

Anti-Globalisation Trends and the International Legal Profession: Perceptions, Impacts, Responses

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Overview

This report presents the findings of a research project on the implications of emerging anti-globalisation trends for the international legal profession led by the University of Sheffield School of Law over the course of the spring and summer of 2017. The project has been conducted by nine penultimate year LLB students at the University of Sheffield School of Law, under the supervision of Drs. Francesca Strumia and Oisin Suttle, within the frame of the Sheffield Project on the Internationalisation of the Legal Profession.

This is a joint faculty-student research project exploring dimensions and implications of the globalisation of the legal profession. Each year, selected high-achieving students spending their penultimate year as exchange students in a non-UK university participate in a team research project including a short placement in a law firm in the host country.

The Project was born as a response to a perceived gap in awareness of, and engagement with, law's global role and meaning in the context, respectively, of legal education and of the international legal profession.¹ It aims on the one hand at developing knowledge on the international legal profession through a comparative lens, for the benefit of the legal industry and academic community. And on the other hand, at improving law students' exposure to, and understanding of, the international and global aspects of the legal profession through student-led data gathering, analysis and dissemination of the project results. The Project capitalises on the University of Sheffield School of Law programme of international exchanges – the largest in the UK with over 60 partner universities in 30 countries and over 100 students involved each year. The 2016 team conducted the first round of the Project exploring the meaning of internationalisation in the context of the legal profession (results available here <http://law.dept.shef.ac.uk/bart-buzz/?p=2755>). This year's team focused on emerging symptoms of resistance to globalisation, and the way these are perceived, experienced and addressed in the context of the international legal profession.

¹ See H. Dedek, A. De Mestral, '*Born to be Wild: The "Trans-systemic" Programme at McGill and the De-Nationalization of Legal Education*' [2009] 10(7) German Law Journal 889, p. 893-95; Ben W. Heineman, Jr., William F. Lee, David B. Wilkins, 'Lawyers as Professionals and as Citizens: Key Roles and Responsibilities in the 21st Century', Harvard Law School Center on the Legal Profession,

<https://clp.law.harvard.edu/assets/Professionalism-Project-Essay11.20.14.pdf>.

Research Questions

How has the rise of anti-globalisation sentiment in recent years, and associated political changes, impacted internationalisation of the legal profession?

The overarching research question addressed in the 2017 project is *'How has the rise of anti-globalisation sentiment in recent years, and associated political changes, impacted internationalisation of the legal profession?'*

Prominent manifestations of a widespread rise in anti-globalisation sentiments across a number of countries include the UK's decision to leave the European Union and the election of Donald Trump as President of the United States. Other obvious manifestations have included increased support for populist (including anti-European) political parties, increased concerns about immigration in Europe, North America and Australia, and calls for greater economic nationalism and protectionism, which have in turn delayed the ratification of or, in the cases of TTIP and the TPP, led to the abandonment of major international economic treaties.

At the basis of the project's main research question there is an expectation that the identified manifestations of anti-globalisation present peculiar challenges for international legal practice and particularly for international law firms, meaning both global law firms with a multi-jurisdiction practice, and jurisdiction-rooted law firms with an international outlook in their practice and client base. Whether in terms of their global branding, international client bases, or the frequency with which their staff work across borders, on both a temporary or permanent basis, these firms are indeed an expression of the economic globalisation of recent decades.

To capture the range of the challenges facing international law firms in connection with the rise of anti-globalisation the researchers sought answers to four sub-research questions. These are set out below with a brief explanation of the underpinning expectations and assumptions.

1) To what extent do international law firms perceive the rise in anti-globalisation sentiment, and associated political changes, as a threat or opportunity for their businesses? How have/might firms respond to these developments?

International law firms brand themselves as self-consciously international, in both their products and their perspectives. They may thus perceive recent developments as a potential

threat, both because they pose a threat to their clients, and also because being 'international' may no longer be perceived as such a good thing in the current mood. Equally, firms may perceive significant opportunities, including in advising clients who are themselves responding to this new environment.

