–7).

It can be counter-argued that, according to many researchers, the working conditions in the typical corporate law firm are becoming increasingly those of a 'law factory'[2] (Smigel, 1964: 20; Galanter and Palay, 1991: 16–19; Ackroyd and Muzio, 2007; Muzio and Ackroyd this book). Nor are the leading members of the profession exempt from growing corporate pressures. The authority, power and influence of the most powerful partners of large legal practices increasingly depend on their commercial success; that is, maintaining key client accounts (Nelson, 1988: 227; Lazega, 2001). Equity partners' reputations within leading firms depend on their continuing capacity to generate business from serving clients, and their individual income is periodically reported

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to the peer group in partnership accounts and in systems of profit sharing (Gilson and Mnookin, 1985; Morris and Pinnington, 1998a). Thus, regardless of the supposed status order in the profession, the work of senior partners in law firms often forces them into a subordinate relationship with in-house lawyers. More often than not, they take their instructions from in-house lawyers.

It is also true that many of the top employed lawyers previously were equity partners practising in elite partnership firms, whilst their current employed status has helped to redress the balance of power in favour of client firms. Effective in-house lawyers mediate and manage legal service provision, among other things, reducing clients' dependence on individual lawyers and particular firms (Nelson, 1988: 82–3; Baker and Faulkner, 1991). As has been widely argued, in-house lawyers provide client organizations with improved access to professional services which, some researchers conclude, gradually reduces the control of the legal profession over its clients (Haug, 1973). Powell (1985: 289–91) has observed the growing legal sophistication of corporate clients throughout the 1960s and 1970s, concurrent with the development of stronger legal departments and more organized representation for in-house lawyers. These trends, coupled with the emergence of new occupations and a period of growing competition between professions, mean that today's lawyers find themselves having to organize their practice of law amongst social attitudes and consumer groups, who are increasingly opposed to unregulated autonomy and self-serving monopolies (Rothman, 1984: 201–2). Although these changes are clearly not evidence of the proletarianization of the legal profession (Derber and Schwartz, 1991: 71), they do call into question the idea that independent law firms are the exclusive means for preserving its privileges.

The primary motivation behind the empirical research reported in this chapter was not simply to provide a palliative to researchers' preference for concentrating on studies of lawyers who work in law firms rather than in client organizations, although it will achieve this. We seek to examine the capacity of the legal professions to negotiate new temporary settlements involving continuing market shelter and occupational privilege (Hanlon, 1998). In contrast to the ideas about deprofessionalization (Rothman, 1984) and proletarianization (Derber and Schwartz, 1991), the interpretation we present here is broadly consistent with a dynamic of 'reprofessionalization' (e.g. Powell, 1985: 302). Principally, this chapter seeks to understand in-house lawyers' ability to secure their means of livelihood and to consider the organizational environments in which they work as a *political and structural occupational*

niche (Bourdieu, 1987; Abel, 2004) where members of the occupation can operate. We shall also consider the extent to which this structural niche provides opportunities for the collective mobility projects of the legal professions (Larson, 1977). The overall contention of this chapter then is that, under these circumstances, lawyers reap mutual rewards with their corporate clients, namely, profitable survival (Muzio, 2004: 48), not to mention international and, for some, global expansion (Flood, 1995: 158–61).

The internationalization of business and legal jurisdictions

The central contribution of this chapter is the discussion of research findings on in-house lawyers' experience of the internationalization of corporate legal practice. Our discussion is informed by two theories of professional jurisdiction (Torstendahl and Burrage, 1990). The first is Abbott's (1988) conception of the *system of the professions* and in particular his idea of the core of a professional work jurisdiction being a privileged territory based on generation and appropriation of knowledge. The second is Bourdieu's (1987) concept of the *juridical field*, as one that wields substantial symbolic power but which, overall, enjoys less autonomy than the scientific or literary fields. The purpose of our analysis is to explore relationships between the internationalization of client companies and the internationalization of legal advice in an emergent global legal field.

Fundamental to Abbott's (1988) approach is the assumption that a professional jurisdiction is an arbitrary territory sustained through work practices in which the professional solves problems (real or imaginary) for the client. Abbott portrays these jurisdictions as being contested between different groups, situated in a social and economic system of similarly constituted occupations. Bourdieu's concept of the juridical field places a comparable emphasis on the relatively high autonomy of the jurisdiction but attends less to the capacity of abstract knowledge for generating a territory of valued labour. Instead, Bourdieu concentrates on the variety of symbolic resources available within the field. The symbolic capital of the lawyer is conceptualized as a type of capital which operates in accordance with basic requirements for maintaining the rule of law, thus paying attention to powerful political and economic institutions and actors. Its overall sense of a professional jurisdiction is a semi-autonomous field wherein clients have to submit to the arbitrary symbolic practices of lawyers as part of the means for achieving business goals and ends.

Large law firms and their clients

In the early twenty-first century, large law firms are dependent on corporate client organizations for the majority of their revenue and profit (Spar, 1997). They grew significantly in the number of lawyers employed between the 1970s and 1990s progressively divesting from some traditional areas of legal practice such as private client work and criminal litigation (Galanter and Palay, 1991). Many reasons are given for this growing emphasis on serving the corporate sector and, though most studies of law firms concentrate on the perspectives of professionals (e.g. Nelson, 1988; Lazega, 2001), it seems fair to criticize research for not saying enough about elite political and corporate clients (Hanlon, 1998). Such an imbalance of emphasis on lawyers, in contrast to clients, cannot be due to difficulties of research access because lawyers are much less prevalent in the empirical research literatures than are corporate company executives and managers. Admittedly, in this chapter, we can go only part of the way towards addressing both sides of the professional–client relationship (see Chapter 9 by Fincham *et al*. for a discussion of related issues in management consultancy) by examining qualified and trained lawyers who are employed in client organizations.

To understand how legal jurisdictions are changing with the internationalization of business, we need to know more about the role and contribution of in-house lawyers. This is because they play a pivotal role as intermediaries between client organizations and external law firms. Since some research studies have concluded that in-house lawyers are less committed to the legal profession than colleagues working in law firms (Wallace, 1995), a possible limitation of conducting research on lawyers who are employed in client organizations is that, in contrast to the general population of lawyers engaged in private practice, they may be less motivated by issues of professional career and professional rewards. Important debates on the societal and organizational contexts fostering a 'commercial' versus 'professional' orientation, continue to raise important questions on how expert work is changing (Kirkpatrick and Ackroyd, 2003; Reed, 2006), nevertheless there is a consensus of opinion in practitioner and academic circles that large law firms rely on sustaining profitable relationships with corporate, financial and commercial client organizations. Interestingly, whether researchers address either state or market forms of regulation, the significance of elite clients remains paramount in both.

We should not dwell exclusively however on the differences that may occur between in-house and external lawyers, for there are

many similarities. Theories of professions and professionals range from emphasizing, for example, institutional resources of power and hierarchy (Johnson, 1972) to individual and entrepreneurial change (Arnold and Kay, 1995; Sandefur *et al.*, 1999). Lawyers employed in high-end corporate work are accustomed to working in large bureaucratic organizations as the principal context for the routine exercise of their professional role. Some leave the large firms to create niche or boutique enterprises and entrepreneurial practices in specialist areas of law (Nelson *et al.*, 1992). There again, most in-house lawyers initially trained and worked in large commercial law firms before changing to their corporate employer (Anonymous, 2006). So, whether they are employed in large law firms that charge fees and offer the career prospects of partnership (Gilson and Mnookin, 1985, 1989) or are working in-house for client organizations and earning a salary, all are paid to provide legal advice and write law and agreements serving clients' needs.

The internationalization of business in Australia and its implications for the Australian legal profession

Lawyering is a traditional form of expert labour and continues to enjoy the political and economic advantages of being highly valued in business and society (Muzio, 2004). Its particular value for corporate clients resides in its flexible capacity to provide legal solutions for commercial activities and transactions. It is therefore important to be clear about the scale and scope of clients' needs for legal work in Australia and arising from the internationalization of business. The internationalization of legal business presents institutional and entrepreneurial challenges for lawyers that may influence their local custom and practice. As domestic client organizations move into foreign countries, new demand arises for host country (foreign) and international law, some of it creating new business for domestic law firms. Clients' outward internationalization, though, is only half the story. In addition, partners in large law firms face inward internationalization (Passarella, 2005), which presages new business opportunities from foreign client organizations, as well as the grimmer competitive prospect of foreign lawyers seizing a share of the home country legal market (Levin, 2001).

Much of the research on large firms has been based on empirical studies in the US and Europe (e.g. Flood, 1987; Nelson, 1988; Morris and Pinnington, 1998b). Law firms have been less comprehensively investigated in Australia, although there are some substantial studies of internationalization (Sklair, 2002; Fleming *et al.*, 2004). Australia has

undergone periods of colonial and post-colonial dependence on trading relationships with the UK, as well as substantial inward investment from the US and Japan since the 1960s. More concerted and government-supported attempts to develop trading relationships with countries in Asia and the Asia-Pacific region initially gathered pace in the 1970s. Through financial, trade and labour market deregulation, commencing in the 1980s, the Australian government has sought to make the country more accessible to global business through freer flows of capital, goods and services, outwards and inwards to the country.

Competition and saturation in Australia's domestic market, coupled with the reduction in trade barriers, is often said to have encouraged many Australian firms to internationalize over the last few decades.[3] This is reflected in changes to the share of exports in proportion to the country's gross domestic product (GDP) growing from 15% in the late 1950s to approximately 21% in the 1990s (ABS Catalogue no. 1301.0, 1999). The internationalization of business is also shown in Australia's total exported goods and services increasing by 55%, from approximately A$100 billion in 1995–1996 to A$153 billion in 2000–2001. Over the same five-year period, export of goods grew by 58%, while services exports increased by 43% (King, 2001).[4] The mining sector is the strongest performer in Australia's exports, reaching a value of approximately A$35 billion, followed closely by services (A$34 billion) – a broad category consisting of personal travel, passenger services, education as well as *professional*, communications, insurance and financial services (Australian Government Department of Foreign Affairs and Trade).

The Australian government has demonstrated long-term interest in developing international legal trade and has displayed commitment to the World Trade Organization General Agreement on Trade in Services. Specifically within the legal sector, the Australian Government established a Working Group in the Attorney General's Department in 1987 in response to the growing interest amongst Australian law firms in establishing links or offices in foreign markets (Govey, 2003). In 1993, the Attorney General's Department established the International Legal Services Advisory Council (ILSAC) as an advisory body for multilateral trade negotiations within the legal industry. Various reforms were introduced including mutual recognition schemes and multi-disciplinary practices (MDPs) for legal services. By 1997–1998, operating within this broadly supportive context, Australia had experienced significant growth in its legal services trade (Govey, 2003). Facilitated in part by incentives from the Federal and local governments for promoting the legal industry, Australia's exports of legal services produced the highest

trade surplus of A$164 million in 2000–2001, exceeding other sectors of professional services categories such as accounting, engineering and technical services (ILSAC, 2003). In summary, the internationalization of some of Australia's major sectors and the Australian government's international trade policies have been supportive of maintaining and developing professional legal jurisdictions.

The heritage and internationalization of the Australian legal profession

The Australian legal profession has a diffuse and state-dominated set of professional institutions[5] which, in recent years, have become more nationally coordinated and integrated. Writing on *Australian Lawyers*, David Weisbrot (1990) declared, 'Few Western legal professions are as structurally diverse, geographically dispersed, and unintegrated as the Australian legal profession.' Weisbrot (1990) subdivides the development of the Australian legal profession into three periods. First, European settlement and transplantation of British laws and legal institutions. Barristers were the elite and solicitors' work consisted chiefly of conveyancing, wills, probate and personal injury compensation. Only a very few lawyers were salaried acting in a public capacity and 'leading firms' had only a few solicitors. The second period, which he identifies as a period of remarkable change, occurs between around 1965 and 1977. It was the time of a minerals boom and massive inflow of capital investment from transnational corporations, leading to the development of large corporate law firms in Sydney and Melbourne. The third period commencing in the late 1970s, he argues, is one of consolidation and further growth through merger and internationalization. In this phase, law firms are either national or international in reach. He reflected that, in this third period, the Australian legal profession became more distinctly divided into two tiers: corporate/specialist lawyers and high volume generalists (Weisbrot, 1990: 1–4).

However, in a number of ways Weisbrot's interpretation is open to question. It can be demonstrated that the origins of other western legal professions in the US and UK were similarly diverse and, especially in the former, geographically dispersed. To illustrate, Larson (1977: 5) contends that these diverse circumstances were in fact common to all Western professions (e.g. medicine, law and engineering) with a wave of professional associations forming around the mid-nineteenth century (Wilensky, 1964). It was following the emergence of corporate capitalism, by the late-nineteenth century, that power resided more firmly in the hands of US

lawyers' corporate clients (Larson, 1977: 169). Other researchers have adopted a similar line of argument, with some proposing a slightly later date (e.g. post-1914) for commencement of the heyday of UK corporate lawyers. Sugarman (1996) in fact suggests there is evidence for continuity over several centuries in the relationship between a top-tier of British lawyers and elite clients.

As large client organizations are internationalizing their assets and operations, notwithstanding global growth in cooperation between law firms from different countries and increasing cross-border flow of legal work, the local autonomy of groups of in-house lawyers remains high (Asian Legal Business, 2005). Even though they do not experience the same professional career and promotion opportunities as their peers in external law firms, they remain organized along professional lines of legal disciplines and extent of specialization. Such professional organization of the work serves clients' needs for task specialization and, at the same time, contributes to the robustness of the lawyers' work jurisdictions (Larson, 1977). In-house groups, departments and teams also appear to be preserving much of the status hierarchy evident in the global legal profession where US and UK law firms predominate in many of the big commercial transactions. It is common for in-house American lawyers to hold primary responsibility for geographical regions in North, South and Central America; UK in-house lawyers for Europe, Africa and sometimes Asia; and Australian in-house lawyers for the Asia-Pacific. Furthermore, it is usual for US, UK and Australian legal jurisdictions to be organized, managed and operated independently (Prince, 2005).

Historically, legal jurisdictions in different countries have evolved distinct bodies of codified law and in common law systems, a complex body of precedents (Bourdieu, 1987). A persuasive explanation for lawyers' continued independence and authority lies in the political and economic significance of their work. On the one hand, lawyers support their own occupational self-interest and high social status by maintaining a distinctive body of law and defending their professional work jurisdictions (Abbot, 1988). On the other hand, the practice of corporate, commercial and finance law have had to become further specialized jurisdictions in response to increasingly sophisticated demands from client organizations.

Empirical research studies often use concepts of professions and professionalism borrowed from communities of practitioners that, while helpful for advancing our knowledge, can reify political or problematic ways of seeing (Dezalay and Garth, 2001). So, how then should external and in-house lawyers be thought about? An approach commonly

adopted in practitioner publications is to understand in-house lawyers as following a different type of career from lawyers in law firms.

Wallace's (1995: 228) study of organizational and professional commitment is classic in this regard; distinguishing 'professional' from 'non-professional' organizations from the outset, it concludes that 'Lawyers working in non-professional organizations are significantly less committed to the legal profession than those working in professional organizations.' By conforming to definitions circulating in legal practice, researchers run the risk of being confined to discourses dismissive of asking hard questions about professional projects and their societal contexts. Therefore, in this chapter, rather than commence with ideas of 'professional' and 'organizational' commitment, we start with the idea of external and in-house lawyers as participants in the operation of legal jurisdictions and their technical development. We then go one step further by understanding both groups of lawyers as contributing to the internationalization of business and of the legal profession.

We will explore two assumptions during our analysis: first, external and in-house lawyers work within different arenas for the practice of law but each contributes to the maintenance and adaptation of jurisdictions of the legal profession; second, groups of external and in-house lawyers, practising within state, national and international legal jurisdictions, are under pressure at the least to accommodate or even to advance the internationalization of business. In the remainder of this chapter we examine empirically how in-house lawyers see themselves, their employing organizations and their professional peers as participants in the internationalization of both Australian business and the Australian legal profession. To do so we draw on our recent empirical research into in-house lawyers.[6]

Small, medium and large teams providing in-house legal services

The small 'team' for in-house provision of legal services in Australia will rely upon a company secretary or another board member holding major responsibilities for legal work. Growth in the number of members of the in-house team in these organizations is limited to around 1–3 full-time equivalent employers who are qualified lawyers or are employees with business skills related to the organization's legal work. In contrast, a large team will comprise a substantial total (30–80 lawyers) working in a large company. Such a firm has a portfolio of global assets and operates in industries such as resources, banking, insurance and financial services, and telecommunications. Further expansion in one of the large in-house legal teams could involve as many as 50 or so lawyers joining as a

consequence of a new company merger or acquisition. A medium-size team in Australia typically employs around 5–15 full-time equivalent lawyers.

The internationalization of corporations and developments in the legal jurisdictions of their in-house legal advisors

The picture painted by interviewees at the beginning of the twenty-first century was one of in-house legal teams seeking to project manage the service provision from external law firms more closely than thought typical in the last century. These developments have been occurring in the routine, quantifiable areas of legal work where both in-house and external lawyers have been subjected to processes of commodification. Substantial change was said to have occurred over recent years in monitoring financial and labour productivity by sharing more information between law firm and client organization. Previously this degree of transparency was not customary. Less change was reported in the evaluation of top-level corporate work where continued emphasis was on the management of legal service provision through informal and interpersonal communication. Increased external contracting of work frequently occurs when, within client organizations, it is perceived that, by appointing external firms of lawyers, the quality of the work is improved and the level of risk reduced. The benefits of external provision include enhanced currency of experience and expertise, because external lawyers frequently have more exposure than do in-house lawyers to high-profile legal matters and business situations.

> I think what you will find with the majority of those big firms, and which is one of the reasons why I like to use them is because they are very professional, they've been there done that, they know how to deal with people, and they know how to get the thing done, and they sort of are good at negotiating, I suppose, understanding personalities in the room and how to get the deal done, rather than being antagonistic or inflammatory or whatever it is.
>
> (Interviewee 11)

Maintenance and adaptation of jurisdictions of the legal profession

In-house lawyers play a key role in maintaining legal jurisdictions by *preserving legal practice in client organizations*. They do not merely sustain

the status quo but retain the viability of legal jurisdictions for client organizations by adjusting them to new business policies and practices. Whether the client organization pursues centralized or decentralized forms of management, input or output-based quality controls, in-house lawyers have day-to-day responsibility for ensuring that the business strategy and operations of the client organization obtain relevant legal products and services.

An illustration of in-house lawyers' willingness to adapt the custom and practice of jurisdictions of the legal profession would include their conformity with other industry sectors in undergoing vendor reduction programmes, reducing their number and variety of suppliers (barristers, individual practitioners and external law firms) and encouraging increased competition between them. In addition, client organizations are more prepared than they were in previous decades to question the cost of contracts, request discounts, expect preferential rates for relational contracts and demand greater transparency on billings.

> So, they gonna, they gonna charge that fee. And we know that, we, we exploit that. [Hm] [Hm] Not intentionally. But we exploit that insofar as we get a relationship with 2 or 3 of them. [Hm] And they know there are many people banging on our door, and it keeps them on their toes. It keeps their legal work fine, keeps their bills efficient.
>
> (Interviewee 14)

There were no reports of substantial encroachment on the heartlands of professional jurisdictions by non-lawyers except for particular tasks close to the business which traditionally have been executed by non-lawyers in the past such as dealers involved in drawing up contract terms and conditions or engineers writing clauses for construction contract agreements. In legal work connected to international business, the social hierarchy within the professional work jurisdiction has not substantially changed. Some generalist professionals closer to the client may be engaged on less prestigious work than specialists who are used periodically on major matters, just as in the medical profession the consultant surgeon appears periodically at critical junctures and is supported by teams of junior doctors.

In corporate law, the in-house lawyer performs an important *bridging function* between the company's top management and the legal profession. Expertise involving knowledge of the intricacies of the business strategy and its operations may be seen to require a company secretary with a legal background briefing external lawyers. Alternatively, it

may involve an in-house team of lawyers engaged in legal work for the corporation, most often with the major M&A and specialist areas contracted out to external law firms. In both scenarios, the in-house team acts as a mediator between the corporation's executives and the legal profession, and also as a developer of more idiosyncratic or customized applications. This, arguably, contributes to retaining the centres of fundamental legal innovation within the profession and external to the client corporation.

The internationalization of Australian client organizations appears to be establishing a federal global structure for in-house legal services due to the power of the legal jurisdictions of the US and the UK in sustaining separate systems of semi-autonomous professional control. Several interviewees described decision-making responsibilities allocated across independent country jurisdictions of law and within a management structure subdivided between senior lawyers resident in the US, UK and Australia. Dual headquartering and access to centres of finance in London and New York were given as the major reasons why this structure was thought likely to persist for the foreseeable future. Interviewees explained how the historical independence of the countries' legal jurisdictions and the relative standing of the respective legal professions can even inhibit initiatives to organize in-house legal teams so that they fit more closely the corporate global strategy and structure.

The patchwork nature of legal jurisdictions in different countries has encouraged both centralized and decentralized legal service provision. Some foreign country legal jurisdictions have permitted law firms to practice foreign law, whereas others have required Australian law firms to enter into joint venture agreements. Most Australian law firms have only a handful of foreign offices, in contrast to some of the major UK and US law firms, which have a higher local office presence. Some Australian client organizations in construction and property have sought the assistance of an Australian law firm chosen for managing a common standard of delivery and quality of legal services across a range of countries. They said that the major reasons for 'carrying their professional provider with them' were the difficulties in achieving satisfactory levels of quality in some countries as well as problems of corruption. Several organizations had received better service from Australian law firms than from law firms based in the US and UK, the common explanation being that their client business was probably less critical for US and UK lawyers. Despite these experiences and preferences, there was no evidence that internationalizing Australian client organizations were routinely carrying Australian law firms abroad as the following comment illustrates.

> Well, I think there are very few Australian companies who will go offshore and take their Australian lawyers with them, if they can take them with them!...Because I think we all have the same view. It's like you wouldn't bring an American lawyer down to advise you on an Australian transaction. That, if law firms want to internationalise what they've got to do is build their networks. I think Australian law firms should be pushing their boundary into Asia so it's not forced.
>
> (Interviewee 15)

Since the 1980s, Top 100 Australian client organizations have undergone a phase of centralization and standardization of legal services provision with the working arrangements across different sites in the country becoming more closely integrated. At the time of the research, in all three size categories, pressure to reduce the cost of legal services was facilitating the growth of the number of lawyers who are employed in-house. Nevertheless, many interviewees recounted an ebb and flow in the employment patterns of in-house lawyers based on individual executives' or industry sector preferences for *internalizing or externalizing* legal service provision. Whilst the increased commercialization, automation and commodification of legal services indicate a greater emphasis on the 'institution of the corporate organization' it does not necessarily signal the demise or erasure of the 'institution of the profession of law'.

Indications of growth and decline of the legal jurisdiction are each present in the accounts provided by in-house lawyers working for top Australian corporations. Evidence for growth and maintenance of the profession would include: the strong professional closure around legal knowledge resources and work practices; high remunerativeness of the work of corporate career lawyers (both internal and external); the modest increase in the numbers of those employed in-house; the importance placed by client organizations on having a wide choice of large law firms; the federated aspects of the organization of in-house lawyers in accordance with major legal jurisdictions; and lawyers managing lawyers on professional contracts and tasks. Plausible evidence for its decline or reduction in status might include: the strident assertion of the central worth of the institutions of organization in business and in society; the continuing commodification of 'bulk' legal services; the increasing subjection of external lawyers to very detailed service level agreements; and the stereotyping of in-house legal services as, at best, a support function with only limited understanding of the strategy and business operations of the corporation or, at worst, as societal parasites. Out of these, only the first offers strong evidence for the reduction in status

of the institution of the profession compared to the institution of the organization. The overall outcome, therefore, is that the institution of the legal profession is maintaining its status, functions and jurisdiction alongside alternative institutional forms for the structuring of expertise.

The symbolic resources of law continue to remain firmly in the hands of lawyers simultaneously consorting with, and differentiating themselves from, each other within both companies and law firms. As a few of our interviewees humorously alluded, the in-house lawyer is 'poacher turned gamekeeper' and in the contemporary environment this role requires conformity to a number of business and management disciplines. Client organizations are asserting their idea of legal requirements more forcefully than they did in the past and are trying to limit expenditure on what in their eyes constitute imaginary technical problems such as excessively formal legal research and documentation. The persistence of the profession as an elite function serving corporations owes much to the maintenance of professional closure on legal advice, and to the continuing pragmatic significance of legal work which *in toto* produces large economic and political gains or losses.

Accommodating and advancing the internationalization of business

In-house lawyers play important roles in accommodating and advancing international business by providing legal advice, products and services. They also contribute to the continuity of professional institutions of law. As was mentioned in the last section, a notable trend in the sample of Australian client organizations was the move towards centralization of systems and procedures for contracting external lawyers and law firms, usually at the regional (groups of countries) or country level rather than globally. Much of the pressure towards centralization appeared to be related to an increasingly managerial attitude towards professional service providers. Executives were reported to be placing in-house lawyers under increasing pressure to contract external provision through management processes which incorporated periodic review of value for money and quality of outcomes. This does not mean, however, that contracting had necessarily become more rational or scientific, but that contracting decisions were more frequently called to account in management discussions and deliberations.

At the time of interviewing, authority for contracting decisions was in many ways contested between in-house lawyers and business managers. The majority of interviewees mentioned recent initiatives that centralized the appointment and briefing of legal work so that in-house lawyers

were becoming more in control of legal advice. Reasons given for this were that the business units had in the past sometimes acted unilaterally by instructing external lawyers leading to cost overruns and legal outcomes, which were judged by interviewees to expose the organization to greater risk than if in-house lawyers had been involved from the outset. A few of our sample of organizations had been through an assertive period of decentralized management in which responsibilities were devolved to business leaders granting them autonomy to appoint their external lawyers as they saw fit. However, legal services outsourcing was not currently so much in vogue.

> the businesses have retained the old ways to a certain extent, they still, they still [eh] brief externally on their own. And I've been trying to inculcate a policy that the firms they brief, advise me when they receive instructions from people in the businesses.
>
> (Interviewee 8)

Interviewees with experience of litigation practice described the legal systems of the US and UK lawyers as being more expensive than those of Australian lawyers. Client organizations that had expanded their asset base into the US or the UK, described the Australian arm as dependent on local country lawyers for information on the contracting, delivery and evaluation of services. Interestingly, they did not have any immediate plans for increasing client organization control of in-house teams in these foreign countries. Overall, few systems were in place specifically for benchmarking and improving performance of internal and external legal services provision across global regions, notably groups of countries associated respectively with the US, the UK and Australia.

In-house lawyers' *management information on legal practice* was still dominated by the country-level structure of legal jurisdictions. Whereas there seemed to be well-developed practices in-house for linking the external legal work by the largest Australian law firms to US and UK law firms as and when the need arose, interviewees did not voice much sense of urgency for extending their contracting protocols to more searching evaluation of US and UK legal services provision. One reason for this reluctance lies in the influence of the competitive market of the legal profession. Much of the innovation in legal work, service delivery and practice organization known to Australian client organizations has been led by US and UK law firms. Their professional jurisdictions are large, varied and elaborate rendering it a highly complex task

to integrate in-house legal services across the US, UK and Australia. As one interviewee observed:

> I guess the challenge is adaptation because in most of the legal, the in-house legal functions in the US are much larger than they are here, and more complex because you've got, you know, the 50 states.
>
> (Interviewee 10)

Another reason for the lack of expressed interest in making evaluation more global in reach, and more centralized within the corporate group, relates to internal politics and the superior executive authority of senior business leaders. Many of them, it seems, do not want to be constrained by bureaucratic controls exercised by in-house legal professionals. Another reason relates to the significance attached by business managers and some in-house lawyers to conformity with decentralized strategies for managing diversified businesses.

> So what we don't want to do is, is lose our affinity which we have with the businesses because our view is that that's critical and, and there's a danger in a centralised function that, that removes us from the very function that we're there to play. And, generally I think we don't want to create it to be a bottleneck or have some centralised bureaucratic function that don't necessarily serve the organisation well, because these, these businesses are quite different, you know, our <x> business compared to <y> business or <z> business are quite different, and to try and standardise a process has the danger, I think, of creating a situation where you are not properly catering for the underlying businesses.
>
> (Interviewee 14)

However, the balance between central controls and local autonomy is a difficult one to manage for client organizations. Too much devolution and external briefing of work can, over the long-term, transfer the 'corporate memory' of legal matters to external law firms; thus rendering it increasingly difficult for the organization to make independent strategic and tactical business decisions by relying too much on external legal service providers. Indeed, it often does not make business sense to 'reinvent the wheel', for example, it may be relatively more time-consuming to brief an external firm on the intricacies of a series of company contract documents (e.g. sales terms and conditions, supplier

agreements) than it is for a knowledgeable in-house expert to review and write the documents.

> So, I think through the international [hm] contracting then all of the jurisdictional things, they are still there but the contracts are being made to, [hm] not work around them, but should try to achieve what you want through the local jurisdictions. You're not going to change the local jurisdictions but your international contracts are, are becoming so well-known now that [hm] the way they are interpreted and the way they're used and the way, amendments to them are drafted, you're working your way around the jurisdictional problems. (Interviewee 11)

Conversely, insufficient delegation and external briefing leads to over-centralization of control creating well-known organizational inefficiencies and bureaucracy. The promotion system is said to have changed over the last 10 years moving away from an internal promotion track for heads of in-house legal teams in the major financial services, telecommunications and resources companies towards externally hiring lawyers with partner-level experience in the top-tier law firms. Nevertheless, an overarching theme of interviewees' accounts was that during the first few years of this century, in-house legal teams in Australia were in a phase of slight expansion of internal resources combined with a modest increase in the centralization of systems and management controls.

The impression given by interviewees was of somewhat limited developments in the tools and techniques of knowledge management. Without exception, all interviewees mentioned that creating and sustaining good working relationships between in-house lawyers and external lawyers was central to knowledge management. In high-level legal work such as M&A and other corporate deals, accounts of the critical role of effective face-to-face communication was especially prevalent. Many interviewees also spoke of the importance of communication within the client organization, for example, amongst in-house lawyers and with business unit management. The general feeling conveyed was that external law firms were more earnest than they had been in earlier times to achieve good client–professional relationships. However, it was often said that the traditional partnership culture of most firms remained intact so that communication between partners and work groups had, in effect, not advanced much beyond that typical of a loose collection of little fiefdoms.

From interviewees' accounts it seems that the overall system for executing corporate clients' legal work has become more focused and coordinated across a range of management issues. Interviewees declared that they were holding regular meetings internally and with external lawyers to define, execute and monitor legal work. In some organizations, regular surveys were conducted focusing on: business executives as internal customers, in-house lawyers' attitudes and suggestions, and two-way in-house lawyer/external lawyer appraisals of law firms' performance. Legal teams' meeting agendas were said to encapsulate a range of quantitative appraisal criteria, for example, billings, fee estimates, service level agreements, industry benchmarks, key performance indicators and objectives for adding value. Furthermore, with advances in IT, most client organization's had an intranet site and at least rudimentary systems for electronic document management.

Generic and custom-built database systems were making available information on opinions, advices and precedents in conjunction with major legal publications, newsletters from law firms and special trade organizations. Many of the interviewees explained initiatives to make legal data more available to in-house lawyers and accessible to business managers so that everyone who needed it had access to standard company proformas, contract documents and appropriate procedures for dealing with legal matters or potential legal issues. Some of the largest in-house legal teams had developed computer systems for knowledge-sharing between client and law firm, permitting, for example, easy on-line access to all previous files and legal agreements, and centralized electronic billing. The general impression was one of *increased coordination of legal work* and documents within client organizations and within law firms. Communication between in-house and external lawyers concerning on-going legal matters was described as involving a tremendous volume of email traffic.

In general, though, interviewees did not speak very enthusiastically about the potential of knowledge-management tools and techniques for in-house legal services. This lack of enthusiasm for increased development of evaluative tools and techniques and for more sophisticated knowledge management was most evident in the high-end corporate work where the general impression given was that few advances could be made on current custom and practice in legal advisory work. It is worthwhile noting the suggestion of one of the interviewees, who commented that US law firms, in his experience, were more proactive in providing clients with business information and cost information. It might therefore be that in the future Australian in-house legal teams

will set new targets in these domains, and then, make demands on in-house and external lawyers to achieve them. As the same interviewee then humorously observed: the crash of the dot.com firms has 'saved' law firms by reducing the pressure on them to change and innovate.

Conclusions: The persistence of established jurisdictions and future research

The increase in the international business undertaken by major Australian corporations does not appear to be having much influence on the existing status order between US, British and Australian lawyers. Within the Australian domestic context, the status of Australian lawyers practising Australian tax law or employment law is highest simply because the other country legal systems have little or no relevance. In the global business environment, however, this order is reversed in favour of US and UK lawyers, who are responsible for substantial areas of innovation and the creation of new law; this is particularly for countries developing legal systems that are more open to free market economic disciplines and foreign business operations. The creation of new law in accordance with the US legal system was clearly the predominant tendency, except for a few isolated examples of Australian lawyers writing new law for developing markets such as in Vietnam.

The evidence of this research supports the idea of only a limited degree of work autonomy for in-house and external lawyers, and that this is conditional on their serving their clients' needs. There was a paucity of mention by interviewees of their own legal activities specifically serving the state. They more often referred to the power of state authority over an individual country's own legal system and its degree of openness towards the business objectives and operations of foreign corporations. The most obvious indication of a reduced role for individual states in the emergent field of the global legal order was the professionals' occasional references to the reduced significance of work for individual private clients and public sector clients in the light of the continuing growth of private sector corporate markets. A corollary to this trend is the continuing significance of public sector clients for private sector organizations (and their in-house advisors) in the context of public sector works such as major infrastructure and construction projects (e.g. road, rail and airports, pipelines, industrial, commercial and public buildings, etc.).

The study of 21 out of the Top 100 Australian corporations reveals few signs that law is becoming de-professionalized in Abbott's (1988) sense of losing its jurisdiction over its abstract knowledge base. Neither does internationalization seem to be destroying its capacity to develop and deliver 'treatments' that clients are willing to remunerate. Sub-division of the professional jurisdiction into high margin, top corporate work on the one hand, and low margin, high volume, operational work on the other reflects different symbolic values attributed to the legal disciplines and their significance for powerful client groups (Bourdieu, 1987).

Most often, the high-level political and economic activities of the corporation are highly remunerative, but also require from professional lawyers a similarly high level of conformity to the social milieu of elite groups. Hence, formal methods of evaluation or tools of knowledge management are often seen as unnecessary in these social circles because much of the day-to-day judgement and evaluation is embodied, continuous, informal and interpersonal. Lower symbolic capital is associated, therefore, with a cluster of relations, for example, lower status work and higher levels of routinization, standardization and commodification. These tasks are perceived by lawyers and client organizations to be necessary, but the exact boundaries of what constitutes relevance and adequate level of service, is often contested both in-house, between the organization and the professional occupation, and externally, between client organization and law firm.

Further quantification and measurement appears to be one of the fashionable contemporary approaches to reducing costs and unproductive debate in what are essentially arbitrary and socially constructed professional jurisdictions and work tasks. These techniques and technologies have not flattened the hierarchy of the profession, which still accords very different symbolic capital to its complex hierarchies of professional tasks and to the social hierarchy of corporate clients. The profession, also, continues to play its role in distinguishing top corporations from smaller corporations, strategic from operational work, and so on and so forth. Thus, the legal profession contributes to supporting the contemporary corporate social order and the societal order of law. At the time of this research, and in the views of this sample of in-house lawyers, the US legal profession has pre-eminent status in a political and economic hierarchy of legal jurisdictions, followed by the UK and then several others including Australia. The client corporation pays the professional lawyer for legal services and in its global business activities continues to submit to a symbolic order of professional jurisdictions.

