

GLOBAL CHALLENGES FOR LEGAL EDUCATION: COMPETING FOR THE WORLD'S LAW STUDENTS

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INTRODUCTION

In all parts of the world, legal education is under critical scrutiny as never before. In the US it is facing meltdown, in the UK it is under extensive review by the regulators, and elsewhere there are sustained moves to overthrow conventional wisdom and adopt more-practice-oriented modes of legal education in the face of declining job markets in law. Yet new law schools are opening in many countries such as France, India, China, Australia, and more. We can add to this the growing transnational legal education sector, which is pushing the online and offshore agendas for legal education providers. What is causing legal education to be so enmeshed in contradiction?

In this article I suggest that legal education has always occupied an uneasy position between the theoretical and the vocational. It is redolent in some ways of Twining's personification of legal education as Pericles versus the plumber.¹ While this posits the extremes, the situation is more complex and subtle than that. The pressures on legal education are both endogenous and exogenous. On the one hand the academy is trying to justify a model that it has used for a number of years - indeed since the 19th century - and is comfortable with, while on the other the economy is exerting huge pressures on legal services such that law jobs are no longer as plentiful as they were.² Yet in many countries law is still considered an elite occupation carrying status and offering possibilities of wealth.³

Various reports and analyses have suggested change. Among them are the Carnegie report,⁴ the Legal Education and Training Review report,⁵ and the American Bar Association Section on Legal Education Task Force report.⁶ None has yet provided a solution that commands wide enthusiasm from either the academy or the profession. The question "what is the purpose of legal education?" remains unanswered. For many in UK style regimes legal education is presumed to have elements of liberal education within it.⁷ Proponents of US style legal education view legal education as more practice-oriented.⁸ There is, however, a substantial portion of the world that has a

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² For example, Riverview Law, a new law enterprise that recently acquired its ABS licence reported that it would mostly hire school leavers (apprentices) than graduates. See John Hyde, "'School leavers only', pledge by latest ABS' *Law Society Gazette* 30 April 2014 <<http://www.lawgazette.co.uk/practice/hudson-unrated-indemnity-insurers-not-an-automatic-risk/practice/school-leavers-only-pledge-by-latest-abs/5041023.article>>.

³ See, for example, Yves Dezalay and Bryant Garth, *The Internationalization of Palace Wars: Lawyers, Economists, and the Contest to Transform Latin American States* (University of Chicago Press 2002).

⁴ Anne Colby, William Sullivan and Judith Welch Wegner, *Educating Lawyers: Preparation for the Profession of Law* (Jossey-Bass 2007).

⁵ See Webb, J and others, *Setting Standards: The Future of Legal Services Education and Training Regulation in England and Wales* (2013) <<http://letr.org.uk/the-report/index.html>> accessed 27 February 2014.

⁶ See ABA Task Force Report and Recommendations American Bar Association Task Force on the Future of Legal Education (2014) <http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/report_and_recommendations_of_aba_task_force.authcheckdam.pdf> accessed 27 February 2014.

⁷ Tony Bradney, *Conversations, Choices and Chances: The Liberal Law School in the Twenty-First Century* (Hart Publishing 2003).

⁸ William Henderson, 'Successful Lawyer Skills and Behaviors' <<http://ssrn.com/abstract=2356405>>.

more pragmatic attitude to legal education, combining elements of the UK and US approaches with local demands. For example, many countries in southeast Asia and elsewhere are grappling with the form and meaning of legal education: should it include clinical legal education, ethics, or how doctrinal should it be? Will it prepare sufficient numbers for the legal profession and market?⁹ One Indonesian viewpoint says students are alienated by “Eurocentric” methods of lecturing and are bored because course materials are foreign to them difficult to relate to.¹⁰ Malaysian academics have decried the oversupply of black letter law at the expense of experiential learning.¹¹ There is a growing body of scholarship that recognizes clinical legal education is sought after by students as a way of obtaining lawyers’ skills and escaping the doctrinal grip on law.¹² But as Rosenbaum records, “Change can be impeded by layers of bureaucratic oversight and lack of local autonomy, even at the level of law school departments or individual teaching staff”.¹³ Research in other fields, such as computing, have found that transnational education (TNE) benefits from, for example, project-based, group work even in the face of perceived cultural barriers.¹⁴ However, it is accepted that research in this area is sparse and ethnocentrism remains a constant threat.¹⁵ There are hybrids in between and all agree that one significant outcome of legal education is the production of lawyers.

There are three main challenges for legal education: globalization, technology, and regulation.¹⁶ The academy is only beginning to get to grips with these and although the profession is slightly more advanced it finds itself resisting some changes, especially on the regulatory front. The one apparent effect of these changes and challenges is that they are promoting the reprofessionalization and deprofessionalization of law and its attendant careers. The result is that the 21st century lawyer is confused and in a state of some anxiety and seems ill prepared for the future.

GLOBALIZATION

Globalization impinges on legal education in four ways. One is the content of legal education is becoming increasingly international, transnational and global. Although it is worth noting that the Legal Education and Training Review report made no mention

⁹ Tan Cheng Han, ‘Challenges to Legal Education in a Changing Landscape—A Singapore Perspective’ 7 *Singapore Journal of International and Comparative Law* 545 (2003).

¹⁰ Hikmahanto Juwana, ‘Teaching International Law in Indonesia’ 5 *Singapore Journal of International and Comparative Law* 412 (2001); Stephen Rosenbaum, ‘Beyond the *Fakultas* Four Walls: Linking Education, Practice, and the Legal Profession’ 23 *Pacific Rim Law & Policy Journal* 1 (2014).

¹¹ R. Rajeswaran, *Legal Education in ASEAN in the 21st Century* (2006) <<http://www.aseanlawassociation.org/workshop-ninthGA.html>>.

¹² See Bridges Across Borders South East Asia Community Legal Education, Inaugural Singapore Clinical Legal Education Conference and Workshop, March 16–17 2012 at <<http://www.babseacle.org/articles/inaugural-singapore-clinical-legal-education-conference-on-march-16-2012/>>. African countries are experiencing similar calls, e.g. Stuart Cohn, ‘Teaching in a Developing Country: Mistakes Made and Lessons Learned in Uganda’ 48 *Journal of Legal Education* 101 (1998); Kirsten Dauphinais, ‘Training a Countervailing Elite: The Necessity of an Effective Lawyering Skills Pedagogy for a Sustainable Rule of Law Revival in East Africa’ 85 *North Dakota Law Review* 53 (2009).