2) What are the most significant aspects of these developments from the perspective of different practice areas and jurisdictions? How have/might firms respond to these developments?

While anti-globalisation is a world-wide phenomenon, its political, legal and institutional manifestations may vary significantly across jurisdictions. Equally, some practice areas may be more directly impacted, or impacted in different ways, by these developments. A focus at the level of individual jurisdictions and practice areas can thus allow us to disaggregate impacts and responses.

3) To what extent do individual lawyers perceive the rise in anti-globalisation sentiments, and associated political changes, as a threat or opportunity for them in their own personal and career development? How have/might they respond to these developments?

At a personal level, lawyers in international practice are likely to be more internationally oriented than most citizens, whether through frequent contacts with international colleagues and clients, or through themselves living, working or travelling outside their home countries. The anti-globalisation trend may thus pose a direct challenge to the international identity of many lawyers.

4) What implications do these developments have for law students and junior lawyers planning their careers in an environment of significant uncertainty? What do students and junior staff need to do to maximise their prospects of success in this new and changing environment?

It seems plausible that recent developments will make new demands on lawyers, which will in turn translate into new demands on legal education and continuing professional development. These issues are particularly relevant for those at the earliest stages in a legal career. What steps can those at this stage take to 'future-proof' their career plans? For students, what should they be trying to get from their education, and how should law schools be responding to this?

Key Findings

- ✓ **Wait and see approach towards anti-globalisation:** A key overall finding in respect of the main research question is that the participant law firms do not see anti-globalisation trends as a major concern at this stage and have not felt any marked impact from relevant sentiments. A wait-and-see approach prevailed among them.
- ✓ **Threats and opportunities from anti-globalisation:** A recurring response, offered in the context of several of the sub-questions, was that anti-globalisation trends pose both a threat and an opportunity for law firms. This reflects the nature of legal practice, and particularly international, multi-area legal practice, where loss of client work on one side may be compensated by added work from another perspective, in conjunction with the shift in the nature of the legal advice that clients seek. For instance, while political uncertainty may trigger reluctance to invest and thus slow down transactional work, threatened regulatory changes may increase work on the regulatory advisory side.
- ✓ **Overall optimism across jurisdictions:** Respondents across participant law firms and across jurisdictions manifested a sense of overall optimism for the prospects of the international legal profession, regardless of anti-globalisation trends. Perceptions of what constituted anti-globalisation sentiments changed among jurisdictions, with Brexit playing a larger role in Europe, and Trump's presidency being quoted more often in Australia.
- ✓ **Vulnerability of internationally focused practice areas:** In terms of practice areas, respondents considered that the more international practice areas such as M&A and competition were the most vulnerable to anti-globalisation trends. In contrast, domestic focused practice areas such as litigation were considered more insulated.
- ✓ **The clients' filter:** A recurring response was that any impacts of anti-globalisation trends for law firms are filtered by the needs and responses of the clients' law firms serve. Hence factors beyond practice and jurisdiction, such as the share of foreign work a law firm performs in a certain practice area, or the geographical spread of the clients, ultimately drive a firm's strength or vulnerability vis-à-vis relevant trends.
- ✓ **Concerns for indirect effects on individual careers:** At an individual level, lawyers appeared only marginally concerned with the impact of anti-globalisation trends on their profiles and careers. However, some responses mentioned possible indirect negative impacts, such as a drop in the interest of legal work on offer, and reduced international mobility opportunities.

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- ✓ **The enduring value of international and practical experiences for aspiring and junior lawyers:** The rise of anti-globalisation did not figure among the main aspects of concern for the formation and development of law students and young lawyers. Both concerns expressed by representatives of the latter groups, and advice addressed to them from the most senior lawyers rather focused on other aspects such as flexibility and exposure to diverse practical experiences ever since law schools. International experiences, both academic, professional and personal, and work experience while in law school were mentioned across participant law firms and jurisdictions, and across seniority, as fundamental building blocks for a rounded lawyer profile.