Many academic experts in the sociology of the professions continue to caution against restricting research questions to the ideologies, norms and nomenclature of professional practitioners (Abbott, 1988; Abel, 2004; Dezalay, 1995). We think that future research could benefit from a concern for the relationship between in-house lawyers, legal firms and client organizations. Particularly, such research should investigate more carefully the mutual gains and asymmetric dependency relations inside the client organization. The traditional characterization of the in-house lawyer as pursuing an organizational career more so than a professional career is consistent with much of the specialist literature on professional and organizational career commitments; however, too little is known about the extent of continuity and change in the roles and influence of in-house lawyers. In short, the small amount of literature on in-house lawyers is not especially informative even when combined with the research on lawyers in corporate law firms.

More research should be conducted on the social networks, structural and cultural arrangements within and between clients and professional organizations. Here, two significant areas of interest are first, research aimed at understanding the ways that the legal jurisdiction is developed and maintained within the boundaries of the client organization; secondly, research aimed at revealing how professional specialization and different forms of work organization serve the political and economic needs of both clients and professionals. The evidence from this study is that corporate clients, in-house lawyers and external law firms are sustaining and evolving a number of practices that can internationalize and, to some extent, globalize national legal services. Clearly, the in-house and external lawyers who work for major corporate clients are not an 'endangered species'. As this research shows, the forces of internationalization and globalization (Flood, 1995: 161) are including lawyers as one of its most privileged beneficiaries.

Notes

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1. For the sake of simplicity rather than accuracy, we will call them 'in-house lawyers' from here on.
2. Ferdinand Lundberg 'The Law Factories: Brains of the Status Quo', *Harper's*, 179 (July 1939), pp. 180–192.

3. Some Australian industry sectors have attained substantial international presence; for example, by 1987 Australia's banks were represented in more than 50 countries (Merrett, 2002) and revenue from outside the country has grown. The recently privatized Commonwealth Bank of Australia's generated in 2001 17% of its revenue from outside the country, and the others in the Big 4 were all higher: Westpac 26%, ANZ 30%, and National Australia Bank 51% (Fung *et al.*, 2002). Two of the corporations listed on the Australian Stock Exchange (ASX) were in the list of the world's top 50 non-financial transnational companies in 2001: NewsCorp (rank 18 with US$35 million foreign assets and 33,800 employees) and BHP Billiton Group (rank 46 with US$20 million foreign assets and 51,037 employees) (UNCTAD World Investment Report, 2003).
4. Australia's exports of goods and services were valued at A$143 billion in 2003–2004, representing approximately 18% of total GDP (Australian Government Department of Foreign Affairs and Trade); the value of the country's exports growing on average 7% annually between 1994–2004 (Australian Government Department of Foreign Affairs and Trade).
5. Australia is no exception to such themes of social elitism. Many of its lawyers have traditionally been conservative in their politics, and empirical studies of Australian lawyers conducted during the 1970s and 1980s (Tomasic, 1978: 7; Weisbrot, 1990) revealed a disproportionate number of law students coming from high income families – larger than in medicine and engineering. Nevertheless one should not ignore important historical and structural differences between countries and between their professions. In Australia, the terms 'lawyer' and 'legal practitioner' are better understood than the British use of 'barristers' and 'solicitors'. Traditionally, in New South Wales and Queensland the legal professions have been formally divided so that lawyers are admitted either as barristers or as solicitors. The Victorian profession however was fused by law but divided in practice, so practitioners were admitted as both but often belonged to separate professional associations. In the other states and territories, the legislation, admission and practice was composite and the terms were by and large synonymous (Weisbrot, 1990: 59). Having said this, such general societal and professional differences in the discourse of lawyering should not persuade the reader to ignore the fact that barrister practices in Australia continue to occupy a highly profitable segment of the legal profession and rank higher than the large law firms in profit before tax per person employed (International Legal Services Advisory Council, 2003).
6. In this research undertaken in 2001–2002, interviews were held in 21 of the Australian Top 100 organizations with heads of in-house legal teams/departments or the individual immediately reporting to them. Our research sample was skewed in favour of the Top 50 firms; however, the distribution was representative to the extent that interviews were held in at least one respondent firm for each of the deciles in the Top 100. Many of the organizations were large and diverse businesses, but taking the principal area of their business, the industries represented in this study were: Banking/Insurance/Financial Services (5); Biotechnology and Medical (3); Construction Materials (2); Property and Construction (4); Resources (2); Telecommunications (2); and Other (3) which included drinks and beverages, paper, and mass media.

Interviews were conducted in the offices of respondents, and were semi-structured. The topics addressed were: the background and antecedents to the current organization of in-house legal services; domestic and international contexts of contracting, delivery and evaluation of legal services, and consequences for legal service provision and knowledge management.

Part II

Interpreting Change in Contemporary Medicine

5

Medicine, Nursing and Changing Professional Jurisdictions in the UK

Mike Dent

Introduction

This chapter is concerned with the changing boundaries between the professions of medicine and nursing, and how the relations that these occupations have with the UK Government has produced some distinctive changes in their work practices and occupational jurisdictions. To state the problem simply, though not necessarily inaccurately: to the Government and the National Health Service (NHS) management, the medical profession is a problem that nursing may help to resolve. The underlying reason for this renegotiation of the state–profession relationship in the cases of medicine and nursing relates to structural changes in the organisation and delivery of health care within the broader context of neo-liberalism and the changing imperatives of global capitalism (Ackroyd, 1996; Clarke, 2004a).

Professions in health care

Historically, of course, doctors and nurses have been differently established as occupations in the health care system, with the nurses firmly subordinated to the doctors. Johnson's (1972) influential argument suggests that the professions are best understood as a means of occupational control and, historically, this has been nowhere more obvious than in the medical profession in Britain. Freidson (1970), with an approach that initially focused specifically on the medical profession, introduced the concept of medical dominance to explain how doctors had been successful in establishing a legal monopoly with

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effective – 'caste-like' (Katz, 1969) – workplace control. In his later work Freidson (1994: 32) continued with this view:

> [P]rofessional power lies in the control of work by the professional workers themselves, rather than control by the consumers in an open market or by functionaries of a centrally planned and administered firm or state.

Freidson also identifies as crucial the ethical dimension to professionalism:

> [P]rofessionals claim the *moral* as well as the *technical* content of their disciplines, so they must resist economic and political restrictions that arbitrarily limit its benefits to others.
>
> (Freidson, 2001: 222 *emphases added*).

This sort of account of the professions corresponds to the medical case quite well, both in the USA and UK, but it does not do so for nursing. Nurses claim a moral content of their discipline (although being careful to distance themselves from the religious origins of the vocation [e.g. Dent, 2003: 100]), but they have had a constant struggle to establish autonomy and control over the technical content of their work (e.g. in diagnosis and in medical intervention), especially within hospitals. Control of medical technology is usually regarded as being within the compass of doctors' work, and so squarely also within their professional jurisdiction. Nevertheless, the nurses' continuing struggle for greater professional autonomy and occupational control, like that of the doctors', has been based on credentialist and legalistic means (Witz, 1995: 23–24). This has meant, in turn, that they have had to depend upon direct government action to further any aspirations for autonomy and control. This is a matter I will return to later in the chapter.

However, Freidson's ideal–typical characterisation of the professions does not do sufficient justice to the extent of change. Individual professions have arrived at particular forms not only because of the material and intellectual resources they command but also as the outcome of the combination of external forces acting on them, including pressures from clients, the state and other professionals. These influences have varied at different times and in different countries (Dent, 2003 – see also Chapter 6 by Domagalski). It is therefore important to view professions and professionalism as a dynamic process, and professional dominance, where it exists, as a negotiated settlement always susceptible to re-negotiation. It

is here that Abbott (1988) provides us with a vocabulary for discussing this dynamic process. His work allows the analyst to see the configuration of expert occupations from a historical and cross-comparative perspective that is missing from much of the earlier Anglo-American work. It is suggestive as to why not all professions have been able to establish full or even very adequate control. In the case of nursing, what we see is only limited professional organisation, reflecting its continued subordination to medicine (Abbott, 1988: 71).

Contemporary changes of policy and institutions

If medicine has been both a highly prestigious occupation and the dominant profession in the health care system, there continue to be predictions of its impending or actual loss of status, control and power. Analysts have identified such trends as de-professionalisation, proletarianisation or, particularly in the United States, corporatisation (McKinlay and Arches, 1985; Haug, 1988; McKinlay and Stoeckle, 1988. For a more extended discussion of these, see Chapter 6 by Domagalski, in this book). External causes of change in the UK health care system that might be implicated in such trends in the UK are not difficult to identify. Perhaps the most important external challenges are those constituted by the neo-liberal turn of the government dating from the early 1980s (see Chapter 2 by Muzio and Ackroyd for a discussion of similar trends in the context of the legal profession), and the associated introduction and development of new public management (NPM). These have forced the professions in the public sector to adapt and to change; though how far they have done so is a matter of debate (Dent and Barry, 2004; Kirkpatrick *et al*., 2005).

More than 25 years on, the Health Service in the UK now reflects much more the 'managed care model' of the Kaiser Permante kind (Light and Dixon, 2004; Pollock, 2004). The drive to put in place and develop the 'impedimenta of the new public management' (Kirkpatrick *et al*., 2005: 84) has been strong. Seen in this light, it is hardly surprising that the assumption of medical dominance is being actively questioned. Indeed, it is not an exaggeration to claim that, over recent years, the compact between state, medicine and the public established in the early years of the NHS has broken down (see Salter, 2001: 872; Ham and Alberti, 2002). Along with this, the system of professional/medical self-regulation has also lost credibility.

The corrosion of the state–profession compact based on medical dominance is in some ways nothing new. Ham and Alberti (2002) point out that it can be traced back earlier than is commonly realised: the

establishment of the Health Advisory Service, set up as long ago as 1968, is a forerunner of the Commission for Health Improvement (CHI)/Commission for Health Audit and Inspection (CHAI); clinical audit grew out of earlier voluntary systems of medical audit (see Dent, 1993); the Griffiths Report 1983 recommended the involvement of medics in management; the Community Health Councils (CHC) were introduced in 1974 precisely to give patients and the public a voice in the National Health Service (NHS). In part, the current wave of reforms reflects the failure of these previous changes; a failure that reflects the earlier absence of any specific or sufficiently powerful motivations. By contrast, the current changes have been driven by the real fear of a loss of public confidence in the medical profession[1] in the wake of a series of scandals, including the Bristol and Shipman cases (Kennedy, 2001; Smith, 2004). But it was not only the doctors who experienced the loss of public confidence as a result of the public inquiries into the very high mortality rate of babies undergoing heart surgery at the Bristol Royal Infirmary, and the Shipman case, where a General Practitioner (GP) was found guilty of murdering many of his older patients. It has also had important implications for Government too, for the NHS is of central importance to its legitimacy.

These tragedies of medical hubris, however, created the opportunity for the Government to attempt to change the relationship between state and medical profession significantly; and this was done by gradually, but incrementally, implementing new clinical and institutional systems of governance. One of the first of these was the establishment of the CHI (Klein, 2001: 210), which has been more recently reconstituted as the CHAI. One might be forgiven for thinking that this was one of those 'fortunate' conjunctures or crises because it brought 'together a number of diverse elements into a new . . . combination' (Wilsford, 1994: 257). In the view taken here, however, it marked the over-turning of the previous settlement based on public trust in the medical profession and the state's reliance on medical dominance, and replaced it with Government-led, external regulation of the health professions. Harrison and Smith (2003) have pointed out to clinical governance as a key instrument for managing clinical work, including:

> [c]linical guidelines [which] are a species of bureaucratic rule, [reflect] . . . a transition . . . to . . . neo-bureaucracy, in which . . . clinical activity has become the subject of surveillance and/or incentives and sanctions aimed at securing compliance with the rules.
>
> (Harrison and Smith, 2003: 249)

Governance was always going to be the focus of the new policy to 'ensure that quality resumes its rightful place at the heart of the NHS' (DoH, 1998: para 3.2) and within this new rationalist discourse there would be much less necessity – or so it seems – to rely on trust in the relations between managers, doctors, nurses and patients (Harrison and Smith, 2003: 250–251).

This newer discourse is not one of direct managerial control, it is more a case of 'soft bureaucracy' (Courpasson, 2000), where control is exercised through the imposition of performance targets and other output measures. This shifts the medical profession from the institutional autonomy of self-regulation to a situation in which there is a need for bargaining over autonomy or what Fournier has referred to as 'responsibilisation' (Fournier, 1999). Fournier, argues that responsibilisation can be understood as a new disciplinary technique inculcating an internalised self-discipline. Her argument has relevance to medicine and nursing, for these days professionalism is also increasingly about performativity; that is, 'the articulation of knowledge around the notions of efficiency and technical competence' (Fournier, 2002: 120). Previously legitimated by the state through its recognition of professional organisation and training, increasingly today legitimacy is defined in managerial and market terms. Using Weberian ideas *á la* Larson (1977), this can be understood as a shift for the medical profession from autonomous to heteronomous autonomy. Translated into current NHS health management terms, there is an emphasis now on what is called 'earned' autonomy (Ferlie and Shortell, 2001: 300; Milburn, 2003).

While nurses have in the past aspired to a professional status similar to that of medicine, governmental pressures for the greater 'responsibilisation' of doctors reflect an opposite process in which the doctors move towards a status somewhat like that of nurses. Nurses of course have been subjected to similar controls, but they begin from a different starting point. Nursing never was a fully autonomous profession, but a 'heteronomous' one and so, in some ways, nurses are more familiar with and more responsive to current control regimes. Furthermore, nurses remain preoccupied with gaining greater professional status especially in relation to medicine (Witz, 1995), but are now better placed to compete. Being a female-dominated profession, the issue of gender is also a consideration (Davies, 1995). In the past, the gender imbalance was thought to contribute to the occupation remaining merely a 'semi-profession' organised within the hospital according to a rigid 'caste-like system' of gendered apartheid. This regime kept nursing firmly subordinated to medicine (Katz, 1969: 69). Again, new policies have drawn attention to

such traditional patterns of organisation, and thrown doubt on their functionality. Hence, what we *may* be seeing in the NHS is a move from occupational roles defined by professional titles to ones defined by functions and competencies (see Walshe and Benson, 2005), in which case nursing rather than medicine would be the model for the future.

To explore the changes within and between medicine and nursing in the UK National Health Service, three interrelated sets of issues will be considered:

1. Clinical governance
2. Changing professional boundaries between nursing and medicine
3. State regulation of the health professions.

These represent key areas of interrelated activity intended to bring about the new, improved – responsible and accountable – health professions.

Clinical governance and the emerging nursing/state compact

Over the last decade or so, the UK Government has attempted to circumvent the medical profession's prevarications around clinical governance and sought an alternative approach based on more 'responsibilisation' than on traditional professional autonomy. Attempts to integrate medicine within management and, along with it, to introduce a system of clinical accountability, have a long history within the NHS can be clearly traced back to the reorganisation of medicine, nursing and management around the principle of 'consensus management' in the 1960s (Dent, 1993). Today, the emphasis is more focused on the new public management (NPM), based on targets, quality measures, audits and related to specifically measurable outcomes. The new script challenged the traditional role of doctors (Dent and Barry, 2004) and provided new possibilities for nurses. What has changed has been the shift from a model – or archetype – designed to make doctors an autonomous profession and with accountability based on peer assessment (to be termed 'Governance I') to one based on subordinating the profession to state managed systems of surveillance (to be referred to as 'Governance II').

Governance I: Accountability and clinical governance

'Governance I' was the first generation of clinical governance, a self-managed system introduced from within the medical profession (even if it was also promulgated by the state). 'Medical audit' was

a cornerstone of this approach and British medicine was a relatively early adopter of this peer-based system of assessment and reflection on medical practice (Dent, 1993). This approach built on a long tradition of similar arrangements, in particular: case meetings, chart reviews and the morbidity and mortality (M&M) meetings (Dent, 1996: 104). However, these initiatives functioned more to socialise neophyte doctors (Bosk, 1979) and, in the case of the 'M&M' meetings, also provided an opportunity for catharsis for those doctors unfortunate enough to have patients die whilst under their care (Arluke, 1977; Millman, 1977). It was against this background that the impact that the 'Audit Society' (Power, 1997) has had on medicine needs to be understood, for medical audit threatened to undermine the supportive role of these pre-existing arrangements – as well as introducing the need for weekly meetings to discuss what many doctors saw as routine (and uninteresting) matters. Interestingly, doctors in the Netherlands chose to adopt clinical guidelines as a means of circumventing these problems, for these were determined by the profession and did away with the need for routine meetings (Dent, 2003: 59), whereas British doctors seemed to have relied more on the pragmatics of prevarication and procrastination. This approach did work insofar as the government of the day then switched to a so-called multi-professional approach, known as 'clinical audit' (NHS Management Executive, 1994; DoH, 1994), which effectively meant, in contrast to earlier arrangements, adopting a nurse-led approach, that is nurses had the responsibility of organising these audits although not the power to ensure that the doctors cooperated with them. In failing to develop a strategy of their own, however, the doctors left themselves open to further attacks – especially after the Bristol scandal referred to earlier – that ultimately did undermine their claims to clinical autonomy.

It was probably the realisation of the magnitude of the profession's loss of public confidence in the wake of these failures in professional integrity and trust that led to the acceptance – if not embracement – within the medical profession of evidence-based medicine (EBM). This is an approach that asserts the centrality of scientific medicine (Sackett *et al.*, 1996; Sackett and Wennberg, 1997; Harrison and McDonald, 2003). As an *entrée* into the new system of governance this was quite a good settlement, EBM left the medical profession as arbiter of good practice and the dominant partner in the further development of clinical guidelines and in the introduction of Integrated Care Pathways (ICPs). The price of this settlement, however, would appear to be the acceptance of what Harrison has termed 'Scientific Bureaucratic Medicine'

(Harrison *et al*., 2002; Harrison and McDonald, 2003) at the expense of any tacit dimension to clinical practice (Bilson and White, 2004). The assumption might be that care pathways, clinical guidelines and protocols are introduced to be obeyed rather than as navigational aides, directing rather than informing clinical practice. However, as Harrison (2004: 57) points out: 'The rules are enforced less by conventional managerial hierarchies than by regulatory agencies of various types.'

These agencies underpin the 1rhetoric of 'responsibilisation', which is also integral to the issue of patient choice (DoH, 2005), an important issue which cannot be adequately dealt with here (but see Clarke [2004b: 34–38] for a general critique and Dent [2006] and Dent and Haslam [2007] for a specific consideration of the NHS). Instead, the focus will remain on changing medicine/nursing relations which are increasingly characterised by the erosion of doctors' professional and clinical autonomy and the enhancement of the clinical role(s) of nurses. This brings us to the next stage in the development of clinical governance.

Governance II: Governance as 'responsibilisation'

Clinical guidelines[2] started out as instruments of 'managed care'[3] in the USA (Pescolido and Boyer, 2001: 185; see also chapters by Domagalski and Adler and Kwon in this book) although 'guideline mania' swiftly caught on in the Netherlands, soon followed by the UK (Klazinga, 1994: 51–52). These 'Integrated Care Pathways' (ICPs) are built up from the 'knitting together' of guidelines of the different professional groups involved along a common timeline with the aim of delivering effective and efficient care. These might be seen as the next stage in the erosion of medically controlled clinical autonomy. They cross the 'Governance I/II' border from professionally autonomous systems of clinical governance to inter-professional and state-managed (or, at least, guided) systems of prospective management of patient care and treatment.

It is not clear among the doctors, however, what practical care guidelines might be like and to what extent there is any 'trade off' between clinical effectiveness and managerial efficiency (e.g. Woolf *et al*., 1999; Farquhar *et al*., 2002). Nor is there any clear consensus as to how detailed 'pathways' need to be or how closely they need to be followed, or how patients' preferences are to be taken into account. Indeed, as mentioned earlier, it is not entirely clear when and whether they are explicit 'instructions' or helpful 'exemplars'. It is reasonably well documented that doctors tend to use guidelines as just that – suggestions to be followed if thought appropriate, whereas, nurses tend to view them as rules to be obeyed (Parker and Lawton, 2000). The situation is

further complicated in that guidelines or protocols are sometimes used – especially by nurses – to identify a professional 'turf' in order to assert some (jurisdictional) power and to resist medical dominance (Mannias and Street, 2000).

Nevertheless, despite these equivocations, ICPs do constitute a crucial component of the British Government's agenda for high quality and effective health care delivery, even if they are recognised more in their breach than in their application. They may be viewed as examples of 'soft bureaucracy' (Courpasson, 2000), intended to help ensure that the performance targets and outcomes, defined by the central government, are delivered. They are one aspect of how the 'square' might be 'circled', in possibly assuring that the multi-disciplinary health care workforce can work together efficiently (with patients and carers) and to produce effective networks of health and social care. The NHS policy is committed (it seems) to more flexible and autonomous organisations for the delivery of health care (e.g. Lewis and Dixon, 2005: 2–4); this is to be done within a wider regulatory framework of which the following are particularly relevant to this discussion:

1. *National Institute of Clinical Excellence (NICE)*, which has the responsibility for evaluating drugs and therapies and to give authoritative advice to all health professionals. In addition to producing clinical guidelines, the agency is also concerned with reducing waiting times and developing new services.
2. *National Service Frameworks (NSF)*, which set standards for certain conditions for which the provision and quality of care is 'patchy' across the country. These include heart diseases, mental health problems and diabetes. A key intended outcome is the establishment of locally negotiated 'Integrated Care Pathways' based on national criteria.

To ensure 1 and 2 are acted upon, the following agency has been established:

3. *Commission for Healthcare Audit and Inspection (CHAI)*: This is an independent body that replaced the Commission for Health Improvement (CHI) in 2003–2004 (Cabinet Office/DoH, 2002). This change consolidated the functions of three agencies – the Audit Commission, the National Care Standards Commission and the Commission of Health Improvement (CHI) – into one body, CHAI, and served the dual purpose of, apparently, simplifying the process of inspection, as well as consolidating the financial, treasury and audit function with clinical performance and accountability to the patient (Dent

and Haslam, 2007). The performance measures that underlie this process have been developed by the Department of Health, working with NICE, Audit Commission and, importantly in the context of this chapter, the Royal Colleges of the medical profession.

In addition, there have been other – even more direct – attempts at 'responsibilising' doctors and introducing a system of 'earned autonomy', which is encapsulated in the issue of 'revalidation'. This was to have been introduced by the profession itself and in the form envisaged by the General Medical Council (GMC) as an extension of the managerial appraisal system. This was, however, deemed to be an 'expensive rubber stamping exercise' (Dame Janet Smith, Chair of the Shipman Inquiry, 2006) rather than an effective system that engendered public trust. This led to a suspension of the whole process until after the publication (in July 2006) of a review – 'Good doctors, safer patients' (DoH, 2006) – by the chief medical officer, Sir Liam Donaldson. This review reflects the official disappointment and frustration at the medical profession's inability to design and implement a system of self-regulation that worked and was convincing to the public. The model that is emerging from the Donaldson review (DoH, 2006) is one focused at the local level (DoH, 2006: 188) to: (a) integrate professional self-regulation and NHS management systems more closely, (b) put greater emphasis on retraining and rehabilitation and (c) directly involve a member of the public in the team from the outset. It is too early to say to what extent this more systemic approach to medical regulation will be enacted – but it does indicate a very clear steer from Government (i.e. Chief Medical Officer) that responsibilised professionalism will mean 'professionally-led' but not 'self-regulation' and that NHS managers and the public have a stake in ensuring only 'good' doctors are revalidated to practise.

Nevertheless, the medical profession – or at least elements within it – have retained the dominant influence in determining the criteria for clinical governance. As a result, they have kept their considerable jurisdictional control within the health care division of labour. Nevertheless, part of the 'responsibilisation' process has also involved a re-negotiation of the jurisdictional relations with nursing.

Hospital nurses: Extended roles and professional boundaries

Within the UK there has been a considerable interest in the emergence of clinical nurse specialists and, more recently, nurse consultants (Health

Services Circular, 1999) initially within areas unlikely to be contested, as they were, traditionally, domains of nurse specialisation. These included infection control, tissue viability, soma care and continence (WHO, 2000: para 3.2.7). The specialisation has now extended beyond those borders into a territory which is traditionally the province of the doctors. These include anaesthetics, outpatient consultations and surgical assistance (Dowie and Langman, 1999; Alex *et al*., 2004). Nurses themselves are a little reticent on the issue, on the grounds that the apparent opportunity for greater autonomy and professional status presented, may, in practice, be a poisoned chalice. There are two reasons for this: first, such new and/or extended roles would take them away from their key role of 'basic care' (this resonates with debates in France and Germany – Dent, 2003) and second, these changes will mean an *extending* rather than an *enhancing* of their nursing role, as they take on tasks that hospital doctors no longer have the time or inclination to perform (Witz, 1995: 31).

These issues are rather more complex than they may first appear. First, this is because the arguments for enhancing nursing roles were linked to the nursing reform, Project 2000, itself associated with the establishment of the United Kingdom Central Council for nursing (UKCC) and the introduction of the 'New Nursing' (The UKCC was responsible for the professional registration of nurses and has been renamed as the Nursing and Midwifery Council (NMC) – *see below*). These reforms reflected a major change in nurse education and training that went beyond the practicalities of bedside patient care and emphasised much more the knowledge-base of nursing. Many within the profession were critical of these developments on the grounds that this would divide nursing into an elite graduate profession and a larger body of National Vocational Qualification (NVQ)-certificated health care assistants (Walby *et al*., 1994: 79). In the event, the nursing colleges were moved into the universities and entry into nursing was to be through a 2-year diploma course (with a nursing degree as an additional option). The changes were also seen as a threat to the oral tradition of nursing as a craft and threatened to undermine the traditional relations with medicine where nurses carried out doctor's orders. In this new age nurses were to become, in principle, equal but different to doctors.

The second anxiety for the nurses was that rather than enhancing the status and autonomy of professional nursing, the nurse specialists will be carrying out routine medical tasks doctors cannot or will no longer carry out (Savage and Moore, 2004: 23). In the UK this was particularly transparent as it was part of the Government's strategy to deal with the reduction of junior doctors' hours (Dowie and Langman, 1999).

More recently, the development has been associated with the policy to 'grow' more health professionals and while new medical students are going through university, the medical workforce shortfall can be made up – in part – by upskilled nurses. This is a realistic apprehension but one that is balanced by the opportunities it presented for nurses wishing to follow a career within clinical nursing. Nevertheless, the introduction of nurse consultants (NHS Executive, 1999; European Observatory on Health Care Systems-UK, 1999: 77) reflects more the interests of Government rather than nursing (even though it may not be against their professional interests) since, with the continuing shift to managed care, and the need to meet its electoral pledges in the light of the Wanless Report (2001), the development of an elite group of specialists within nursing is increasingly opportune.[4]

While there has been a growing sense that specialist nurses and doctors could work more effectively within the 'new' NHS visualised in the 1997 White Paper (Secretary of State for Health, 1997), the matter of enlarging and extending nursing roles predate this Labour Government. There was, for example, a rapid expansion of the numbers of 'practice nurses' in general practice in the 1980s and 1990s. This was encouraged, in part, by the possibility of their becoming specialist nurse practitioners (see Dent and Burtney, 1997). However, the particular and potentially 'root and branch' reconfiguration of nursing and medical boundaries is specific to this current period. It is a function of the insistent move to managed care (as opposed to medically determined patterns of care) and the re-engineering of care pathways. However, there remains a considerable weight of tradition that tends to keep medicine and nursing separate. Doctors have been trained to be 'self reliant and independent' (Davies, 2000: 1022), while in nursing the tradition has been one that 'emphasised hierarchy and bureaucratic rule following' (ibid.). This is not a promising basis, one would have thought, for multi-disciplinary working. However, there is some evidence that these issues are being addressed. As already mentioned, the NHS management has been active in introducing the role of nurse consultant (e.g. NHS Executive, 1999) while the new Postgraduate Medical Education and Training Board has radically restructured the training of doctors (Mayor, 2003; NHS, 2006) to prioritise, in line with the NHS needs, multi-disciplinary teamworking, over independent professional self-reliance.

Within the configuration of the health care role set, the British state has played a significant role in undermining the dominance of the medical profession, at the same time as enhancing the role of nursing. The rationale for this is that the nursing workforce is viewed as generally

more reliable and disciplined and, therefore, more able to deliver on the new policy and procedures than the doctors. But this should not be read as evidence of a terminal decline in medical dominance, as becomes apparent when one looks at the issue of professional regulation.

State regulation, medicine and nursing

The Council for the Regulation of Health Care Professionals (CRHP), now the Council for Healthcare Regulatory Excellence (CHRE) was set up in 2003 and, like much else in the recent NHS organisational history, it, too, is a consequence of the Bristol Royal Infirmary Inquiry (DoH, 2001; Walshe and Benson, 2005). This body (CRHP), however, covered not only doctors, the profession that was so heavily criticised in the Inquiry, but, also, nurses, pharmacists, opticians, dentists, chiropractors, osteopaths and a range of other health professions (Dewar and Finlayson, 2002; Allsop *et al.*, 2004), none of whom were tarnished by the events at Bristol. Perhaps, surprisingly, some of these occupational groups believe that the CRHP (now the CHRE), rather than constraining their autonomy, will provide them with greater professional status and recognition, as they join doctors and nurses under a common regulatory framework. But this is not the case with the doctors and for a good reason. The regulatory body is the means by which professional self-regulation is – depending on your view – either ended or subordinated to the Privy Council and/or Parliament (Allsop *et al.*, 2004: 7). Either way doctors are now – in principle, at least – directly accountable to a higher authority. Despite an explicit and formal commitment to putting the patient first, the new arrangement marks – for the medical profession – a shift from professional self-regulation to a tightly defined suzerainty held by government.

The professional position of nurses has also changed, but differently to the doctors. The relatively new Nurses and Midwifery Council (NMC) set up to replace the UKCC, is more a case of 'fine-tuning' than a radical overhaul of traditional arrangements. It is a reform designed to fit better the Government's view that the professions within the NHS need to be more transparent to public and Government scrutiny as well as having greater lay representation (DoH, 2001: para 2.3).

The new council (CHRE) represents a reconfiguration of the health care role set of doctors, nurses and other health professions, that gives government greater influence (but not complete control) over the jurisdictions of these professions. These changes have undermined the dominance of medicine within the health division of labour and, in the

process, the new regulatory framework has raised the aspirations of the other health professions. Moreover, in conjunction with other developments discussed earlier, it has sharpened the appetite of certain segments within nursing (and pharmacy) to take on more specialist roles, previously the province of medicine (Allsop *et al*., 2004: 109). However, the biggest advocate for the expansion of nursing into medical territory is not the profession so much as the NHS management (and DoH), for nurses are at least as amenable to managerial influence than to that of the doctors, if not more so; if only because under the current policy regime this does appear to significantly improve their work situation and status.

The CHRE is intended to redraw the parameters of professional autonomy within health care. As with medicine and nursing prior to the changes, the key activities relate to professional registration and continuing competency to practise, education and training (including continuing professional development), codes of practice and fitness to practise. The study by Allsop *et al*. (2004) concludes that there remains considerable variation between the different councils in all these areas and harmonisation of their governance arrangements will be a main concern for the future. While medicine is now *formally* subordinated to governmental oversight, *substantively* (in reality), the CHRE does not appear to be the key mechanism through which medical dominance is eliminated, for much of the General Medical Council's approach to regulation is becoming the model which the other professions are following (ibid.). Within the new world of multi-professional teams, clinical guidelines and pathways, doctors are being pressured, encouraged and trained up to be 'responsibilised' in the way they will exercise this new leadership, which is redefining medical dominance.

Conclusions: Managing professional stratification, boundaries and governance

Medicine will probably retain its ascendancy within the complex set of roles and relationships that is the modern health-care organisation. However, there is a lot of scope for adjustment. Not all, or even most, of patient visits to GPs and hospitals arise from challenging medical conditions, and a high proportion of routine cases require routine responses. This borderland is a large territory within which the division of labour between medicine and nursing can be worked out. There are also other activities that may be more specialised, such as work in intensive therapy units (ITUs), prescriptions and anaesthetics, where the work may be

complex, yet can be carried out by specialist nurses – although subject to the oversight of a medical specialist (doctor).

But medicine as an organised profession does not passively accept the undermining of its ascendancy by government regulation and nurses' encroachment on its traditional areas of work. In some ways it conspires in the reconfiguration of the division of labour and jurisdictional boundaries, although, it would be more accurate to state that it is elements within the profession who either accept or champion the reforms. This is particularly apparent in such things as the development of evidence-based medicine (EBM), clinical guidelines, as well as in establishing integrated care pathways (ICPs), especially, in relation to the National Service Frameworks for a range of previously inadequately managed/treated conditions. There is increasingly a more marked stratification within the profession. (See Chapter 2 by Muzio and Ackroyd, for a related discussion in the legal profession.) For the most part, this 'hierarchicalisation' is associated with the activity of the medical Royal Colleges, which are playing a significant role in the establishment of the new standards of competence. However, their role is counterbalanced by new doctors being trained more as specialist workers than – as previously – as apprentices who are to be inducted into the mysteries of medicine and surgery. This point should not be overstated, but there are real and substantial changes taking place in medical education and training as well as in the career structure for doctors that will substantially affect the socialisation aspects of this process (cf. Becker *et al.*, 1961; Atkinson, 1976).

The expansion of medical education has been coupled with a move towards securing competency and problem-based learning, while there is also pressure to move away from the apprenticeship model of training. The gradual career progression through the ranks from house officer to registrar and finally to junior consultant, as well as a reduction in the time-lag between medical degree and consultancy (specialist) status within hospitals, is being increasingly questioned. Furthermore, within general practice – in addition to the growth in the size of group practices – there has been an increase in the numbers of salaried GPs and 'sessional' (i.e. part-time) contracts. In part, these changes reflect the Government's and NHS's strategies to achieve their policy goals and to some extent it probably reflects the growing number of women entering the medical labour force (the traditional medical career model was excessively masculine and intolerant of any other demands – e.g. families). There seem to be some parallels here with the US experience (see Chapter 6 by Domagalski, in this volume), with the newer

entrants to the profession being more accepting of the corporate regime of managed care and its emerging stratification where sessional and (in the case of general practice) salaried contracts represent the 'bottom rung of the ladder' and may, in time, constitute a gendered ghetto in a new and increasingly flexible medical workforce.

A correlate of these developments is the growing reliance on elite specialists within the profession to provide the collective version of clinical judgement in the form of evidence-based clinical guidelines and clinical governance, more generally. These elements are now part of the disciplinary mechanisms within medicine with the purpose of enhancing the profession's governmentality role, including the creation of a disciplined medical profession (Flynn, 2004: 18–20). To borrow Bauman's terminology (1987: 4–5) elite elements within the profession will have the 'legislator' role of 'making authoritative statements which arbitrate in controversies of opinions', for example, the role of NICE (National Institute for Clinical Excellence) in the production of National Service Framework (NSF) guidelines, and the increasing reliance on evidence-based medicine and practice. But the intent of government policy is that the role of the bulk of the profession will increasingly be that of 'interpreters', translating evidence-based medicine, NICE advice and NSFs into local guidelines.

Traditionally, nurses have always been the 'interpreters' usually of 'doctor's orders' but increasingly of clinical guidelines and of the emergent ICPs. However, whereas nurses have been fairly consistent in their commitment to the 'interpreter' role, doctors have been far more ambivalent. Flynn (2004: 19), for example, cites a study of hospital clinicians (Hackett, 1999) where doctors simultaneously display a commitment to clinical freedom whilst accepting that there needs to be a limit on variations between their clinical practices. Whether this means they are wedded to the need for a whole systems approach to clinical governance (e.g. Walshe *et al*., 2000; DoH, 2006) is unclear. There is still some way to go before the medical profession, as a whole, fully embraces the implications of such managerial–professional discourses and accepts the new 'soft bureaucracy' (Courpasson, 2000) of clinical governance. However, the medical profession has had plenty of time to learn their new managerial and clinical governance 'scripts' (Barley and Tolbert, 1997; Dent, 2003). However, because the profession's response has been 'mixed', in order to get the 'show on the road', the UK Government has rewritten the script assigning to nurses a crucial role in the implementation and routinisation of a new pattern of clinical governance.