¹³ Rosenbaum, n 10 above 23.

¹⁴ Iwona Miliszewska, John Horwood and Albert McGill, ‘Transnational Education through Engagement: Students’ Perspectives’ <<http://proceedings.informingscience.org/IS2003Proceedings/docs/031Milis.pdf>>; Iwona Miliszewska and John Horwood, ‘Engagement Theory: A Framework for Supporting Cultural Differences in Transnational Education’ <<http://www.hersa.org.au/wp-content/uploads/conference/2004/PDF/P016-jt.pdf>>; Paul Kawachi, ‘The Interactions between Personality and Cultural Differences among Learners in Global Distance Education’ 9 *Indian Journal of Open Learning* (200) <<http://journal.ignouonline.ac.in/ijop/index.php/IJOL/article/view/260>>.

¹⁵ Frances Clem, ‘Culture and Motivation in Online Learning Environments’ <<http://files.eric.ed.gov/fulltext/ED485100.pdf>>.

¹⁶ See John Flood, *Legal Education in the Global Context*, Report for the Legal Services Board (2011) <<https://research.legalservicesboard.org.uk/wp-content/media/International-legal-education.pdf>> accessed 27 June 2014.

of globalization - its need or impact - focusing entirely on UK legal education.¹⁷ The second is that students are increasingly aware of opportunities for engaging in overseas education through vehicles like transnational education where providers move institutions and programmes into host countries and law is a key player in this mode.¹⁸ This is a complex field because of the lack of reliable data and regulatory complications. According to the British Council some countries and regions such as Malaysia and Hong Kong have facilitative regulatory frameworks whereas others including Indonesia, Nepal and Sri Lanka do not.¹⁹

The third is students are more mobile and seek to study outside their home jurisdictions. While we have no specific statistics for law students, we have figures for all students and within them law is one of the key subjects. According to the OECD the numbers of students studying outside their home countries has more than tripled in the last two decades, from 1.3 million in 1990 to 4.3 million in 2011.²⁰ The largest numbers of foreign students came from China, India and Korea with Asian students representing 53% of foreign students engaged in tertiary education. The OECD says that its member states accommodated 77% of all students registered outside their home states. If we examine their destinations, we see they reflect geopolitical realities combined with a desire to learn English. The US has 17%, the UK has 13%, and Australia, Germany, and France have six per cent each. Over 30% come to study in social sciences, business and law. The traditional recipients of international education cannot be complacent, however, as newcomers are pushing forward. They include Canada,²¹ Japan, Russia, and Spain. In addition, some countries are actively seeking students by balancing their higher tuition fees with more relaxed labour market opportunities. What these figures do show, in combination with the British Council findings, is that overseas students find either topping up a local diploma or gaining a double degree is perceived beneficial along with the expectation of improving their English language skills. The esteem of TNE partners and sending countries is vital to the success of attracting overseas students.

In addition to students' mobility we have to add the mobility of institutions that are establishing branch campuses in other countries. While this has customarily been a western export to other parts of the world, especially China and Asia, it is changing. Countries that were traditionally recipients are now becoming exporters of education in competition with the west. For example, China has exported branch campuses to Laos, Malaysia, Italy, and Singapore.²² According to the *Chronicle of Higher Education* "at least 14 countries outside of Europe, North America, and Australia have exported a total of 38 branch campuses, with at least six more campuses in development".²³

The fourth impact is the change in legal practice and its globalization. This is especially marked in the growth of the large law firm during the late 20th century into the present. We know that in the first half of the 20th century law firms were small

¹⁷ Yet the LETR report discusses the global nature of the legal services market. See chapters 3 and 4 at n 4 above.

¹⁸ British Council, *Going Global: The shape of things to come: The evolution of transnational education: data, definitions, opportunities and impacts analysis 12-14* <https://ihe.britishcouncil.org/sites/default/files/import-content/the_shape_of_things_to_come_2.pdf> accessed 27 March 2014.

¹⁹ *Id* at 6.

²⁰ See <http://www.oecd-ilibrary.org/sites/eag_highlights-2013-en/02/05/index.html?contentType=/ns/Chapter,/ns/StatisticalPublication&itemId=/content/chapter/eag_highlights-2013-12-en&containerItemId=/content/serial/2076264x&accessItemIds=&mimeType=text/html> accessed 17 January 2014.

²¹ Canada is vigorous in its methods of attracting good undergraduate and graduate students and as a result is competing well against the US and the UK. See Anita Gopal, 'Canada's Immigration Policies to Attract International Students' *International Higher Education* No. 75, 19-21.

²² Jason Lane and Kevin Kinser, 'Looking Ahead: 4 International Trends for 2014' *The Chronicle of Higher Education* January 9, 2014 <<http://chronicle.com/blogs/worldwise/looking-ahead-4-international-trends-for-2014/33487>>.

²³ *Ibid*.

organizations with staff in the low hundreds at their biggest. In the 1970s, with restrictions lifted on partner numbers, law firms grew exponentially.²⁴ Besides growing domestically law firms sought to expand overseas. Asia became the crucial market with Japan and China as the main markets. When the Iron Curtain collapsed Russia and Eastern Europe drew in many of the law firms from the UK and US. All of this was driven by the rise in international trade and the developments of capital markets. The Washington Consensus became the standard development model and law firms and lawyers did their best to help deliver the neoliberal economic message.²⁵

Growth in law firms meant that the size of the biggest firms came to be measured in thousands rather than hundreds. Law firms were complex institutions that, despite their size, lacked sophisticated management and leadership.²⁶ They relied on traditional methods of governance, mainly partnership or patriarchal authority, which limited their development compared to the accounting and consulting firms. Even with moves towards more managerial forms of authority law firms remain small compared to other professional service firms. This necessarily placed a restriction on their ability to recruit large numbers of law graduates. And compared to other professional service firms law firms are monocultural in that there is little diversification from their core service.

