

The Sheffield Project on the Internationalisation of the Legal Profession (2016)

Researching Internationalisation From Law School to the Legal Profession: Here's What We Found

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Internationalisation is an increasingly important objective for all those who study and practice law. Despite many debates in the context of both legal education and the legal profession, what 'internationalisation' exactly entails in the legal field remains under-defined. As research associates in a project on internationalisation in the legal profession, we have been out and about looking for clarification in this sense. In this blog we aim to tell you what we discovered.

The four of us - law students from the University of Sheffield – were selected to undertake a placement at the local office of a large international law firm, while on our year abroad: Joe in Melbourne, Connor in Brisbane, Elliott in Milan and Jas in Munich. The placement was not a typical internship or vacation scheme; rather, our role was to visit the relevant law firms as researchers, engage with the lawyers, observe their practice and look for answers to three broad frame questions that we had agreed with our supervisor, Dr. Francesca Strumia.

1. What makes law internationalised in the context of an international law firm?
2. What are the implications of this on the professional life and experience of a lawyer?
3. How does this reflect on legal education and the skills/competencies a modern lawyer must have?

Each of us was in charge of developing his or her own research design within the frame of these questions. We were keen to discover more on the concept of internationalisation – what is it? How widely does it apply? Do some lawyers use it to a larger extent than others? Each of us took a slightly different approach to these questions; Connor, for example, prepared surveys on legal education and made use of quantitative data. Jas and Joe tailored their questions based on preliminary research into the law firm they were going to visit and their international practice. Whilst Elliott focused on the implications for the professional life aspect.

Albeit pursuing our own individual research plans, we also worked as a team. We were sitting at four corners of the globe but we coordinated our work on a number of Skype calls, with the guidance of our supervisor. Also, we were working towards a common output: a lecture that we would deliver to the law school second year cohort upon returning to Sheffield; this blog; and a scientific publication on the findings of the project.

The project was not without its challenges, such as dealing with confidentiality, organizing our individual findings into a common discourse, and ensuring to present these in a way appropriate to the audience. As well as, during the placement, reconciling our role as *researchers*, with *de facto* interning at a law firm. Altogether it was a rewarding opportunity. We were able to gain first-hand experience at an international law firm and understand the dynamics of the firm as well as the day-to-day activities of its lawyers. Participating in this project certainly impacted on our perception of intercultural awareness and helped us

develop new skills. We also learnt many things about internationalisation in the legal field. We elaborate below on our findings, as we are sure that these can be helpful in informing your choices and way of thinking about your legal education.

What makes law internationalised in the context of an international law firm?

First of all, what exactly is an international law firm? Law firms are becoming increasingly international as a response to the increase in global commercial transactions. To cater to businesses and individuals increasingly operating on global markets, law firms aim to provide an integrated service and cross-border culture - allowing clients to benefit from the expertise of offices in different countries. As a result, law firms are able to provide services across different types of law and across jurisdictions. This mode of practicing law allows for a more sophisticated sharing of ideas between jurisdictions and for a measure of reciprocal learning between legal systems.

At this point, it is important to emphasise the difference between 'international law' and 'international' in the context of an international law firm. Whilst international law firms apply domestic law in international contexts, international law stems from multi-jurisdictional treaties and agreements.

It is becoming increasingly important to understand why particular legal rules apply in different jurisdictions rather than just knowing which rules. The ability to explain legal formalities to clients, no matter which type of legal system they are based in, becomes one of the key attributes of lawyers at international firms. To do this, we need to be able to answer why. In the case of contract law, for instance, why is your client insisting on using a deed as opposed to a contract? If you can explain the reasons to a lawyer from another jurisdiction, or a foreign client, then they are more likely to be able to understand the laws of your jurisdiction and be willing to cooperate. There are many reasons why a lawyer may need to deal with the law of a jurisdiction other than their own and this can take different forms. For instance Joe, during his placement in Melbourne, found that Australian lawyers are using comparative law to help explain the complexities of intellectual property to a foreign client. Whilst Jas, in Munich, found that an American lawyer working on financial restructuring in Germany often looks to elements of US and UK law.

Those of us who undertook our internship in Europe found that EU law reveals a further aspect of internationalisation. One often thinks that where EU law applies, laws have become harmonized across different jurisdictions. However what Jas and Elliott observed respectively in Munich and Milan suggests that it is not as simple. EU law rather adds a layer of complexity in deciding whether national or transnational laws are applicable to a certain matter. Some areas like banking, finance, competition and taxation are heavily regulated by EU law, and since member states may have different interpretations in the transposition of the laws, this makes it vital for lawyers working across different jurisdictions to adopt a consistent approach.

So law is internationalised in the context of an international law firm because companies – clients- are acting in a global business environment. To advise them on the different aspects

of their operations and transactions, lawyers need to be alert to the cross-jurisdictional aspects of laws they work with and able to engage in a dialogue with colleagues operating in different countries.

The implications of internationalisation for the professional life of a lawyer

The presence of a network of offices in different jurisdictions is a key factor distinguishing international law firms from domestic ones. A lawyer at an international law firm is expected to utilise this international network and, among others, act as the bridge between their client and any external counsel. This go-between role impacts who lawyers must communicate and collaborate with. The diversity of communication between people from varying backgrounds and cultures is thus heightened because of this broadened pool of contacts.