Notes

1. Interestingly, patients' trust in their specific clinicians remains high although there is lower trust in clinicians in general (Calnan and Rowe, 2004: 8).
2. This is being used here as a synonym for a whole range of other terms, including practice guidelines and medical protocols.
3. US Managed Care in the form of the Kaiser Permanente Health Maintenance Organisation is currently having a very direct impact on the organisation and delivery of health services in the UK, for a 'key policy of the NHS . . . is to learn from this model' (Light and Dixon, 2004).
4. Another example of a government-led initiative in nurse specialisation has been the introduction of nearly 2000 'Modern Matrons' (DoH, 2002), which is a role that crosses over the professional leadership and nurse manager role at ward level.

6

Organization and Subjectivity in the US Medical Profession: Physician Responses to Structural Changes within Advanced Capitalism

Theresa A. Domagalski

Introduction

The medical profession in the United States has had a long history of privilege and status. Throughout much of the 20th century, physicians possessed a distinctive advantage in relation to other occupational groups within the economy for their ability to sustain a monopolistic influence over healthcare practices and policy. Control over the technical core of medicine, the capacity to tightly regulate entry into the profession, and the achievement of autonomy in the production of medical services led to the recognition of medicine as the quintessential profession (e.g. Freidson, 1970, 1980, 1994). In recent years, however, the medical profession in the US has experienced a downward shift in its dominant position. The reasons for this change have been the subject of considerable debate and speculation (Anderson, 1992; Hafferty and Light, 1995; Scott *et al*., 2000; Schlesinger, 2002) as have the interpretive schema used to explain its current status (Haug, 1973, 1975; Derber, 1983; McKinlay and Arches, 1985; Light and Levine, 1988; Derber *et al*., 1990; Hafferty and Wolinksy, 1991; McKinlay and Marceau, 2002).

Structural changes in the healthcare industry, such as the inception of managed care organizations and the expansion of multi-system conglomerates, have subjected physicians to management strategies aimed at cost-containment and introduced other forms of external accountability (see Chapter 5 by Dent in this book for a discussion of the issues within a UK context). Technological advances have enabled allied healthcare occupations to perform work that was previously the

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exclusive domain of physicians. In addition, accessibility to medical information has resulted in more highly educated patients (often referred to now as consumers) who are more likely to challenge the authority of physicians' diagnostic and prescriptive recommendations (see also Chapter 7 by Adler and Kwon).

The varied cultural, economic and political forces that have come to bear on the system of healthcare in the US have led to characterizations of the medical profession as deprofessionalized (Haug, 1973, 1975), proletarianized (McKinlay and Arches, 1985; McKinlay and Marceau, 2002) and corporatized (Light and Levine, 1988; Montgomery, 1992). Although these accounts paint a dim portrait of a profession in decline, when viewed from an historical perspective, the social position of physicians has not been exclusively one of unfettered dominance (Starr, 1982; Light and Levine, 1988). Rather, some scholars assert that the medical profession is merely experiencing a resurgent, countervailing push by institutional purchasers of healthcare, in an attempt by them to redress the earlier actions of physicians who had systematically elevated their influence within the healthcare system. These parties are simply challenging the previously unrestrained expenditures of physicians, and are doing so through techniques of rationalization and managerial control (Light, 1991).

Whether considered from an historical vantage point or through the narrower lens of the recent past, of particular interest in this essay are the actions engaged in by physicians in the US in response to structural changes in healthcare (see Chapter 2 by Muzio and Ackroyd for a discussion of similar processes in the context of the legal profession in England and Wales). Although much of the literature has explored what has happened *to* the medical profession in an attempt to make sense of its current status, less attention has been directed at understanding physician agency. Clearly, in order to more fully appreciate the present-day status of the medical profession in the USA and elsewhere, research must both take into account macrolevel changes and relate these to the micropolitics resulting from the actions of physicians as active agents (Hoff, 1999a). The issue explored in this chapter concerns the nature of the initiatives engaged by physicians in the US and whether the rejoinders of physicians represent forms of dissent that are intended to circumvent the subjugation of their professional dominance and restore the profession to its status of a quarter-century past, or, if these responses reflect a profession that has been co-opted by the imperatives of economic change.

The chapter begins with a brief review of the recent discourse engaged in by medical sociologists and others on the status of medical professionals; this is followed by a discussion of the major macrolevel changes in the United States that are shaping the conditions of work in medicine. Thereafter, I describe the tactics adopted by physicians in recent years, with the goal of better informing our understanding of physicians as active agents, and to explore whether the responses in which they have engaged symbolize acts of resistance or acquiescence to the realities of capitalism and the corporate enterprise.

The professional status of physicians

As the most ardent proponent of the professional dominance thesis in medicine, Freidson (1970, 1980, 1993) points to several factors in support of the continued dominance of the medical profession. Most fundamental is the autonomy that physicians are reported to have over their sphere of work. A profession is considered dominant to the extent that it is self-directed in carrying out its work rather than dependent for direction either on the open market or on functionaries of the state. In addition, its monopoly over specialized knowledge grants it the authority to define the entrance criteria to professional practice and to exclusively regulate, by means of peer mechanisms, the performance of its members. Moreover, a dominant profession is characterized by the authority to control the work of others. In the case of medicine, this implies the ability to direct allied healthcare occupations. Members of a profession are expected to guard the trust instilled in them by the public by subordinating personal interests to those of individual patients and society at large (Cruess *et al*., 2002). To the degree that a profession is capable of successfully manipulating public opinion so that altruism and service ideals remain intact, the profession will maintain its dominant stronghold (Wolinsky, 1993).

Despite Freidson's perspective on the state of the medical profession, numerous counter-arguments to the thesis of professional dominance have been advanced. These, almost uniformly, betray the pessimistic view, now common amongst medical sociologists, that medicine has lost its hegemonic position in the face of the overreaching forces of capitalism. One of these arguments is the de-professionalization hypothesis, which is defined as a loss among professional occupations of their unique qualities (Haug, 1973, 1975). Chief among these losses is a profession's monopoly over an esoteric body of knowledge that is otherwise not easily accessible to the public. The deprofessionalization perspective

argues that the knowledge monopoly of physicians is challenged on several fronts. For one, computer technology has made it possible to codify and retrieve information previously unavailable to the public. It is now possible to incorporate the rapidly growing findings from medical research into computerized databases that are able to store, synthesize and recall massive amounts of information with ease. Computerization is able to manage emerging medical information more quickly and more accurately than is possible for the individual practitioner. There is, as well, an increasing sophistication among a better-educated public, one that is more willing to challenge the authority of physicians. Health information is readily available in various forms such as books, magazine articles, television segments and by computers, and is consumed by an inquisitive public. Moreover, the rise of allied healthcare occupations has provided the public with alternative outlets to the exclusive reliance upon physicians. The presence of a better-educated public and the grant of licensure to allied practitioners have occurred, and support, in part, the thesis espoused by those who contend that medicine is experiencing a degree of de-professionalization.

The proposition that medicine may be moving in the direction of de-professionalization is also argued on the basis of its tarnished humanitarian image. The ethical credo, 'first, do no harm' has come under fire from a sceptical public who have questioned the altruistic ideals and trustworthiness of medical professionals. Physicians are being called to account for the increasing costs of healthcare services and are routinely confronted with malpractice lawsuits from a disaffected public (Haug, 1975). These trends, it is suggested, signal the loss of consumer confidence in the service commitment of physicians, and raise questions about the prevalence of their self-serving tendencies. Indeed, the logic of capitalism has been used to explain the drive to seek out new markets and to create a demand for services that some submit, reveals less a humanitarian concern and one driven more so by self-interest – the rising prevalence of cosmetic surgery being one noteworthy example (Light and Levine, 1988). If the proposition is correct that professional dominance may only be sustained so long as autonomy is conferred by an accepting public, then dominance diminishes when the public believes that the commitment to service and the avowed promises made by the medical profession have been broken (Wolinsky, 1993). The fact that the medical profession is aware of its tenuous position is reflected in the American Medical Association's campaign emphasizing physician stewardship, proposals for national health insurance, or, what have otherwise been described as attempts

to manipulate public opinion (Wolinsky, 1993). Indeed, it is argued that the social consequences incurred by the de-professionalization of medicine include ethical tensions among practitioners who are caught between competing objectives: the desire to provide technically competent patient care on the one hand, and the financial incentives generated by rationalizing practices that lead to shorter hospital stays with earlier discharges of sick patients, and to the turning away of the uninsured, on the other (Anderson, 1992; Castellani and Wear, 2000).

McKinlay and his colleagues (McKinlay and Arches, 1985; Chernomas, 1985; McKinlay and Stoeckle, 1988; McKinlay and Marceau, 2002) provide a counterpoint to the de-professionalization hypothesis with an alternative interpretation of how rationalizing practices adopted in the healthcare sector have impacted medicine. They assert that the medical profession has moved toward proletarianization which they define as such, 'the process by which an occupational category is divested of control over certain prerogatives relating to the location, content and essentiality of its task activities and is thereby subordinated to the broader requirements of production under advanced capitalism' (McKinlay and Arches, 1985: 161). They point to several trends in defense of their stance. One of these is the growing specialization in medicine, which has been likened to the deskilling process experienced by nineteenth-century craftsmen (McKinlay and Arches, 1985; McKinlay and Stoeckle, 1988). As medical knowledge has expanded and physicians have apportioned information into discrete areas of specialization, the profession risks vulnerability to potential rationalizing practices incited jointly by bureaucratic structures and computerization. This creates the possibility of extracting surplus value while, concurrently, dividing up the tasks among other actors such as allied healthcare occupations (see Chapter 7 by Adler and Kwon in this book for a somewhat different interpretation of recent changes). Physicians may, therefore, become akin to "technobureaucratic scientist-technicians" who, through computerization, may see their technical functions usurped, and thus, render their professional function unnecessary (McKinlay and Arches, 1985).

The prospects of physician proletarianization are said to be manifested also by physicians' increasing presence in bureaucratic organizations as salaried employees, where regulatory norms overtake the earlier socialization experiences and the ideals transmitted during medical training. As McKinlay and Arches (1985: 172) describe the process, "once physicians succumb to bureaucratization, they become enslaved to a process over which they have very little control and contribute, albeit indirectly, to an ideology and activity (exploitive capital accumulation) for which

they may indeed have little sympathy". They assert that professionals in bureaucratic environments eventually develop a loyalty to the interests of the organization, in part, stemming from a desire to advance their personal self-interests, which cannot be achieved separately from the interests of the organization.

The characterizations offered by the proponents of deprofessionalization and proletarianization both appear to be supported in part by current events, although, the assertions made by both theories concerning the loss of expert knowledge and the control of that knowledge is somewhat overstated. Moreover, these theories cannot adequately account for those who accept managerial positions within a bureaucratic structure, such as physician administrators or medical directors. They are salaried workers who give their allegiance to the capitalist enterprise, and who seek to reproduce capitalist social relations. Members of the professional-managerial class have been described as the new elite, physician administrators who proclaim their allegiance to the institutional framework in which they are employed rather than to the medical profession (Hafferty and Light, 1995; Montgomery, 1992). This assessment is particularly intriguing since those who have examined the developmental experiences of professionals such as physicians find that the intensity of the socialization process to which they are exposed instills a deeply rooted ideology of social welfare and concern for the individual patient as foremost. This is in contrast to managerial identities, which emphasize institutional objectives and fiscal criteria; and which are, typically, not so firmly inculcated (Golden *et al*., 2000). Hence, it appears that the social identities of physicians who make a transition into managerial roles shift away from their professional indoctrination and are aligned with capitalist interests.

The discussion to this point has been concerned with examining the sociological explanations that have attempted to make sense of how changes in the healthcare industry have affected the social position of physicians in the USA description of the structural forces that are responsible for changing the landscape of healthcare under advanced capitalism is provided next and is followed with an assessment of the subjective responses by medical practitioners in the wake of the corporate influence on healthcare.

Changes in the structural context of medical work

The institutional structure of medicine in the US has been historically contingent, owing in considerable degree to the state of the

political economy. Dominant organizational forms in medicine have witnessed periodic shifts, from the early beginnings, when it was widely perceived as a lowly occupation during an era of domestic production, then toward a predominantly guild-like cottage industry as it gained legitimacy with its embrace of scientific principles. Today, in the post-industrial era, medicine is organized largely on the basis of hierarchical principles and practiced under free market conditions (Starr, 1982). The current era of managed care systems has profoundly altered the nature of healthcare, giving rise to new systems of delivery, new actors and new organizational arrangements, as well as questions on the social place of physicians within the healthcare environment. Starr envisaged, correctly, that medicine would experience a social transformation resulting from the rising influence of corporations and an accompanying insurgence of profit objectives, such that voluntaristic ideals and a service orientation would be replaced with a market mentality and a corporate ethos. The effects of this transformation on the independent conditions of work for medical practitioners have included the creeping rationalization of medicine and a waning autonomy for physicians as their work has come under greater scrutiny.

A number of macroeconomic and social forces account for medicine's present status in healthcare. The metamorphosis toward a market ideology in US healthcare has its genesis in the actions of the state and cannot be understood apart from considerations of the state's shifting perspective. The precursor which presaged the shift from the professional dominance of physicians during the first half of the twentieth century to the ascendancy of a corporate ethos in medicine was initially related to the decision by the federal government to allocate public funds to healthcare assistance for the elderly and indigent segments of the population (Starr, 1982; Scott *et al*., 2000). Beginning in the mid-1960s, the inception of government-sponsored healthcare legislation in the form of Medicare for the elderly and Medicaid insurance for the destitute created an opportunity for state influence. Prior to this, there was little government involvement in financing the public's healthcare needs. The state's interest initially emphasized equity of access to healthcare for the underprivileged segments of society as a primary objective and the medical profession thrived under a system of government-sponsored health programs which required little accountability and provided full cost reimbursement to physicians. A shift in allegiance, however, from a pluralist perspective during which the state maintained a posture of neutrality among competing interests, toward a market mentality, moved the advantages away from medical professionals, shifting them

in the direction of the financial and industrial owners of healthcare (McKinlay and Marceau, 2002).

As the single largest purchaser of healthcare services, the state inevitably shifted its emphasis to that of cost-containment. Prospective reimbursement systems were initiated, taking such forms as diagnosis-related groups (DRGs), a method in which aggregated patterns of treatment for similar health conditions result in established payment structures that are based on medical diagnoses instead of the nature and type of treatment provided. Another cost-containment strategy introduced by the state is that of resource-based relative value scales, which are used to evaluate the relative costs and values associated with different medical procedures (Hafferty and Light, 1995). These initiatives have been instrumental to the development of a belief system that medical care not only could be, but also *should* be subject to quantification and measurement. Moreover, they have laid the foundation for additional performance and outcome-based measures of medical treatment such as the assessment of physician error rates and compliance with standardized treatment protocols. Physicians' lack of foresight in pre-emptively addressing the rising concerns on escalating healthcare expenditures, and their continued prioritization of the quality of patients' medical care was instrumental in the initial erosion of physician dominance in healthcare (Fennell and Alexander, 1993; Scott *et al*., 2000).

That this 'new right' ideological perspective (McKinlay and Marceau, 2002) by the state carries force is well illustrated by the failed efforts by the Clinton administration to introduce an expansive plan to provide universal health coverage in the USA during the 1990s. Although, the proposed plan retained elements of a market orientation by offering consumer choice amongst competing health plans, the establishment of health insurance cooperatives and an employer mandate to make health coverage available to all employees, widespread resistance of the proposal from diverse stakeholders ranging from business, insurance companies, physicians, unions and the elderly, conspired to crush the Health Security plan and other variants proposed in Congress (Starr, 1995). The inability to marshal support even from those who advocated widespread healthcare reform exemplifies the entrenchment of the market ethos at the level of the state and demonstrates the success of more powerful interests – such as the financial owners of healthcare – to shape healthcare policy in favor of their agenda over other stakeholders.

While the cost-containment strategies of the state followed from an ideological conversion, these state initiatives have since been supplanted by private sector involvement in healthcare. A mosaic of delivery

systems has emerged in the US along with additional third party payers of health services. The most profoundly significant source of change to have emerged in US medical care is the concept of managed care. Managed care comprises a set of systems and methods that are used to control the use of health services by imposing measures designed to review the medical necessity of physician-recommended procedures and to ensure the cost-effectiveness of health care. New organizational arrangements under the managed care umbrella take different forms such as health maintenance organizations (HMOs), which emphasize preventive medical practices, and preferred provider organizations (PPOs), which mediate the relationship between patients and physicians through contractual arrangements between doctors and healthcare entities, where the managed care organization functions as a gatekeeper. HMOs typically offer comprehensive health coverage to patients for both physician services and hospital stays by either hiring physicians as full-time employees or contracting with physician groups or independent providers, and then requiring patients to receive services exclusively through the HMO. The stated benefit of such networks for the medical community is the assurance of a steady base of patients in exchange for a predetermined stream of income (Starr, 1982; Scott *et al.*, 2000). An estimated 88% of physicians are now under contract with managed care corporations (Casalino, 2004). The proportion of physicians who presently work as salaried employees rather than as solo or small group practitioners is more than 40%, and among new physicians who are less than five years out of medical school, two-thirds practice under salaried arrangements (McKinlay and Marceau, 2002).

These trends signal a fundamental change in how medicine is practiced and also reveal a demarcation in the institutional arrangements engaged by veteran medical professionals as compared to their junior colleagues. They also portend the future of practice arrangements as they point toward a continuation of the very significant decline in the numbers of small-scale entrepreneurial medical practices. Managed care arrangements alter the conditions under which physicians practice by closely monitoring physicians' treatment protocols and instituting reimbursement contingencies that require physicians to seek prior authorization by the managed care organization, thereby constricting the authority and autonomy to which they were previously accustomed. In essence, the institutionalization of managed care has had the effect of rationalizing the practice of medicine and enveloping it in bureaucratization.

Some argue that more has been affected than merely the conditions of work; in particular, the rationalization of medicine has also insinuated itself into the technical core of medical work with the imposition of drug formularies and tighter time constraints with more patients scheduled into each workday (Hafferty and Light, 1995; Leicht and Fennell, 1997). For some physicians, such as those who practice in a staff model HMO, autonomy is inevitably lost as they enter the salaried ranks as full-time employees. Physician report cards and clinical practice guidelines direct and evaluate the quality of medical treatment in order to reduce variability in treatment modalities. In other words, doctors have been subjected to a host of surveillance mechanisms to ensure that corporate financial and productivity objectives are realized. This pattern is not limited, however, to those who are employed full time for a managed care entity. Rather, the explosion of managed care as an institutional form means that these same regulatory and review mechanisms extend to physicians who have contractual arrangements with a managed care organization, which, as previously stated, encompasses the vast majority of physicians in the US (approximately 88%).

Additional market influences have been observed as well, with the intensification of healthcare privatization in the US such as the reduction in the numbers of freestanding community hospitals, and the proliferation of hospital chains and multi-system conglomerates (Starr, 1982; Anderson, 1992; Hafferty and Light, 1995). Of nearly 5000 community hospitals in the US, more than half are affiliated with a larger system of two or more hospitals under a central form of organization. Another one-third of community hospitals are network affiliated, an arrangement that brings together hospitals, physicians, health insurers, and other providers into a mutual partnership for the coordination and delivery of services[1] (see also Chapter 7 by Adler and Kwon). Hospital systems and networks have expanded through vertical integration, bringing an array of healthcare services under centralized ownership and control. Illustrative of this trend is the emergence of new organizational forms such as: home healthcare services, sports medicine clinics, ambulatory surgery centers, diagnostic laboratories, pharmacies, substance abuse centers, nursing homes, and psychiatric hospitals (Anderson, 1992). These new arrangements signify the appropriation of corporate influence in healthcare with the locus of control and decision-making functions surrendered by individual organizations and placed into the hands of corporate boards which determine organizational priorities, set fee schedules and determine the practice conditions of physicians.

To be sure, doctors have not been excluded from participating in, or benefiting from, these new organizational forms. Many have profited by forming partnerships with hospitals and other healthcare providers to develop integrated delivery systems – contractual and financial arrangements that provide a comprehensive system of services through the creation of unique legal arrangements. In essence, physicians who participate in the creation of integrated delivery systems personify a new breed of entrepreneurs with unambiguous financial interests (Schlesinger, 2002), which are distinctly different from the petite bourgeoisie class interests of the solo practitioners of the past (Ehrenreich and Ehrenreich, 1976). Nonetheless, the extent of change that has ensued from the inception of managed care as an institutional form has been met with a backlash by physicians and patients alike, with the former leveraging their collective interests to negotiate more effectively against the constraints imposed on the practice of medicine and the latter experiencing renewed distrust toward managed care entities and medical practitioners alike (Casalino, 2004; White, 2004).

The financing and organization of healthcare in the late twentieth century has had indirect effects on medical professionals as well, by virtue of the enhanced position of allied healthcare occupations which now bring competitive pressures to bear on medicine (Hafferty and Light, 1995; McKinlay and Marceau, 2002). The granting of licensure by the state to traditional disciplines such as physician assistants and nurse practitioners and to specialty areas such as nurse anesthetists, optometrists and podiatrists has had the effect of simultaneously creating additional healthcare providers who are less expensive and often preferred by patients, and enhanced competition for physicians, thereby creating rivalries and eroding their dominance in the provision of healthcare services (on this issue, see also Chapter 5 by Dent).

Employers have also inserted themselves into the healthcare arena with economically motivated interests predicated upon their role as purchasers of healthcare for employees. Similarly, relationships between physicians and patients have changed, becoming more transaction-based and less trusting (see previous section for a discussion of similar tendencies within the legal profession), as patients have grown accustomed to profiting from the ready accessibility of computer-based medical information to challenge medical judgments and hold physicians accountable for treatment outcomes (Haug, 1973, 1975; Anderson, 1992).

This review illustrates the incursions made by structural changes in healthcare into the practice of medicine and the erosion of the

unfettered dominance once enjoyed by physicians. Of note are those who believe that the decline in the social position of medical professionals will only be reversed with intervention by the state. Indeed, some of those who support more active involvement by the state in managing the system of healthcare see it as a means of both raising the status of physicians and reining in corporate influence (Starr, 1995; McKinlay and Marceau, 2002). Whatever the appropriate remedy may be, and whether it is motivated by a desire to re-establish physician dominance over healthcare systems and policies or, instead, by a fundamental distrust of the current state of healthcare in the US, it remains that the conditions experienced by the medical profession are not wholly determined by their position in relation to the state or their employing organizations. Physicians are also evaluative beings who engage with and act upon their situation. They should be seen as active agents in relation to corporate and state practices (Hoff and McCaffrey, 1996). What is not clear, though, is whether the practices undertaken by physicians are better understood as forms of resistance and deliberate attempts to throw back the encroachment of corporatization on their professional dominance, or, if they are better read as merely symbolic gestures. This issue is addressed next.

Physician agency

Much has been written about the moral contract with society to which physicians are bound in exchange for the autonomy they have been granted (e.g. Cruess and Cruess, 2000; Sullivan, 2000; Hernes, 2001). The consignment of autonomy and the trust that accompanies it require that professionals adhere to an ethos of altruism and service. Paradoxically, the asymmetrical relationship between physicians and patients presents a tension that economists refer to as the principal–agent problem. As agents for their patients, physicians, who possess the expertise to diagnose medical conditions, prescribe appropriate treatment, and determine the monetary value of the services they render, are expected to act in the best interest of the patient. The market mentality meanwhile, creates temptations to insert personal interests into the exchange relationship (Hernes, 2001). That this tension is widely recognized, and that it has figured into the loss of faith and trust in medicine, has not gone unnoticed either by the profession or the state (Castellani and Wear, 2000; Schlesinger, 2002). The state's recognition of the moral dilemma presented by this double agency struggle of balancing cost and care is evident from a recent decision in the US

to extend a moratorium on the creation of physician-owned specialty hospitals (Pearlstein, 2005). This is, of course, merely one recent example of state efforts to curtail potential conflicts between competing interests, particularly physicians' financial self-interests and society's interests in quality medical care.

The profession of medicine, however, has also recognized both the shift in public sentiment and the effects of macro-structural forces on its elite status. Physicians have engaged in a myriad of actions intended to quell negative perceptions and to reassert their elite location. These efforts have occurred at a collective level involving the profession in the aggregate, and they have taken place also at the local level by individual practitioners.

Among the collective initiatives enacted by the medical profession is a public reassertion of its long-standing ethical principles in the form of a document titled, "Charter on Medical Professionalism" (Sox, 2002). Said to be the product of joint efforts by several European and US medical associations, the charter was conceived from a position of frustration by physicians due to the accelerated pace of changes in healthcare delivery and concern over the widespread, if not universal, threat to the medical profession (Miles, 2002; Blank *et al*., 2003). Its fundamental principles and commitments are analogous to the Hippocratic oath, as they call for physicians to assert the primacy of patient welfare, patient autonomy and social justice, and to commit themselves to professional competence, scientific knowledge, patient confidentiality, and quality and access to care. The charter is neither a binding document nor a pledge that physicians are sworn to uphold. Hence, its value appears largely symbolic. Given its discourse of universality, the charter may be intended as a call to organize physicians into collective action to engage in a countervailing response against the rationalizing forces of state and corporate tendencies. The prospect of such a feat does not appear likely, however, on several grounds. Most fundamentally, the experiences of physicians across national and continental divides are not universal. There are unique challenges faced by the medical profession in third world countries, such as access to medical equipment and practice under oppressive political regimes, which are not encountered among industrialized nations. Moreover, subjective experiences of physicians within a nation's borders are heterogeneous. The changing demographic composition of practitioners in the US exhibits signs of stratification. The sentiments of older physicians who have been personally affected by the structural changes they have encountered during the course of their careers are different from those of new

entrants to the profession who have only ever known a profession within the managed care environment (Hoff, 2001). In addition, physician administrators, those in the medical profession who cross over into managerial ranks, do not necessarily share equivalent priorities with their practitioner colleagues, in that they emphasize capitalist objectives of efficiency and fiscal responsibility first, and so are apt to experience the 'professional crisis' in medicine quite differently from practicing physicians, many of whom report to them (Montgomery, 1992; Hafferty and Light, 1995; Hoff, 1999a).

To be sure, the mobilization of collective interests among physicians is far from unprecedented; to wit, numerous professional associations and societies exist to represent the concerns of physicians. Some, such as the American Medical Association (AMA), seek to coalesce the objectives of all members of the profession. Others exist on behalf of the needs of specific medical subspecialties, examples being the American College of Surgeons, American Academy of Paediatrics, and American College of Cardiologists. The differentiation of professional associations on the basis of particularized interests also carries the seeds of fragmentation for the profession. Members are divided and segmented into narrow areas of specialization, which diminishes the possibilities for a unified voice.

This is not meant to suggest that professional associations originated to engage in active protest. However, the decentralization of professional affiliations along the lines of medical specialization has narrowed the scope of power and the potential political influence of medical professionals to shape a coordinated agenda. The AMA was at one time regarded as a formidable entity capable of lobbying successfully to shape proposed legislative reforms as they related to the system of healthcare, but has since lost much of its influence as its membership has dwindled as physicians have, instead, aligned themselves with specialty associations (McKinlay and Marceau, 2002). And, while many of the professional organizations to which physicians subscribe involve advocacy of their professional interests, the absence of support for a centralized entity appears to have diminished the influence of physicians as a profession. Instead, professional associations are splintered by opposing views on issues such as physician ownership of diagnostic facilities and work-hour limits for residents (Hafferty and Light, 1995).

Although professional societies and associations are not considered unions in the legal sense of the term – since those who choose to affiliate do so more for expressive reasons than for instrumental objectives – they have nonetheless offered advantages similar to legally recognized unions (McKinlay and Arches, 1985). For one, they have permitted individuals

with common occupational interests and similar ideals to forge a united social identity and to satisfy the socio-emotional needs of individual members. Likewise, they provide their memberships with continuing education opportunities, which are necessary both for recertification and to maintain licensure, and they provide advocacy on issues that are similarly important to members. In the light of the relative decline in the professional dominance of physicians, the benefits derived from decentralization by professional specialty may seem rather hollow if we are to assume that physicians, given a preference, would rather dominate the healthcare agenda instead of taking the role of team players.

The collective interests of the profession have also been represented by the inception of legally sanctioned unions. Some physician unions, such as the Union of American Physicians and Dentists, have been in place for approximately three decades (Budrys, 1997), while others have more recently come into existence. The American Medical Association attempted to rejuvenate its power with the introduction of an association-sponsored union referred to as, "Physicians for Responsible Negotiation" in 1999 (AMA, 2001). The rhetoric on its website referred to PRN as such:

> Physicians for Responsible Negotiation (PRN) is a new breed of labor organization. PRN is a national negotiating organization for employed physicians and eligible medical residents aimed at giving you the collective voice you need to advocate aggressively for you and your patients in today's changing health care environment. . . . PRN is the only national, independent labor organization created specifically for physicians. PRN understands the shared values of the physician community and is committed to protecting medicine's high standards of ethics and professionalism. Physicians who choose to join PRN agree not to strike or withhold essential medical services. PRN can restore the integrity of the patient–physician relationship. It can ensure the quality and integrity of patient care, reinforce physicians' historic role as patient advocate, and make it economically viable for physicians to practice quality medicine.[2]

Physicians for Responsible Negotiation has since merged into a partnership with the Service Employees International Union (SEIU), a labor organization specializing in the interests of multiple healthcare occupations. At the time of the partnership, PRN reported a membership of 20,000; its affiliation with SEIU accompanied that of two other medical profession unions – the Committee of Interns and Residents and the

Doctors' Council. The former was founded in NYC to protest against what medical residents in the New York City area perceived as exploitative working conditions. Today, it collectively bargains on behalf of a membership of 12,000 located in the Northeastern US, Washington, DC, and other locations, to establish, contractually, limitations to residents' on-call schedules, maximum permissible work hours and other traditional bread and butter issues.[3] The Doctors' Council, by comparison, is comprised of salaried physicians, dentists and veterinarians who are employed by hospitals, private healthcare facilities and other agencies.

At one time, the notion of unionization was perceived as antithetical to the very essence of professionalism (McKinlay and Arches, 1985). Sentiments have changed somewhat, however, not only among those in medicine and other healthcare occupations, but also more broadly among white-collar occupations where the rate of successful organizing efforts now surpasses that of blue-collar occupations (Oppenheimer, 1975; McKinlay and Arches, 1985). Although self-employed physicians remain prohibited by law from affiliating with unions, the fact that increasing numbers of physicians do so is consistent with the contemporary trend towards salaried employment and away from self-employment (an estimated 40% of physicians are salaried employees; Hoff, 2001). That so many are willing to do so symbolizes the concern felt by physicians in relation to their diminishing status in this era of managed care corporations. Whether it signifies a profession that is attempting to circumvent the logic of capitalism is another question however. More likely, as McKinlay and colleagues (McKinlay and Arches, 1985; McKinlay and Marceau, 2000) have asserted, the ability to recognize the effects of corporatization are difficult in the absence of a historical lens since it has been both gradual and insidious. Hence, members of the medical profession have been slow to acknowledge the invidious threats to their elite status and to attribute these threats to state-sponsored and corporate initiatives; although, it appears from the unionization rhetoric that medical professionals have begun to appreciate the need to marshal their collective strengths to stem the tide of further status erosion.

One additional collective response that has been enacted by physicians is the trend towards group practice settings. Approximately one-third of licensed physicians in the US work within a single – or multi-specialty group practice, a reported increase in excess of 350% since 1965 (Hoff, 2001). This tendency is motivated by several factors. One is the desire to enhance negotiating leverage with healthcare

insurers and managed care providers, and to minimize encroachment upon physicians' clinical autonomy and financial interests. Another is related to the ability to minimize the financial risks associated with medical practices by pooling resources to purchase malpractice insurance and medical equipment. Moreover, group practice arrangements afford an opportunity for some physicians to avoid the drudgery associated with the business elements of managing a practice and to focus on their core interest of practicing medicine. These efforts, while applicable to physicians on a smaller scale than unionization and professional association membership, may be perceived as local attempts to assert countervailing power against corporate intrusion on the practice of medicine (Light, 1991).

The large-scale collective actions engaged by medical professionals, as discussed here, whether in the form of public proclamations of the profession's values, or the efforts to mobilize the profession into unions, have heretofore been unsuccessful in swaying the socio-political environment away from the corporate agenda. And, the prospects of doing so are rather dismal. For one, the profession has been unwittingly complicit in creating its current conditions through fragmentation from within by stratifying according to specialized interests and by adapting to a medley of work arrangements (e.g. salaried doctors, physician administrators and group practitioners) that engender ideological differences. In addition, as the American Medical Association has somewhat fallen out of favor with doctors, as many identify themselves more closely with specialty professional associations, its capacity to sway the actions of the state through intensive lobbying efforts has been eroded. Hence, although the collective efforts described here appear to signify attempts at circumventing their lost dominance to bureaucratic and corporate hegemony, medicine has not been able to reverse the corporate ethos that now permeates the healthcare system in the US.

An understanding of how physicians have responded to their changing status would be incomplete without examining the localized practices of individual physicians (Hoff, 1999, 2001, 2003; Hoff and McCaffrey, 1996; Hoff *et al.*, 2002). Hoff and others have addressed this question by examining how physicians construct meaning and identity through their work arrangements. In one study of salaried physicians working for an HMO, it is reported that most had accepted their status as employees and rationalized their position by emphasizing the positive features of employee status such as the avoidance of business pressures (Hoff, 2003). In an investigation of "hospitalists", which is a relatively new career option in which physicians work as general medical care

providers to hospitalized patients, Hoff and colleagues (2002) assert that the favorable adaptation to the social and economic conditions of medical work is largely a function of the quality of social relationships physicians have with colleagues and patients. Much of Hoff's research suggests that a new breed of physicians is on the rise. Having entered the field knowing the healthcare system only within a managed care framework, they are less attuned to the changes that have occurred to the professional status of physicians and their dominance relative to other players in the healthcare arena. These professionals are nonetheless stratified on several levels – by gender, by the content of their work and by the conditions of their work. Female medical practitioners and newer entrants to the profession are apt to tacitly accept the corporate nature of medical care today, and many perceive medicine as more a job than a profession (Hoff, 2001). Although Hoff contends that the physicians do not perceive themselves as victims of deskilling, the description he presents in much of his work in fact shows a loss of autonomy over the conditions of work and a mindset characteristic of false consciousness among the practitioners, particularly those who practice under salaried arrangements.

The likelihood of similar effects finds support in some of Hoff's other works (Hoff, 1999; Hoff and McCaffrey, 1996). One investigation of primary care physicians practicing within two distinct work arrangements revealed differences in the responses of those who were self-employed from those who were salaried (Hoff and McCaffrey, 1996). Acts of resistance to insurers' oversight of treatment recommendations were more apparent among self-employed physicians in solo and group practices than among the salaried physicians of a staff model HMO. Self-employed physicians were shown to resist the incursions made to their economic circumstances by actively negotiating with insurers over the terms of their contractual arrangements. They also devised methods to circumvent structural constraints by adopting creative methods of financing when medical procedures were denied by insurers. These active forms of adaptation were less evident among the salaried primary care doctors. Instead, they were more passive in their relations with their HMO employer, although they acknowledged experiencing pressures from the mechanisms of control and surveillance to which they were subjected. In a study that examined the issue of social identity among physician-managers of an HMO, stratification was apparent in the strategies used by physician-managers with a profession-compatible identity and those with an organization-compatible social identity (Hoff, 1999a). The latter engaged in participatory rituals which included the

pretence of soliciting input from HMO doctors when organizational decisions had in reality already been finalized, and distributed data and information selectively to doctors when it supported their positions. By contrast, physician-managers, whose social identity was compatible with the medical profession, undertook strategies of resistance against the health maintenance organization by engaging in acts of passive aggression during corporate meetings, such as tuning out of the discussion and refusing to participate. They also challenged the integrity of the data used to make policy decisions, and engaged in alliances with other healthcare occupations employed by the HMO.