The large law firm is an agent of globalization. Although at first blush the large law firm may seem of little relevance to the global education market, their impact cannot be overlooked. They are highly visible and desirable if unattainable entities for many law students around the world. I will return to this below. Since much of global work revolves around the banks and capital markets the large law firms have conveyed these institutions into the world through the agreements they draft. In this respect it is not difficult to overestimate the importance of New York State law and English law as these are the basic normative systems that drive the work of the two main global capital markets: London and New York.²⁷ Globalization in the legal sphere is represented by the export of these two systems by those trained in them. Much of this path dependency reflects mistrust in other systems as well as knowledge of English and New York law. This is made visible in the rise of the international arbitration system as one of the crucial - if not the crucial - forms of dispute resolution.²⁸ Keen competition among countries to host arbitration centres and establish arbitration-friendly legislative frameworks enhances this. Even the alternative state-based systems appear to adopt the user-friendly style of arbitration. The Commercial Court in London has always been attractive to foreign parties, as evidenced by the number of Russian and CES “oligarch” cases within its docket.²⁹

The big law firm has an over-reaching impact on legal education. Big law firms recruit large numbers of graduates and engage in a wide range of recruiting activities, including “milk rounds” at universities, social events for students, and internships. This stereotype of the large law firm would be recognized in most countries, but especially in the UK, the US, and Australia. Apart from maverick sole practitioners, e.g. Perry

²⁴ Marc Galanter and Thomas Palay, *Tournament of Lawyers: The Transformation of the Big Law Firm* (University of Chicago Press 1991).

²⁵ John Williamson, ‘What Should the World Bank Think about the Washington Consensus?’ (2013) <http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2013/04/15/000445729_20130415170451/Rendered/PDF/766500JRN0WBRO00Box374385B00PUBLIC0.pdf> accessed 1 July 2014.

²⁶ Laura Empson, *Who's in Charge? Exploring Leadership Dynamics in Professional Service Firms* (Cass Business School 2013) <http://www.cass.city.ac.uk/_data/assets/pdf_file/0004/181228/Empson-Exploring-Leadership-Dynamics-in-Professional-Service-Firms.pdf> accessed 7 May 2014.

²⁷ John Flood, ‘Lawyers as Sanctifiers of Value Creation’ [2007] 14 *Indiana Journal of Global Legal Studies* 35.

²⁸ Alessandra Casella, ‘On Market Integration and the Development of Institutions: The Case of International Commercial Arbitration’ (1996) 40 *European Economic Review* 155.

²⁹ See, e.g. Ross Cranston, ‘Theorizing Transnational Commercial Law’ (2006) 42 *Texas International Law Journal* 597.

Mason, Rake, or Rumpole, successful lawyers are usually represented on television in large, corporate law firms, e.g. *The Good Wife*, *Boston Legal*, or *Ally McBeal*.³⁰ The added allure of large law firms is their sponsorship for taking vocational courses and bar exams, but most of all it is their remuneration system which is generous to incoming lawyers.

The approach of the big law firms to education differs in the US and the UK/Europe. For US law firms the only entry qualification is an American Bar Association accredited law degree followed by success in the appropriate state bar examination. The ABA tightly regulates legal education demanding 58,000 minutes of instruction for the award of the Juris Doctor degree.³¹ The JD is a professional degree that generally follows college education in another discipline. The typical route is four years college and three years law school. Disregarding outliers, such as Wisconsin which has diploma privilege and therefore does not require a bar exam pass from its graduates, this monocentric path into law practice is rigid.³²

Within the UK and parts of continental Europe the route into practice is more fluid or polycentric. For UK students big law firms prefer a student to have either succeeded well in a law degree from a top-ranking university or to have gained a degree in another discipline and then taken a Graduate Diploma in Law (GDL), which typically takes one year to gain. Both of these paths are followed by a Legal Practice Course (LPC), a vocational course that imparts practical skills which takes anywhere between seven and twelve months. UK students recruited into firms then undertake a two-year training contract that gives them opportunities to experience different departments and law within the firm. At this point they become qualified lawyers (solicitors).³³

A major distinction between big law firms and smaller ones is that big law firms invest heavily in education. Through their recruiting programmes they select their entrants early, usually during the first degree whether law or otherwise. Law students are then funded through their LPC and non-law students are funded through the GDL and LPC. This is enhanced by the prevalence of bespoke LPC courses now run for the benefit of big law firms by some law colleges—especially the University of Law and BPP. These are run on basis that students become familiarized with the firm's documentation. One senior telecommunications lawyer from Amsterdam at a major City law firm maintained that it mattered little where a lawyer was educated as the prime function of a firm lawyer was to be able to use the firm's documents: these were the knowledge base of the firm.³⁴

Faulconbridge, Cook and Muzio³⁵ have shown how big international law firms are increasingly involved in education, continuing professional development and knowledge transfer (with clients). The main point here is that global law firms are using education

³⁰ Perry Mason (US attorney) <<http://www.imdb.com/title/tt0050051/>>; Rake (Australian barrister) <<http://www.imdb.com/title/tt1587000/>>; Rumpole of the Bailey (English barrister) <<http://www.imdb.com/title/tt0078680/>>; *The Good Wife* <<http://www.imdb.com/title/tt1442462/>>; *Boston Legal* <<http://www.imdb.com/title/tt0402711/>>; *Ally McBeal* <<http://www.imdb.com/title/tt0118254/>>.

³¹ See *ABA Standards and Rules of Procedure for Approval of Law Schools 2013–2014* <http://www.americanbar.org/groups/legal_education/resources/standards.html> accessed 17 January 2014.

³² Russell Pearce and Samuel Levine, 'Rethinking the Legal Reform Agenda: Will Raising the Standards for Bar Admission Promote or Undermine Democracy, Human Rights, and Rule of Law?' (2009) 77 *Fordham Law Review* 1635.

³³ There is much variation around the world. For example, Malaysia has reduced the number of UK recognised law degrees to 30, which then entitle the graduate to take the Malaysian legal profession's CLP examination to become an advocate and solicitor there. See http://www.lpqb.org.my/index.php?option=com_content&view=frontpage&Itemid=1.

³⁴ See Flood at n 27 above.