 - ✓ **The resilience of international legal practice:** Responses collected across questions and topic overall suggest that the international legal practice, at least in the context of international law firms, is characterised by a certain resilience. This was linked to two main factors in the responses. On the one hand, the law firms' ability to diversify the type of legal advice provided, so that what may be a loss of business on the part of a client can always be a gain in legal advice work on the law firm side. And on the other hand the double nature of international legal practice, both jurisdiction-rooted and cross-border oriented, which provides added protection against both domestic political uncertainties and global contingencies.

Methodology

Overview

The 2017 team collected data in nine jurisdictions through short placements of between one and three days in the local office of a participant law firm. During the placements the researchers interviewed both lawyer and non-lawyer staff. The covered jurisdictions were United Kingdom (London), Belgium (Brussels), the Netherlands (Amsterdam), Spain (Madrid), France (Paris), Italy (Milan), Germany (Munich), Switzerland (Zurich), and Australia (Melbourne).

The Participant Law Firms

Seven law firms participated in the 2017 project (two law firms participated with two offices each in different jurisdictions). These included four global law firms with a multi-jurisdiction practice (London, Munich, Milan, Paris, Brussels and Melbourne) and three single jurisdictions – rooted or regional focused law firms with an international practice (Zurich, Madrid and Amsterdam).

Participant law firms were invited to participate through professional contacts of the Sheffield School of Law staff and based on the geographical location of the student researchers. Participation was on a voluntary basis.

To respect the preference of some of the participant law firms, their names are not disclosed in this report.

The Student Researchers' Work

Team selection

Candidates for the student researchers' team were shortlisted on the basis of academic performance and a motivation statement. The final selection was based on an interview in which candidates were asked to prepare a presentation on their proposed approach to the overall research question.

Research framing

The four sub-research questions were agreed through a series of team-wide skype calls. Then each student researcher was assigned to a participant law firm for purposes of data collection. In a first phase the student researchers were required to conduct preliminary research on their assigned law firm and to prepare an implementation outline identifying potential interviewees and areas of focus for data collection based on the participant law firms' structure, jurisdictions, business model and practice areas. The implementation outlines were shared and discussed among the team to ensure consistency. In some cases,

they were also shared in advance with the participant law firms. The student researchers then prepared specific questionnaires based on the implementation outlines. The frame questions were the same across participant law firms and jurisdictions, however specific questions were tailored to each law firm specificities.

Data collection

In a second phase, the student researchers conducted their law firm placements. These lasted typically two to three days, although there was a degree of variation depending on the availability of the participating law firm. In one case, the student researcher conducted all the interviews within the span of a three-hour visit at the relevant law firm. All placements and interviews took place between April and June 2017. Altogether, the research team interviewed 64 lawyers and trainee lawyers and 8 non-lawyer law firm staff. The lawyer interviewees included 20 partners and counsels, 25 associates and 19 trainees and stagiaires.

Data analysis and re-elaboration

The third phase consisted of the data analysis. Student researchers were divided into four sub- teams for these purposes, each responsible for one of the four sub-research questions. Each team analysed the placement reports and interview notes to extract all answers relevant to the assigned sub-question, identifying recurring responses, contrasting responses and unexpected responses. The findings in respect of the relevant sub-question were then elaborated on this basis.

Dissemination

The project results are being disseminated through this report. They also formed the subject of a lecture to the second year cohort, as part of the WiNS Skills and Values module at the University of Sheffield School of Law in the autumn of 2017, led by the student researchers' team.

Ethical approval and funding

The Project on the Internationalisation of the Legal Profession has been ethically approved in accordance with the ethics review procedure of the University of Sheffield School of Law. The 2017 round has been funded through the School of Law budget.

Structure of the Report

The remainder of this report presents the findings of the project sub-question by sub-question. For each sub-question the key findings directly responding to the question are explained, and then other relevant but not directly responsive findings are considered.

Findings in Detail

1) To what extent do international law firms perceive the rise in anti-globalisation sentiment, and associated political changes, as a threat or opportunity for their businesses? How have/might firms respond to these developments?