The two studies described above give emphasis to the point that physicians are not uniformly complacent and accepting of the changing conditions of their work in today's managed care environment. More generally, these findings underscore the complexity of the profession and reveal the importance of refraining from applying overly simplistic characterizations to the profession as a whole. Physicians may be considered as both active agents and, in some circumstances, passive dupes. The nature of the working arrangement – whether salaried or self-employed, practitioner or administrator – may be informative in explaining which physicians are prone to actively resist the tendencies toward exploitation and control by state and corporate imperatives, and which ones are not; clearly, however, this does not establish definitively how or why doctors acquiesce to their circumstances.

One other endeavor appears to be gaining prominence among medical professionals, this being a tendency toward the pursuit of advanced degrees in areas such as business and law (see also Chapter 7 by Adler and Kwon). The popularity of integrated MD-MBA and MD-JD degrees is evident from the number of universities that have introduced these joint programs of study in recent years. An estimated 46 universities in the US and Canada offer blended arrangements between their medical and business schools whereas 19 do so with their law schools.[4] Yet other academic institutions provide advanced business degree programs custom tailored to licensed physicians in formats that are arranged to accommodate their clinical practice schedules. Interest in these educational arrangements, particularly the pursuit of an advanced business degree, is unlikely to be symbolic of a move by physicians to rebut or reverse the hegemonic influence of the corporate ethos under advanced capitalism. Rather, and more likely, it reflects the undermining of the values traditionally associated with medicine as a profession and a shift towards those of the business enterprise. However, greater academic training related to the politics and economics of medicine is imperative

if physicians are to have any hope of counterbalancing the forces of decentralization ensuing from a managed care culture, and if they wish to deal effectively with the moral challenges presented to them in this environment of corporatized medicine in the US (Castellani and Wear, 2000). In the final analysis, taking the long view suggests that this is not the first instance of the medical profession being in a one down position; what remains to be seen is how long the corporate ethos will endure before the ideological leanings of the state move from the present position, and with what consequences.

Conclusion

The medical profession in the US has been subjected to sweeping structural changes during the second half of the twentieth century, and especially in the past three decades. These changes have derived from state-sponsored initiatives and they have been a product of corporate usurpation of the healthcare system. These structural incursions have been the impetus for spirited debates in the sociological literature among academics who have attempted both to explain and predict the impact of these macro forces on the status of the profession. There is no longer a question of whether the profession has lost its hegemonic position in healthcare. Although physicians as a profession may continue to enjoy privileges and status relative to other healthcare occupations, the dominant stronghold they possessed during the 1960s has weakened. It is highly unlikely, however, that they will ever lose their prestige entirely, as they will continue to be the conduit through which medical advances and expertise flow.

The question posed in this chapter is how physicians have responded to their changing circumstances and whether their responses are indicative of a profession that has been actively resisting its diminished status and seeking to reassert its position of power and privilege, or, whether it is a profession that has been subjugated to the imperatives of capitalism and a corporate – bureaucratic ethos. The evidence presented does not offer a definitive assessment – as there are localized pockets of resistance practiced by individual physicians and collective efforts directed at broad changes concurrent with and alongside ideological shifts that favor the imperatives of capitalism. It is fair to say, however, that medicine has neither demonstrated the capacity to reverse its fortunes nor shown a determined collective desire to do so. Should the medical profession wish to re-establish its dominance, it will be necessary to regain the lost trust of its patients with credible assertions of its foremost commitment

to social welfare. It will also be necessary once again to generate the support of the state to reverse the iron grip of corporatized medicine. Neither seems a likely possibility anytime soon.

Notes

1. These statistics are available from the American Hospital Association. They were accessed from its website: http://www.aha.org/aha.resource_center/fastfacts/fast_facts_US.
2. This information was retrieved from the website of the American Medication Association in 2001. http://www.ama-assn.org/ama/pub/category/2554.html.
3. Information on the Committee of Interns and Residents may be located at www.cirseiu.org and Doctors Council information is located at www.doctorscouncil.com.
4. Information on universities which offer medical degrees in combination with other graduate programs is available from the Association of American Medical Colleges.

7

Community, Market, and Hierarchy in the Evolving Organization of Professional Work: The Case of Medicine*

Paul S. Adler and Seok-Woo Kwon

Professionals constitute an increasingly important occupational category. They are key actors in an increasingly knowledge-intensive economy (Bell, 1973; Quinn *et al.*, 1996) and they play a central role in the accelerating generation and diffusion of innovations (Scott, 1995; Swan and Newell, 1995). Much of the scholarly interest in professionals in the US and UK has focused on the relative independence of professionals in those countries from market and hierarchical pressures. A rich tradition of research has debated whether this independence is destined to erode – as happened to the traditional petite bourgeoisie – or whether, on the contrary, it is more likely to generalize across the growing number of knowledge workers and expert occupations (Giddens, 1991; Sullivan and Hazlet, 1995; Reed, 1996).

In this chapter, we discuss the case of medicine, with side glances at law and other professional categories. We first review the central role traditionally played by community in structuring professional work; we then document the growing influence of market and hierarchy principles in the progressive restructuring of professional work over recent decades; and finally, we discuss current trends suggesting that new forms of community are emerging, creating new combinations of market, hierarchy, and community principles.

We focus on medicine in the US. This is partly for parochial reasons – the mounting crisis of the US healthcare system will have momentous effects – and partly because medicine is an emblematic case that can illuminate the general debate on professions. Medicine is emblematic for three reasons. First, medicine (along with law) is among

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the most highly professionalized occupations – in the conventional sense that access requires advanced training and some form of certification, and that practitioners assume responsibility for the outcomes of the services they offer. Second, one of medicine's key institutions, the hospital, is a *locus classicus* of research on professional organizations (Freidson, 1963; Strauss *et al*., 1963; Scott, 1982; Flood and Fennell, 1995). And third, medicine has been subject to intensified performance pressure from both outside and within the industry (Scott *et al*., 2000), and the resulting changes, while in some ways unique to medicine, are surprisingly similar to those experienced in other professions such as law (Nelson and Trubek, 1992; see also Chapter 2 by Muzio and Ackroyd and Chapter 3 by Flood in this book), consulting and accounting (Hinings *et al*., 1999), and teaching (Rosenholtz, 1987; Porter, 1989).

Three organizing principles

Our analysis is framed by the contrast between three coordinating principles and their corresponding mechanisms: (1) the hierarchy principle, which relies on the authority mechanism, (2) the market principle, which relies on price, and (3) the community principle, which relies on trust. (Some authors replace community with 'networks' in this tripartite structure: networks, however, is less precise, because markets and hierarchies are also networks. We opt for community over Ouchi's (1980) 'clans' because of the specific, traditionalistic connotations of the latter.) Professional work, we will argue below, relies primarily on community – trust relations between professional peers and between professionals and their clients – and only secondarily on market or hierarchy (see also Goode, 1957; Parsons, 1971; Freidson, 1994, Chapter 11; Sharma 1997; Freidson, 2001; Hanlon, 2004). However, in the empirical structuring of real institutions, all three principles and their corresponding mechanisms are typically at work simultaneously albeit in varying proportions. In medical groups, for example, even though collegial decision-making and work practices (that is community) are typically dominant, we also observe remuneration based on billings and profit sharing as well as some measure of hierarchical control over the assignment of tasks.

These three organizing principles have different strengths and weaknesses. As many scholars have argued, the community form is particularly effective at knowledge generation and diffusion (Ouchi, 1980; Dore, 1983; Eccles and White, 1988; Powell, 1990; Adler, 2001).

The market principle does not handle well the public goods aspects of codified knowledge, and the hierarchy principle does not handle well tacit knowledge's embeddedness in practice. The market affords more flexibility, and hierarchy affords more control; but community is typically prominent in collectivities – like professions – where knowledge creation and diffusion are critical. Community's main weakness is the risk of closure and insularity.

This three-dimensional representation helps reframe a key debate surrounding medicine and other professions. Given that professionals increasingly work in organizations rather than in solo practices, and given too that these organizations increasingly take a hierarchical form and have come under increasing market pressure, there has been considerable debate over the future organizational form of professional work. We acknowledge that the ascendancy of market and hierarchical principles in the structuring of knowledge-work is pervasive; but we also argue that community remains critical.

The key role of community

The distinctiveness of the professions has been characterized in terms of (a) their tasks and expertise, (b) the social relations of coordination and control that govern their activity, and (c) the values that shape their normative orientations and subjective identity. In analyzing the distinguishing features of professional work, there is considerable debate over the direction of the causal arrows linking these three sets of attributes. Some (e.g. Parsons, 1939; Savage, 1994) see specialized expertise as the key distinguishing feature of professions and see the other characteristics of professions – their distinctive values and structure – as flowing from that expertise as a matter of functional necessity. Others (Larson, 1977) focus on structure, and in particular on the professions' monopoly power and social closure. Here, professionalization is seen as 'an attempt to translate one order of scarce resources – specialized knowledge and skills – into another – social and economic rewards' (Larson, 1977: xvii). The structural power perspective views the difference between professional expertise and the skills used in other occupations as the result of jurisdictional battles waged between competing social groups and as a matter of perception shaped by interested actors. The power theorists thus criticize the expertise perspective for accepting – and thus unwittingly legitimating – the arguments that professionals use to justify their efforts at upward social mobility (Johnson, 1972; Roth, 1974). A third perspective,

often expressed by professionals themselves, emphasizes their distinctive values: a service orientation, a sense of calling, and a shared professional identity.

Our reading of this literature suggests that there is merit to all these points of view. In integrating them, we highlight the centrality of the community principle in the organization and experience of professional work. Professionals' tasks and expertise requirements make community an efficient organizational form. The collegial structure of professions gives professionals both the power to assert their jurisdiction over such tasks and the structural means by which to govern themselves in the performance of these tasks. Values constitute the normative dimension of the professional community and are a key mechanism for assuring its capacity to guide work. Together, these three features make community the distinctive feature of the organization of professional work. The following paragraphs develop this argument and use it to make sense of the case of medicine.

Task and expertise

Physicians' tasks, like those of other professionals, are often highly uncertain, both variable and ambiguous. Such tasks are difficult to pre-specify or codify into rules. More accurately, even if much of the requisite working knowledge can sometimes be captured in detailed, formalized procedures, both mastery of these procedures and skill in dealing with the remaining uncertainties remain critical. (Surgeons, e.g., rely on detailed procedural checklists.) It is at least in part due to these task characteristics that professionals are granted discretion – the right to exercise their own judgment. Whether due to their relative variability or to their ambiguity, professionals' tasks are not very amenable to the process controls that characterize hierarchy nor to the output controls that characterize markets. Professions rely mainly on input controls in the form of lengthy standardized training (Mintzberg, 1979).

While nonprofessional work also may require the mastery of certain skills, the distinguishing feature of professionals' skill is an underlying 'body of theory' (Abbott, 1988; Greenwood, 1957). The importance to professional status of abstract theory helps explain the differentiation we observe within medicine and many other professions of specialized researcher-theoretician roles dedicated to the creation of new knowledge – and explains too the high status accorded to such roles.

While a theoretical knowledge-base appears to be an essential prerequisite for an occupation's claim to professional status, we should

not, however, overlook the role played by practical, experience-based, know-how. According to Morris (1999), only 10% to 20% of the diagnosis and treatment decisions made by the typical physician are based on theory – notwithstanding the fact that contemporary medicine has a theoretical base that is relatively elaborate compared to most other professions. The much larger proportion of medical decisions is informed by practical experience rather than by scientific knowledge. Law, too, relies to a considerable extent on a 'craft' type of knowledge (Scharffs, 2001). Status and power accrue to physicians and other professionals not only in proportion to the theoretical elaboration of their knowledge but also in proportion to their experience-based knowledge (for a discussion of knowledge in new forms of expertise, refer to Chapter 9 by Fincham *et al*.). In either form, the professional's expertise is esoteric relative to the layman. Power theorists argue that professionals deliberately create an aura of 'indetermination' about their activities so as to deny outsiders the possibility of rationalizing or codifying professional expertise (Boreham, 1983); this indetermination can be associated with either form of knowledge.

Consistent with the importance of both theoretical and practical knowledge, professions typically require both extended, university-based formal training and lengthy apprenticeships. (Power theorists point out that these are anti-competitive barriers to entry.) Together, these two forms of learning inculcate both skills and identities. Prototypical in this regard are the combination of medical school and residencies, and the combination of graduate school and the obligatory period as a non-partner 'associate' in law, accounting, and consulting firms (Middlehurst and Kennie, 1997).

The rapid evolution of the knowledge base of medicine and other professions makes continuing education important. Medicine, for example, evolves with science; law evolves with legal rulings and regulations. Requirements for continuing education are part of the institutional *quid pro quo* between profession and government. These requirements are one way of assuring the institutional sources of the trust that professionals enjoy (Zucker, 1986).

The structures of professional work

The structuring of medical work, like that of other professions, is characterized by considerable autonomy from both market and hierarchy pressures. This freedom from external control characterizes both the governance of the profession as a whole ('occupational control' in Child and Fulk, 1982) and the individual professional's daily conduct (task, or

technical, control). These two aspects are distinct but related features of the community principle as it has shaped professional work.

At the level of the profession as a whole, medicine like other 'liberal' professions maintains autonomy in the ability to establish, monitor, and enforce its own membership criteria and work standards. This 'closure' (Larson, 1977) takes the form of licensing and accreditation of training institutions, credentialing of professional practitioners, and administrative arrangements that leave the control of professional work to other professionals (see Chapter 2 by Muzio and Ackroyd for an analogous discussion in the legal profession). This collective autonomy requires special legal privileges – in effect, a state-sanctioned monopoly, expressed in a license or charter, whence the critical role of the state in the constitution of the liberal professions (Macdonald, 1995; Freidson, 2001). As a result of this autonomy, and in contradistinction to the model of pure and perfect competition, the market for professional services is characterized by high, institutionalized barriers to entry and by the professions' regulation of their members' behavior.

Autonomy at the individual, task level involves the right to decide what kind of work is to be done and how, without hierarchical or commercial interference. In the case of medicine, this is codified in the legal doctrine banning the 'corporate practice of medicine' – now honored more in the breach (Freiman, 1998; Robinson, 1999). Notwithstanding considerable variation along this dimension, professionals, even when they are employees rather than self-employed, typically enjoy more autonomy than other employees of hierarchical and business organizations (Wallace, 1995). The resulting intra-organizational tensions have given rise to a large body of research that we discuss below.

These two levels of autonomy are related. In exchange for their individual autonomy – in lieu of both hierarchical control by outsiders and market control by the force of competition – professionals submit to the discipline of peer control as part of a 'regulative bargain' (Baer, 1986; Cooper *et al.*, 1994). This displacement of hierarchical and market controls is justified by professionals' claim that most professional services cannot be effectively evaluated by clients or other lay people, and that the people best qualified to judge the work of a professional are fellow professionals. This claim is more credible where clients and administrators are less sophisticated (see Galanter, 1983, on the differences in this regard between law firms serving individuals versus large corporate clients. See also Chapter 4 by Pinnington and Suseno in this book, on the position of in-house lawyers). In practice, however, professionals have historically resisted both output controls and process

controls even when these controls are exercised by peers. The traditional autonomy of the professional is much more compatible with input controls, such as restricting access to the profession to graduates of accredited institutions (Mintzberg, 1979).

Commensurate with these features of professionalism, physicians, like other practitioners in the most professionalized occupations, have not traditionally worked as employees subject to hierarchical organizational controls. Physicians and lawyers have traditionally worked as solo practitioners or as members of small partnerships. Moreover, when they do work within larger organizations – medical groups or hospitals for example – order is typically negotiated rather than imposed, and the role of hierarchical superiors is advisory rather than decisional (Goss, 1961). The resulting structure is typically complex – 'the most elaborate and intricate organizational arrangements yet devised' (Scott, 1991: 253). The basic reason for this complexity is that the administration of a professional organization is usually partitioned to reflect the differences in autonomy of its constituent groups. This complexity is further increased by the structures put into place to coordinate the pervasive input, process, and output interdependencies with other professional specialties and non- or less-professionalized occupations.

Hospitals represent an extreme case. The most common structural configuration of US hospitals today (indeed, one that has prevailed for most of the past century) is bifurcated (Freidson, 1975). On one side, the hospital directly employs administrative and support staff who are managed under traditional hierarchical authority, as well as staff from semiprofessional groups, such as nursing, which function under several layers of authority exercised by practitioner-managers (Davis, 1966). And on the other side, the medical side, the hospital does not employ most of its physicians, but only offers independent practitioners 'privileges' – the right to use hospital facilities and personnel. (The main exceptions are the 'hospital based' specialties of pathology, radiology, anesthesiology and the new specialty of 'hospitalist'.) Moreover, physicians often have privileges at several hospitals. Notwithstanding their formal independence from the hospital, the medical staff is collectively responsible through its committees for clinical policies and practices in the hospital. Forms of 'hospital–physician integration' have proliferated in recent years; but this traditional form remains dominant (Burns and Wholey, 2000; Budetti *et al.*, 2002). In an increasingly popular alternative, the medical staff of a hospital is organized as a self-governing partnership which enters into a service contract with a hospital; but here

too, the medical staff retains collective control over clinical practices in the hospital.

Professional values

Community as a coordination principle is weak if it relies exclusively on peer surveillance: a robust community also requires that its members internalize a common set of values. The values prototypically associated with professionals are distinctive in the commitment to service, the devotion to a higher 'calling,' and in creating a shared identity for the professional community. The American Board of Internal Medicine, for example, in its 'Project Professionalism' report (American Board of Internal Medicine, 1998), focuses on altruism, duty, excellence, honor and integrity, accountability, and respect for others as features that define physicians as true professionals (see Chapter 11 by Hodgson for an interesting contrast with new professionalization projects). These values are reproduced by professional socialization (Becker *et al.*, 1961) and, more fundamentally, by the structural conditions of professionalism which reinforce the power of community, which keep hierarchical authority at arm's length, and which limit the corrosive effects of market competition.

The dominance (and variability) of community

Occupations differ in the relative salience of the community principle. Reed (1996) differentiates three groups of 'expert' occupations: independent professions (doctors, architects, lawyers), organizational professions (managers, salaried engineers, technicians), and 'knowledge workers' who function as experts-for-hire (consultants, project engineers, computer analysts). He notes that coordination among the first group relies primarily on collegial relations; the second group relies more on hierarchy; and the third group relies more on a network of market relations. The second and third of these groups encounter difficulties in asserting the claims to professional status precisely to the extent that their work is organized by principles other than community.

We should note in passing that it was only in the UK and the USA that some expert occupations took on the structural autonomy and ideology we think of as the differentiating features of the professions. In continental Europe, government's role was stronger and more direct: a higher proportion of professionals are employed by the state; many are educated at prestigious, state-controlled institutions of higher education; and it is with these institutions rather than a corporate professional body that they identify (Freidson, 1994, Chapter 1).

The growing influence of market and hierarchy

Over the preceding decades, the advanced capitalist world has witnessed the expansion of both market and hierarchy principles into new domains. Both of these trends in turn require growing bodies of expertise: the market throws up needs for new technologies and related technical expertise, and growing organizational complexity in both government and industry creates needs for administrative and legal expertise. The expansion of government hierarchies facilitates the growth of health and cultural professions. And all of these drivers combined encourage the growth of teaching professions (Giddens, 1991; Reed, 1996). Simultaneously, however, market and hierarchy have encroached upon community in the organization of these expanding categories of professionals. Medicine embodies this simultaneous expansion and mutation of professionalism.

Changing tasks and expertise

Recent years have seen medicine, like other professions, split horizontally into subspecialties (see Chapter 6 by Domagalski). The number of American Medical Board specialties has tripled since the mid-1960s. Specialization among nurses has also proliferated. In the US, licensure for health occupations occurs primarily at the state rather than the federal level, and in California, for example, the number of licensed health-care occupations grew from 16 in 1969 to over 40 in the 1990s (Scott *et al.*, 2000).

A key consequence is greater task interdependence. Physicians today are far more likely than 50 or 100 years ago to work in interdependent teams with other specialists – other practitioners from within their specialty, professionals from other specialties, and nonprofessionals. Consider the replacement of the general practitioner and the generalist surgeon by the host of specialist doctors, nurses, technicians and administrators in medicine today. Specialization and the resulting task interdependence, in turn, give rise to growing pressure to strengthen one or more of the three coordination mechanisms – and to a loss of professionals' technical autonomy.

Like many other professionals, physicians find that their expertise is becoming less esoteric – there is a narrowing competence gap with clients, a trend interpreted by Haug (1975) and Wilensky (1964) as deprofessionalization. As clients become better-educated, they become more assertive in their relations with professionals and they become more willing to 'shop around' (Marquand, 1997). Middle-class patients

now take a more active role in managing their medical conditions. They demand more information from their physicians, and they are more likely to research their conditions on their own. (Exploiting and reinforcing this trend, pharmaceutical companies have begun advertising to patients, encouraging patients to demand their products from the physician.)

Standardization and formalization

As with other professions, the practice of medicine is increasingly shaped by written guidelines and policies. Over the past decade, interest in clinic practice guidelines (CPGs) in health-care organizations has exploded (a point also made by Dent in Chapter 5). In pulmonary medicine, for example, the number of journal articles discussing guidelines increased from 1 in the 1974–1978 period, to 10 in the 1979–1983 period, to 182 in the 1994–1998 period (Hackner *et al.*, 1990) .

Proponents have argued that CPGs give physicians access to the most up-to-date approaches best supported by the available evidence; they thus enable physicians to reduce unnecessary variation and improve cost and quality simultaneously. Critics warn that CPGs could lead to 'cookbook medicine' and reduce clinical autonomy (Ingelfinger, 1973; Kassirer and Kopelman, 1990). Panush (1995), for example, denounces 'Algorithmic medicine. Minimalist medicine. Survivalist medicine. Cookbook medicine. Mechanistic medicine. Nonthinking medicine. Noncognitive medicine.' Rigid adherence to CPGs may prevent physicians from recognizing patients as individuals (May, 1985). CPGs are sometimes used to control costs at the expense of quality (Lohr, 1995).

New technologies

The accelerating pace of knowledge growth has made information technology and its mastery increasingly important for physicians and many other professionals. Governmental and private organizations are responding by using information technology to support new information diffusion mechanisms. In 1997, US National Library of Medicine made MEDLINE (its database of medical research abstracts) available free of charge via the Internet.

A second set of innovations brings information technology closer to practice in the form of computer-based decision support systems. Such systems have been shown to significantly improve the accuracy of physicians' diagnoses and prescriptions (Friedman *et al.*, 1999). As hospitals adopt continuous quality improvement methods, many find

that they need to redesign their information systems to integrate technical and administrative databases, and to provide up-to-date, credible data for accelerating learning cycles (Bradley *et al.*, 2001).

Innovations in information and communication technology have also given clients more access to information that was previously restricted to professionals. Surveys have found that 50%–75% of people with access to the World Wide Web have used it to access health information, and that those who do will seek such information more than three times a month (Powell and Clarke, 2002). This directly affects the power relationship between professionals and those they serve.

Aside from the challenges of professional learning and more knowledgeable clients, new developments in information and communication technology often affect the industrial and occupational division of labor. Within hospitals, technological innovations also affect relationships between occupations (Child and Fulk, 1982; Barley, 1990; Edmondson *et al.*, 1999).

New skills

Faced with all these changes, physicians are under pressure to acquire new skills. They have always had an obligation to keep up with technical knowledge in their field through continuing education. However, the new professional environment demands that they also acquire new learning skills. Physicians are learning how to critique and challenge the assumptions and processes underpinning professional practice in order to accelerate practice improvement (Middlehurst and Kennie, 1997). Evidence-based medicine is one example.

With hospitals' and medical groups' growing size, complexity, and competitive pressure, a growing numbers of physicians are developing management and business skills (Maister, 1993; also see Chapter 6 by Dogamalski). These skills are interpersonal (e.g. leadership, teambuilding, and negotiating), technical (e.g. marketing, budgeting, and accounting), and administrative (e.g. project management) (Hutchins, 1999; Middlehurst and Kennie, 1997; Simpson *et al.*, 1994).

Changing structures

Intensifying competition

Physicians, like professionals of all kinds, have come under increasing pressure from market competition. These pressures come from various directions and take various forms, often reinforcing each other. First, we see growing competitive pressures bearing in from outside. Insurance

companies, themselves under competitive pressure, are demanding cost reductions from hospitals and medical groups in their competition for the rents associated with health care (Zwanziger *et al.*, 2000). Second, physicians have come under economic competition from other, rival professions, for example nurse practitioners (Lin *et al.*, 2002; see also Chapter 5 by Dent in this book). Finally, and partly as a result of these external pressures, we observe growing market competition among colleagues within professional specialties. Originally almost taboo, advertising has become commonplace. Price competition appears to be increasing.

This intensification of market rivalry has complex roots. It is arguably, at least in part, the result of the colonization and commodification of the life-world characteristic of capitalist, market-based societies (Habermas, 1975). But it is also a result of the recent political-ideological conjuncture: as neo-liberal ideologies replace welfare-state ideologies, all special charters are attacked as 'restrictive practices' that impede the invisible hand of the market. In the case of medicine, competition among physicians intensified as a result of federal programs in the 1970s designed to expand medical school enrolments. The federal government also passed the Health Maintenance Organization Act in 1973 with the explicit goal of inducing competition in the health-care market (Patel and Rushefsky, 1995). The US Supreme Court held in *Goldfarb* v. *Virginia State Bar* in 1975 that professional associations could not set fee schedules, and in *Bates* v. *State Bar of Arizona* in 1977 found that restrictions on advertising unfairly penalized new entrants to the legal profession.

The effects of intensifying competition are manifold. First, professional associations split, as the subspecialties form their own professional associations to compete more effectively for legitimacy and for a monopoly over desirable problems or solutions. The new specialties must negotiate their legitimacy with the more powerful, more central segments of the profession for jurisdiction over the new innovations (Abbott, 1988; Bucher, 1988; Halpern, 1992).

Intensifying competition also affects the technical organization of work (Dent, 1993; Causer and Exworthy, 1999; Kitchener, 2000). Deprofessionalization and proletarianization theorists see a trend towards an intensification of professional work and a reduction of the symbolic and material advantages of professional status. While the median real net income of physicians grew on average 2.1% per year between 1981 and 1990, it grew only 0.2% between 1990 and 2000.

Market competition has both encouraged and has been encouraged by a trend toward greater centralization – the increase in the largest

organizations' share of the industry – and concentration – the increase in the average size of professional organizations (see Muzio and Ackroyd and Kirkpatrick and Kipping in this book, for a description of analogous tendencies in law and management consultancy). Between 1983 and 2001, the proportion of physicians in solo practices fell from 40% to 23%. The proportion self-employed in group practices grew slightly from 35% to 36.7%. The proportion practicing as employees rose from 24% to 35.1% (Center for Health Policy Research, 2003). At the other end of the spectrum, we have witnessed a massive shift from stand-alone hospitals and clinics to multi-hospital systems. According to American Hospital Association statistics, between 1990 and 2002, the total number of community hospitals in the United States fell from 5842 to 3025 while the number of those that were part of multi-hospital systems rose from 1877 (32% of the total) to 3604 (73%) (American Hospital Association, 2004). (See Robinson, 1999; Burns and Wholey, 2000 on the broader process of consolidation in health care and the evolution of physician organizations.)

Accountability

As a result of the various changes reviewed in the preceding paragraphs, physicians, like other professionals, have come under great accountability pressure. Peer review is the traditional mechanism of professional accountability, reflecting the dominance of the community principle (see Chapter 10 by McKenna for a discussion of the relevance of this for the professionalization of management consultancy). However, in practice, physicians traditionally refrained from criticizing colleagues' competence or ethics. Disciplinary boards seldom censured their colleagues, and they revoked licenses even less frequently (Freidson, 1984). The community form of accountability often degenerated into 'the conspiracy of silence as well as the conspiracy of tolerance' (Freidson, 1984). While physicians have been granted the privilege of working as a self-regulating company of equals, all too often that self-regulation degenerated into complacency and 'delinquent community' (Freidson, 1975).

Over the last decade or so, numerous stakeholders have demanded greater accountability for the quality and cost of medical (as other professional) services. All three organizing principles are increasingly deployed in these efforts to render physicians more accountable. Each of the three principles works through both external and internal mechanisms. Let us review them in turn.

- External *market* mechanisms of accountability rely on market competition. Rankings of cost-effectiveness and quality of American hospitals have been published for some time in magazines like *U.S. News and World Report*. Insurers put hospitals, medical groups, and solo practitioners in competition with each other for health-care contracts.
- Within organizations, the market form of accountability is strengthened as doctors are held increasingly accountable for the costs of care by hospital and medical group executives. 'Economic profiling' is now common, reflecting a broader trend towards the adoption of an 'accounting logic' in many professions that previously had shunned such discourse (Cooper *et al*., 1996; Broadbent and Laughlin, 1997 on museums, see Oakes *et al*., 1998).
- *Hierarchical* accountability has also intensified, first in the form of external legal-regulatory controls. Notwithstanding the wave of deregulation begun under the Reagan administration, health care has been subject to a growing number of regulatory bodies and texts (Scott *et al*., 2000). The courts are also more often involved, as physicians become the object of a growing number of malpractice suits.
- Within organizations, physicians find themselves under increasing hierarchical control exercised by nonprofessionals, by other professionals from outside their fields, and by a growing hybrid category of professional-managers such as physician-executives (Hoff, 1999b) (on clinical directors in the UK, see Bloomfield and Coombs, 1992; Ashburner and Fitzgerald, 1996; Fitzgerald and Ferlie, 2000; Doolin, 2002; on the US, see Hoff, 1999a). Physicians' decisions are now regularly subject to utilization reviews by medical groups, hospitals, and insurance companies (Geist and Hardesty, 1992). Physicians find themselves held to account for deviations from CPGs.
- *Community* mechanisms of accountability have been intensifying through changes in the nature of patient relationships. By proclaiming their ethical commitments to patients, the medical community subjects its legitimacy to the court of patient opinion – and ultimately, public opinion – which, in turn, creates a form of accountability. This patient-based form of accountability has arguably become more demanding as trust based on 'professional mystique' is replaced by trust built on transparency of professional performance and by a generalized expectation of accountability (Child and Fulk, 1982; Middlehurst and Kennie, 1997).
- Finally, the environmental changes we have reviewed encourage the strengthening of collegial accountability through peer review

within professional organizations. Some hospitals use regular meetings of department members as a forum for sharing practice knowledge, for reviewing physician practice profiles, and for monitoring the progress of performance-improvement project teams. In some hospitals, the Medical Staff's committees – such as those that review procedures, drugs, therapies, and medical records – serve not only the traditional function of assuring a floor of minimal acceptable quality, but also a new function as a forum for collective learning. These changes, Freidson (1994) argues, are portentous. They bring medicine closer to the school-teacher model: teachers have lost autonomy and status to a stratum of specialized administrators who exercise increasingly hierarchical control, and to a stratum of experts who promulgate guidelines and standards. These latter strata experience pressures, opportunities, outlooks, and interests that differ from those of the rank-and-file professional. As the conflicts between these strata multiply, the risk of fragmentation of the profession grows, along with a concomitant loss of autonomy, power, and status.

Changing values

Many observers argue that physicians, like other professionals, are losing their status as 'trustees' of socially important knowledge and becoming merely expert labor for hire (e.g. Brint, 1994). Physicians, like other professionals, are often sharply critical of accountability mechanisms that rely on financial incentives, seeing them as violations of the true professional's service orientation. They are critical too of hierarchical mechanisms, arguing that they undermine professionalism by overemphasizing cost and ignoring quality. Faced with the market and hierarchical pressures we have described and with the resulting transformation of the terms, conditions, and content of their work, professionals' values have been destabilized. Responses have varied across the spectrum from corporatist, guild-like defense of the *status quo ante* to active embrace (regarding physicians, see: Castel and Merle, 2002, on France; Dent in this book, on the UK; Domagalski in this book, on the US; Levay and Waks, 2005, on Sweden; see also Muzio and Ackroyd in this book for a discussion of defence mechanisms in the legal profession).

On the defensive end of the spectrum, many professions have resisted the new pressures, with varying degrees of success. In one of the more remarkable manifestations of resistance, the American Medical Association house of delegates recently endorsed unionization of physicians in order to oppose managed care companies' pressures on fees and

working conditions (Thompson, 2000). The American Bar Association has also recently endorsed unionization of lawyers facing similar pressures.

At the other end of the spectrum, some physicians are 'winners' in the changes we have described, and embrace them whole-heartedly, if not always disinterestedly. Physician-owned facilities multiply, turning physicians into capitalist investors. In medicine, physician-executives are increasingly directing the professional practices of rank-and-file doctors through practice guidelines and utilization reviews. Freidson (1984) predicts the break-up of professional community into elites on the one hand and rank-and-file practitioners on the other.

In the middle, many rank-and-file professionals are still struggling to make sense of these recent changes (see e.g. Hafferty and Light, 1995). Traditional professional values of autonomy are being challenged by the demands for collaboration in service delivery and collective process improvement (Carlson, 2002); but when these programs are seen as opportunities to improve quality of care, they are sometimes embraced. A survey of physicians by Tunis *et al*. (1994) found that 65% of respondents thought CPGs could improve quality of care – but a similar percentage (68%) said they thought CPGs would be used to discipline physicians. Doctors, who previously saw their only ethical commitment being to the health of the individual patient, are now being asked (more precisely, told) to also consider costs. Some see this new demand as turning physicians into 'double agents,' trapping them in an impossible ethical dilemma (Angell, 1993; Lammers and Geist, 1997). Others see it as an opportunity to move medical ethics to a more realistic basis (Bloche, 1999; Mechanic, 2000), and are responding more 'proactively' to the current challenges, seeking ways to leverage them to improve the effectiveness of professional work (see e.g. interviews in Castellani and Wear, 2000).

The re-emergence of community

There is considerable debate over the extent to which professionalism and its distinctive reliance on the value-rationality of professional community is compatible with advanced capitalism and its characteristic emphasis on the formal rationality embodied in both markets and hierarchy (Ritzer and Walczak, 1988). In this debate, several broad positions can be discerned (on the corresponding positions in debates on the evolution of medicine, see Light and Levine, 1988; Special issue of the Milbank Quarterly, 1988; Hafferty and Wolinsky, 1991; Light, 1993; Wolinsky, 1993; Hafferty and Light, 1995). First, with Bell (1973), some advance a *professionalization* thesis according to which

professions will gradually supercede corporations as the dominant organizing principle in society – a view whose antecedents go back to Durkheim and whose contemporary descendents are numerous in the literature on the 'knowledge economy.' Second, against the professionalization thesis, some observers highlight the shift from the more autonomous form towards the more heteronomous form of professional organization. Some, such as Haug (1973) and Rothman (1984), interpret this as *deprofessionalization*, attributing the trend to exacerbated rivalry between professions, diffusion of expertise, and rising levels of public education and skepticism. Others (e.g. McKinlay and Stoeckle, 1988; Derber *et al*., 1990) advance a *proletarianization* interpretation that highlights professionals' progressive subordination to hierarchical and market rationality. Finally, there are those who see the central vector of change not in the displacement of community, but rather in its *mutation*. Freidson (1984), for example, argues that there is little empirical support for the idea that professionalism's distinctive features have eroded, but much evidence that regulation within professions has become more rationalized and formalized.