³⁵ James Faulconbridge, Andrew Cook and Daniel Muzio, 'Institutional legacies in TNCs and their management through training academies: the case of transnational law firms in Italy' (2012) 12 *Global Networks* 48. See also Marion Brivot, 'Controls of Knowledge Production, Sharing and Use in Bureaucratized Professional Service Firms' (2011) 32 *Organization Studies* 489 for an extension of this viewpoint.

as a resource to intensify and deepen conceptions of professionalism within the firm. It guarantees quality and competency and also ensures everyone hues to common ethical standards. Law firms' internal regulatory systems mirror and complement the external regulatory structures. In part, this to avoid the kinds of problems that ensued with the collapse of Arthur Andersen following the Enron debacle.³⁶ Large global law firms with over 4,000 lawyers and many more other kinds of staff are unwieldy and complex organizations to manage, so the role of education, and knowledge management, in inculcating firm-wide mores is vital. These kinds of law firms cross cultures, values, and other social systems that have to be brought into harmony with each other. For example, the use of *guanxi* may be acceptable in some cultures but in others it could be viewed as antithetical to arms-length dealing.³⁷

Globalization and the large law firm go together. Commercial clients are constantly seeking new markets and many countries hitherto "off the radar" are now in their purview. The desire to exploit markets in energy, minerals, mining and telecoms to name a few show how fringe markets are becoming increasingly important, e.g. parts of Africa. There are a number of gateways into these markets - government, agencies, NGOs - but lawyers are vital in easing transitions into these countries. They understand local legal communities, financial and other regulations, and dispute resolution systems. Law firms and lawyers are becoming part of the "supply chain" of global legal business.³⁸ Despite the fact that in most countries the small law firm sector predominates, it is in greater and more continuous contact with global legal sector than before. Commercial law and its providers are a growing part of developing countries' legal economies and will continue to be as broadband penetration grows.³⁹

The large law firm in combination with globalization is a symbol of the corporate reach around the world, which is being mirrored in the provision and location, but not in curriculum design or content of higher education. As Lane and Kinser point out "countries like Malaysia and Korea are focused on placing universities in Economic Free Zones and foreign investment in education is seen as part of the innovation agenda" and even "Pakistan has announced its intention to build a 'Knowledge City'".⁴⁰ The general view is that the production of lawyers is a good thing for the economic development of a country. This fits with students' views on becoming a lawyer. Consider China where students have essentially three motivations for wanting to be a lawyer: lawyers are perceived to be wealthy; lawyers are perceived to be highly independent; and many young people become lawyers out of a sense of patriotism, to contribute to economic development.⁴¹ In the next section I discuss the role of technology as it impacts on legal education.

³⁶ William Simon, "Introduction: The Post-Enron Identity Crisis of the Business Lawyer" (2005) 74 *Fordham Law Review* 947.

³⁷ Cf. Wai-Keung Chung and Gary G. Hamilton, 'Social Logic as Business Logic: *Guanxi*, Trustworthiness, and the Embeddedness of Chinese Business Practices' in Richard Appelbaum, William Felstiner and Volkmar Gessner (eds), *Rules and Networks: The Legal Culture of Global Business Transactions* (Hart 2001).

³⁸ Laurel Terry, 'The Legal World is Flat: Globalization and Its Effect on Lawyers Practicing in Non-Global Law Firms' (2008) 28 *Northwestern Journal of International Law & Business* 527.

³⁹ Fields such as immigration law, for example, show how multiculturalism is important. Language, culture, and the sending and host countries' rules require knowledge at sophisticated levels.

⁴⁰ Lane and Kinser, n 22 above.

⁴¹ Richard Komaiko and Beibei Que, *Lawyers in Modern China* 93 (Cambria Press 2009).

TECHNOLOGY

We recognize how the internet has altered our systems of thinking and working. It is also affecting our delivery of education, with MOOCs and other online ideas like memrise.com or Mozilla badges.⁴² Technology is altering the practice of law although lawyers are probably slower than other professionals to embrace its benefits. The key area where technology has created an impact on legal practice is where practice can be standardized and routinized. Much of legal work can be unbundled and be fitted to algorithms so that it is automated. For example, document review for complex and large litigation is now frequently performed, not by first year associates in New York at \$160,000 a year, but by legally trained personnel in legal process outsourcers (LPO) in Mumbai or Cape Town at \$30,000 a year. Increasing amounts of legal work such as risk analysis of contracts and patent renewals are being outsourced to LPOs because of the availability of technology and it is predicted that LPO work will move up the “value chain” as well as grow rapidly.⁴³ Mari Sako speculates LPO work brings benefits to the host countries helping workers moving from low wage-low skilled jobs to high wage-high skilled jobs over time, as long as labour markets are flexible, and that countries can specialise in innovation in the form of the development of new goods, services and processes.⁴⁴ In the case of TNE, the fact of increasing LPO work enlarges the market for legal services and offers graduates opportunities that go beyond the conventional legal profession. There are status issues in that LPO work can be perceived as less prestigious than law firm work. Yet as it ties more into consulting and business process outsourcing, its character gains in esteem.

Within law firms, however, technology is mainly used in facilitating document production.⁴⁵ There are law firm companies that are exploiting this opportunity to create automated and simplified platforms for document and contract formation. Radiant Law, for example, has built systems to shorten the time it takes to produce contracts and to modify them during their lives.⁴⁶ Epoq Legal provides systems for users under ‘white label’ conditions so that banks, insurance companies, and even law firms can offer simplified access to their services.⁴⁷ Finally, we are seeing the development of some “intelligent” websites such as roadtrafficrepresentation.com that offer free diagnostic services to customers with the option to take premium services if needed.⁴⁸

Law firms have not yet understood how to make technology pay for them. Since many bill on hourly rates, procedures that reduce time can be seen as undermining their profit targets. Yet we see how Legal Hackathons are becoming more common as ways of providing solutions to legal problems for policy makers,⁴⁹ and how events like

⁴² Emily Goligoski, ‘Motivating the Learner: Mozilla’s Open Badges Program’ (2012) 4 *Access to Knowledge: A Course Journal* <<http://ojs.stanford.edu/ojs/index.php/a2k/article/view/381/207>> accessed 1 July 2014. I’m grateful to Jon Harman for making me aware of this.

⁴³ Mary Lacity and Leslie Willcocks, ‘Legal Process Outsourcing: LPO Provider Landscape’ (2012)<<http://outsourcingunit.org/publications/LPOProvider.pdf>>. LPO market estimated to be worth \$2.4bn globally.

⁴⁴ Mari Sako, ‘Outsourcing and Offshoring: Key Trends and Issues’ 33 (November 2005)<<http://brie.berkeley.edu/conf/Sako.pdf>>.

⁴⁵ Mitu Gulati and Richard Scott, *The Three and a Half Minute Transaction: Boilerplate and the Limits of Contract Design* (University of Chicago Press 2012).

⁴⁶ See <<http://www.radiantlaw.com>> accessed 3 January 2014.

⁴⁷ See <<http://www.epoq.co.uk>> accessed 3 January 2014.

⁴⁸ See <<http://roadtrafficrepresentation.com/RTR/PublicForms/Home.aspx>> accessed 3 January 2014.