The effect that this has on the professional working life of lawyers links closely to the impact internationalisation is having on global workplaces. These environments involve understanding others' perceptions and decision-making techniques and deriving original and innovative solutions based on a variety of perspectives. To put this into context, an Italian client using the Milan office may require English legal advice, compelling the lawyer to take advantage of the resources in the London office. Their matter may then fall under the jurisdiction of European Union law, requiring coordination with a partner in the Paris office, who has worked on a similar matter for another of the firm's clients.

The advantage of an international law firm thus lies in its ample resources, numerous offices and spectrum of competencies. Lawyers and their ability to communicate act as the central cog for these elements to run effectively. On evaluation after the project, we found how this can be replicated in substance for many careers. Communication with people from other cultures and backgrounds is becoming increasingly important as greater interconnectivity is impacting the economies, societies and political landscapes of the world.

Elliott and Jas in their research in Milan and Munich found that this communication is not limited to Skype calls and video conferences, but extends to the opportunity to travel and visit different offices, clients and institutions. The advantage of European offices lies in their proximity to a variety of high-profile institutions, headquarters and offices, which are within easy reach. Based on the responses given by many of the lawyers we interviewed, travel is seen as necessary at international firms with many citing Europe and North America as frequently visited locations.

However, travel is not such a distinctive feature for lawyers at the non-European offices of international law firms. Joe, in Melbourne, found that lawyers in Australia tend to travel less, as the opportunity to travel may not be so available due to the distance between firm, client and institution. Nevertheless, the research obtained from the European offices gives a clear representation of some of the amenities provided by an international law firm, which enhance and enrich the professional working experience of its lawyers through travelling to different locations and mixing with a diversity of people.

A crisis of interculturality: The asymmetry between legal education and legal practice

If legal practice has evolved to include, to a large extent, trans-national collaboration and cross-border transactions, then a few questions come to mind: Has legal education adapted to reflect this evolution? And has this evolution changed the key competencies of the modern-day lawyer?

A starting point to answer the latter question is the insight that the lawyers we interviewed provided into their own legal education. The interviewees felt that legal education weighs more on theoretical study of legal issues rather than on practical application. They generally indicated that modules that focused on skill building, such as legal research and writing skills, had been the most helpful in preparing them for practice. Overall our interviewees expressed a sense of disenchantment with the ability of legal education to foster the development of intercultural competence.

This is because legal education fails to provide insight into foreign legal systems that one regularly interacts with in legal practice. Legal education is too narrow in this respect - focusing predominantly on the domestic jurisdiction. As discussed above, lawyers, depending on their practice area, have to work with legal systems outside of their jurisdiction. Commercial transactions are becoming increasingly global, and clients often prefer local, New York or English law to govern their cross-border contracts (through jurisdictional and governing clauses). But beyond this, legal practice can, just about, force lawyers to interact with any legal system the client requires them to.

Alarm bells may start to ring for some: If it takes three years to learn the legal system of a domestic jurisdiction, then how is it practical to teach the laws of other jurisdictions? This question misses the point. Legal education does not fail to foster intercultural competency because it neglects the study of the substantive law of another jurisdiction. It fails in doing so because it does not address the different **principles, values and cultures** that have formed foreign legal systems. If one understands the foundations of foreign legal systems, the cultural attitudes that shape them and the ethics that define them, then one can more readily interact with them. This is what we mean by intercultural competency.

But intercultural competency as a skill goes far beyond facilitating the interaction between a lawyer and a foreign legal system. It can also provide assistance in dealing with foreign clients - an almost certain scenario for legal practitioners, whether in a domestic law firm or an international one. One must learn how to identify, evaluate and communicate with different cultures, assess cultural attitudes and use cultural difference to facilitate thinking and interaction with clients - much like with foreign legal systems. Only then can a lawyer become a true 'global facilitator'.

Our Conclusive Reflections and Hints for the Future

On the basis of the above findings, we can think of several suggestions as to how students can make the best of what legal education currently offers to develop intercultural competencies. There are obvious options: student exchanges, learning a foreign language, or joining a foreign society. The law school experience however offers a number of less obvious ones that should not be underestimated: befriending and opening a dialogue with international students in your class, volunteering at legal centres, reading international press, just to mention a few. Further, it is not solely a matter of the concrete activities that one

undertakes. Intercultural agility also depends on the attitude with which you approach your studies and activities. It can be, for instance, about asking different questions about the old subjects you are learning.

Our research involvement ends here. But the project we have described and in which we took part is only at the beginning. Our findings leave a number of open questions. There is room to push the research beyond the context of the international legal profession. For example, how is the judicial system affected, if at all, by internationalisation? Are judges required to adapt to the changing legal landscape as much as solicitors? To what extent do judges take into account the laws of foreign legal systems? Furthermore, how far does the distinction go between lawyers at international firms and those at domestic firms? There are also many further questions to pose to the members of the legal profession: on the practice areas that are more internationalised, on the gains and losses of internationalisation, on the meta-legal skills of the modern lawyer. We leave these questions to you, and hope some of you will take up the challenge and go seek the answers to some of these for the benefit of future cohorts.

Joe, Connor, Elliott & Jas