We submit that the professionalization, deprofessionalization, and proletarianization theses all miss key considerations. The previous section presented data that makes the professionalization implausible, at least on the conventional understanding of professionalism. In this section, we argue that the deprofessionalization and proletarianization accounts miss the factors within a capitalist society that constantly reproduce and indeed magnify the need for the knowledge-creating power of professional community.

On our reading, much of the research in this field is vitiated by an assumption that professionals would cease to be professionals if their governance ceased being exclusively under the community principle and if market and/or hierarchy principles were to come into play. Krause (1996) states this assumption baldly: 'Visualize a triangle, with the state, capitalism, and the professions at the corners'. His analysis is that the professions are losing out to a combination of state and capitalist market forces. Savage (1994, 2004) makes a similar assumption in arguing the opposite thesis: seeing markets, hierarchies, and networks as mutually exclusive forms of organization, she argues that the technical uncertainty of medical professionals' work explains and ensures the persistence of the liberal professional model over corporatized forms of practice that would give market and hierarchy more influence. Puxty *et al*. (1987) draw a triangle whose apexes are market, state, and community, and locate forms of professional regulation within this

space. We argue that such analyses fall prey to a fallacy of misplaced concreteness: they treat their three components as mutually exclusive ideal types, and as a result they truncate the space of possible combinations by making it impossible to imagine that two or three of the organizing principles could be simultaneously at work in structuring concrete collectivities such as professions.

As we showed in the previous section, market and hierarchical pressures are profoundly reshaping medicine along with other professions in medicine. The traditional fee-for-service model is now less common than capitation or nonproductivity-based salary; a growing number of hospitals no longer function on the traditional Medical Staff model but instead employ physicians directly and/or contract with medical groups (Robinson, 1999; Casalino and Robinson, 2003); physicians are losing their autonomy and are increasingly accountable for the cost and quality of their services (see also Chapter 5 by Dent).

On the other hand, however, we should not ignore a second powerful force that works to give community continuing, indeed growing, influence: the growing knowledge-intensity of medical and other professional work. Scientific medical knowledge continues to grow at an ever-accelerating rate. Moreover, more practical forms of knowledge are becoming more important: accountability pressures for greater efficiency and quality call for innovation that is more closely grounded in daily practice. Medicine has long relied on upstream, off-line R&D in universities or the medical device and pharmaceutical industries; but now pressures for cost-effectiveness, safety, and quality stimulate the emergence of performance-improvement practices that engage the rank-and-file practitioner (Swan *et al.*, 2002; Audet *et al.*, 2005). In this, medicine reflects broader trends: capitalist development is increasingly knowledge-intensive. And here is the rub: in medicine as elsewhere, effective knowledge-work needs community.

Knowledge-workers need community within which to learn the craft elements of their skill-sets and within which they can continually advance knowledge, both theoretical and practical. Neither market nor hierarchy nor any combination of the two is as effective as community in supporting knowledge generation and diffusion (Adler, 2001). The market is weak at capturing the yield of knowledge development activities, since knowledge leaks to competitors. Hierarchical mechanisms too are intrinsically weak in assuring high quality outcomes in knowledge-intensive processes, since the knowledge-work process and its outputs are difficult to evaluate. Empirical research on knowledge-intensive organizations under-

lines the importance of community in the guise of the 'communities of practice' (Davenport and Prusak, 1998, 2005; O'Dell *et al.*, 1998; Fulmer, 2001; Leonard and Kiron, 2002; Wenger and Snyder, 2000; Wenger *et al.*, 2002; Adler, 2006).

The conclusion we draw from the research discussed below is that the future of professions lies not in the demise of community, but primarily in new combinations of market, hierarchy, and community principles and the emergence of new forms of community – forms no longer rooted in the autonomy of professionals, but in the quality of their organized collaboration (cf. Davis, 1983; see also Rothman, 1987; Scott *et al.*, 2000).

New forms of community

Consider the portrait painted by the Institute of Medicine (IOM) of 'a new health system for the twenty-first century' (Institute of Medicine, 2001). Where the traditional care delivery model is one in which 'Individual physicians craft solutions for individual patients', in the model advocated by the IOM:

> The delivery of services is coordinated across practices, settings, and patient conditions over time. Information technology is used as the basic building block for making systems work, tracking performance, and increasing learning. Practices use measures and information about outcomes and information technology to continually refine advanced engineering principles and to improve their care processes. The health workforce is used efficiently and flexibly to implement change.

Robinson (1999) describes the mutation underway in these terms:

> The now passing guild of autonomous physician practices and informal referral networks offered only a cost-increasing form of service competition and impeded clinical cooperation among fragmented community caregivers. The joining of physicians in medical groups, either multispecialty clinics or IPAs, opens possibilities for informal consultation, evidence-based accountability, and a new professional culture of peer review. (p. 234)

The leitmotif of the new form of professionalism is 'collaborative interdependence' (see Silversin and Kornacki, 2000a, 2000b). A growing number of hospitals are drawing physicians into collaboration with nurses and other hospital staff to improve cost-effectiveness and quality,

often bringing together previously siloed departments in the process. A recent report describes the creation at Riverside Methodist hospital in Ohio of 'clinical operating councils' that brought such groups together to examine improvement opportunities in broad 'service lines' such as primary care, heart, women's health (Hagen and Epestin, 2005). Other hospitals have found that such committees are the ideal vehicle for developing and tracking the implementation of clinical pathways (Adler *et al*., 2003). Here, guidelines are not imposed on physicians by insurance companies, but developed collaboratively by teams of doctors, nurses, technical and administrative staff – in the process, drawing physicians out of their fiefdoms. Intermountain Health Care is one such system, a case that also shows the importance of new support functions that can facilitate efforts to generate practice-based knowledge (Bohmer *et al*., 2002).

Some of the larger medical groups too have been developing new organizational forms to support the collaborative learning needed in the new competitive environment. Governing boards are evolving away from simple partnership meetings towards more complex, articulated structures capable of exercising effective leadership (Epstein *et al*., 2004). At organizations as different as the Mayo Clinic and Permanente Medical Group, an ethic of collaborative interdependence has emerged as critical to performance and improvement (Olsen and Brown, 2001; Pitts, 2003). New organizational structures and processes link previously autonomous physicians and departments in improvement efforts (Norton *et al*., 2002). Communities of practice are being used in lieu of conventional Continuing Medical Education to accelerate learning and diffusion (Frankford *et al*., 2000; Parboosingh, 2002; Endsley *et al*., 2005). 'Quality improvement collaboratives' have attracted considerable attention as a way to bring together a broader community around specific improvement goals (for an overview, see Massound *et al*., 2006; e.g. Mills and Weeks, 2004). The most ambitious of these bring together a variety of stakeholders from different hospitals, medical groups, health plans, and employers to learn from each other (Solberg, 2005).

Alongside these cases in healthcare, other professions also provide examples of new forms of community. Numerous professional service firms are working towards what Maister (1985) called the 'one-firm firm' (see also McKenna and Maister, 2002 for an update). Here, the emphasis is on teamwork rather than the 'eat what you kill' ethos that still prevails in the vast majority of US law firms (Poll, 2003). As Cooper *et al*. (1996: 631) note:

> The meaning of the term 'partner' has also changed. In the MPB, a partner is a team player, one who trusts the leadership and works for the common good, for example by transferring work to the person in the firm who is most competent or short of work.

A growing number of professional firms in law and accounting are now seeking performance improvement through collaborative approaches to 'practice management' (Lambreth, 2001; Lambreth, 2005; Yanuklis, 2005). Some in-house legal departments are using participative approaches to Six Sigma (Sager and Winkelman, 2001).

The concentration and centralization of the industry seems to facilitate the emergence of these new forms of community. 'Best practices' such as disease management programs, quality-oriented practice pattern information, and financial bonuses for quality are far more common in large, integrated medical groups such as Permanente than in the 'cottage industry' of private practitioners in small offices (Rittenhouse *et al.*, 2004).

A difficult evolution

Our analysis suggests that notwithstanding the growing salience of market and hierarchy pressures, community is reasserting itself in the organization of medical work, albeit in a new form. The evidence also suggests that the emergence of this new form of community is a difficult one.

Robinson (1999) dissects the multiple economic, legal/regulatory, and organizational challenges facing medical groups and other forms of 'corporate' – that is organized – medical practice. The petty-bourgeois ideal of autonomy remains strong – and not only as an expression of resistance towards subordination to market and hierarchy:

> Many physicians, however, are individualistic in orientation and do not necessarily enter group arrangements very easily or comfortably. . . . [B]uilding physician groups is a difficult process. Most of the groups visited [in this study] are not well organized – they are groups in name only. Whatever group culture does exist is often oriented to preserving this loose-knit affiliation rather than developing a stronger organization. This culture of 'autonomy,' however, is not conducive to building an organization that encourages the development of physician–system integration or care management practices.
>
> (Gillies *et al.*, 2001)

In American medicine as in some other professions, the pain associated with this evolution is acute. Managed-care companies attempt to influence treatment decisions through denials of payment authorization and drug formularies restrict the range of medications physicians can prescribe (Himmelstein *et al.*, 2001). A wave of hospital conversions to for-profit status have increased profits, but also led to reduced staffing and salary rates and to increased mortality rates (Picone *et al.*, 2002). A wave of resistance by physicians and public revulsion at some of the denials of treatment imposed by insurance companies seem recently to have slowed down the trend to corporatization that had accelerated during the 1985–2000 period (Cunningham, 2004). However, there is little doubt that the health-care system, like other professional complexes, will come under increasing pressure to dramatically improve cost-effectiveness and quality, and all the evidence points to the need for medicine to transcend the limits of the traditional liberal/independent profession form.

For those who see value in professionalism's distinctive features, there is a silver lining to these clouds: community is not so much disappearing as mutating, and mutating in what is arguably a progressive direction. Professional community seems to be moving away from the insular, elitist model and towards greater interdependence with a broader range of stakeholders. Some professionals will experience this move as a stressful destruction of their traditional independence, and there is little doubt that the shift is propelled by baser rather than nobler motives (e.g. Swan *et al.*, 2002). But history, Marx noted, often progresses by its bad side (Marx, 1995/1847).

Note

* Our thinking has been shaped by our research collaboration with Patricia Riley, Jordana Signer, Ben Lee, and Ram Satrasala, and from discussions with Charles Heckscher, Paul Kurtin, Bill Mason, Don Berwick, Larry Prusak, Roy Greenwood, Steve Shortell, Jody Gittell, and David Smith. We thank the Packard Foundation and the Institute for Knowledge Management (now known as the Institute for Knowledge-Based Organizations) for generous financial support. They bear no responsibilities for the opinions expressed here.

Part III

New Expert Labour: Management Consultancy and Related Occupations

8

From Taylorism as Product to Taylorism as Process: Knowledge-Intensive Firms in a Historical Perspective

Matthias Kipping and Ian Kirkpatrick

Introduction

One of the most commented-on shifts in developed economies over the past decade is the advent of the so-called knowledge economy. Increasingly, the performance of firms and entire nations is thought to stem from the ability to exploit knowledge that is intangible, esoteric and hard to standardize or replicate (Scarborough, 1999). Such change is also thought to have had marked implications for expert work, leading to the growing prominence of knowledge-intensive firms in areas such as management consulting, advertising, R&D and high tech industries (Reed, 1996; Fincham, 2005). However, while this shift is widely acknowledged, its consequences for the management of expert groups are far from clear. One strand in the literature, perhaps the dominant one, argues that the trajectory of change has been towards flexible, decentralized or entrepreneurial modes of organization (Starbuck, 1992; Alvesson, 1995). This mode, it is argued, bears many of the hallmarks of the collegial organization traditionally favoured by more established, 'liberal', professions. But against this, a growing body of research and opinion points to an alternative trend towards more bureaucratic and corporate forms of organizing, not dissimilar to what Hinings (2005) has described as a 'managed professional business' (Karreman and Alvesson, 2004; Alvesson and Thompson, 2005).

Implicit (and sometimes explicit) in much of this literature are assumptions about the longer-term evolution of organizations over time and about the wider diffusion of particular forms. Yet, with one or two exceptions (Robertson and Swan, 1998; Baron *et al.*, 2001), there

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has been little attempt to conduct more systematic historical investigations of change within knowledge intensive and newly professionalizing sectors. Predictions about past and future organizational development are, more often than not, based on case studies focusing on particular firms or sectors at one point in time. Few have tried to take a broader sweep, to analyse the process of evolution in organizational forms over a longer period.

In this chapter our aim is to address these limitations, focusing on the historical development of professional service firms in one area: the management consulting business. This sector is of interest because, for many, it represents the most salient example of the move towards a more flexible, networked, or 'knowledge intensive' mode of organizing (Alvesson, 1995). Management consulting is also one of the fastest growing areas of expert or professional employment. According to one recent estimate, the workforce of the top 30 firms worldwide has risen from just over 100,000 in 1995 to 450,000 in 2003 (Kirkpatrick and Kipping, 2005).

Our approach will be to assess the changing patterns of management and organization in this sector over a long period of time. Following Kipping (2002), we argue that the management consulting business has evolved over the past century in a number of distinct waves. Each wave was associated with different types of products and markets – and with the rise to dominance of different firms – some of them new entrants, others previously operating in niche markets. In this chapter we extend this analysis to show that each of these waves was also associated with qualitatively different modes of organizing, linked in part to the aspirations and interests of different groups of professionals and entrepreneurs. Over time, these modes became embedded and institutionalized within the field of management consulting and, in some cases, remain influential today. But what our analysis also suggests is a particular trajectory of change in this sector. The ideal type of the Knowledge Intensive Firm (KIF) – in which professionals exercise considerable discretion – is just one model within this field, one that actually emerged at an early stage in the development of the consulting industry. By contrast, the dominant management consultancies of today have developed an organizational form, which is more reminiscent of earlier Taylorist work practices.

What follows contains four main sections. First we present a more detailed review of the literature on the management and organization of knowledge workers and professionals. Following this, we set out our theoretical approach and methodology, introducing concepts from neo-

institutional theory to help frame our historical analysis. The third and main section presents the data from our own study of management consulting firms and their development over a period spanning the twentieth century as a whole. Finally, we discuss some of the broad theoretical implications of this study and raise questions about the future trajectory of organizational forms in this sector.

Current debates about KIFs: Post bureaucracy or soft bureaucracy?

As noted, debates about the organization of 'knowledge intensive firms' have become increasingly polarized. Until recently, the dominant assumption has been that these firms are best described as adhocracies or 'entrepreneurial' forms which 'deviate heavily from bureaucratic principles' (Alvesson, 2000: 1102). Typically such firms are said to be highly decentralized, with limited reliance on formal hierarchy and a tendency to organize the work of expert professionals around flexible project teams. They may take on the structure of loose confederations of experts, perhaps divided into autonomous profit centres and with every effort made to encourage individual entrepreneurship and competition (Starbuck, 1992). These arrangements also mean a greater reliance on normative or ideational modes of control, regulating the employees' self as opposed to the task (McKinlay, 2005: 245). This however does not necessarily imply the existence of strong corporate cultures. As Starbuck (1992: 730) argues, 'The attributes that make hierarchical controls troublesome . . . also make it hard for KIFs to integrate people and to socialise them into unusual organisational cultures'. As such it is argued that these firms may rely more heavily on a mix of prior socialization (or identification with particular professional values) and various extrinsic rewards to ensure commitment and loyalty (Alvesson, 2000: 1111).

This entrepreneurial mode of organizing is said to be becoming more prominent for a number of reasons. First is the changing nature and demands of knowledge work itself. Traditional (bureaucratic) forms of control, it is argued, have become increasingly redundant because of the need to work with knowledge that is esoteric, tacit and hard (if not impossible) to standardize, replicate and incorporate within formal routines. Much of this work is also concerned with the provision of highly customized or bespoke services to clients and thus requires considerable flexibility (Starbuck, 1992). Under such conditions, it is simply 'more efficient to develop self-monitoring practices than to rely upon formal controls' (Greenwood and Empson, 2003: 916).

The expectations and occupational demands of new groups of professions or knowledge workers themselves are also seen as important (Reed, 1996). Highly educated experts, it is assumed, have an intrinsic dislike of bureaucracy and tend to push for more organic, egalitarian modes of organizing. These 'gold collar' workers enjoy considerable labour market power and mobility. As such, management is forced to invest heavily in ways in which to retain valued human capital and limit unwanted exit. This, in turn, reinforces a need to rely on loose or weak mechanisms of formal control. As Alvesson (2000: 1109) puts it: 'If the employing organisation meets the professional expectations and goals, commitment to the former will follow'. Hence, the increasing need to protect unique knowledge and human capital is said to create a further drive towards the entrepreneurial form. The result is a mode of organizing in which the 'system must serve the worker' as opposed to (a traditional) one where the worker serves the system (Drucker, 2002: 76).

As we noted, in much of this literature, strong assumptions are made about trends over time. In many ways this echoes earlier debates about the shift towards an information or post-industrial economy (Ackroyd, 2002). A similar argument is made about how new forms of knowledge-intensive work have called into existence radically different, post-bureaucratic logics of organization (Dijksterhuis *et al*., 1999). Adler (2001) for example, argues that the trend is away from modes of control based on prices (markets) and authority (hierarchy) to an emphasis on trust (see also Chapter 7 by Adler and Kwon in this book). Such change 'reflects the evolving expectations of an increasingly educated [read: knowledge intensive] workforce and the evolving needs of an increasingly advanced (ditto) economy' (id.: 220). Hence it is widely argued that the KIF form outlined above will become more prominent. Indeed this form is 'regarded by many as a prototype organisation for the emerging new economy' (Ackroyd, 2002: 131).

Although influential, this rather upbeat account of knowledge work has not gone unchallenged. There is now a growing body of research and opinion that questions the idea that the trend is universally towards decentralized, collegial modes of organizing (Morris and Empson, 1998; Hansen *et al*., 1999; Suddaby and Greenwood, 2001). Karreman and Alvesson (2004), for example, note how in large management consulting firms strong cultural norms are increasingly combined with a system of bureaucratic controls aimed at ensuring 'behavioural uniformity'. These large firms, they suggest, are a far cry from the ideal adhocracy. Work is governed by standardized rules and methodologies; differences in power

and status within the hierarchy are marked, while individual performance is closely monitored. Similar findings come from a study of KIFs in the high tech scientific consulting sector (Robertson and Swan, 2004). Here too the trend is away from weak controls to more formalized hierarchy, clearly defined career structures and the use of detailed performance metrics. Such change, according to the authors is 'paradoxical in the face of findings which suggest that, in order to promote organisational innovation and creativity, highly autonomous working conditions need to be provided' (Robertson and Swan, 2004: 145).

There has therefore been some debate concerning the nature and trajectory of organizational forms in knowledge intensive, newly professionalizing sectors. Yet, as we suggested earlier, what is missing from this literature are in-depth historical accounts of change over time. With one or two exceptions, the literature has largely been static, focusing on companies in the recent period. Those studies that do adopt a historical slant, although useful, tend to focus on a small number of firms over relatively short time periods (see, e.g. Robertson and Swan, 1998). Because of this an important, arguably crucial, piece of the jigsaw is missing. It remains unclear whether the trend is indeed towards more entrepreneurial modes of professional organization or whether some other scenario is more likely. It is therefore to this issue that we now turn our attention.

Our approach

The analysis presented here focuses on the evolution of professional service firms in one area – management consulting. In terms of its characteristics, the management consulting business is global, its origins dating back to the nineteenth century, with strong similarity in terms of the dominant actors (cf. McKenna *et al.*, 2003) – despite some country-based differences. Over time, this field has undergone a pattern of change that is discontinuous, both in the kinds of services that are delivered to clients and the dominant service providers. Following Kipping (2002) it can be seen how the development of this business over the twentieth century was characterized by successive and overlapping waves of change (Table 8.1). The dominant consultancies in the first wave provided services related to the 'scientific' organization of individual work and the productive process in factories and offices. By contrast the most visible consultancies in the second wave concentrated on advice to top management in terms of corporate strategy and structure. Finally, those in the – still emerging – third wave focus on the use of information

Table 8.1 Three waves of consultancy development in the twentieth century

Consultancy Focus (Service Type)	Client Firm Type (Locus of Action)	Overall Period Dominance	Duration Prominent of Consultancies
Scientific Management	Production Unit	1900s–1980s 1930s–1950s	Emerson, Bedaux, Big 4, Maynard
Strategy Structure	Corporation (M-form)	1930s–?? 1960s–1980s	BAH, McKinsey, ATK, ADL, BCG
Information Communication	Network Organization	1950s–?? 1990s–??	IBM, Accenture, Capgemini, DTT

and communication technologies to control far-flung and extensively networked client organizations.

Changes in the predominant types of client organization and the attention of senior management provided opportunities for consultancies to offer different types of services (cf. Fligstein, 1990). This situation was in turn exploited by different groups of professionals and entrepreneurs (Kirkpatrick and Kipping, 2005). Thus, during the first wave, engineers dominated both the management of companies (cf. Shenhav, 1999) and the provision of scientific management consulting. In the second strategy and organization wave, consultancies like McKinsey took advantage from the rise of MBAs to general management positions (Ruef, 2002). The third wave is somewhat different in that the IT-based consultancies sell the knowledge provided by the firm as a whole (cf. Hansen *et al*., 1999), rather than relying on the qualifications of the individual consultants, most of whom were recruited right after their undergraduate degree (see Chapter 10 by McKenna in this book).

According to Kipping (2002), once the dominant service providers had become established, they found it difficult to respond to subsequent changes, because their reputation was linked to other kinds of services and neither the skills of their consulting staff nor their cost structure were adequate. Those firms taking advantage of these opportunities were either new entrants or – probably more often – had operated in related markets before, but now grew rapidly. They eventually came to dominate the market and public perception, while the previously dominant firms gradually declined, were bought up or disappeared entirely. Since client types and needs did not change overnight, all of these developments occurred rather slowly; different types of consulting firms therefore co-existed for prolonged periods of time.

In this chapter we seek to build on this analysis. We argue that these changes not only affected the way in which consultancies presented their knowledge externally, but – given the previously noted centrality of knowledge generation, storage and dissemination – they also affected the way in which they were organized internally. The possibility of this has already been suggested by Kipping (2002) who notes shifts in the educational background of management consultants, from engineering, to the MBA and in-house training respectively. He further argues that the standard projects in each wave correspond to the three ideal types identified by Maister (1993): 'brain', 'grey hair' and 'procedure' (distinguished by increasing standardization and a growing use of inexperienced junior consultants). But so far this kind of argument has not been grounded in historical research. Hence our approach will be to develop these ideas, looking at how organizational forms emerged and became institutionalized in the field as 'culturally appropriate templates' (Baron *et al*., 2001).

To develop this analysis we will focus on a small number of firms that were dominant during each wave of development of the management consulting field. By dominant we mean that these firms were amongst the largest players in the market (in terms of client base and turnover), but also – and more importantly – the most influential in terms of enacting a model of organization that was copied more generally. For the first two waves we consider the examples of Bedaux and McKinsey. Both firms, we argue, led the way in organizational innovation and developed models that subsequently became institutionalized in the field.

The French immigrant, Charles E. Bedaux, had founded his firm of efficiency experts in the American Mid-West in 1916. It expanded very quickly and, according to a survey by the National Industrial Conference Board (NICB, 1930) had become the most prominent of the scientific management consultancies in the United States by the late 1920s, at least in terms of the number of firms that were using its system. Its success was based largely on Bedaux's own salesmanship and on the reputation of his consulting engineers, many of whom held degrees from prestigious institutions such as the MIT (Christy, 1984). It also expanded abroad and had activities in 19 countries worldwide by the late 1930s (Kipping, 1999). In many of these countries, Bedaux became the progenitor of an indigenous consulting industry; some of the engineers working with him set up their own firms. This was particularly pronounced in the UK, where Bedaux had established an office in 1926. Thirty years later, in 1956, British Bedaux, now renamed Associated Industrial Consultants (AIC), and three spin-offs (Urwick Orr, PE and

PA), together known as the Big Four, accounted for three quarters of consultancy work in the country (Tisdall, 1982: 9).

McKinsey & Company had originally been established by the University of Chicago Accounting Professor James O. McKinsey in 1926. But the person who shaped the firm that many still consider the epitome of professional management consulting was Marvin Bower (Bhide, 1995; Edersheim, 2004). Bower held a law degree and an MBA from Harvard and joined McKinsey in 1933. After the founder's unexpected death in 1937, he and several other partners in the New York office separated both from the accounting side of the firm and from the Chicago office, which was to turn into A. T. Kearney, when the split was formally consummated in 1946/1947. As Managing Director from 1950 to 1967, Bower came to play a driving role in the professionalization of McKinsey, based on the image of a law firm, and its international expansion. McKinsey was particularly successful in Europe, where it opened eight offices between 1959 and 1968 and became a role model for many local firms (Kipping, 1999).

There is no such prominent and predominant service provider as yet in the third wave of development based on information and communication technologies (ICT). The dominant service providers have two different origins: they either go back to the large audit and accounting firms or to hardware and software companies. Both of them had already offered some consultancy-type services beforehand, but grew rapidly during the 1990s, eventually bringing them to the top of the industry league tables. Since unlike the previous wave, there is no clear leader yet, we draw on several of the leading firms for our analysis. They include Accenture which had separated from Arthur Anderson after an acrimonious legal battle in 2001; Capgemini, founded 1967 in Grenoble, which grew rapidly through a series of alliances and acquisitions, the latest being the consultancy arm of accountants Ernst & Young in May 2000; and IBM which transformed itself from a hardware producer to a global service company during the 1990s and acquired the consulting arm of PriceWaterhouseCoopers in August 2002, making it the world's largest consultancy.

In the remainder of this chapter we consider how these dominant firms in each wave were organized, focusing on modes of governance and the labour process of consultants themselves (see Chapter 9 by Fincham *et al*. for a discussion focused on knowledge and practice within different types of consultancy firms). Given the visibility of these firms, they attracted considerable attention at the time as well as in the more recent academic (and popular) literature. Contemporary and

current publications combined therefore to provide sufficiently rich material for an in-depth examination of their organization and internal management practices.

Findings: Three templates of organizing and managing

In order to describe the organizational forms of the dominant firms identified above, in this section we first describe some of the general features of each firm's broad structure and mode of governance. We then consider in more detail two specific aspects of organization: first, the mode of coordination and control in each firm; second, practices of employee relations, specifically with regard to the recruitment, training and development of staff. Our focus then turns to the process whereby these organizational practices became institutionalized more widely, taking on the status of 'culturally appropriate templates' in the field. Table 8.2 summarizes the results of this analysis, which are detailed in the subsequent sections.

The 'expert' firm: Bedaux

Bedaux was in many respects exceptional and unique – as a person and as a consulting firm. At the same time, one can find the basic features of this mode of organizing in many of the consultancies of the first wave. In terms of governance structures: Bedaux made a conscious and consistent effort to adapt his consultancy to its growing size and geographic spread. He mainly relied on (majority) financial participation and interlocking networks of managers to ensure overall co-ordination (cf. Kipping, 1999). In practice, however, Bedaux was also highly decentralized and fragmented, at least in comparison with the firms in the second and third waves. Some offices were totally independent from the outset, buying a license to sell the Bedaux system, others gradually separated from the Bedaux network during the 1930s (id.).

This principle of devolved or loose control was taken even further when it came to the internal organization of the Bedaux firm. Consultants did not have complete freedom and, as noted above, the product itself was standardized. There were also a number of mechanisms in place to ensure consistency in the application of the Bedaux system across the different countries and offices, including meetings of senior staff to discuss and define 'standard terminology' and 'fundamental principles and practices' to be applied by Bedaux engineers around the world (id.). However, what stands out – especially in contrast with later waves – was the high degree of autonomy and discretion allowed to individual

Table 8.2 Different modes of organizing in each wave

Mode	Scientific Management	Strategy Structure	Information & Communication
	Expert	**Partnership**	**Soft bureaucracy**
Governance			
Ownership	Significant share of founder, usually majority stake	Limited share per partner, linked to firm membership	Dispersed on stock market; symbolic share for 'partners'
Management	Country-based, but some interlocks	One-firm principle; collegial, but role of committees	Corporate form
Control and co-ordination			
Leverage	Low: Two levels – supervisory and resident consultants	Moderate: Several levels, but ideology of equality	High: Elaborate hierarchy; different career paths
Autonomy of consultant	Considerable	Team supervised by project manager	Highly structured work
Standardization of knowledge	Meetings to ensure use of common terminology	Encourage person-to-person exchanges	Data bases and handbooks
Job evaluation	Minimal	Frequent performance appraisals	Elaborate system of performance targets
Primary mode of control	Financial incentives; professional socialisation	Access to Bureaucratic partnership (deferred gratification), strong corporate culture	
Employee relations policy and practice			
Recruitment focus	Engineers, with substantial work experience	MBAs	Undergraduates
Training	On-the-job, evening later-day courses	On-the-job: apprentice model	Own 'university', mentor system

consultants. The hierarchy of the Bedaux firm consisted only of two levels: Field Engineers and Chief Engineers (later renamed Resident and Supervising Consultants), with a ratio of 2–3 of the latter for each of the former (cf. Chas. E Bedaux Companies, 1930). Thus, leverage was very low, adequate for what Maister (1993) has characterized as 'Brain' projects. In Bedaux and its successor firms, this basic structure apparently remained the same until the 1960s (Hyman, 1961).

It appears that consultants in the first wave carried out their assignments fairly independently and with minimal formal supervision (id.) At Bedaux, the responsible autonomy of consultants was underpinned by a system of financial incentives (cf. Kipping and Amorim, 2003), perhaps fostering what Alvesson (2000) terms 'instrumental loyalty'. Individual consultants received a variety of different payments for developing the business and new client relationships. Added to this was the fact that the Bedaux consultancy could rely on the prior socialization of professionals. Almost all of its consultants had an engineering background – often from well-known universities or engineering schools – as did most managers at the time (Shenhav, 1999). Such experts may bring with them 'well-developed values, standards, habits, mental frameworks and languages', essentially a culture (and associated self-discipline) that is 'supra-organisational' (Starbuck, 1992: 730).

Turning to the practice of employee relations what stands out most strongly is the reliance of Bedaux on acquiring highly developed expertise or human capital – almost exclusively recruiting qualified engineers with previous work experience. This emphasis on buying in expertise (or 'gold collar' workers) meant that far less emphasis was placed on systematic training than in later waves. The Bedaux consultancy provided mainly informal (and non-billable!) on-the-job training with a mix of more formal tuition. This system became gradually more formalized but did not change radically. The focus it seemed was on topping up existing professional skills rather than moulding green recruits. Because of this, training and development often did not last very long prior to the consultants being given full responsibility on assignments (Kipping and Amorim, 2003).

While partially unique to the Bedaux firm, the many features of this 'expert' model remained stable over time and, more importantly, were also copied by other firms in the first wave (cf. Tisdall, 1982). Hyman's (1961) in-depth study of a British consultancy in the late 1950s shows the degree to which this mode of organizing had become institutionalized. He stressed that '[t]he company exists to sell the services of a group of *experienced management specialists*' (id.: 37; emphasis added). In terms

of human resource management, he also confirmed the importance of on-the-job training with a growing formalization, due in particular to the development of production techniques among the client firms and to the internal growth of the consultancy (id.: 42–44).

One reason why this model of organizing initially spread to other firms was a large number of spin-offs. As mentioned, many of the major first wave consultancies were actually founded by engineers who had previously worked with Bedaux (Tisdall, 1982). A further explanation for its spread however was the dominance of professional engineers in the consulting business at that time. In the wider literature it is noted how professional associations might play a crucial role in crafting knowledge and also in legitimating particular forms of organization associated with it (Robertson *et al.*, 2003). The growing prominence of the expert firm, therefore, had much to do with the influence of engineering professionals and their enthusiasm for a mode of organizing knowledge work that maximized their autonomy, contribution and market power.

Today many of the firms originally associated with this model have either become extinct or reinvented themselves. However, the form of organizing they pioneered did not die out or become redundant. Instead, it became deeply institutionalized in the field and retained much of its potency and legitimacy. Many of the principles of organizing first initiated by the Bedaux firm have remained influential. Hence, in the current context, one still finds firms that 'emphasize individual entrepreneurship, autonomous profit centers, internal competition and/or highly decentralized independent activities . . .' (Maister, 1985). And, as Karreman and Alvesson (2004: 170) suggest, there continues to be a strong 'perception of the bureaucratic form as inefficient', which, in turn, generates 'pressure towards the incorporation of post-bureaucratic control forms'.

The collegial firm/partnership: McKinsey

The rise of McKinsey and other second wave firms saw the development of a radically different model for organizing management consulting. Central to this was the redefinition of consulting knowledge from industrial engineering to a notion of distinctly 'management' consulting. The McKinsey model was also one that sought to mimic the ideal of a professional firm and build on notions of collegiality, strong internal unity and partnership. Before joining the consultancy established by James O. McKinsey, Marvin Bower had worked in the prestigious Cleveland law firm of Jones, Day, Reavis and Pogue. This experience apparently convinced him that in order to 'improve their standing [. . .] consultants

should emulate the older, or classical, professions by adopting and enforcing self-imposed standards of competence, ethics, responsibility, and independence' (Bhide, 1995: 15). Notions of professionalism were therefore crucial to McKinsey (and other firms), serving as an important 'signal of quality' that enhanced their reputational capital and ability to charge high fees (Greenwood and Empson, 2003: 918).

This strategy of mimicking the legal profession had (and continues to have) important implications for the governance structure of McKinsey. Unlike many of the firms of the first wave, from the mid-1950s the firm moved towards an ownership model based on partnership (with individual shares eventually capped at 5%) – even if it was formally incorporated for tax reasons (cf. Bhide, 1995: 20–23; Edersheim, 2004: 90–95). From that time, overall decision-making has remained in the hands of the senior partners despite a growing use of committees to prepare or make decisions. Hence McKinsey adopted many features of collegial governance, described elsewhere as the P2 form (Greenwood *et al.*, 1990). A cornerstone of this model, the so-called 'one-firm policy', has been maintained despite the increasing geographic extension and the larger size. It means that overall strategies and policies are decided by the whole partner group, thus setting a fairly tight framework for the managers of each office (Bhide, 1995: 14, cf. Maister, 1985).

Turning to the internal organization of McKinsey, one finds a markedly greater emphasis on the control and direction of its consultants than was the case in Bedaux. This fact is reflected in the greater emphasis on the use of backroom support functions, record keeping and the use of 'people finder' databases (McKinlay, 2005). The McKinsey organization, as it developed in the 1950s, was also more hierarchical than the firms of the first wave. Today, it contains several different, clearly defined levels: Junior Associates, Associates or Consultants, Managers, Principals or Junior Partners, and Directors or Senior Partners. In terms of leverage, the ratio of consultants to senior partners stood at about 7 to 1 in 1953, when the firm employed just under a hundred professionals (RKW, 1957). This has changed little in subsequent decades, despite a marked increase in size (Bartlett, 1996: 15).

A further characteristic of McKinsey is a fairly systematic process of performance appraisal for individual consultants. This forms the basis for the allocation of rewards, bonus payments and most importantly, career advancement decisions within the firm. McKinsey adopted its famous 'up-or-out' policy in 1954 (Bhide, 1995: 20–21), which still ensures that only one out of 10 new recruits make their career within the firm. Finally, McKinsey differed from earlier firms in the degree of

control exerted over consultants by the client. Bower decided to part from the earlier practice to bill clients by the hour or on a per diem basis, charging them a lump sum for each project. This system placed greater pressure on consultants to deliver projects within tight deadlines and led to strict procedures to account for time.