⁴⁹ Gerard Briscoe and Catherine Mulligan, ‘Digital Innovation: The Hackathon Phenomenon’ Creativeworks London Working Paper No. 6 (2014) <<http://www.creativeworkslondon.org.uk/wp-content/uploads/2013/11/Digital-Innovation-The-Hackathon-Phenomenon1.pdf>> accessed 1 July 2014.

Reinvent Law are introducing new ways of thinking about legal activities. All of these are sustained by technology.

Technology has not yet permeated legal education in a substantive way. Although virtual learning environments are in use, their role is simple and ephemeral. Some scholars, such as Paul Maharg at Australian National University, have created online experiential programmes but these are in the minority compared to subjects such as technology.⁵⁰ A brief survey of legal MOOCs among the many thousands of courses available from providers such as Coursera and Udacity showed an increasing number of courses from around the world including the UK, the US, Canada, Switzerland, and China.⁵¹ Law is still largely taught with traditional techniques. Furthermore, MOOCs are orientated to home jurisdictions with little adaptation to local cultures because, by definition, they must have wide appeal.⁵²

Law faculty have not fully embraced the varieties of e-learning available to them nor have they been trained in their use. For the TNE market to remain competitive in the face of more private providers, law faculty will have to familiarise themselves more with the technology or providers will have to employ more media and IT support staff to help implement this development. It suggests that this would push up costs. For example, MIT's OpenCourseWare (OCW) included in 2012 just over 2,000 courses of which 60 had video lectures. The annual cost of OCW is \$3.5 million including publishing, licencing and technical support. According to MIT each course requires

an average of 100 hours of effort to produce. While the MIT faculty devote 5–10 hours of their own time for each course, it would be impossible for them to produce OCW courses alone. In order to publish materials from 200 courses each year while minimizing impact on MIT faculty time, OCW maintains a publication staff of twelve people who work directly with the faculty to collect and compile course materials, ensure proper licensing for open sharing, and format materials for our site. We also employ two intellectual property staff and four production staff who support our publication team. In addition, OCW has five outreach and administrative staff who manage communications, media relations, outreach, program evaluation, and OCW's sustainability.⁵³

With the furore that surrounded Susskind's question, is it the end of lawyers?, little has been accomplished in the tech sphere.⁵⁴ Indeed Susskind has argued for a new kind of legal professional, a hybrid who would be able to use technology productively and profitably in the legal services market.⁵⁵ He draws on views of technology as replacing much of legal services along the lines sketched above: that which can be standardised can be done by computer with little human interaction. As computing power increases, following Moore's Law, it will exceed the capacity of human brains' processing power - the point of singularity predicted by Kurzweil.⁵⁶ Examples such as IBM's Watson

⁵⁰ Paul Maharg, *Transforming Legal Education: Learning and Teaching the Law in the Early Twenty-first Century* (Ashgate 2007).

⁵¹ See e.g. Justin Reich, Sergiy O Nesterko, Daniel Thomas Seaton, Tommy Mullaney, Jim Waldo, Isaac Chuang and Andrew Dean Ho, *ER22x: JusticeX - Spring 2013 Course Report* (21 January 2014) HarvardX Working Paper No. 4 <<http://ssrn.com/abstract=2382248>> or <<http://dx.doi.org/10.2139/ssrn.2382248>> accessed 6 February 2014.

⁵² Philip Altbach, 'MOOCs as Neocolonialism: Who Controls Knowledge?' *Chronicle of Higher Education* December 4, 2013 <<http://chronicle.com/blogs/worldwise/moocs-as-neocolonialism-who-controls-knowledge/33431>>.

⁵³ MITOpenCourseWare <<http://ocw.mit.edu/donate/why-donate>>.

⁵⁴ Richard Susskind, *The End of Lawyers? Rethinking the Nature of Legal Services* (Oxford University Press 2010).

⁵⁵ Richard Susskind, 'Provocations and Perspectives', Briefing paper 3/2012 <<http://letr.org.uk/wp-content/uploads/Susskind-LETR-final-Oct-2012.pdf>>.

⁵⁶ See <<http://www.moorelaw.org/>> for a description of Moore's Law, accessed 17 October 2014. Ray Kurzweil, *The Singularity is Near* (Gerald Duckworth 2006).

winning the TV quiz programme, “Jeopardy”, exemplify this approach.⁵⁷ The preoccupation with technology highlights the tension again of law and practice and the proper role of legal education in them. This is not to deny that technology will not have a profound effect on legal education: it has not occurred yet.⁵⁸ However, there are some scholars who are thinking about educating digital lawyers and trying to discover what skills and knowledge they will need. Elements like legal research and dispute resolution will alter radically as they move away from text and orality into cyberspace.⁵⁹ For example, JISC brought experts in digital learning together to consider the students’ world in 2020.⁶⁰ Institutional technologies would be combined with the personal aspect. University facilities - at home and abroad - would provide full connectivity but students would also be responsible for their own capabilities outside the institution. Nevertheless increased connectivity would mean more collaboration and teamwork and constant peer-to-peer communication. The boundaries between physical plant and cyberspace would be highly permeable. Because of the mix of face to face interaction and that over the net and the acceleration in response times, learning could accommodate more skills and project-based ventures with lectures and classes being much more interactive. Since the relationship between students and institutions would be more contractual, the building of loyalty would be paramount and the degree to which personal attention was provided would be crucial to that end. The demands on educational institutions, but especially TNE institutions, are pronounced and even complex. There is no holy grail in switching entirely to online distribution of materials: the right mix of personal and online would have to be determined, which would vary from market to market.

SHIFTS IN REGULATION IN LAW AND EDUCATION

The regulatory shifts in legal markets in the 21st century are proving tendentious times for legal education. Gone are the certainties of traditional professional boundaries and groups and in come new occupations such as legal apprentice or legal project manager. Australia and England and Wales are the laboratories for this experimentation and we learn most from them. As new legal occupations gain ground, along with new modes of technological delivery, their popularity might rise and hence their training needs will increase, potentially creating new opportunities for legal education and TNE.

Australia introduced incorporated legal practices in the early 2000s and in 2007 Slater & Gordon of Melbourne became the first law firm to float on the stock exchange. The year 2007 was an explosive year for legal markets because it was when the Legal Services Act was passed by the British parliament after much debate and controversy. Both countries pushed similar agendas. Self-regulation was to give way to external regulation and the organizational categories that could provide legal services would expand to include Alternative Business Structures (ABS). There are now around 400 ABS in England and Wales providing different services but mostly still requiring

⁵⁷ Jo Best, ‘IBM Watson: The inside story of how the Jeopardy-winning supercomputer was born, and what it wants to do next’ <<http://www.techrepublic.com/article/ibm-watson-the-inside-story-of-how-the-jeopardy-winning-supercomputer-was-born-and-what-it-wants-to-do-next/>> accessed 28 June 2014.