Overview

Overall, collected evidence suggests that anti-globalisation had not been recognised as a major threat to participant law firms as businesses. Several interviewees identified both long and short term benefits of anti-globalisation trends that law firms can capitalise on. The interviews evidenced a general ‘wait-and-see’ attitude towards the described trends, with limited if any response actions having been undertaken by participant law firms so far.

Key findings in respect of this question focus on the participant law firms’ perceived manifestations of anti-globalisation and the expected impacts of relevant trends. In addition, collected responses also highlighted an interesting perspective on the perceived resilience of law firms as businesses.

Key Findings on the Question Set

Perceived manifestations of anti-globalisation

“Anti-globalisation is just a small hiccup in a steady path of globalisation” (Lawyer, Brussels)

A first observation emerging from the interviews is what the interviewees considered a manifestation of an anti-globalisation trend. One of the main events discussed with all firms in relation to anti-globalisation was Brexit, however respondents at the participant law firms (even those based in the UK) frequently highlighted that as they were not fully reliant on the UK market, this did not pose a major threat to them. Furthermore, anti-globalisation was often seen as a temporary state, or not even a trend at all. The French election result of May 2017 was often cited as a demonstration of a downward trend in anti-globalisation sentiments.

Responses in different jurisdictions tended to focus on different national manifestations of anti-globalisation. For example, interviewees in the Zurich office found the February 2014 referendum in response to the popular initiative ‘against mass immigration’ to be a key concern at the time.²

**“Anti-globalisation as an abstract paradigm is of no real concern”
(Lawyer, Milan)**

Expected impacts

A further observation emerging from the interviews across jurisdictions is that anti-globalisation sentiments were often not the current top concern for participant law firms. Other concerns were described as more pressing, such as the rise of digitalisation or other wider trends developing parallel to anti-globalisation, such as a move towards Asian markets. Whilst participant law firms were clear in highlighting their limited concern towards anti-globalisation, responses collected from junior lawyers, senior lawyers and recruitment teams presented, to some extent, contrasting views.

In general, junior lawyers did not feel confident representing the view of the firm as a business, especially in the Milan, Zurich and Melbourne offices. However, they tended to personally feel more threatened by anti-globalisation, rather than seeing it as an opportunity. Junior lawyers in Munich presented a more relaxed attitude, stating they were not afraid of losing clients and focusing on the opportunities that may arise as a result of Brexit. Junior lawyers in Paris noticed some anxieties among colleagues, and although they recognised anti-globalisation as an opportunity in the short term, they considered that it might turn to a threat in the long run (this view was aligned with that of more senior lawyers in the Paris office).

“In the short term Brexit has been more of an opportunity than a threat to the firm because of an increase in advisory work” (Lawyer, Paris)

² The Swiss referendum “against mass immigration” passed with a narrow majority on 9th February 2014. It led to the introduction of a new provision in the Swiss Federal Constitution, whereby Switzerland must manage immigration according to quotas and respecting the national preference principle. A transitional period of three years applied for the implementation of the referendum result through an act of Parliament, and for the recognition of any incompatible international agreement. In December 2016 the Swiss Parliament passed implementing legislation which mitigates to some extent the result of the referendum.

In contrast, senior lawyers were more willing to give detailed answers to present the participant law firms' views. On the whole, senior lawyers saw anti-globalisation as less of a threat than junior lawyers and considered anti-globalisation to be, on balance, an opportunity. This view was grounded in the interviewees' combined assessment of both direct and indirect effects of anti-globalisation. Direct effects, such as the protectionist turn in various jurisdictions, were generally considered to be negative. For example, a lawyer in Brussels expressed the view that the presence of protectionist jurisdictions dissuades clients from investing, which would indirectly affect firms by reducing the number of overall deals occurring.