Thus in McKinsey one sees the emergence of a more structured approach to organizing consulting work than what had come before. However the extent of such control should not be over-stated. In line with the one-firm principle, the ideology of McKinsey stresses unity and de-emphasizes hierarchies. Furthermore, while databases exist they are often not central to the work of consultants (Bartlett, 1996). McKinsey has always privileged a person-to-person approach (Hansen *et al.*, 1999), which is in line with its claim to provide tailor-made rather than standardized solutions. Hence, the McKinsey model was one in which lower level consultants were trusted to work with some degree of independence and 'responsible autonomy'. Unlike in the first wave this autonomy was not rooted in professional socialization, but in a concerted effort to develop a strong culture within the firm, based on common values and the standardization of language and even dress codes (Edersheim, 2004: 70–76) (in relation to this point refer to Chapter 10 by Christopher McKenna). As Bower noted already in 1958, 'we expect the consultant to impose higher standards of performance, self-discipline, and responsibility on himself than the firm could reasonably impose on him' (quoted id.: 66). Loyalty and identification to the firm was also underpinned by the prospect, however distant, of access to partnership, seen as 'membership in an elite meritocracy' (Bhide, 1995: 3).

In terms of employee relations, in the early period of its history McKinsey, like many first wave firms, relied heavily on the recruitment of experienced professionals (Bhide, 1995: 9). But, as the firm grew, this approach changed dramatically. One of the most important innovations introduced by Marvin Bower and his colleagues was to hire young, inexperienced business school graduates (Edersheim, 2004: 79–87). By the end of the 1950s, this group become predominant, reaching over 80% of consultants (id.: 95). While somewhat less important today, MBAs and their generalist approach still dominate this firm's human resources, especially at partner level (from a McKinsey recruitment presentation in 2001). There are many reasons for this change. In stark contrast to the philosophy of Bedaux, Bower and his colleagues assumed that 'experienced executives often could not adapt to a consulting role' and perhaps even less to 'McKinsey's distinctive culture' (Bhide, 1995: 13). The focus therefore was on developing human capital in house,

on new firm members being conditioned to behave in the right way through a systematic acculturation process. This was achieved through the recruitment and selection process (cf. Armbrüster, 2004) as well as a kind of on-the-job apprenticeship. But the fact that both the consultancy and business schools had reached a sufficient level of acceptance among top managers at that time, certainly also played a role.

During the 1960s and 1970s, many features of this collegial model of management consulting were copied by other firms and had become institutionalized in the field (McKenna, 2001a: 675). The McKinsey approach spread and remains potent today because of its perceived effectiveness as a mechanism for ensuring reputational capital and competitive advantage. This was particularly apparent in Europe, where McKinsey possibly went furthest in establishing itself as the archetypical top management advisers, benefiting from the strong reputation of American capitalism as a whole and the competitive threats many large European firms faced from US multinationals. Thus, according to a contemporary British observer, the American consultants brought with them 'the "know-how" and the aura of professionalism of U.S. industry' (Shanks, 1964). To be sure not all firms copied McKinsey; some, like the Boston Consulting Group, tried to stay somewhat closer to an 'expert' model (cf. Bartlett, 1996). On occasions McKinsey itself moved away from some of the features of its model, for example after 1989 with its – largely unsuccessful – attempts to enter the growing IT field (cf. Manville, 1999). But this said, the model pioneered by McKinsey did have a marked impact on the field. It set in motion a more structured approach to organizing consulting work than had existed before and was increasingly adopted by firms seeking to reap similar rewards.

The 'soft' bureaucracy firm

In the final (and still ongoing) wave of consulting we see yet more change in organizational forms. Given the nature of flux and change, no one model has yet become firmly institutionalized. However looking at the practices of the large service firms that now dominate this market, such as IBM Global Services, Accenture and Capgemini, a number of common features of governance, organization and employee relations practice become apparent. Overall the thrust is towards a more structured and bureaucratic set of organizational arrangements.

The two original traditions of the third wave had rather different governance mechanisms. The accountancy and audit firms were initially organized as partnerships with consulting arms being split off and later floated. Firms in the IT tradition had already been quoted on the stock

exchange for a much longer time. But despite these varied origins the large consulting firms of the third wave appear to be converging towards the model of a publicly owned corporation. Hence, as Empson and Chapman (2004: 12) report, between 1989 and 2001, amongst the largest 50 consulting firms worldwide, the number that were publicly owned rose from 5 to 31, while the number of partnerships declined. In terms of decision-making, the trend also seems to be towards structures similar to those of public corporations. While some of these firms have, in the past, been fairly decentralized in their structures (see Morgan and Quack, 2005) their larger size compared to second wave firms meant that most had developed, quite early on, elaborate governance mechanisms (e.g. RKW, 1957).

Turning to control and co-ordination, there is some variation between the third wave firms. But most indications are that they are markedly more bureaucratic in terms of the specialization of consulting work and the way it is structured and supervised. While the nomenclature of job titles is similar to McKinsey and other consulting firms, hierarchies are more elaborate. Leverage ratios are also completely different. At Andersen Consulting (now Accenture) 'there are more than 30 consultants for each partner' (Hansen *et al*., 1999: 110). In these firms one also finds similar 'up-or-out' promotion systems as in McKinsey and regimes of performance appraisal which, if anything, are even more systematic and focused on quantifiable targets (Covaleski *et al*., 1998). As noted earlier, these large spans of control were made possible by the heavy investment made by these firms in codification and 'data warehousing' (McKinlay, 2005: 248). Consultants in these firms, it would seem, have limited freedom when it comes to execution and are given not only a set of analytical tools (as in McKinsey) but also detailed guidelines on how to carry out different kinds of assignments step-by-step. All these guidelines were usually based on the experiences drawn from previous projects, codified through elaborate knowledge-management systems, then stored in powerful databases accessible by all members of the consultancy (Hansen *et al*., 1999: 107).

All this, of course, does not mean that the work of consultants in these large firms has been completely 'Taylorised' or subject to bureaucratic routines. Werr and Stjernberg (2003) show how detailed methodologies and cases in these firms often only provide loose guidelines for practice and that tacit knowledge of consultants remains an important 'prerequisite for the use of articulate knowledge' (id.: 886). Added to this is the continued emphasis in these firms on fostering unique corporate cultures and the organization of work around flexible project teams

(Karreman and Alvesson, 2004). Nevertheless, it is hard to avoid the conclusion that, by contrast to earlier forms of consulting organization, the large firms of the third wave are relying more heavily on bureaucratic or, perhaps more accurately, soft-bureaucratic methods of control and coordination.

Regarding their human resources, research on these third wave firms indicates that the primary focus of recruitment is not on qualified professionals or even MBAs, but on university undergraduates, sometimes specialized in the IT area. Emphasis, it would seem is on 'recruiting *potential* management consultants rather than proven consultants' (Werr and Stjernberg, 2003: 901). Because of this, many firms have invested heavily in the development of human resource management functions and the use of more systematic approaches towards selection. As a result, internal training has also become much more important in these third wave firms. They have developed elaborate systems to familiarize new recruits with the consultancy's methodologies, procedure protocols and their ubiquitous knowledge-management systems. In many cases, this takes place at the consultancies' own training centres, sometimes labeled as 'universities' (Kipping and Amorim, 2003).

It is probably safe to say that the mode of organizing in the third wave has not been fully institutionalized yet. There is not one single model (as in the previous two waves) and institutionalization is also being influenced by outside forces. Approaches to organization are still being shaped, taking elements from the different underlying traditions. The combination of these traditions mainly through mergers has already led to some convergence; but it is far from being total, since some firms still preserve elements from their previous organizational templates – at the very least in terms of nomenclature. That said, as we have indicated above, these firms seem to share some common features in terms of their mode of governance and internal structures of control. Overall, the trend appears to be towards a more corporate or bureaucratic model of organizing consulting work not dissimilar to what Hinings (2005) has described as a 'managed professional business'.

A number of factors seem to be pushing in this direction. The importance of size and the changes in ownership have already been mentioned. Another important reason is the widespread belief (not necessarily proven) amongst practitioners and many academics in the performance enhancing benefits of knowledge management. Large consulting firms today are increasingly seen as exemplars of successful knowledge management that they have applied to themselves (McKinlay, 2005). This in turn is widely held to explain their rapid expansion

and profitability. Hence, it might be argued that the emergent form of organizing associated with these firms is acquiring a certain appeal or legitimacy in its own right. This model seems to offer an alternative – possibly superior – route to competitive performance (based on knowledge management and brand visibility) than one focused on professionalism and reputational capital. This is also reflected in the innovative even hip image these firms try to create, in contrast with the efforts of McKinsey to portray solidity and a certain conservatism.

Discussion and conclusions

The analysis presented here reveals some marked changes in the field of management consulting. In each wave of development one can see how particular modes of organizing – illustrated through the example of a small number of influential firms – emerged and became institutionalized. As we saw, these models were not fully established at the outset of each wave, but developed gradually, in response to internal conditions (e.g. size) and external challenges (namely the quest for legitimacy as knowledge carriers). Also, within each wave there remains considerable variation. Not all firms corresponded to one particular model, especially in the third wave, and even in the cases of Bedaux and McKinsey one can note some shifts in management practices over time.

A further point to note from this analysis is that population shifts did not result in the sudden extinction of older models of organizing, as one might predict using theories of natural selection. Instead what is notable about the management consulting field is a process of sedimentation. As new forms of organizing were established in each wave, they did not entirely replace what had come before, but rather offered alternative 'vocabularies of motive' for actors seeking to enter the market for management consulting. What has emerged, therefore, is a highly fragmented organizational field with 'several belief systems competing for attention and acceptance' (D'Aunno *et al*., 1991: 657). Such fields, it is often noted, generate inconsistent cues and signals about what constitutes 'good practice' (Greenwood and Hinings, 1996: 1029). In the context of management consulting this helps to explain why, sometimes within the same firm, one can detect competing logics of organizing (see, e.g., Karreman and Alvesson, 2004). It may also partly explain variations between firms – engaged in similar kinds of activity – in how they 'perceive the nature of the service offering' and 'perceptions of how profits are generated' (Morris and Empson, 1998: 620–621). Today in this field one still finds a strong tradition of specialist consultancies

adopting the principles of entrepreneurial adhocracy and expert human capital, which emerged at the beginning of the twentieth century. The 'one firm', collegial model also remains influential and, in terms of terminology and ideology, is probably the dominant image of a consulting firm. Increasingly, however, these templates are challenged by an alternative, emerging mode of organizing which is associated with large-scale, publicly quoted firms.

Returning to the questions posed earlier, the main implication of this analysis is to comment on the historical trajectory of organizational change (for a description of similar patterns in the legal profession, refer to Chapter 2 by Muzio and Ackroyd). As we saw, there has been some debate about how emerging groups of professionals or knowledge workers are managed. The dominant assumption is that these occupations, like more established professions, have been successful in negotiating decentralized and collegial modes of organizing that guarantee practitioner autonomy. However, the historical analysis presented here suggests a quite different picture, at least where management consultants are concerned. This expert driven model of organizing emerged early on in the development of the field at a time when management consulting work was dominated by professional engineering. While the model remains important today it was arguably most prominent from the 1930s to the 1950s. Indeed, it is tempting to argue that the expert firm is not 'post-bureaucratic' at all, but perhaps a variant of earlier forms of craft-based organization (McKinlay, 2005: 253).

Added to this are indications that the broad trajectory of organizing in this field is towards more bureaucratic (or soft bureaucratic) forms. The latest and current wave of management consulting business has seen the emergence of firms that invest heavily in knowledge management and seek to commodify products and processes to a high degree. Of course, none of this rules out the possibility that firms today can and do adopt more flexible modes of organization (as we suggested above). Nor does it mean that expert work has become totally de-skilled in Braverman's terms. Professional judgment in the mobilization of tacit knowledge remains considerable in these firms relative to other parts of the service economy. This is reflected in the importance given to team work and the continued reliance on 'socio-ideological . . . forms of control' (Karreman and Alvesson, 2004: 164). But what seems inescapable is the fact that, over time, the work of management consultants has become subject to ever more systematic modes of regulation. Indeed, one might say that the latest groups of firms have succeeded in responding to Drucker's (2002) call for new ways to control and appropriate tacit

knowledge. In doing so, they have applied to themselves some of the same techniques of scientific management, which their predecessors once foisted onto clients. The logic of Taylorism, it would seem, has been extended from the product of consultants to the process of their work itself.

A detailed discussion of what lies behind these trends is beyond the scope of this chapter. That said, it is helpful to note a number of points that will surely need to be taken into consideration in any future analysis. Most obvious is the growing size of consulting firms – especially those of the third wave – both in turnover and employment. As Starbuck (1992: 728) suggests 'Large KIFs are better able and more inclined to bureaucratise'. Second, one might attribute change to the growing emphasis on knowledge management and codification (McKinlay, 2005; Alvesson and Thompson, 2005). According to Suddaby and Greenwood (2001: 945) large consulting firms have become increasingly locked into these strategies, leading to 'hyper competition' and more systematic attempts to capture knowledge and control the way services are provided. Thirdly, one might argue that changes in ownership have been important (Robertson and Swan, 2004; Greenwood and Empson, 2003). As we saw, there has been a marked trend in management consulting away from partnership (based on either full or limited liability) to public ownership and corporate-style governance arrangements. Finally, one must also take into account wider processes of professional formation and the extent to which different groups have been able to shape the formal organizations in which they are located (Kipping *et al.*, 2006b). Notable about management consulting is the relative failure (at least in the US and UK contexts) of practitioners to develop an independent professional project (Kipping and Saint-Martin, 2005; McKenna, 2001) (see also Chapter 10 by McKenna in this book). This, in turn, may tell us much about why there has been such a strong trend towards more managed patterns of organizations. Increasingly the firm itself has become the main locus of professional closure and regulation, shaping the development of this field and determining, to a large extent, the status and material conditions of practitioners.

9

Knowledge Narratives and Heterogeneity in Management Consultancy and Business Services*

Robin Fincham, Timothy Clark, Karen Handley and Andrew Sturdy

Introduction

In the professional services, diversification into various types of business advice has implications for knowledge boundaries. This is a sector of changing jurisdictional patterns and periodic reconstruction. Firms like large law practices that feed services into corporate clients have been merging to provide global coverage (Suddaby and Greenwood, 2001; Suddaby *et al*., 2004). But new specialisms in areas like consulting and IT are even more dynamic. Patterns such as the growth in outsourcing and movement into management consulting accounted for stupendous growth of the global accounting firms. These changes have themselves been overtaken, as the IT and systems giants muscled into audit and consulting interests. Leading systems firms have taken over and merged with existing clusters of skills in a process seen by some as a historic wave in the evolution of the sector (Kipping, 2002; Kirkpatrick and Kipping, 2005).

Studies of the professional service firm (PSF) and the sector as a whole are beginning to show distinctions amongst groups such as accountants, lawyers, systems experts, and consultants. This agrees with some critical writers (e.g. Ackroyd and Lawrenson, 1996) who allude to an alternative conception of business services, not defined by narrowly prescribed inputs, or typical 'professional' expertise, but expertise that feeds into diversifying corporate structures. However, while there is some exploration of forms of knowledge-intensive labour, research has perhaps not fully caught up with this rapidly changing sector, and it is our contention that changes have not worked through in analysis

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or been fully acknowledged. The origins of studies in the traditional professions still influence the formats in which occupational skills are expressed, whether codified or implicit, whether based on techniques or social networks.

Studying professional services from the viewpoint of newer expert groups ought to provide a better understanding of these influential actors. The concern with *knowledge* in particular highlights heterogeneity and is a passport to understanding the newer activities (Morris and Empson, 1998). Our intention is to build on the research on knowledge-intensive work and differences within the PSF sector by looking at forms and uses of knowledge in newer occupations. This chapter evaluates literature on professional services, making use of an emerging comparative focus but employing perspectives on management consulting and information systems. By approaching the field from this viewpoint we hope to more fully theorize differentiation in professional services.

In particular, we suggest the idea of 'narratives' of knowledge as a way of demonstrating and representing differentiation. The narrative emphasis, we argue, is better at linking knowledge with its use and action than the commoner emphasis on the properties of knowledge and knowledge types. Knowledge narratives have been briefly suggested in research differentiating expert groups (e.g. Kirk and Vasconcelos, 2003; Patriotta, 2003), but we draw more explicitly on organizational narratology. Though this itself embraces a wide range of perspectives, we have chosen a 'thematic' understanding of narrative (Czarniawska, 1997) that stresses ways of characterizing the knowledge being traded and circulated rather than, say, 'biographic' forms of storytelling. We argue the former can be more directly linked to dimensions that help to explain knowledge transfer in different categories of knowledge-intensive work. It can be linked, especially, to the work context and organizational setting within which different forms of management practice are embedded, and also to all-important power relations with client groups and processes through which the legitimacy of knowledge gets constructed/challenged.

In the chapter, these issues are explored via case examples of contrasting forms of management consulting and IT consulting. These represent well-defined forms of expert labour, one involving strategy formation in a global organization, and the other a large-scale systems development in a financial services firm. In them we contrast the narratives attached to particular knowledge types, work and organizational contexts, and the power relationships between client and

expert. Before doing so, we review how knowledge concepts are differentiating the range of business services; we make a case for using the narrative approach, and develop the concept of the knowledge narrative.

Professional services and knowledge heterogeneity

Studies of PSFs have mostly been concerned with *internal* aspects of control and firm governance (see Chapter 8 by Kipping and Kirkpatrick). Concern has focused on how staff effort is 'leveraged' – the polite professional term for labour exploitation (e.g. Freidson, 1986; Maister, 1993; Nelson, 1988) (with regard to this issue, see Chapter 2 by Muzio and Ackroyd and Chapter 3 by Flood). Perhaps the major theme in recent years has been whether the professional partnership is giving way to more managerialist forms. The gulf in expectations between orthodox structures and new 'businesslike' models involves not just a modified professional role but wholly different interpretive schemes (Cooper *et al*., 1996; Greenwood and Lachman, 1996; Dirsmith *et al*., 1997; Pinnington and Morris, 2003). From this it might be surmised that the modern travails of the professions reflect a loss of occupational identity – though some have suggested this is overplayed. Hanlon (2004), for example, argues there never was a pure professional model to get excited about, and that 'elite firms' have happily mixed collegiality and bureaucratic governance.

Whatever the differences, the focus on recruitment, retention, motivation, and leveraging suggests a particular set of assumptions and beliefs about professional knowledge. Concern with internal governance/control reflects an overriding concern with adaptive responses to environmental changes, while knowledge is seen as being simply contained in human capital and transferred when professionals go to work. Assumptions that knowledge is embodied in professional staff tend to marginalize the relationship with the client and imply that it can somehow be left out of the equation. Critics such as Morris and Empson (1998) note that while PSF studies assume the vital significance of professional knowledge, they simplify it and fail 'to examine the complexity of the management strategies which influence the way in which the professional conducts his or her work within the firm' (p. 609). An internally focused and functionally adaptive model assumes the PSF is solving client problems merely by supplying expert staff and motivating them effectively.

Sharply contrasting with the professional services literature, the literature on a group like management consultants conveys a more *externalized* image of the relationship with the client. Here the nature of expert knowledge and the delivery of an effective service are very definitely problematized. The precise status of 'consultant knowledge' is contested, while consulting work is seen as involving the 'co-production' of knowledge with the client (e.g. Clark, 1995; Clark and Fincham, 2002). Some tend to stress new expert groups like consultants as global mediators of new knowledge (e.g. Sahlin-Andersson and Engwall, 2002). Others suggest that knowledgeable clients are the key figures in innovation. Where else would consultants obtain knowledge from except from clients, or from experiences with them (Alvesson and Johansson, 2002; Fostenlokken *et al.*, 2003)? Both situations, though, retain a clear contrast with knowledge in more 'respectful' studies of traditional professions.

Types, processes and narratives

In exploring the differentiation of knowledge, the starting point has often been content theories and the properties of knowledge. Distinctions between knowledge types have contrasted knowledge 'encoded' as rules that can be relatively easily transmitted (literally as a language or code) versus knowledge 'embedded' in practices and experiences and not easily exchanged between individuals or settings. Increasing doubts about the static nature of knowledge types, however, have led to a focus on the flux and flow of knowledge, and knowledge seen more as a process (Blackler, 1995; Patriotta, 2003: 350). But even more contextualized ideas of 'knowing' within systems of social activity give rise to problems. Even a nuanced notion of knowledge, situated in distributed relations and practices, remains 'weak in the analysis of the relationship between knowledge and power' (Blackler, 1995: 1034) and struggles to differentiate between groups. Tendencies to fete the progressive nature of groups and to aggregate 'expert' occupations still occur.

The implications of contrasting knowledge bases, we suggest, can be better explored via the concept of 'narratives' of expert knowledge. Placing knowledge within a narrative framework suggests it is coherent to a degree but also permits broader streams of meaning, some of which may be in conflict, to co-exist. Kirk and Vasconcelos (2003), for example, have described knowledge narratives as constructs intrinsic to particular occupational and organizational categories that are reflected

in the accounts respondents use to characterize their work. Patriotta (2003: 351) suggests knowledge being 'capitalized'; that is, to say, created and embedded in practice in narrative form. Knowledge narratives here allow for complex formations, rather than limiting the range of differentiation, yet are seen as having an identity within settings integral to the whole.

Narrative building is seen as almost intrinsic: people 'produce accounts' in order to make sense of their world. Events are made understandable by placing them within a framework or sequence, rather than explaining them 'objectively' by establishing causes. Explanations gain legitimacy not via proof or evidence – which in many cases is impossible to assemble – but by self-referential qualities like coherence and revelation (Lyotard, 1991; Weick, 1995). The force of narrative derives from its being both complex and simple. Narratives are both complicated and clear. Understanding comes only through detailed biography (Tsoukas and Hatch, 2001) and, in organizations, narratives permit the transfer of complex tacit knowledge that is the basis of skilled practice. But as well as enriching understanding, a way through the complexity is also constructed. Narratives are interpretive texts that construct parsimony out of an otherwise tangled and disorderly skein of events and impressions (White, 1981).

Organizational narratology, however, is hardly a unified field but ranges across different emphases and perspectives. For some the integrity of the story (and story teller) is all-important, while others seek to minimalize different versions of the 'same' story. A focus on the functional role of knowledge transfer may emphasize sensemaking in the service of management and of stopping disruptions to normal working (Patriotta, 2003). This may differ from an agenda that highlights resistance and organizational voices swamped by dominant ones (Brown, 2003). Here, for example, Brown (1998) has stressed that narratives are created to sustain some version of events. Particular interest groups 'tell the story' in particular ways and reflect their situation in the organization and role in the change process (also Brown and Humphreys, 2003; Currie and Brown, 2003).

While the narrative concept has mostly been studied in terms of story telling, less well researched though still interesting approaches suggest that narrative itself can take on different forms. In particular, Czarniawska (1998: 78) has theorized 'narrative' not just as biography but as an encompassing concept that covers the process of meaning construction. She suggests that organizational biographies may be the 'basic unit' of narrative, but other kinds of narrative that have no plot or

outcome, and no cast of characters, occur as abstractions across different stories. Seeing narrative in a 'thematic' way introduces a more structured approach and represents the face of action as well as meaning. Narratives are stressed as not 'just words' but meaning is assigned within processes of power and intent (Czarniawska, 1997: 80).

These faces of meaning and power reflect the complex and differentiated character of management knowledge. This is important because, as Contu and Willmott (2003) comment, some influential accounts of knowledge-intensive work play fast and loose with critical power concepts and remain resolutely positive. But the 'narrative' can provide a framework containing a range of dimensions, not necessarily fixed but contingent on contexts that constrain knowledge exchanges.

Differentiated knowledge narratives

Thus, accepting that so-called professional services are increasingly supplied by wide-ranging occupations, many of them not professions in the traditional sense, knowledge narratives are suggested as a way of describing these 'different languages' and the heterogeneity in knowledge underlying expertise bases. Here growing evidence suggests that distinctive labour forms within professional services may be critical for knowledge-intensive work (Alvesson and Johansson, 2002; Armbrüster and Kipping, 2002). Recent studies in particular have begun exploring these variances.

Both Morris and Empson (1998) and Kirk and Vasconcelos (2003) used the approach of 'pairing' different occupational and knowledge types. Morris and Empson (1998) contrasted a classic 'professional' knowledge type exemplified by accounting, with more 'relational' and client-centred consultant knowledge. They point out that a traditional profession such as accountancy produces very different knowledge from management consulting – a strategy of appropriating knowledge by codifying it through documentation and precedent contrasts with knowledge appropriated by applying it in client contexts. Kirk and Vasconcelos (2003) further suggest that even within a grouping like 'consultancy,' knowledge differences exist. They argue that technical types of consulting (mainly IT/systems) embraced an insular narrative developed around ownership of the problem and a cryptic almost secretive language. In contrast, general advisory consulting (as in the Morris and Empson case) employed negotiation skills and encouraged the development of 'a sophisticated shared vocabulary' (p. 40). One type of knowledge localizes intervention to specific technical

problems, while another formalizes intervention and negotiates change.

Others have highlighted the organizational and institutional context. Roslender and Fincham's (2003) comparison of the accounting and consulting sides in a Big 4 firm revealed distinctive forms of 'knowledge management'. On the consultancy side, databases provided a well-developed system of managing knowledge. These were hardly codified, but within the limits of structuring tacit knowledge represented formalized indexing and documenting systems. This contrasted with the audit side of the business, where embryonic knowledge management was barely relevant to everyday activities. This difference between two halves of the same firm was potentially explained by the work context. Specifically, the audit side could rely on legal requirements to produce regular accounts for clients, which led to a culture of repeat business and 'special relationships' with client firms. On the consultancy side, there was no such regulative framework and client relationships were more problematic (see also Sturdy, 1997a; Gluckler and Armbrüster, 2003).

None of these cases say much directly about the power aspects of knowledge narratives. Still, in the Kirk and Vasconcelos (2003) study, technical consulting was clearly concerned with system delivery and made little allowance for learning shared with the client. From this it may be inferred that a technical discourse tends to exclude the non-expert. In contrast, the vocabulary of the general consultant appeared to be the basis of co-production of knowledge. However, such a view of knowledge transfer assumes a special role for consultants as somehow intrinsically inclined towards 'partnership' with the client. More likely, these types of learning were not abstracted from power relations either, and the dependency pattern in the client–consultant relation implied a process of two-way learning.

These comparisons suggest that knowledge formations may be impossible to describe in a simple matrix or dichotomy. They are more useful as illustrations of broader narratives of knowledge and the contexts in which they evolve. In reviewing the studies above, certain dimensions suggested themselves and these are set out in Table 9.1. While these narrative strands remain contingent on the circumstances of the cases, the factors set out in the table indicate the main variables involved and highlight the range of complexity in business services.

Table 9.1 Dimensions of knowledge narratives

Dimensions of knowledge narrative	Illustrative features
Knowledge properties and types	• Codified forms of knowledge • Relational and organizational knowledge
Work and organizational context	• Nature of consultant task • Nature of firm governance and control
Power context	• Monopoly of expert knowledge • Structure of client–consultant dependency

In the cases above, aspects of knowledge reflect the schema of types of knowledge work (e.g. Blackler, 1995). Knowledge that was formally codified was present in technical consulting, which resembled the classic professional role insofar as a monopoly of knowledge was guarded. (There were also differences between 'technical' and 'professional' forms. Typically a profession is associated with stabilized knowledge, whereas occupations such as IT and systems exploit rapidly changing knowledge fields, while knowledge is protected in informal interactions with clients). Another knowledge type occurred in the non-codified and implicit forms associated with management consulting based on 'relational work' or 'organizational knowledge'. But general consulting overlapped with technical consulting (and differed from traditional professional knowledge) in being oriented to rapidly regenerating knowledge fields.

In addition, the embedding of knowledge in different work contexts and power relations helped to explain some unexpected distinctions. For example, we might have expected codified knowledge (like accounting) to be susceptible to computer-based knowledge-management systems, whereas relationship-based know-how (such as general consulting) ought to be less formally controlled. But, in the above cases, the reverse was true and the nature of the work and differences in the work context partly explained this situation. Similarly, the possessors of technical IT-based expertise wanted to obscure their knowledge,whereas management consultants (whose knowledge base was more subjective) installed their knowledge in frameworks for client understanding. This distinction, again perhaps unexpected, also seems to have been explained by different work and power contexts: management

consultants seek changes via an engagement with organizational stakeholders, whereas IT/systems groups create boundaries around the systems themselves (Kirk and Vasconcelos, 2003: 41).

The case studies

Two cases are now considered that demonstrate the narrative elements outlined above. Though not meant to reflect particular or representative narratives, the two studies were cases of major types of consultancy, as well as indicating the heterogeneity of business services. They conform to the model of contemporary business services alluded to earlier that stresses demand for wide-ranging services that augment managerial effort and skills. These were not cases of self-contained expertise, or narrow 'professional' inputs; rather they were inputs to managerial effort that impacted broadly. The client in the first case study was the strategic planning unit of a global energy company, while the consultant was a well-known strategy firm. In the research, the unfolding process of strategy formation was studied. In this company, strategy had a history of being shared with outside specialists, but it was a function impacting on the whole of the business. The second case involved the implementation of an IT system in a building society and the consultant was the technology supplier. The research focused on the steering committee that kept senior client management informed of progress. Here too the changes, the buying in of a new computer package, were a platform for the entire product range.

In each case, we observed direct client–consultant interaction during the course of particular projects, supplemented by concurrent interviews from both sides. Hence active client–consultant relationships were studied using multiple data sources rather than, say, interviews with separate samples of consultants or clients. This is important because the injection of outside expertise has been shown as a relation in which perceptions and interaction are shaped by inter-subjectivity (Sturdy, 1997b).

The creative strategy narrative

In the energy company, consultants were developing operating models for sectors of the business which were divided into independent profit centres or 'performance units'. The aim was to identify new 'lenses' through which to view major investment/divestment decisions in different regions of operation. The client firm's strategy process was

pre-constructed into stages, and the case involved the starting or 'pre-appraise' stage. On the basis of this work no corporate decisions were likely to be made, but an 'appraise' or 'select' project (the next stages in the strategy process) might be identified.

This work context shaped a narrative of extreme uncertainty surrounding the parameters of the task. The work itself was uncertain – this phase of strategy was at the initial and least formulated end of the process – while the consultancy had a steep learning curve trying to understand the data models used by the company. Confusion experienced by the consultants was made worse by other contextual factors. The CEO did not engage with the project at this early stage since he wanted first to envision the 'forward shape' of the strategy with his own boss (the chairman of the whole company). The consultants were also unsure how to handle a welter of confidentiality issues with the business units. They were restricted as to whom they could talk, and were uncertain to whom they should go to obtain missing data.

Power-dependency relations added another layer of complexity. The energy company was a powerful client by any estimate. The 'strategy process' was basically their turf – a planning and investment round that the consultants had to adjust to – while the forecasts the consultants worked on had already been developed by the company (and, indeed, its previous consultants). Unequal power relations were a keynote of this case and were reflected in client managers' continually chipping away at consultant ideas and solutions. For example, in one instance the company had handed over to the consultants an industry study conducted by an investment bank, ostensibly to help them. But in fact this was a thinly veiled attack and the report was viewed as a much more original analysis than anything the consultant had put together.

The early stages were particularly difficult for the consultants – indeed, many ambiguities of the project were unclear even to the client. At this stage, clear signs of dissatisfaction with the consultants' efforts came from the client side; the consultants were seen as 'data driven' and schooled in a too-rational approach. They were seen as overly cautious about giving insights unless backed by financial and statistical data.

> We have almost been challenging them to be bolder – not to get in trouble but to be a bit more provocative. They seem to be . . . maybe that's because they don't operate a lot at this level, but more at the

> next level down, just in retail or just in a piece of the business rather than the overarching segment. They seem to be really cautious in some areas where we don't think they should be. I mean it's fine, if it gets shot down, then it gets shot down, but at least it has got some energy. So we have actually been pushing them quite a bit to not just work on the little incremental stuff.
>
> (Client-firm project manager)

Here 'outside expertise' which is consultants' chief asset was of doubtful value. Second-hand strategy from industry rivals was not what the client wanted, and the consultant had to walk a narrow line. The client wanted to know what rivals were up to, but these initial stages were all about ideas generation. At the same time the consultants were given free rein and (deliberately it seemed) little guidance or feedback. Later the emphasis shifted to insight and analytics but was still fresh and challenging.

> We were clear in the differences and capabilities of what we needed from [the consultant]. This is more about analysis and strategic thinking. We don't want data analysts. I don't want a whole team of data analysts. What I do want is – and I don't want necessarily creative and innovative ideas, we're kind of beyond that. What I do want is based on the data we do have, based on the understanding of the strategies and what the overall portfolio looks like, how we can shape that. It is more about strategic thinking based on the data we have.
>
> (Senior client project manager)

Nevertheless, over the course of the project, what was shaping-up as a predominant 'failure narrative' changed to one of success. Several 'opportunity areas' were identified as worthy of further analysis. And, crucially, the CEO declared himself pleased with the outcome. Potentially it provided him with a full strategic agenda for the coming year and the consultancy firm was hired for a further stage. As work progressed, a number of staff from the client side moved on and new faces came onto the project. Objectives seemed clearer and there was greater access to the operating managers. The client and consultant teams worked systematically developing the opportunity areas. The new client project manager now praised the consultants' ability to 'challenge' her. This turnaround may have been due to greater commitment and skills on the part of the project manager; or that the scope and lines of communication were

more clearly defined, or simply that the consultants understood better 'the way things work at [the company]'.

The risk management narrative

The second narrative also reflected the growth and diversity of the corporate world and expressed itself along the main dimensions of knowledge type, context, and power. This was another kind of large-scale consultancy project, namely the implementation of a new computer system. The regional building society that was the client had made the decision to replace its IT infrastructure, motivated, among other things, by concerns over the age and adequacy of the existing system and changes in the regulation of financial services organizations. After a tendering process, a supplier had been selected that was an established software house supplying retail banking systems, and the proprietary system that was purchased was in fact used by 40% of UK's building societies as well as some banks. The contract was worth a little over £2 million and represented a very significant investment to the society.

The riskiness of the system implementation seemed almost the defining identity of this knowledge narrative. In terms of the possibility of the technology ultimately not delivering, and the consequences if it did not, the spectre of failure was never far away. The new system impacted on all the society's products and it had to work. The society had not quite burnt all its bridges – the old computer system was continuing to support the business – but senior management had gone out on a limb for the new system. Bringing in a proprietary system may be the classic low-risk option as far as IT textbooks are concerned – the very term 'package' implies a trouble-free black box – but computer packages are rarely the stable products they are supposed to be. In this case, the new system had been brought in partly because the old one could not cope with increasingly stringent levels of financial reporting. But surprisingly it turned out that the new system was problematic insofar as it was uncertain whether it would actually comply with statutory regulations.

> *Client relations consultant:*
> I think to be fair neither [we] nor our client base really appreciated how much work was required to make our system compliant. Both us and the client base, to be fair, were caught out by the size of the work that was needed to be done.

Interviewer:
Because the FSA [Financial Standards Authority] were issuing regulations, really, right up to the last point, weren't they? And continue to do so.

Client relations consultant:
Well exactly, and that was the problem. Also we were waiting for quite some time for final documentation to come through and we were working on what we had, and that's all we could do, and suddenly new stuff came through etc. etc. So it put constraints on from the time perspective as well as being able to deliver in the time that the users needed it by . . . So I take some comfort from the fact that if [client building society] had decided to go with another supplier rather than us then I think they would probably have experienced exactly the same problems. That's not to say that I'm pleased with what's happened at the [client building society], but I think we are one of a number of software suppliers that have been caught out a bit by the size of the development needed.