⁵⁸ The number of technology based educational programmes is rising, thus we have Law Without Walls (Miami) <<http://www.lawwithoutwalls.org/>>, Reinvent Law (MSU) <<http://reinventlaw.com/>>, LawMeets (Drexel) <<http://www.lawmeets.com>> and IronTech Law (Georgetown) <<http://www.law.georgetown.edu/academics/centers-institutes/legal-profession/legal-technologies/iron-tech/index.cfm>>all accessed 7 March 2014.

⁵⁹ Oliver Goodenough and Marc Lauritsen (eds) *Educating the Digital Lawyer* (LexisNexis 2012).

⁶⁰ JISC, The student digital experience in 2020—some ideas from staff and students, February 19, 2014.

lawyers to work for them. Having said that the market for paralegals is growing and is prompted in part by the emergence of ABS and the financial tensions within the market. Three kinds have emerged as the dominant forms: Chartered Legal Executives, legal apprenticeships, and ordinary paralegals.⁶¹

For the extant legal professions the LSA 2007 forced them to sever their professional bodies into two, one as representative and the other as regulator. The regulator was to be at arms' length from the representative. Two shifts occurred in regulation to entity regulation and outcomes focused regulation. Along with external regulation of services the regulators investigated the state of legal education in England and Wales setting up the Legal Education and Training Review for this purpose. Its sponsors are still discussing the resulting report although the Solicitors Regulation Authority has begun to indicate it might want to reimagine the way legal education is regulated.⁶²

Despite 400 ABS not much has changed in the delivery of legal services, except for online practice. For example, document assembly, e.g. online wills, is growing in scope and the use of online divorce services has increased because they are perceived quicker and cheaper than lawyers' services.⁶³ And to date, the introduction of ABS has not had much impact on legal education. However, Cooperative Legal Services runs an academy to train future employees with Manchester Metropolitan University but this remains an outlier in the provision of legal education.

The regulatory push from Australia and the UK seems to have spilled over into other jurisdictions. Countries such as Canada, Singapore and Hong Kong are considering the introduction of new legal enterprises. The efforts of the Troika - the IMF, the European Central Bank, and the European Union - have demanded changes in legal services provision as part of debtor relief to such countries as Ireland,⁶⁴ Greece and Portugal. Despite these initiatives there is considerable opposition to regulatory change in Europe.⁶⁵

Despite the push for regulatory liberalization in significant parts of the world, others are trying to resist this move. Brazil, India and others are less enamoured of an open legal world. This closing of the gates is met by reorganizing admission requirements, changing quality assurance schemes for overseas providers, or making it difficult for foreign lawyers to practise and establish. Malaysia is one example of a country that has significantly altered its university recognition procedures. It is indicative of the piecemeal approach to cross-border quality assurance, which as yet does not exist. To begin there is "no globally shared definition of quality... [which is] heightened as institutions and programs increasingly cross borders".⁶⁶ Kinser and Lane argue the difficulty is not eased by calling for stricter standards as this means the complexity of standards would become more bewildering. Privatization of higher education places greater burdens on quality assurance as it is primarily concerned with student numbers

⁶¹ See how CILEX has attempted to map the paralegal landscape as a result of LETR. 'CILEX launches enquiry into paralegals' <<http://www.legalfutures.co.uk/latest-news/cilex-launches-enquiry-paralegals>>; 'Send in the paras' <<http://www.legalfutures.co.uk/blog/send-paras>> accessed 1 July 2014.

⁶² SRA <<http://www.sra.org.uk/sra/news/press/letr-policy-published.page>> accessed 28 June 2014.

⁶³ Some online divorce services have Trustpilot reviews. See <<http://www.trustpilot.co.uk/review/www.divorce-online.co.uk>>.

⁶⁴ Maeve Hosier, *The Regulation of the Legal Profession in Ireland* (PhD Thesis, NUIG, 2013).

⁶⁵ Jakob Weberstaedt, 'English Alternative Business Structures and the European Single Market' (2013) <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2333174> accessed 24 February 2014.

⁶⁶ Kevin Kinser and Jason Lane, 'The Problems with Cross-Border Quality Assurance' *International Higher Education* 18 (2013).

and fees, whereas “quality-assurance agencies are intended to support the public good by ensuring legitimate, reliable, and sustainable institutions of higher education”.⁶⁷

Yet TNE is succeeding. Roberts and Stanfield allude to one index where there are “over 200 international branch campuses currently in operation around the world [and] only a few have bit [*sic*] the dust”.⁶⁸ It is likely that the mix of regulatory regimes allied with professional accreditation and admission to legal professions within individual countries will remain complicated and complex for some time to come. As legal professions engage globally, as technology aids convergence of knowledge, and even as regulation changes around the world, there will be moves on the part of governments to respond positively to see their legal professions participate in the global economy. Against that will be resistance from local legal professions (e.g. India) to foreign incursion that will spill over into TNE.

THE EFFECT ON LEGAL EDUCATION

It might be thought from what I have said that legal education is stuck in the doldrums and is not changing. This is not so. We are currently witnessing a global struggle over legal education. It is similar to the one taking place in the teaching of English as a second language where British English and American English are the two main contestants. Through the export of British culture and economy via the British Empire, English law and its education were firmly based in many countries. The Commonwealth countries adhered to British legal education until the late 20th and early 21st centuries when some adopted American JD-type degrees. The fact that the two forms of legal education are still paramount reflects the situation with respect to American and English law in international trade.

The prototypical LLB degree as a precursor to further vocational training has transformed into a second US JD type degree that incorporates forms of practical training within it. It is difficult to determine why this change has occurred but we can see what the results are in some countries. Take, for example, Japan which has persistently kept the numbers of law students passing the Bar examination low and so keeping the legal profession small. Since introducing a JD style programme, the numbers have increased and there are more lawyers, which ought to aid access to justice.⁶⁹

It is worth mentioning three other significant countries that have made this shift: Australia, China, and India. We can argue that economic ties for these countries have veered towards the US and away from the UK with the result that American legal culture is beginning to dominate globally. The US-Australia bilateral free trade agreement included provisions on the mutual acceptability of each other’s legal qualifications.⁷⁰ China has received more legal knowledge transfer by way of US law

⁶⁷ *Ibid.* But also see Kinser and Lane, ‘Solving the Regulatory Challenges of International Campuses’ *The Chronicle of Higher Education* <<http://chronicle.com/blogs/worldwise/solving-the-regulatory-challenges-of-international-campuses/32515>>, where they discuss the reforms developed by the Commission on the Regulation of Postsecondary Distance Education which attempt to tie together ideas of home and host accountability.