However, indirect effects, such as uncertainty, were often described as opportunities for law firms in the short term. Uncertainty can lead to a higher flow of work as clients require more legal advice in their capacity as international actors. For example, regulatory changes that impact clients would not necessarily harm law firms as relevant changes can generate more business for the firms themselves. Perhaps unsurprisingly, Zurich lawyers believed

“Barriers are opportunities for law firms” (Lawyer, Madrid)

that lawyers in London would have more opportunities to advise clients on the impacts of Brexit, whereas their initial hope that Switzerland would also benefit had not yet materialised.

In a long term perspective, however, uncertainty turned into a factor of concern in the eye of several interviewees. This was reflected in the 'wait-and-see' attitude to recent events that several interviewees portrayed (interviewees at the Paris participant law firm detailed how the firm was “hedging its bets”).

Furthermore, senior lawyer interviewees stressed the importance of waiting to see the economic consequences of political developments. If, as stated by a partner in Milan, “anti-globalisation as an abstract paradigm is of no real concern”, political events with direct effects on the economic market were considered of concern, both as threats and as opportunities. For example, some of the interviewees had concerns that Brexit might affect the status of London as the world financial centre, which could impact law firms in the future. Both junior and senior lawyers in the Milan office recognised a long term opportunity in this respect, due to the re-organisation of financial markets. And one of the Melbourne trainee lawyers held the similar view that the possible change of London's

financial centre status would affect the law firm's business regardless of Australia's geographic remoteness.

Recruitment and office management staff, for their part, had seen no impact of anti-globalisation, and indicated that there were no changes to the participant law firms' current recruitment policies.

Other Findings

Perceived resilience of law firms as businesses

Overall emphasis was placed, in the responses collected, on the resilience of law firms to any impacts of anti-globalisation. This came from a widespread sense of resilience of law firms as businesses to changing economic and political landscapes. This sense mirrored the 'wait-and-see' approach the findings evidence.

Global vs international law firms

“It is doubtful whether the legal world can be described as “global”, given the barriers which are likely to hinder cross-jurisdictional collaboration” (Lawyer, Munich)

A surprising point was the lack of divergence, in this respect, between participant law firms based in a single jurisdiction and participant law firms with offices across multiple jurisdictions. This could be explained with the fact that, according to the evidence collected, both types of law firms branded themselves as international, although not necessarily global. The 'international' brand is used, depending on the cases, in order to expand either inside one jurisdiction or across many. Single jurisdiction participant law firms saw themselves as domestic rather than global, but simultaneously remained international. Both types of law firms can therefore see the rise in anti-globalisation as both a threat and an opportunity.

“Most transactions are international but we are only advising on Swiss law. We are probably therefore as international as any lawyer can be as you will always be partially domestic” (Lawyer, Zurich)

For instance, in Madrid, the viewpoint was that the ‘international’ nature of the firm, even though it was only based in one jurisdiction, made it resilient to any change through anti-globalisation sentiments. Melbourne lawyers also highlighted the firm’s resilience to anti-globalisation as the office was used to being “geographically isolated”. In other cases, resilience was linked by the interviewees to the perceived stability of the jurisdiction where they operated. Among Swiss respondents, responses varied depending on this latter perception. Some responses clearly linked the strength of the single jurisdiction condition to the specific position of Switzerland: “Switzerland operates as an Island and is therefore more resilient”, “Stability is due to the firm being in Switzerland, rather than being based in one jurisdiction”.³ However other responses also identified this same factor as a weakness: “[the firm] is dependant on Swiss being an attractive location for clients, which in itself is dependent on globalisation”.⁴

In contrast, the global participant law firms thought that they should be less worried about anti-globalisation than single jurisdiction firms. This was emphasised by responses collected in the London participant law firm. These pointed to the firm’s international nature as a defence against anti-globalisation, as it was perceived that firms with a “high level of dependency on the UK economy” were most likely to feel the impact of Brexit. Ultimately thus representatives of both types of firms expressed confidence and a sense of resilience.

³ Lawyer interviewee, Zurich

⁴ Lawyer interviewee, Zurich

2) What are the most significant aspects of these developments from the perspective of different practice areas and jurisdictions? How have/might firms respond to these developments?