The basic currency of client–consultant exchanges was a technical knowledge type. Much of the discussion at meetings was about monitoring the stages of systems development, such as systems testing, conversion to the society's databases, interfaces with other networks and so on. Here the detail of the proprietary information system merged with an equally technical financial services language, making the overall tenor of meetings embedded in a complex industry language.

The context in which work was carried out was that of project-based learning and the client managers and consultant specialists formed a relatively unified and harmonious team. If the previous case had had a 'cosmopolitan' atmosphere, this one was decidedly 'local'. The project team bridged the client and consultant organizations and established strong if temporary loyalties. In all of this, the size of the organization (compared with the previous case) was a factor, but also the regional background of staff meant that relations were informal and affable. A lot of humour laced the interaction; they swapped stories about sporting and other events, and joined in celebratory events (such as an end-of-project dinner).

There is a very good relationship. I mean, clearly at times it has got fraught and we've all probably as individuals dealt with it in our own individual ways. But no, there has been a good working

> relationship . . . We've sparked off a couple of times, but there's always been the other end and having a laugh. And you have to. And that's one of the things I think's important about the team, we have really gelled well. And yeah, we've had our frustrations and we've had our moans and things have gone wrong, but overall we've got a tremendous sense of achievement out of it as well. Because we were under a lot of pressure, and to actually get it in and working, touch wood, pretty well, we did get a sense of achievement.
>
> (Client-firm manager)

Power in this case seemed relatively evenly distributed between a knowledgeable consultant and a paying client. Disagreements about the contract frequently occurred, and despite overall harmony, managers were not averse to 'playing hardball' over the interpretation of contractual details. We recorded a number of examples of struggles over unexpected problems that meant extra work for consultants, or ambiguities in the development of some new feature. On the other hand, the technology had moved on, and the client had had to 'go to the market' to obtain state-of-the-art material. The consultant clearly was in possession of superior systems knowledge to what could be supplied in-house and could claim legitimate areas of expertise.

Discussion

The two case studies presented a range of applied and relational knowledge forms realized in organizational settings. The simple/complex narrative construct demonstrated this heterogeneity, not just noting 'differences' but providing a systematic framing of differentiation. What each narrative was about and what its essential features were enabled comparisons to be drawn between different business services. The indissoluble links that others have stressed between different aspects of knowledge (e.g. Bloomfield and Danieli, 1995) overlapped and mingled in the basic character of the narrative. Nevertheless, the three narrative dimensions – (1) knowledge properties, (2) context and (3) power – specified differences in knowledge-intensive work.

Knowledge, context, and power

(1) As indicated, the basic properties of knowledge were marked in one case by risk and in the other by uncertainty (Table 9.2). Other things being equal, uncertainty is more problematic for organizations, but in these cases significance of outcome was also a factor. In the building

Table 9.2 Defining the case study narratives

	The creative strategy narrative	**The risk management narrative**
1. Knowledge properties and types	• A primarily 'creative' ideas-driven exercise supported by formal data models • Consultant in possession of knowledge hardly differentiated from management's	• A predominantly 'technical' industry language with elements of managerial and sector knowledge • Consultant in possession of key proprietary technical knowledge
2. Work and organizational context	• Extreme uncertainty surrounding the basic creative task • Problem of translating between technical and creative levels • Fairly loose dependency relationship	• High levels of risk in the basic technical task • Problem of averting the possibility of system failure • Tight dependency in the client–consultant relationship
3. Power context	• Powerful and demanding client • Asymmetric power relations	• Knowledgeable client and technically expert consultant • Relatively symmetric power relations

society, the levels of risk attaching to the IT system were borne relatively equally by client and consultant. The client, in particular, was heavily dependent on the system going live on the appointed date. There was a strong sense of senior management having bet the bank on the new system. In the energy company, the creative narrative almost by definition involved uncertainty, though this seemed more heavily borne by the consultant. The client, in this case, seemed relatively relaxed about the outcome.

The contrasting creative and technical knowledge types in the two cases were not 'pure' but, within the narrative framework, tainted with elements of other types. Creative strategy depended on work on data models from the businesses and profit centres done by junior consultants. In fact, one could almost read this 'technical' element approaching a *de facto* dominance, as the client felt the consultant was erring towards safe solutions and not producing daring and innovative ideas.

Likewise, the management of risk generated forms of knowledge other than predominant technical knowledge. In the building society, the main day-to-day representative of the consultant software house was the project manager (there for 'technical' input) but there was also a client manager. This division of labour is common in the IT industry and reflects the near-impossibility of hybridizing technical and managerial skills in one person. The client manager's job was to manage the relationship to the supplier's head office (where remote systems work was carried out) and he was also extensively networked into industry user groups and competitor building societies. Together with experienced senior internal managers he effected the circulation of sector-level knowledge.

However, it was also true that a defining emphasis in each case could be identified. The creation of novel ideas in the strategy process was linked with tendencies to 'read' the consultant's task almost as an unfolding drama. From both client and consultant sides, the packaging of the process and how ideas would appeal to corporate levels were central issues. Should we put this to the CEO? How will that play? At what forum should we present this? Much time and effort also went into pondering over the temperaments and proclivities of individual consultants. This consultant was a process person, that one was more results driven. What work were they comfortable with and did they sense what the real objectives were? This level of sheer organizational work was more or less absent from the building society case. There the circulation of sector knowledge and the related network of contacts represented social knowledge and capital, but there were no more 'personal' elements in the work.

(2) Moving on to the next dimension, the work and organizational contexts of the cases, in neither was there the kind of change process involving powerful stakeholders that is often typical of change management. Hence both contexts may have been somewhat simplified. In the energy company, the consultant did have to deal with the business units, but this was in terms of getting data from them (albeit foreshadowing potential changes further down the line). The essential problem for the consultant was a kind of translation problem – the intuitive leap from detailed data models to the kinds of inspired strategic ideas the client was demanding.

In the building society, the problem was of a different order, namely whether the system could be made to work. The spectre of failure looming over this project was perhaps the key contextual element of decision-making. While there were no difficult problems with multiple stakeholders, handling the relationship between individuals on the

client management and consultant sides periodically threw up crucial dependencies. Client and consultant were bound together, and neither could 'walk away' in the event of the project hitting rough waters (something that did seem possible in the other case).

(3) Finally, in terms of the power dimension, this aspect of client–consultant exchanges was understandable only in terms of pre-established asymmetries. The critical literature on management consulting represents power asymmetry in terms of contrasting perspectives and reciprocal images that client and consultant hold of each other. The norm of the knowledgeable consultant, who guides and controls a dependent client, is echoed in a critical academic analysis which stresses consultants' persuasive powers to define their own knowledge as indispensable (e.g. Bloomfield and Danieli, 1995; Clark, 1995). On the other hand, others have pointed out the assumptions being made: managerial agency and sagacity are being ignored (e.g. Sturdy, 1997a). In order to try to synthesize these positions, yet others have argued for a contingent view of client–consultant interaction, allowing that power dependencies may vary from context to context (Sturdy, 1997b; Fincham, 1999) (see Chapter 4 by Pinnington and Suseno, for a discussion of similar issues with regards to in-house lawyers).

The case-study data reflected this last position. The energy company represented a powerful client, a global giant looking for ideas and input from consultants, but using them for pre-defined purposes. It was an example of a top-level corporate client trading knowledge with a top-level consulting firm, and the power asymmetry leaning towards the client. The building society case represented more equal terms of trade. This resembled the traditional scenario of the consultant in possession of know-how the client lacked.

Power again

The conceptual framework, however, contains the implied suggestion that context and power represent increasingly 'deeper' levels of analysis and more fundamental ways of understanding how knowledge gets formed and transferred. The contexts in which different kinds of knowledge (technical, creative) are embedded tell us more than merely specifying the content or properties of knowledge. Power takes us further into the conditions of possibility and constraints on the forms that knowledge can take. Power is known for its 'layered' qualities and unseen faces (for example Lukes, 1974). In both of our case studies, pre-existing power relations formed this kind of deeper context, and underlying power relations as well as active power exchanges were a

crucial latent context, in terms of the constraints under which knowledge was constructed.

In the building society, the age and inadequacy of the existing IT system and statutory changes in the regulation of financial service organizations were immediate reasons for developing a new system externally, but there was also a parallel political dimension. This revolved around the role of the internal information systems (IS) function. The existing computer system had been custom-built in-house. It had evolved into a 'unique product' that effectively formed an independent power base for internal IS. In the eyes of senior managers they were 'almost semi-detached from the rest of the organization'. In this context the move to buy in packaged software represented an almost classic case of reducing technological dependency on an internal group.[1] And client–consultant interaction took the form it subsequently did only because of this subordination to senior management and the technology supplier.

> I think our IT staff are a long way from being able to [develop the new system] yet. Some of the discussions we've had around the design – they're struggling just to get the skill set up because, well, they've not been able to develop their own part of the system. So whilst they're doing the implementation, and looking after the present system, which is still working, we're trying to get them skilled on computer use. But as fast as we're getting them reskilled then people are wanting to use other skills, so there's this constant sort of chasing.
>
> (Client-firm manager)

Also implied here is a view of 'knowledge' diametrically opposed to many usual assumptions. Learning and acquisition of knowledge are almost universally seen as a kind of asset and as having constructive consequences for groups and individuals. Knowledge is equated with capability and competence. But here new skills and knowledge were part of a process of dispossession; they were intended to distract the IS people and tie them to an emerging managerial hegemony.

In the energy company, this same theme of a historic power structure being part of the 'story' shaping knowledge was also evident. Here a key sub-plot was that another, more prestigious, consulting firm had for several years been the 'preferred partner' for strategy consulting and enjoyed a close relationship with senior managers. The client, seeking a 'fresh vision', had decided to give the work to the current firm; they wanted to 'try them out' and have a 'second opinion', while the

consultancy was reportedly 'hungry for the work', leading to a complicated power game.

> I think they wanted a fresh pair of eyes. But it so happens that I have also done lots of strategy work with [the client company]; I know the senior management pretty well, so I don't think it was that we impressed them so much more. It's nice of them to say that but my perspective is that they know us very well, they know [the other strategy firm] very well, and they decided to go with us this time, and it is at the moment just another strategy project in another area. And, guess what, we beat [the other strategy firm] but it's kind of becoming in many ways – and there are other firms involved – but it is becoming a bit of a two-horse race on many projects, which is great for us and great for [the other strategy firm]. But it puts a lot of added pressure on us because everything is looked at now on a much more holistic basis. If you mess a project up it has a much higher risk than the old days.
>
> (Consultant)

In this interesting quote we see something of how the sides were playing it. The consultant does not slavishly fall in with the client's control stratagem – he prefers to interpret the relationship with the other consulting firm as 'a two-horse race' – but still the pressure the client exerts is acknowledged and confirmed. As with the other case, managers from the client firm effectively played one expert off against another and used different specialists to keep each on their toes.

Conclusion

The above account was built on changing views of business services. These are beginning to be viewed less in terms of stereotypes of firm governance and accredited work, and research is increasingly accommodating other occupations. Activities like consulting and IT/systems, in particular, are being seen as harbingers of change in corporate structures and in the whole configuration of the business services sector. The heterogeneity now beginning to be explored increasingly recognizes that across the sector, knowledge-based occupations supply very different inputs and quasi-managerial activities.

Exemplifying this, the two case studies we referred to produced discrete forms and usages of knowledge. In one, for instance, knowledge was rarely called into question while in the other legitimacy was

always under scrutiny. In part the differences were simply contingent on knowledge types and properties. A technical form of consulting contrasted with what was primarily an exercise in creative thinking. But context and power also impacted. In the technical consulting case, proprietary knowledge was prominent (albeit there were also shared forms of knowledge) while power relations were fairly symmetrical. The case of creative strategy making, by contrast, involved a client who set the hurdle high and consultant knowledge had to be sympathetic to internal needs. Power asymmetry widened as the consultant possessed no really distinctive skills over and above the client's.

The knowledge exchanges in these cases were expressed in distinctive 'narratives' as well as departing significantly from the professional norm. In the chapter, we sought to develop the scheme outlined by Czarniawska (1998) stressing a 'thematic' dimension rather than the more usual biographic aspects of narrative. This format was particularly suited to analysing knowledge-intensive work. Whilst 'consultant knowledge' has no separately constituted body of theory it ranged across technical, relational and sector-specific forms of know-how. Consulting activities like strategy and systems could be linked with individual narratives and signatures for groupings. In particular, dimensions of the work context of knowledge exchanges, and power asymmetry in client–consultant relationships, as well as knowledge types were included. Such elements were part of the story for knowledge to be understood, and our analysis produced quite different understandings of 'knowledge' from the usual emphasis on positive assets and capabilities. Though often elusive and critical, power was drawn fully into the narrative framework.

Ultimately the narrative construct was a loose framework. There were overlapping dimensions and it was sometimes ambivalent whether this or that aspect of interaction should be classed as a power relationship or an aspect of work context, or some other element of the framework. But 'narrative' provides for elements of the story to cohere. The emphasis on the extended narrative framework highlighted the linkages between different dimensions and latent aspects of context.

Notes

*This research was conducted with the financial support of the ESRC. Our study, entitled 'Knowledge Evolution in Action: Consultancy–Client Relationships' (RES-334-25-0004), comes under the auspices of the Council's Evolution of Business Knowledge research programme.

1. Pettigrew's (1973) classic charted the struggles that ensued between senior management and a group of programmers in the early days of commercial computing in the retail industry. There was no bought-in package used to outflank the programmers here, as packaged systems had not been developed this early, but the scenario of management coming to resent the power that control of a system confers on a technical group was a familiar pattern.

10

'Give Professionalization a Chance!' Why Management Consulting May Yet Become a Full Profession

Christopher D. McKenna

In 1906, a little more than a century ago, the American Academy of Political and Social Science published a special issue of their journal, *The Annals*, on the topic of the 'Business Professions'. Leading academics and practitioners contributed nearly a dozen articles chronicling the rise of the new business professions, including accounting, actuarial science, public relations, and scientific research. Although management consulting (or 'management engineering' as it was known then) did not appear among the emerging specializations that they profiled, another contender for professionalization, journalism, was prominently featured. George Washington Ochs, the former Mayor of Chattanooga whose brother owned *The New York Times*, wrote about the ongoing attempt to professionalize journalism from his vantage point as publisher of the *Philadelphia Public Ledger* (Diamond, 1993). That said, Ochs was far from convinced that specialized training or formal qualifications were a prerequisite to the training of the best young writers, arguing that often 'specialization is a drawback' in the education of journalists (Ochs, 1906: 52). Or as a contemporary sociologist summarized the perspective of the many skeptics who doubted that journalism was a natural candidate for professional status, 'journalism has no clearly defined, conventional technique analogous to that of law or medicine' (Vincent, 1905: 298).

Journalism is one of a number of business occupations that failed to professionalize during the twentieth century in the Anglo-American world despite widespread predictions among contemporaries that professional status would surely follow its steady growth in status and numbers. Into the 1960s, faculty members in American journalism schools continued to predict that in 'another decade . . . a college degree in journalism may become a requirement for journalists, just as medical

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and law degrees are now compulsory for doctors and lawyers' (Wolseley, 1963: 35–36). Yet, journalism never achieved professional status in the Anglo-American world – to this day, journalists are more likely to be trained in the newsroom than by a university degree programme. What went wrong in the long predicted professionalization of journalism? Even more important, what lessons do these instances of failed professionalization offer other quasi-professions, like management consulting, still teetering on the brink of full professional status?

The strongest effort to push journalism to adopt professional standards, Joseph Pulitzer's enormous donation of two million dollars in 1903 to found the School of Journalism at Columbia University, was quite explicitly modelled on the successful professionalization of the fields of law and medicine (*The New York Times*, 1903: 1). As Pulitzer explained the purpose of his gift in his flagship newspaper, *The New York World*:

> In former years a boy began the study of law by sweeping out a lawyer's office, or of medicine by mixing pills for a country doctor. Instruction for newspaper work is still in the same stage. That law and medicine are now studied in professional schools while a knowledge of newspaper work must be 'picked up' in an office does not mean that journalism is any less capable than law or medicine of being systematically taught, but merely that the methods of preparation for one profession have stood still while those for the others have advanced.
>
> (*The New York World*, 1903: 1)

Joseph Pulitzer, however, did not simply argue that the creation of university level courses would lead to journalism's eventual emergence as a full profession, but that ethical training was the crucial element in the redefinition of journalism as a new profession (Brian, 2001). In Pulitzer's own words, 'in every other pursuit where men are under an equal moral responsibility to the public for the proper discharge of their duties they are prepared for those duties by years of careful and conscientious study' (*The New York World*, 1903: 1). As Michael Lewis explained to the readers of the *New Republic* in his searing critique of the more recent failings of the Columbia Journalism School, when Joseph Pulitzer announced the endowment of the school, he grandly predicted '. . . that the elites of Columbia would band together to cast out "the black sheep" from the profession' (Lewis, 1993: 5). Thus in the early 1900s, when newspapers were under constant attack for the ethical lapses of 'yellow journalism' typified by the excesses of publishers like

William Randolph Hearst and Joseph Pulitzer himself, it was Pulitzer's call to a higher moral standard, although clearly self-serving, that was crucial to the public hope that journalism stood a reasonable chance of achieving professional status (White, 1904; Boylan, 2003).

While American observers tried to set behind them the excesses of Hearst and Pulitzer's scandal-mongering by claiming professional standards and scientific objectivity, British journalists were far slower to follow the call to professionalize. Indeed, by the late 1920s, as the leading newspapers in the UK became national publications, the leading publishers consolidated the British newspaper industry through the same disreputable competitive strategies as their American brethren a quarter-century earlier (Villard, 1944). The press barons of Britain, like the earlier yellow journalists in America, learned that in the cut-throat competition for readers deserting the newspapers for other new media, economies of scale and salacious scandals were far more successful in generating income than professional status or high journalistic standards (McKenna, 2001). Thus, when the former Prime Minister Stanley Baldwin attacked Lords Beaverbrook and Rothermere's political manoeuvring in the *Daily Express* and *Daily Mail* in 1931, Baldwin borrowed a phrase from his cousin, Rudyard Kipling, which would haunt journalists for years to come (Jordan, 1947). Newspaper journalists, Stanley Baldwin declared, exercised 'power without responsibility: the prerogative of the harlot throughout the ages' (Young, 1952: 152). Stanley Baldwin's evocative phrase, 'power without responsibility,' and the accompanying pejorative association with prostitution, concisely encapsulated the structural dilemma that doomed journalism, and many other aspiring business professions, from a proper claim to full professional status. Professional ethics, not social power, ultimately distinguished the true professions from those that merely aspired to the apparent benefits of high status (Newton, 1982; Davis, 1991).

This chapter is concerned with the crucial dichotomy that Baldwin's infamous adage highlighted – the useful distinction between wielding power within society and that of ultimately bearing responsibility for the outcome of one's actions. In my recent book on the growth of management consulting in the twentieth century, *The World's Newest Profession*, my intentional *double entendre* in the title hinted at the aspiring profession's claim to 'newness' and the accompanying doubts about the ethical standards under which management consultants have long operated (McKenna, 2006). The underlying pun, of course, was that neither prostitution – the 'world's oldest profession' – nor management consulting – the 'world's newest profession' – were truly

professions. But Stanley Baldwin's accusation, that like 'harlots,' journalists may have had a measure of power but they have never had to bear true responsibility for their actions, points to another important parallel between these two occupational groups – the fact that management consultants have never conceded that they bear any standard of legal liability for their 'professional' services. Professional status, I would argue flows not simply from the impact of their ongoing work – *professional practice* – but it is, instead, defined by the way in which true professionals take responsibility for their mistakes – *professional malpractice*. Assuming legal responsibility, far more than assuming social power, has historically elevated an aspiring occupation to the status of a fully accepted profession (Davis, 1988).

Contextualizing professionalization in history

The concept of a full profession, like the idealized notion of national identity, is largely rooted in the particularities of a particular historical time and place: the late nineteenth century in the Anglo-American world (McClelland, 2002). Although the classical professions of law, medicine, and the clergy existed from the Middle Ages onwards, the modern Anglo-Saxon business professions emerged at the end of the nineteenth century with the growth of giant corporations and ascendance of the educated middle class (Blumin, 1989; Strom, 1992). Whether as accountants, engineers, architects, or actuaries, the new business professionals worked alongside the managers of the large corporations to create an institutional infrastructure that would support economic growth even as the resulting system rewarded the upper-middle class educated elite (Lipartito and Miranti, 1998). As countless historical studies of the professions have shown, whether it was the old guard of the classical professions or the emerging entrepreneurs of the new professions, the leaders of the established and proto-professions sought economic and cultural legitimacy through a variety of rhetorical, institutional, and technical strategies (Starr, 1982; Layton, 1986; Abbott, 1988; Miranti, 1990). By the early 1930s, when the British sociologists Carr-Saunders and Wilson wrote their first great study of 'The Professions,' the new profession fields within business, including accounting, engineering, and actuaries, had achieved lasting professional standing (Carr-Saunders and Wilson, 1933). Despite repeated concerns in recent years that these business professions have lost power vis-à-vis their corporate clients, the 'young' business professions that emerged at the start of the twentieth

century have shown remarkable durability in the face of competitive economic pressures (Reed, 1996).

Particularly interesting from our current perspective, however, were those proto-professional fields supporting business that had failed to fully professionalize by the 1930s, including journalism, but even more importantly, management consulting and investment banking. As is often the case, the specific reasons behind the institutional failures of these potential professions are far more instructive than the subsequent explanations of institutional success (Abbott, 1988). Unable to make the transition to a full profession in the second quarter of the twentieth century, both investment bankers and management consultants would largely abandon their attempts to professionalize well before the end of the twentieth century (Carosso, 1979; Allen, 1986). Yet for both of these semi-professions, the turn of the twenty-first century, and the accompanying calls for revitalized professional standards in the aftermath of the dotcom meltdown and the Enron scandal, offered these business advisors a pragmatic opportunity to once again achieve professional standing (Fox, 2003). Professionalization, after all, has always been understood to be a dynamic process where a failure at one point need not doom the future progress of the profession at a later stage (Abbott, 1988). Yet for both consultants and investment bankers, a structural impediment stood in the way of achieving full professionalization – the success of the leading professional service firms impeded their limited efforts to professionalize as a collective of individuals. It is this dynamic tension between the professional service firm and the professional aspirations of individuals that has so powerfully shaped the professionalization project of management consultants.

The business professions, as they emerged at the end of the nineteenth century and have continued to the present, were torn between three competing power centres – (1) the growing professional service firm; (2) the professional status of individuals; and (3) the regulatory power exercised by the state (Figure 10.1) (Halliday, 1987; Krause, 1996). It is important to note that the power exercised by their corporate clients was relatively unimportant in shaping the occupational norms that these proto-professionals would adopt – and is therefore not included in this stylized model – but instead the relative power that the three elements exercised depended on the historical timing of the emergence of the profession vis-à-vis the professional firm, and the particularities of state oversight. Although this simplified model cannot capture the more subtle elements of professional power, it does help to distinguish among the professions and quasi-professions not simply on the basis of

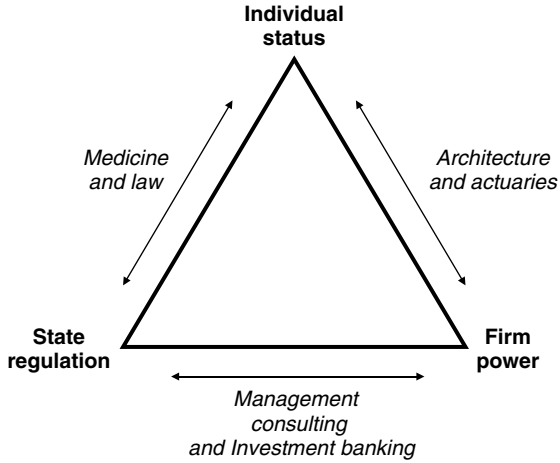

Figure 10.1 Triangular tradeoffs in professionalization

their relationship to the state and their shared collective identity but also on the basis of the relative power of the professional firms in which they operated – a crucial element lacking in many formal theories of the professions.

In the first case, where the profession had emerged prior to the twentieth century and the sanctions exercised by the state in cases of malpractice were directed against the individual, the emerging professional field came to be dominated by the power of state regulation and individual professional status – the classical professions of law and medicine are particularly good examples of this outcome (Freidson, 1974). While hospitals and law firms would eventually represent an important check on the power of individuals and the state, the power of these institutional settings would become far more important in the second half of the twentieth century long after professional status had been secured (Hanlon, 1999). Although professional firms would be important to the development of these 'classical' professions, the power of professional firms vis-à-vis individuals and the state would figure only incidentally in the classical definition of professional status (Kirk, 1976).

In the second case, where state regulation was fairly weak and the status of the firm in granting legitimacy to their conclusions was particularly important, for example among actuaries and architects, the power of the profession was balanced between individual professional status and the role of the firm (Zunz, 1992; Woods, 1999). Consider,

for example, the constant tug of war between architects who valued the autonomy and artistic freedom afforded them as individuals and the power, training and specialized knowledge offered by the large urban architectural firms that were equipped to design skyscrapers. By the late nineteenth century, with the rise of a specialized cadre of professionals employed by elite architectural firms like Mead, McKim & White, corporate clients expected the leading architectural firms to certify the quality of their work, not simply represent a collection of individual talents. As architectural historian Mary Woods has written, 'no other institution – professional society, school, or the press – matched the office's influence in shaping nineteenth century professional practice in the United States' (Woods, 1999: 171). Both actuaries and architects would assume full professional status in Anglo-American society however weak their professional standing relative to the state (Moorhead, 1989). Professional power was not necessarily dependent solely on state sanction.

It is the final case among the three possibilities, however, that is the most intriguing for our analysis – since in the emergence of both management consulting and investment banking, the power of state regulation and the professional service firms drew the center of gravity away from the battle over individual professional status, and instead imbued the professional field with all of the traits of professional standing, but lacking individual status as a true profession. In both investment banking and consulting, the state regulated the professional service firms, and the professional service firms certified the individuals whom they employed. As Kipping, Kirkpatrick, and Muzio have recently described this unexpected historical outcome, 'corporate professionalism' came to dominate these fields in place of 'individual' professionalism (Kipping *et al*., 2006a). Similarly, in my own work on the failed professionalization of consulting, I argue that 'professionalism ultimately became a characteristic of individual firms, not management consulting as a field' (McKenna, 2006: 203). Paradoxically, the rapid growth and commercial success of these two proto-professional fields in the 1930s resulted in the failure of investment banking and management consulting to become full professions precisely because of their rapid initial success.

In both investment banking and management consulting, the importance of state regulation in the United States, specifically the Glass-Steagall Act and the creation of the SEC, in recreating the professional field during the 1930s could only be counterbalanced by the power of the professional service firms, not by the efforts of individuals.

Professional status, although useful in the abstract for individual consultants and investment bankers, became less important than the necessary 'gravitas' of the professional firm to certify the quality of their corporate assignments and the legitimacy of their 'professional' judgment. Thus, precisely because of the early regulatory origins of the reconstructed fields of investment banking and management consulting in the New Deal regulations of 1930s, individuals were never able to exercise their individual power to professionalize in contra-distinction to the firm (Carosso, 1970; Ruef, 2002). When faced with the substantial costs that would arise from assuming full professional status, the leading firms repeatedly opposed the professionalization of the broader occupational group. And, because regulators expected professional service firms to certify the legitimacy of the opinions that investment bankers and management consultants provided financial investors, the question of individual malpractice among the partners was subsumed into the professional standards of the professional firm (Allen, 1940). Ironically, precisely because of the crucial importance of external legitimacy to the work that investment bankers and management consultants performed, the power of the professional firms undercut the power of individuals to achieve independent professional status.

Legitimacy and the role of individual authority

The preceding historical account helps to explain how a structural solution to a pressing problem in America during the 1930s led to an unexpected outcome: management consultants professionalized at the corporate, not the individual level, in order to guarantee the value of their corporate counsel. This structural explanation, however, does not explain why consultants were not able to achieve professional status in the intervening decades, or why the structural constraints might eventually give way to allow professionalization. For a fuller explanation, we need to return to the more traditional functionalist explanations of professionalization that were largely overshadowed by the jurisdictional analysis of professional competition advanced by Magali Sarfatti Larson and Andrew Abbott in the 1970s and 1980s (Larson, 1977; Abbott, 1988). Individual ethics, embedded in the system of oversight of professional malpractice, may represent a means for consultants to finally achieve professional status.

Business professionals, by the very nature of their work, serve both as transmitters of valuable information – a function that Andrew Hargadon has described as 'knowledge brokering' – and to legitimate

corporate actions – a role that John Coffee has labelled 'gatekeeping' (Hargadon, 1998; Coffee, 2006). Neither of these roles are necessarily in conflict with one another – after all, patients are more likely to trust a medical doctor's prescription (knowledge transfer) if that doctor also has a strong reputation within the local community (legitimacy). Throughout history, it has always been the case that business professionals, whether accountants, lawyers, or consultants, have provided both knowledge and legitimacy as a product; particularly management consultants whose self-definition as external experts reinforced both the gatekeeping and the knowledge brokering aspects of their everyday work (Table 10.1).

From the 1930s onwards, however, corporate executives employed management consultants (like corporate lawyers, investment bankers, credit analysts, and other reputational gatekeepers) as a means to protect themselves from shareholder lawsuits directed against the corporate board (Coffee, 2006). Although corporate insurance became an institutional safeguard to protect board members from legal liability following the creation of first 'directors and officers' liability insurance policies in the late 1930s, by the late 1980s, professional gatekeepers had once again become a routine shield upon which most corporate directors depended (McKenna, 2006). Corporate executives hired management consultants and investment bankers not only to provide objective technical advice but also to endorse the decisions of board members in order to guard executives against potential litigation. Yet in their construction of the gatekeeper system to legitimate corporate decisions, management consultants never built a parallel system to penalize those who might commit professional malpractice whether by accident or design. Unlike in law, medicine, or even commercial aviation, there exists no institutionalized system to deal with professional errors in the routine practice of management consulting (Helmreich, 2000; Pinkus, 2001). Echoing Stanley Baldwin's disparaging assessment of journalists, consultants had come to exercise power without responsibility. When pressed by

Table 10.1 The two functions of professionals: knowledge transfer and legitimacy

	Knowledge transfer	**Legitimacy**
Accountants	New standards	Financial audits
Lawyers	Legal contracts	Letters of opinion
Consultants	Best practices	Management audits

corporate critics in the wake of the collapse of Enron to respond to their failings, management consultants (and investment bankers) chose to deny responsibility by arguing that their lack of full professional credentials meant that they could not be held to universal standards like lawyers, accountants, or engineers (Fox, 2003).

Unfortunately, the virtuous circle for management consulting that resulted from the positive feedback loop between increased knowledge transfer and rising legitimacy could also spiral downwards in a vicious circle when consultants made mistakes (Schlesinger and Heskett, 1991). Unable to exercise closure within the broader professional field and strip those who erred on their professional qualifications, the only option available to potential customers and corporate critics was to penalize the professional services firm that had been involved – an increasingly indirect route given that the leading professional firms have grown to include hundreds, if not thousands, of professional staff (Murphy, 1984). Although Marvin Bower, the Harvard-trained consultant who re-founded McKinsey & Company in the 1930s, would insist that management consultants had created the American industry association (now the AMCF) to 'keep the scoundrels out *without* legal controls . . . ' neither the professional associations which lacked broad constituent membership, nor the state which lacked proper regulatory oversight, nor even the consulting firms which lacked reciprocal agreements about appropriate professional standards, have ever been able to exercise closure and remove the 'scoundrels' of their self-proclaimed status as consultants (Bower, 1986). Indeed, not only has it proved impossible to police the boundaries of the quasi-profession, but even the leading management consulting firms have been unwilling to have the top partners from rival firms sit in judgment of them, since from their respective positions the partners in the leading consulting firms insist that they simply have no peers. This unilateral perspective has resulted in a collective standoff that has never been resolved – in emphasizing the unique status of each firm's supposedly higher professional standards, the result has been to deprofessionalize the broader occupational field of management consulting.

Giving professionalization a chance!

In March 1969, as public protests grew over the Vietnam War, John Lennon and Yoko Ono invited newspaper reporters to a 'bed-in for peace' from their suite in the Amsterdam Hilton Hotel (Coleman, 2003). The two artists, at the height of their international fame, proclaimed

that their publicity stunt of holding court for a week from a hotel bed in Amsterdam was a means of non-violent protest in order, in Lennon's memorable phrasing, to 'give peace a chance' (Kane, 2005). Later, after international leaders declined to meet with the newlywed couple, and the Vietnam War carried on, Lennon would compose a musical anthem with the same title, 'Give Peace a Chance,' in the hope that individuals could achieve what international organizations had failed to accomplish and so end the war (Ono, 2005). Lennon's catchy wording would lose its particular urgency when the American military finally withdrew from the conflict in the early 1970s, but the evocative phrase would survive in the public consciousness in the decades that followed.

Although the topic of the professionalization of management consulting seems a world away from the antiwar campaign of the late 1960s, my own exhortation in the title of this essay shares some elements in common with Lennon's anthem of peace. In particular, I would argue that any concerted attempt to mobilize support for professionalization must be driven not by the force of state and private institutions but by the empowerment of individuals and their ethical responsibility. Thus, just as John Lennon came to believe that peace could only be achieved through social mobilization, management consultants will only attain full professional status when individual consultants are granted both the autonomy and the responsibility for their own professional standards. Of course, as I have argued in the conclusion to my recent book, *The World's Newest Profession*, such a significant step is extraordinarily difficult to imagine given the strong resistance that the leading consultancies have historically shown to full professionalization (McKenna, 2006). Indeed, when Claudia Grob and Alfred Kieser recently posed the rhetorical question, 'are consultants moving towards professionalization?' their unequivocal answer was negative – that consultants will never achieve the classical concept of professionalism given the structural constraints now in place (Grob and Kieser, 2006). That said, I still believe that such a shift in the professional status of consulting might not only be desirable but also possible over the course of the next decade. Management consulting might yet become a full profession, but only if we are all clear just how and why that historic shift could still take place.

As the American system of corporate governance has moved beyond the immediate geographic boundaries of the US, the corresponding system of professional gatekeepers has also spread well beyond its intended geographic scope (Roe, 1994; Vagts, 2003). In the wake of the collapse of Enron and the passage of the Sabannes-Oxley Act, directors

of public companies have been forced to adopt more conservative approaches and employ greater numbers of accountants, lawyers, investment bankers, and management consultants in order to ensure their compliance with the tighter standards of corporate governance (*Harvard Law Review*, 2003). Far from discrediting the American system of professional gatekeepers, the post-Enron financial regulations only further codified professional oversight as a central tenet of American corporate law (Coffee, 2003).

As management consultants have become more directly involved in corporate governance through the certification of executive decisions, their ability to offer professional legitimacy even as they deny professional responsibility will increasingly come in direct conflict (Zabrosky, 2003). As the advanced legal theory of gatekeepers inevitably moves from the pages of the leading law journals to the supporting footnotes of legal decisions, consultants will be forced either to establish their good faith as gatekeepers or to deny their legitimacy as 'auditors' of good management practice (Donaldson, 1995). The judges and juries in the commercial courts will press the leading management consulting firms to accept liability for their professional advice or to abandon this area of professional practice in the face of substantial fines and adverse legal judgments. In the previous cycles of professional liability, most strikingly during the 1930s, when consultants served as professional gatekeepers through their provision of management audits, directors and officer's liability insurance eventually superseded their primary role as watchdogs, but recent legislation has codified the requirement to use professionals, and particularly management consultants, to monitor managerial behavior (Gunz and Gunz, 2006). Thus consultants now face a very real decision – either to abandon their lucrative practices as gatekeepers for strategic decision-making or to finally accept their place among the full professions through the introduction of an explicit system to monitor both institutional and individual malpractice.