⁶⁸ Dennis Roberts and David Stanfield, ‘Don’t throw the baby!’ *Inside Higher Ed* <<http://www.insidehighered.com/blogs/world-view/don-t-throw-out-baby#sthash.uOAwPrUU.dpbs>>.

⁶⁹ Luke Nottage, ‘Legal Education in Asia: Globalization, Change and Contexts—in Review’ (2011) Sydney Law School Legal Studies Research Paper No. 11/05, <<http://ssrn.com/abstract=1752646>> accessed 24 February 2014; Takahiro Saito, ‘The Tragedy of Japanese Legal Education: Japanese “American” Law Schools’ (2006) 24 *Wisconsin International Law Journal* 197.

⁷⁰ Laurel Terry, ‘The Future Regulation of the Legal Profession: The Impact of Treating the Legal Profession as “Service Providers”’ (2008) *Journal of the Professional Lawyer* 189.

firms and export of Chinese students to the US than from any other country. One exemplar of this is the establishment of the Peking University School of Transnational Law, which teaches both a US JD programme and the Chinese JM degree, but the school has yet to be accredited by the American Bar Association.⁷¹ India, like China, has many law colleges of which few are considered of appropriate standard. To overcome this India has introduced national law schools to educate a cadre of elite lawyers. This has incorporated a move towards US legal education principles as well in an expectation of producing graduates ready to practise on taking the new India Bar examination. Again we can see this exemplified in new institutions such as the Jindal Global Law School which has followed American styles of legal education.⁷²

It is possible to put forward an explanation for this move in educational outlook and pedagogy. The fundamental philosophical outlooks of American and British legal education are quite distinct. They are underpinned by the distinction between science and humanities. During the late 19th century the US started to change legal education. The dean of Harvard Law School, Christopher Columbus Langdell, introduced ideas from Chemistry—its laboratory—which was transformed into the Socratic case method dialogue of the US law school classroom as epitomised by Professor Kingsfield in *The Paperchase*. This in conjunction with a system of grades assessed in class and in examinations meant prospective employers could select the best candidates by merit instead of relying on ascriptive methods like family connections.⁷³ Editorial positions on law review and judicial clerkships bolstered the credentialing power of the law school.⁷⁴ With changes in pedagogical styles over the years the case method has been remarkably resilient. Even though it has been criticised by many law professors it endures.⁷⁵ There has been change, however, as movements such as the Legal Realists introduced forms of social science analysis into law. The apotheosis of this movement is the rise of law and economics as one of the dominant forms of analysis in the law school, especially through the agency of Judge Richard Posner.⁷⁶ Many areas of law have accepted economic analysis as the norm including antitrust, contracts, torts, and securities law. The scientific approach to law is deeply embedded in the American academy.

English legal education, although around in some academic institutions, depended more on a craft approach through apprenticeships and pupillages.⁷⁷ The big law firm was not permitted until the late 1960s so the production of law graduates was low in number. English legal education relied on traditional methods of teaching, the exegetical lecture and the inquisitorial tutorial. There were no cases and materials books rather textbooks were the norm. From an English perspective law fell into the humanities camp of C.P. Snow's two cultures.⁷⁸ Its research base was thin and it was

⁷¹ See <<http://blogs.wsj.com/law/2012/08/07/aba-council-votes-against-accrediting-foreign-law-schools>> accessed 7 May 2014.

⁷² These changes are reinforced by the numbers within the OECD statistics I introduced at the start of this paper. The US is still the dominant power in the global educational sphere. It receives more foreign students than any other country.

⁷³ See Robert Swaine, *The Cravath Firm and Its Predecessors 1819–1948* (Ad Press 1946–48).

⁷⁴ Robert Stevens, *Law School: Legal Education in America from the 1850s to the 1980s* (University of North Carolina Press 1987).

⁷⁵ Russell Weaver, 'Langdell's Legacy: Living with the Case Method' (1991) 36 *Villanova Law Review* 517; Lani Guinier, Michelle Fine and Jane Balin, *Becoming Gentlemen: Women, Law School and Institutional Change* (Beacon Press 1997).

⁷⁶ Robert Gordon, 'The American Legal Profession 1870–2000', in M Grossberg C and Tomlins (eds) *The Cambridge History of Law in America Volume III: The Twentieth Century and After (1920—)* (Cambridge University Press 2008) 73–126.

⁷⁷ See Max Weber, 'Empirical Legal Training: Law as a "Craft"' *Economy and Society* (Vol 2, Guenther Roth and Claus Wittich eds, University of California Press 1968).

⁷⁸ C.P. Snow, *The Two Cultures* (first published 1959, Cambridge University Press 2012). Snow's series about a Cambridge college, "Strangers and Brothers", is narrated by Lewis Eliot, an academic lawyer who displays none of the research strengths of his science colleagues.

closely aligned with philosophy. And today as English law has firmly embedded itself in the academy, it hews more towards critique than scientific analysis and law and economics remains a minority interest.

The effect of these two approaches is to raise the impression that American legal education prepares students for practice. Whether it does or not is another question. On the other hand English legal education appears more theoretical and detached from practice. This is not to say one is better than the other, but that there are significant differences which policy makers around the world have utilised in their choice of educational form.

In the last few years both systems have been under intense scrutiny. For the US this has resulted from the crisis in legal education where law school applications have dropped substantially to the detriment of the law school. Henderson and other analysts have shown the bimodal job market means graduates from law schools below the elite group are obtaining jobs at much lower salaries than the big law firms pay.⁷⁹ Not only are they greatly dissatisfied, they are hugely in debt, as much as \$200,000. Law schools to fund increasingly expensive faculty rely on the scheme of federally funded loans for law students. The *US News and World Report* law school rankings, however, prevent schools from raising their applicant numbers - indeed they force them to lower numbers - because LSAT scores heavily influence the rankings. The American Bar Association Task Force on Legal Education has produced some mild reforms but nothing that will compel change.⁸⁰ It failed to deal with the core problem of the three year curriculum and its contested necessity. American legal education remains in crisis yet its dominion is still an extensive one when we examine global legal education.