In the mid-1980s, before the rapid expansion of consulting of the 1990s, David Grayson Allen asked whether management consultants were so 'bound by their past' that they would never be able to make the transition to full professional status (Allen, 1986). In recent years, as sociologists and management theorists have come to extend Paul David's concept of 'path dependency' to non-technological systems, the weight of history has become increasingly heavy – 'lock-ins', 'routines', and 'inertia' have become fashionable excuses for why long-term change may well not occur (David, 1985). Yet history is far more complicated than path dependency might suggest since economic and political

cycles, rather than linear progression, are more often the norm. These cycles, like a helix, have brought management consulting back to its origins as the ethical watchdogs of corporate decision-making. The question that still remains is whether in this iteration of the 'recurrent crisis' of corporate governance, management consultants will once again abandon their commitment to become a profession because of their unwillingness to address the problem of professional malpractice (MacAvoy and Millstein, 2004). Ever the optimist, I urge consultants this time to give professionalization a chance.

11

The New Professionals: Professionalisation and the Struggle for Occupational Control in the Field of Project Management*

Damian Hodgson

Introduction

It is now forty years since Wilensky (1964) raised the prospect of 'The Professionalization of Everyone' in the *American Journal of Sociology*. In this time, the professions have been variously seen as an economic and moral cornerstone of contemporary societies (Parsons, 1954; Durkheim, 1957), as bastions of elitism and monopoly power (Freidson, 1970; Johnson, 1972) and, more recently, a self-disciplinary form of governance exerted over expert labour (Fournier, 1999; Anderson-Gough *et al*., 2000). The rapid expansion of numerous forms of expert labour aspiring to professional status seems in many senses to confirm Wilensky's prediction, even if this is at times at the expense of the 'established' professions. Almost 400 UK-based 'professional associations' were identified in a recent report (Perren, 2000), ranging from physiologists to horticulturalists to careers guidance counsellors, such that around 7 million, or 27%, of the UK working population are now identified as professionals or associate professionals (ONS, 2004) – up from around 5 million and 20% in 1998. Many of these 'professionals' work outside of the traditional liberal professions, either occupying a 'para-professional' role in the same sector, or forming part of the growing mass of organisational and entrepreneurial professionals (Larson, 1977; Reed, 1996).

Leaving aside for the moment arcane disputes over the dividing line between 'arriviste' professions and 'true' professions, the consequences and nature of the expansion of 'new model' professions (Ackroyd, 1996) have received much less attention, critical or otherwise, than have the struggles and transformations of established institutions such as

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medicine or law. The intention of this chapter is to concentrate upon the emergence of one such profession, project management, and its ongoing efforts to achieve professional status. I do this in particular by paying attention to the strategic route by which the dominant professional association in this field, the Project Management Institute (PMI) has pursued and continues to pursue a specific conception of professionalism (Zwerman and Thomas, 2001; Zwerman *et al.*, 2002). Distinctive in terms of its speed of expansion and transnational reach, the PMI exemplifies in many senses a novel, contemporary form of professionalisation that has so far proved very effective (on its own terms). In analysing the ideology underpinning this expansion and the tactics employed, I will arrive at some comments on the consequences of this form of professionalisation, and this type of 'profession', for the organisation of work and the meaning of professionalism in the future.

Professions and semi-professions

Much of the early literature on the professions takes the existence, nature and indeed value of professions for granted, seeing the three institutions of the clerical, legal and medical as defining exemplars of what a profession is and should be. Typically, this work focuses on the specific expertise or knowledge that the professions possess and the importance of this for the functioning of society as a whole (e.g. Barber, 1963; Parsons, 1968; Etzioni, 1969).[1] Without rehearsing in detail this long tradition, it is important to note the legacy of the essentialist position of the functionalist and trait approaches, and in particular the enduring stereotype it has bequeathed, which has attained the position of a commonly-accepted 'folk concept' of the professional. This is the case, in spite of thorough and devastating attacks on the atheoretical and inductive basis of the trait approach, on the idealised view of professionalism which both trait and functionalist approaches reflect, and on the exceptional nature of the professions which they take as exemplars. As Evetts (2002: 344) notes, these are of a type of profession 'which is no longer tenable – if indeed it ever was – outside of a tiny minority of elite occupations (probably only medicine and law) for a very limited period and only in Britain and the USA'. The high and possibly unattainable standards enshrined in the essentialist conception of professionalism continue to present insurmountable barriers to entry to the exclusive club of 'real' professions (Witz, 1992). More importantly, even the use of this model of professionalism as a Weberian 'ideal type', results, in lay terms, in a romanticisation of 'true professionalism', and the notion

of the 'fall' of professionalism from some golden age of autonomy and unchallenged authority.

When studying those occupations which aspire to professionalism, the choice of terminology, inevitably, reflects a value judgement, particularly, where a threshold between professions and 'semi-professions' (Etzioni, 1969) or professionalising occupations is concerned. To an extent, wherever the line is drawn, the act of demarcation carries political consequences; 'What is accepted as a profession and what is not remains a question of definitions and value assignments; the term "semi-profession" is an example of the hierarchization of knowledge and expertise' (Kuhlman, 2002: 7). I would suggest that despite this, the term 'semi-profession' is useful as a means to refer to the many occupations (including the focus of this chapter, project management) whose professional credentials are not widely established. However, it is vital to bear in mind that this is a very undifferentiated term that covers a vast spectrum of occupations engaged in professionalisation with differing degrees of success. Moreover, given the unattainability of the 'traditional' model of professionalism, it is likely that the vast majority of occupations with some established jurisdiction over an area of knowledge or expertise fall into this category, and moreover will remain 'semi-professions' in perpetuity if measured by the essentialist yardstick of the classic professions.

One way to move beyond an essentialist cul-de-sac and to accommodate analyses of 'semi-professions' has been offered by the critical and the interactionist perspectives on professions, by turning to an understanding of *professionalism as practised*. Johnson, in his critical analysis of the professions, identifies the flaw in both trait and functionalist approaches as lying in their willingness to accept the definitions of professionals themselves, thus understanding professions more as they aim to be perceived rather than as they are (Johnson, 1972). From a symbolic interactionist perspective, Becker (1970) identifies a similar dilemma stemming from a confusion between the objective 'ideal-type' of professionalism, and the everyday concept of professionalism, leading to the idealisation of 'real' professionalism. His solution is to focus instead upon the everyday concept, and ask 'what are commonly agreed to be the features of a work group that can legitimately be called professional?' (Becker, 1970: 92). The advantage of this approach is that it 'brackets' the fraught issue of defining what is and what is not a 'real' profession, and what counts as a 'semi-profession'.

It is important instead to conceptualise in a more nuanced manner the enormous variety in professionalising occupations in the modern

era. As an initial step, Larson (1977) distinguishes a second phase of professionalisation in the twentieth century leading to the emergence of what she defines as the 'modern professions', distinct from 'traditional' professions supported by aristocratic and elite sponsorship, such as early medicine, law, architecture and so on. Since then, writers have variously referred to recent transformations as the emergence of 'organizational professions' (Reed and Anthony, 1992), and elsewhere 'new model' professions (Ackroyd, 1996) or 'commercialised professions' (Hanlon, 1998). Although this process has been interpreted as a form of deprofessionalisation by some (Braverman, 1974; Larson, 1977), the rejection of essentialist views of what a profession 'really is' opens space for a more balanced consideration of these developments as diverse modes of professionalisation, adapted to the particular exigencies of the contemporary environment. On this basis, the key challenge is to grasp what 'professionalism' and 'professionalisation' mean in the context of a particular occupation, such as project management, so as to comprehend how and why the occupation is adopting a specific approach to professionalisation, and what professionalisation will mean for the control and influence of those who lay claim to the title of 'professional project manager'. To do so requires an understanding of the increasingly contested nature of professionalism into the twenty-first century, and an appreciation of both the challenges and opportunities that this has produced. (See Chapter 10 by McKenna for a discussion of related themes within management consultancy.)

Professionalism in context

The crisis of legitimation for professions of all colours has received a significant amount of attention in recent years, and has led in some quarters to a questioning of the future of the profession as an institution. The potential sources of this crisis are numerous; Evetts (2002: 347) cites deregulation, the demystification of the professional's knowledge base, the expectation of transparency in professional conduct, and a fundamental loss of trust in professional authority, reflected in increasing use of litigation and audit across Europe and North America. Accompanying and also driving the loss of legitimacy of the professions was the emergence of a critical perspective on professionalism in the early 1970s (Freidson, 1970; Johnson, 1972), which highlighted 'the institutionalised form of the control of occupations' (Johnson, 1972: 38) as the cardinal purpose of professionalisation, pursued through 'occupational closure', involving exclusionary and demarcationary strategies (Parkin,

1979). In the case of organisational professions, such as project management, a complete picture requires a recognition also of the pressures upon the modern 'professional' in the face of a 'double closure' (Parkin, 1974; Murphy, 1988) by labour market and organisation. More specifically, Freidson (2001) accounts for this by reference to the pressure placed on professions by the competing domains of bureaucracy and market consumerism. It has been persuasively argued that as a consequence, the institutional and the social space for the replication of the 'traditional' professional model is, in the contemporary context, very limited indeed (Krause, 1996).

In addition to sectoral and organisational change, it is necessary to focus equally upon the 'collective mobility project' (Larson, 1977) engaged in by practitioners, typically through some kind of professional association and often in collusion with the state and with large organisations, to organise and control the labour market for specific expertise. As Larson notes, this activity focuses partly on the construction of 'professional markets' but also on the role of professional bodies in the production of an 'ideology of professionalism' (Freidson, 1970) through the creation of an identifiable 'body of knowledge' which is of social or commercial value, and which is proprietary to a particular 'profession'. The establishment of an abstract body of knowledge is thus a 'claim of both social and cultural authority' (Abbott, 1988: 60), supported, where appropriate, by the authority of academic research or corporate endorsements. From this perspective, for both established professions and struggling semi-professions, strategies of 'occupational imperialism' can only be understood in the context of the process by which a discipline 'constitutes expertise' (Larson, 1990: 36) and thereby attempts to establish a monopoly over truth in order to establish its legitimate jurisdiction. This process of constantly reasserting jurisdiction and authority is relevant to professions from medicine to human resource management (HRM), and provides a useful framework through which to interpret the struggles for professionalisation and the distinctive forms that 'new model' professionalism may take.

Project management in the 'new economy'

Project management is seen by many as a 'new occupation', and its history can be reliably traced back only as far as the early to mid-twentieth century (Engwall, 1995; Morris, 1997). Much of its early expansion was driven by technological advances from the 1940s/1950s onwards, and the prestige afforded to project management from its

association in the delivery of a number of high profile 'megaprojects' in the US, particularly the Manhattan project, various Apollo space missions and other activities of NASA and the military-industrial complex (Hughes, 1998). It is only, however, in recent years that the aspiration to professional status has come to the fore in the field. It is also in relatively recent years – particularly since the 1980s – that the tools, techniques and principles of project management have been promoted and utilised in sectors beyond the traditional engineering and construction base of the discipline. Projects have been promoted as universally applicable templates for the deliberate integration of diverse specialisms, enabling the organisation of flexible, autonomous, and knowledgeable individuals into temporary teams for the timely, efficient and effective accomplishment of defined goals. As such, project management has been sold as a critical competence in uncertain and knowledge-intensive business environments, with relevance far beyond its traditional environment of heavy industry. A random examination of the 'situations vacant' in any given week will reveal vacancies for project managers in industries as varied as mental health care, urban renewal, international development, IT, publishing, advertising, crime prevention, waste management, events management, cultural industries, museums, and higher education. In cross-disciplinary terms, broader surveys such as Whittington *et al*. (1999) point to the increasing use of project teams as a core element in the reorganisation of modern corporations, and as a priority topic on corporate agendas in recent years. Moreover, the models, tools and techniques proprietary to the occupation have been incorporated even more widely; politicians, social workers and PhD students routinely reproduce the rationale, models and language of project management, in a process described by some as 'projectification' (Lundin and Söderholm, 1998).

Part of the explanation for this tendency towards 'projectification' within contemporary organisations in the private sector (and increasingly in the public sector) lies in the changes in the nature of capitalism in the last 30 years. There are clear links between post-Fordist accounts of contemporary capitalism since the 1970s (Amin, 1994), most recently revived within the 'fast capitalism' narrative, and the 'reinvention' and the expansion of project management in this time. Various elements of 'fast capitalism' have been invoked to explain the move towards project-based organising, including the speed of technological change, the transience of fashions, increased demand for tailored goods and services, increased levels of competition, and moves from pure competition to network organisations and other forms of cooperation

and inter-organisational alliance. Even sceptics of the more extravagant claims for the 'new economy'/'knowledge society' may recognise that these discourses have driven corporate policy and a restructuring agenda since the 1980s. It is this agenda that has in recent years increased the recourse to projects in numerous industries and organisations. This reflects their claimed potential as a vehicle for technological innovation, for new product development, for organisational change, for joint venture activity, and to capture faddish tastes and demands. The connection is frequently made explicit; thus 'the fast capitalist world is one that celebrates temporary and fast-changing networks, whether of co-workers or different businesses. The networks come together for a given project and disperse into other configurations as products, projects, and services change in the hypercompetitive and fast-paced environment of the new capitalism.' (Gee *et al*., 1996: 40).

The consequences of this shift have typically been identified in the changing form of organisations as they have moved away from the traditional 'machine bureaucracy', with implications for the changing nature of work and employment in contemporary organisations. As noted by Whittington *et al*. (1999), project teams are one of the major elements of restructuring through the 1990s across European, US and Japanese corporations in a variety of industries and sectors. One of the earliest descriptions of this transformation can be found in studies of emergent matrix organisations in the 1970s (Davis and Lawrence, 1977) and later, in Mintzberg's (1983) elaboration of Alvin Toffler's 'adhocracy' (Mintzberg, 1983). The matrix configuration remains the prime organisational structure to accommodate organisations that rely to a greater or lesser extent upon projects for the production of goods, services, or knowledge (Ford and Randolph, 1992). However, the emergence of the network organisation (Powell, 1990; Castells, 1996) is argued to be a further step towards the flexible, adaptable and internationally mobile antithesis to monolithic bureaucracy, and one that relies to a great extent upon project working for the delivery of its objectives. Indeed, as Marchington *et al*. suggest, 'if there is anything "new" about the network form, it is probably the increase in (re-engineered) cross-functional, temporary project working within organizations' (2005: 14–15). Within this category, organisational forms range from the basic functional matrix, in which cross-functional projects teams are occasionally formed, to more specialist forms such as the 'project led organisation' or the pure 'project-based organisation', or PBO (Hobday, 2000). In the former, 'projects (are undertaken as) a growing part of their operations even while their primary "productive"

activity might be volume-based or operations-oriented' (Sydow *et al*., 2004; 1475). In the latter, 'the project is the primary business mechanism for coordinating and integrating all the main business functions of the firm for example production, R&D, engineering, NPD, marketing, personnel, and finance (…) Within a pure PBO that is, an organisation in which no other form is present, major projects will embody most, if not all, of the business functions normally carried out with departments of functional and matrix organisations' (Hobday, 2000: 874). The growth of this kind of firm extends beyond manufacturing into industries such as advertising, consulting, film and TV (Miles and Snow, 1986; DeFillippi and Arthur, 1998; Gann and Salter, 2000).

The relationship between sectoral and organisational change should be underlined here; hence the overall expansion of sectors of industry dominated by project working, especially IS/IT and new media, and the increased public sector reliance upon fixed-term public–private partnerships and targeted funding, have all contributed to the increasing prevalence of project-based working practices. This structural transformation, and the discourses of flexibility and change which have accompanied it, accounts to a large degree for the expansion of *project working* into new areas, but it does not explain the expansion of 'project management' as a profession to occupy this new territory. Thus, in many of these sectors (and firms) the recognition of project management as a specific career with proprietary body of knowledge, tools and techniques remains very low, as is the demand for individuals with specific project management qualifications or professional affiliations. To understand and explain how professionalisation accompanies these sectoral shifts, it is necessary to consider the collective action of project managers as a group and of the professional associations that have emerged to represent certain interests in this field.

The internal organisation of the PM profession

Within project management, there are numerous 'professional associations' which are typically nationally embedded and with hugely varying memberships and levels of activity and influence. It is generally recognised that the key associations are the Project Management Institute (PMI) based in the US, the recently formed Project Management Association of Japan (PMAJ)[2] and the Association of Project Management (APM) in the UK which is the largest of 42, mainly European, smaller national associations that are members of the International Project Management Association (IPMA). The major global Project

Management association, the Project Management Institute, was formed in 1969 and had for many years as its tagline *Building Professionalism in Project Management*™. After gradual member growth through the 1970s and 1980s, since the early 1990s the membership and the number of accredited professionals within the PMI has grown exponentially – its membership rising from 9000 to over 220,000 members worldwide in just 15 years (Figure 11.1). This total outstrips many comparable semi-professions, such as the US-based Society for Human Resource Management (SHRM) with a membership of 114,000 in 2005, although it does not as yet compare with associations such as the Institute of Electrical and Electronics Engineers (IEEE) with 365,000 members worldwide. The majority of PMI members tend to be located in IT, consulting, finance, telecommunications, or engineering-based organisations (PMI, 2001). Despite the member base broadening beyond construction and heavy engineering, it is the technical occupations, along with finance and consulting, which still dominate within PMI.

The total number of PMI members who have been accredited as Project Management Professionals (PMPs) follows a similarly exponential increase, although at a slight delay, such that there are around 190,000 currently (Figure 11.2). The PMI has an extensive global reach, partly as a function of its size and financial resources, but still draws some 72% of its membership from the US and Canada (PMI, 2006b). On the other hand, almost one third of the PMPs are from the Asia-Pacific region,

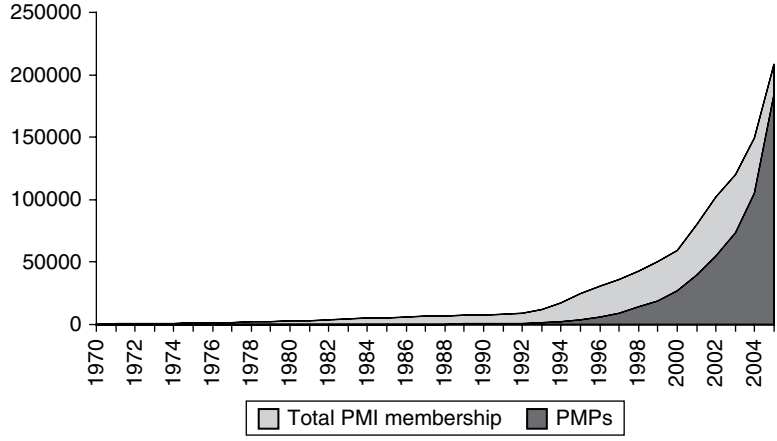

Figure 11.1 Membership of PMI (1970–2005)
Source: Generated from the PMI Member Fact Sheet (PMI, 2006b).

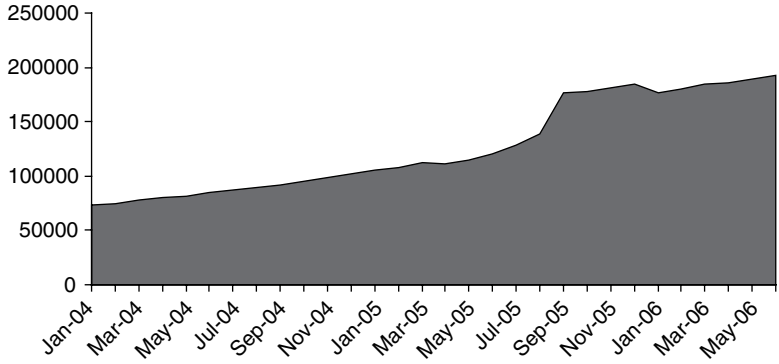

Figure 11.2 Total number of PMI Project Management Professionals (PMPS) (2004 onwards)
Source: Generated from the PMI Member Fact Sheet (PMI, 2006b).

and the proportion of both members and PMPs from the Asia-Pacific is increasing, while the proportion from North American has decreased in recent years. It is the expansion into Europe which has posed the most serious challenge for PMI, given the existence of established national associations under the IPMA umbrella, with stronger and longer-established links with national governments and major European corporations; less than 10% of members and PMPs are based in Europe, Africa or the Middle East.

The rapid expansion of the PMI requires some consideration. To a large extent, the sectoral shifts discussed earlier provide part of the explanation; the increasing demand for project managers provided a huge opportunity which has simply been taken advantage of by the best-placed association, the PMI. Hence, increasingly in the 1990s, large numbers of IS/IT and other technical specialists found that career advancement required either technical specialisation or else adopting positions of hierarchical control over what is largely project-based work, and project management and the PMI offered a clear route to the latter. Increasingly, the occupation of project management displaces other professional or technical affiliations, such that in a recent internal survey, 61% of PMI members polled reported that 'project management' was their 'primary profession' (PMI, 2006a).

To take advantage of this opportunity, the professionalisation strategy of PMI (and other occupational associations) has involved a number of broad initiatives familiar to many professionalising occupations, such as establishing a formal internal organisation to the

occupation, developing a body of knowledge, promoting accredited training programs and expanding credentialism within job markets. In line with the traditional 'blueprint' of professionalisation, much of the association's first efforts have been in establishing, publicising and circulating a 'Body of Knowledge', the PMBOK™, in an attempt not only to delineate the field of the discipline, but moreover to establish an enforceable ontology and terminology for the occupation (Hodgson and Cicmil, 2006). Over the same period, other professional associations have created and revised their own bodies of knowledge, notably the APM in the UK and the ENAA (now PMAJ) in Japan[3] (see Morris, 2001; Crawford, 2004, for a comparison), leading to a certain level of competition. However, with over 2 million copies of the PMBOK sold, as in other areas, PMI appears to have achieved a significant market dominance. The PMBOK was first developed and published by PMI in 1987, it was then revised and republished as *The Guide to the Project Management Body of Knowledge* in 1996 and has since been revised and republished twice, in 2000 and 2004. In 1999, the PMI succeeded in gaining American National Standards Institute (ANSI) recognition of the PMBOK as a 'standard', although it has not gained ISO recognition at present (Hodgson and Cicmil, 2006).[4] The role of the PMBOK is described as follows; 'to identify and describe that subset of the project management body of knowledge that is generally recognized as good practice . . . [which] means that the knowledge and practices described are applicable to most projects most of the time, and that there is widespread consensus about their value and usefulness' (PMI, 2004: 3). The broader goals of the PMBOK have remained broadly the same through these revision; that is, to provide a common lexicon, to put in place a structure for professional development programmes, to provide a framework for the refereeing and selection process for the *Project Management Journal*, and to facilitate knowledge transfer and management technology transfer across industries and national borders, with the overarching mission of promoting the professionalisation of project management.

It is broadly accepted within the field (Crawford, 2004; Morris *et al.*, 2006) that the body of knowledge endorsed by PMI is the most narrow and arguably the most reductive of the available bodies of knowledge. For PMI, this has clearly acted as a strength, not least as the simplicity of the PMBOK also allows relatively rapid global dissemination, and provides a body of knowledge that can be digested rapidly. The rapid increase in PMPs is also predicated on the relatively weak barriers to entry, based on a high school diploma, evidence of project management experience in a CV, and a multiple choice test based on

the relatively narrow PMBOK. On the other hand, the relative ease of entry into a professional association risks devaluing the qualification itself and thereby acts as a hindrance to credentialism. As a consequence, much has been made in recent PMI publications of increased stringency in the entry tests for PMP status, and moves continue to work towards a stratified hierarchy of professionals, by introducing a higher level qualification, and also a lower level qualification (the CAPM, or Certified Associate in Project Management). Accreditation of academic programmes for acceptance as PMI professionals is also limited to a handful of mid-ranking institutions of higher education, mainly in North America. Having said this, accreditation of consultancies and training organisations is a significant and very profitable element of PMI's activities (Figure 11.3); the $21 million revenue from membership dues is far less important to PMI than the $54 million that it earns from accreditation and certification. It is also interesting to note than some 40% of expenditure is dedicated to marketing and PR activities, including market research, member management and advocacy.

At a more fundamental level, the extent to which a common lexicon can be built and enforced via a PMBOK have been subjected to critical examination by both practitioners and researchers in recent years (Räisänen and Linde, 2001; Hodgson, 2002). More fundamentally, moves to enshrine the PMBOK as the authoritative source of knowledge on project management run the risk of undermining claims to professional state by reducing PM expertise to a codified 'to do' list purged of insight and discretion. By contrast, Boreham argues that professionalisation relies upon the 'deliberate creation of an aura of indetermination about their activities that *denies the possibility* of rationalization and codification' (1983: 697, emphasis added). In the face of practitioner resistance in particular, the PMI in recent months has been 'clarifying' the role of the PMBOK, emphasising that it should be seen as 'descriptive as opposed to prescriptive' (PMI, 2005) and that it is the responsibility of the professional to interpret and apply the body of knowledge. It remains to be seen how far the rationalised and codified nature of PMBOK is compatible with the preservation of professional 'tacit or "sacred" practices, and the inaccessibility which they promote' (Reed and Anthony, 1992: 598).

While still an intention, the limited influence of PMI as an organising body for the field means that the 'double closure' (Parkin, 1974; Murphy, 1988) of an occupation by both organisation and professional association remains a distant prospect in all but a handful of corporations at present. Typically there are a limited number of

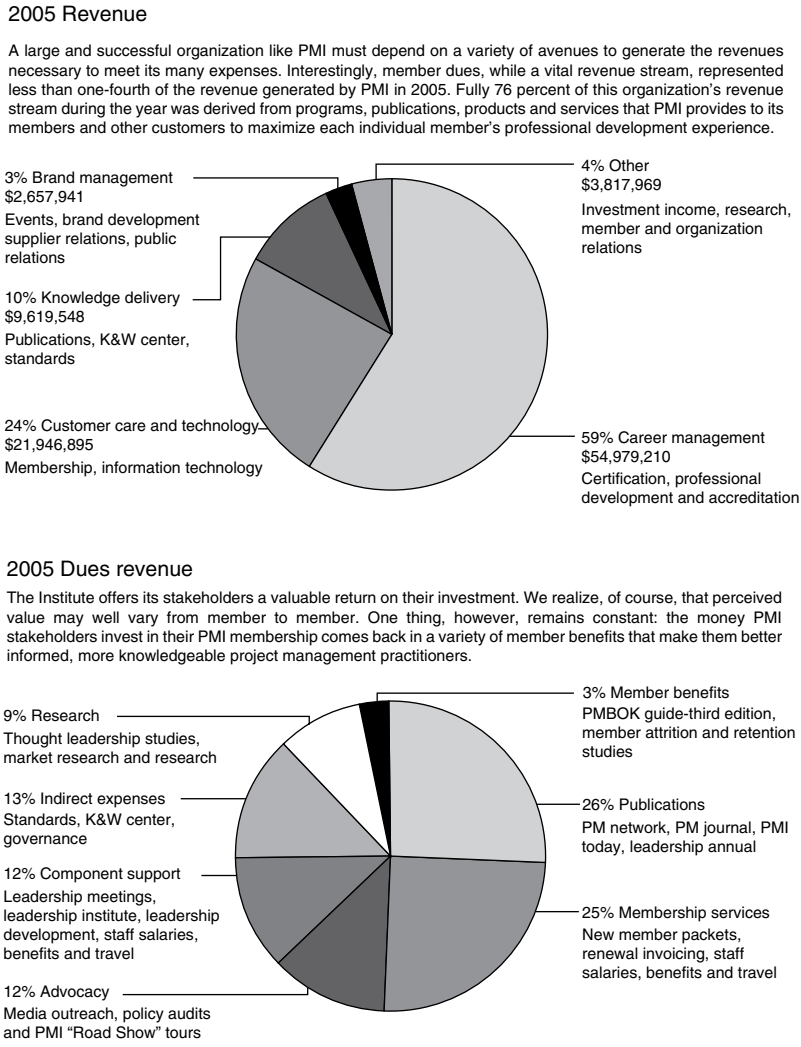

Figure 11.3 PMI sources of revenue and expenditure
Source: PMI Annual Report, 2005.

large corporations who have 'bought into' the PMI conception of project management as established in the PMBOK and who take PMI qualifications such as the PMP most seriously; these organisations include: IBM, Siemens, and KPMG. Many of these organisations are

also PMI 'Corporate Council Partners', providing a level of influence over the activities of the association as a whole. While direct relations between PMI and the US government are minimal by European standards, the US Department of Defense and Department of Energy are represented alongside around 20 large corporations on the Corporate Council. The consequence is a professional association at the heart of which lie corporate and consulting interests, and where the line between professional and corporate control, for many members, is indistinct.

Prospects for a 'new model' profession

The question as to why professionalism has been chosen by PMI and the other associations as the vehicle to promote the occupation is complex but nonetheless pressing. Unlike many semi-professions, such as nursing, teaching, and HRM, project management has not approached professionalisation from a position of significant weakness or as a response to a major threat. It has instead ridden the wave of sectoral change and constructed an occupation identity which could unify and replace various pre-existent roles such as 'senior consulting engineer', 'construction manager', and so on. More recently it has recast its narrative to fit broader post-Fordist/'fast capitalist' discourses. One might suggest that the professionalisation strategy might be seen as a legacy of a time when alternative occupational models were scarce, particularly given the dominance within the early project management community of established professionals from various fields of engineering. In this context, professionalism of the kind familiar in engineering provided a ready-made role model for the new field, and one which would be readily understood within construction and engineering employing organisations where most projects managers were located at that time (and arguably are still located). This would also be supported by the extent to which PMI in particular has struggled to conform to the classical model of professionalism, whereby it has attempted (and so far failed) to secure 'occupational closure' (Macdonald, 1995) by establishing a monopoly over a discrete body of knowledge and expertise, control over the occupation through accreditation and credentialism, and a defined code of ethics.

At the same time, project management as an occupation, and particularly the PMI as an association, has operated most successfully within Hanlon's notion of commercialised professionalism (Hanlon, 1998). Hence for project management as a whole, their claims to exclusive

expertise are indexed upon the technical ability, managerial competency and in particular the delivery of economic benefits by the project manager for his/her client. In Freidson's (2001) terms, it draws on both bureaucratic and market logics, and as such may be seen as an alternative to, and even an assault upon, traditional profession values. In keeping with this conception, beyond the routine attention paid to the development of a loose code of ethics, there is little passionate interest among the professional project management community (and within the PMI certainly) in any 'social service ethos'. In this regard, it is interesting to note that the PMI tagline 'Building Professionalism in Project Management' was changed in July 2004 to 'Making Project Management Indispensable for Business Results', underlining and making explicit the 'commercialised profession' orientation of PMI. In this sense, it shares its position with several other management professions; some might argue management itself (Reed and Anthony, 1992) but certainly various management specialisms have also pursued the route of commercialised professionalism. One might draw an immediate comparison with human resource management, and the ongoing efforts within HRM to demonstrate the contribution of the HR function to organisational profitability (e.g. Huselid, 1995) mirror the major recent investment by the PMI in a research programme to establish in organisational terms 'The Value of Project Management' (PMI Annual Report, 2005). It is upon economic contribution to organisations, rather than through professional discretion, impartiality, public service or guardianship of a discrete knowledge base, that the professionalisation project of PMI will be built.

There appear to be two elements of the PMI which are particularly worthy of comment. The first is the speed of expansion, which is proudly publicised by the PMI as a measure of the success of its professionalisation project. Such claims must clearly be put in perspective, and understood in the light of (a) the sectoral shifts discussed above, and in particular the expansion in employment in core PMI industries such as IT, consultancy, telecommunications, and so on. (b) the lack of stringency of entry barriers to professional (PMP) status (which continues despite PMI's publicised efforts to increase the challenge of the PMP assessment) and (c) the support of a number of key corporations (such as IBM, Hewlett Packard, EDS, etc). Without major advances towards credentialism in the field of project management, rapid expansion in the number of individuals with professional credentials rings rather hollow, and brings into question the effectiveness of PMI influence and control of the project management occupation. The extent to which

this is a cause for concern for PMI is questionable – the main line of responsibility for PMI are the corporations which it serves, and, to a lesser extent, the consultancies and other institutions that provide a large proportion of its revenue.

A second distinctive aspect of the PMI is the global nature of its aspirations and, to some extent, its current global reach. While clearly the PMI's ambitions are of a global nature, and there are indications of saturation point being reached within the North American project management labour market, there are also reasons at present to be circumspect about the likelihood of success. As noted by many authors (Freidson, 1994; Ackroyd, 1996), the evolution of the professions and indeed the nature of professionalism are to a large extent nationally and culturally circumscribed. Despite the dominance of Anglo-Saxon understandings of professionalism in the Anglophone world, there remain major queries regarding the relevance of this work and the acceptability, and thus potential, for these models of professionalism outside of the UK and North America. Although the expansion of PMI in the Asia-Pacific region shows some international transferability of the PMI's model of professionalism, advances in Europe and elsewhere depend to a large extent on the relationship PMI can forge with relevant arms of European governments, or the EU directly, and the extent to which it can supplant existing relationships between these institutions and the APM, IPMA or other bodies.

Conclusion

As noted from the outset, I have set to one side the question of how far project management, and the Project Management Institute in particular, conforms to or contravenes the traditional model of classical professionalism – not least because project management, in common with HRM and almost certainly all other occupations which have aspired to professional status in the last half-century, would inevitably fall short of this model. This is not to say this model is irrelevant; the idealised notion of the profession in the mould of medicine and law casts a long shadow over all 'semi-professions' and frames the actions, explicitly or implicitly, of many occupations with aspirations of greater grandeur. Project management, and the PMI specifically, is no exception here, and it is no surprise that the field fails to match up to many criteria of a classical profession.

This alone would be an incomplete assessment of the occupation, and an inappropriate measurement of the route it has taken to a version of

'professionalism'. Tracing the development of the PMI provides some insight into what 'professionalism' may come to mean in this field. As a professional association, the PMI presents a smooth corporate front; as an association it is well financed with a turnover approaching $100 million per annum, with a very strong focus on marketing, and is explicitly and proudly managerialist, drawing much of its legitimacy from the major corporations which support it. It has taken advantage of structural changes in developed economies and to a lesser extent various management trends and movements to expand its membership and influence in particular key industries as well as into new sectors. Attempts to build a unified body of knowledge continue to be frustrated in part by the range of industries in which project managers operate, and more fundamentally as it is recognised that this codified BOK undermines the mystique and discretion usually associated with the expert professional. Significantly, it has also achieved a level of internationalisation due to its reliance on multinational, rather than state, support – albeit circumscribed in areas such as Europe where competition exists from established national professional associations. Recent attention paid to the development of a code of ethics and the creation of a professional hierarchy by PMI reflects the tension within the occupation. As a semi-profession, project management continues to lie between an ineffective mimicry of 'traditional professionalism' and a wholehearted embrace of a commercial and corporate model. Its future success depends to a large degree on how it negotiates this strait, but there is the clear potential that project management and similar commercialised professions may be in the process of developing an effective model for occupational domination. This model may be some way from what it typically considered 'professionalism'; the question which remains is whether this distinction matters.

Notes

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1. While much of this work focuses on the 'established' liberal professions, some theorists extended this analysis to understand *professionalisation* rather than *professionalism*, using the traits as a means to specify what an occupation had to do in order to become a profession (Wilensky, 1964).
2. The PMAJ was formed in 2005 by a merger between the Japan Project Management Forum (JPMF), itself a spin-off from Japan's Engineering Advancement

Association (ENAA), and the Project Management Professionals Certification Center (PMCC) in Japan.

3. I have excluded here the IPMA because, as Morris *et al*. (2006) report, it has instead a Competency Baseline document 'which amalgamates the British, French and German BOKs; the French and German BOKs themselves are modelled closely on the British *APM BOK*'.
4. Thus reinforcing the perception in some quarters of PMI as a US, or at most a North American, association.

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