English legal education is being examined because of the re-regulation of the legal services market and legal education falls under the remit of the Legal Services Act 2007. The examination has been conducted in a more rigorous way than in the US. The Legal Education and Training Review covered the market, technology, pathways into law and more. The LETR report, while significant in its analysis of the situation, offered less in the way of solutions. The onus has now shifted from the academy to the legal regulators to shape the future configuration of legal education. If anything this shows the tension inherent in English legal education. The legal profession and the academy have had a tense co-existence. This could be the period in which some harmony is achieved as the new arrangements are configured over the next few years.

CONSEQUENCES FOR GLOBALISED LEGAL EDUCATION

The above picture of global legal education tells a story of change and reaction. Some countries are examining themselves thoroughly about the way they educate and train lawyers and raising questions about what they expect from their legal professions. Countries that perceive themselves as part of the global economy see change as necessary in order to bring their legal professions up to speed in size and skill. How they so do varies with some of them focusing on outputs such as competencies while others concentrate on inputs such as length and subject content of degrees.

The shift to US style legal education brings with it many expectations about the form and content of education along with the different types of lawyers who might be expected to emerge from these programmes. The belief that US JD degrees embody

⁷⁹ William Henderson, 'A Picture of the Melting Right Mode' *The Legal Whiteboard* <<http://lawprofessors.typepad.com/legalwhiteboard/2012/07/a-picture-of-the-melting-right-mode.html>> accessed 28 June 2014.

⁸⁰ See ABA Task Force at n. 6 above.

practical skills as a result of the form of the educational process is fundamentally mistaken. One of the complaints made about American law schools, which are facing a collapse in enrolments of over 50 per cent, is that they are insufficiently practical or oriented to the profession. The main solution to this bias has been the introduction of legal clinics in law schools. While they have great benefits, in the forty or so years they have been in existence the problems with “practice” have persisted. Moreover, the American classroom experience, often based on the Socratic case method, does not translate well into other cultures. The Socratic method requires the ability on the part of students to face up to professors and challenge them. Some cultures, eg, China and Japan, are steeped in respect for elders and therefore do not welcome such behaviour. Both Korea and Japan have reported that educational processes, such as reliance on lectures, have not transformed into the classroom case method approach. In part, this reflects the reluctance of the students and professors to engage in classroom debates and in other part it is a lack of proficiency and training in new methods for faculty who therefore rely on traditional pedagogic methods.

The Carnegie Report and LETR suggest that competences and outcomes may be a preferable way to measure the success of a law degree. Without delving too deeply, this approach advocates a more mixed set of techniques, which would include skills training as well as theoretical knowledge. “Skills” is the gap that the private, for profit educational providers will aim to fill ahead of traditional law schools. Schools such as BPP offer a suite of courses from basic law degrees to professional courses. Furthermore, they combine their law programmes with other courses such as business. And being relatively small and market-focused they are able to be nimble in how they respond to the market, which includes the changing requirements of regulators.⁸¹ Law TNE programmes will reduce their reliance on parochial English law and move towards a more portfolio approach to legal education that would include elements of English law, domestic local law, customary law perhaps, transnational law,⁸² international law, regulatory law, and so on.

The adoption of new techniques requires investment to train teachers in activity-based learning and the connected technologies. There are precedents. New programmes such as Law Without Walls (LWOW) show how multidisciplinary programmes can reinvigorate legal education and inspire students.⁸³ LWOW uses technology, activities, projects, teamwork, mentors and much more to create imaginative programmes for students from around the world. Another such course is Reinvent Law that also engages students in projects and cross-disciplinary thinking.⁸⁴ One benefit flowing from these is the potential increase in students’ employability through their acquisition of multiple skills as a result of their participation.

⁸¹ BPP is owned by Apollo Global, which among others owns the University of Phoenix, a management school in India, Open Colleges in Australia, and universities in Chile and Mexico. With the resources Apollo is able to command it is in a strong position to compete with traditional providers and overtake them. Its emphasis on “meeting the evolving needs of millions of nontraditional learners” is provocative. It is now one of the largest online educational providers in the world <<http://www.apollo.edu>>. Apollo is also becoming a large aggregator of education courses providing an online marketplace of around 15,000 from Microsoft, Adobe, Coursera and Udacity. It is an attempt to match skills with employers’ needs. It suggests how synergies can be obtained by being entrepreneurial. See Caroline Porter and Melissa Korn, ‘Can this online course get me a job?’ <http://online.wsj.com/news/articles/SB10001424052702304585004579417411487177766?mod=WSJ_Careers_CareerJournal_4&mg=reno64-wsj>. See also, for a critical view of private educational providers, Stefan Collini, ‘Sold Out’ 35 *The London Review of Books* 3 <<http://www.lrb.co.uk/v35/n20/stefan-collini/sold-out>> accessed 1 July 2014.

⁸² See, for example, Cornelia Pillard et al, ‘Why Transnational Legal Education?’ Center for Transnational Legal Studies, London <http://ctls.georgetown.edu/documents/CTLS_Why_Transnational_Education.pdf>; Carrie Menkel-Meadow, ‘Why and How to Study “Transnational” Law’ (2012) 1 *UC Irvine Law Review* 97 <<http://www.law.uci.edu/lawreview/Vol1No1Articles/menkelmeadow.pdf>>.

⁸³ See <http://www.lawwithoutwalls.org/>.

⁸⁴ See <http://www.reinventlaw.com/>.

CONCLUSION

Legal education is at the metaphorical cross roads. In global terms it is successful and in some parts of the world lawyer numbers are set to grow substantially. In others they are likely to shrink. There is great demand for post-graduate legal education and large numbers of students migrate across the globe to attend law schools, especially in the OECD countries. The problems exist in these key host countries. The US legal profession and education is in a highly uncertain position with little prospect of reforming itself. It appears economic forces will compel change. In the UK the legal profession is being restructured through government cutbacks on legal aid and new forms of law practice entering the market. Both solicitors and barristers feel under siege. In some ways the academy has been insulated from this; and that insulation is now wearing thin as the reality of the market enters the consciousness of potential students and faculty. We have not yet worked out the answers, nor have we fully evaluated the scale of the problem. But the problems are no longer merely local ones; they have to be viewed in a global context, which is one of intense competition.