Overview

In general, the responses collected suggest that more internationally focused practice areas, such as competition law, were more affected by anti-globalisation trends than less international ones such as white collar crime. Specific manifestations of the anti-globalisation trend such as Brexit were perceived to have different levels of impact depending on the jurisdiction, with Melbourne lawyers expressing fewer concerns than lawyers based in EU jurisdictions. Nevertheless, the interviews also evidenced that factors extraneous to geography and the nature of practice areas, such as for instance a firm's clients' international business expansion needs, influenced the interviewees' perceptions of anti-globalisation trends.

Key Findings on the Question Set

Most significant aspects by jurisdiction

Overall optimism with varying explanations: While most interviewees shared in their perception that anti-globalisation trends bring both challenges and opportunities for law firms' practices, the explanations offered for their optimism and concerns varied across jurisdictions. Respondents in the London participant law firm suggested that the overall level of investment has remained stable as investors feared missing out on investment targets while waiting for the outcome of political negotiations. In contrast, most respondents from the Paris participant law firm linked political uncertainty to a decline in investment, at least for property sales, caused by clients' fears for market uncertainties. Nevertheless, the same respondents remained confident about the role France will play in the progression of globalisation following the election of President Macron. Most respondents from the Zurich participant law firm expressed concerns similar to the Parisian respondents on the correlations between frequency of investments and political certainty. Although some of them referred to Switzerland as the "safe haven for foreign investors after Brexit",⁵ almost half of the respondents manifested concern for the referendum against mass immigration,⁶ whose results could lead to a drop in foreign investments against clients' wishes. However, on the other hand, they evidenced optimism on Switzerland's enduring status as a close trade ally to the EU and on the UK's enduring status as a top market for exports. Respondents in the Munich participant law firm did not see any clear

⁵ Lawyer interviewee, Zurich

⁶ See footnote 2

benefit from Brexit, but they also did not consider it a threat to their practice. Most of them shared the firm belief that their international clients would continue to trust the Munich office with their M&A transactions. In the Brussels participant law firm, on the optimist side most respondents expected an increase in the firm's workload as most international clients turn to Brussels for Brexit concerns. However, two respondents mentioned their concerns for intensifying protectionism due to greater British governmental intervention into certain key infrastructure, for example in the pharmaceutical field.

Southern European peculiarities: Despite the geographical closeness of the two countries, responses collected in Italy and Spain demonstrated remarkable discrepancies between the interviewees' concerns in the two jurisdictions. Also, while respondents in the jurisdictions mentioned above saw both chances and threats from anti-globalisation trends, most respondents in the Madrid law firm were extremely optimistic while most respondents in the Milan law firm were worried about the threat anti-globalisation poses. In particular, respondents in Madrid saw anti-globalisation sentiments as a chance for the Spanish market to attract more foreign investment through leveraging the advantages that Spain offers over other jurisdictions in areas such as infrastructure and renewable energy. In contrast, almost all respondents in the Milan participant law firm expressed concerns about the rise of domestic nationalism.

The Australian perspective: Whilst among respondents in participant law firms based in the European Union, anti-globalisation sentiment was linked to issues that had a geographical proximity such as Brexit and the rise of nationalism, respondents in Melbourne focused more on the effects of Donald Trump's presidency in the US. Nevertheless, despite the collapse of the Trans-Pacific Partnership, relevant respondents did not see Trump's presidency as a concern for their practice.

Most significant aspects by practice areas

The practice areas that the respondents felt to be the most affected by anti-globalisation sentiments were those that are internationally focused. In contrast, fewer changes were reported in practice areas mostly governed by domestic law. Although concerns were expressed in certain jurisdictions for national legislative projects aimed at protecting certain areas of activity from developing international laws. The following are the most significant developments in a selection of practice areas that were mentioned in the interviews.

Competition and anti-trust: Competition law is a fundamental part of EU law and respondents at five of the participant law firms expressed concerns over anti-globalisation trends making it harder to achieve a harmonised single market due to resistance to EU competition laws. In particular, relevant respondents expressed uncertainty over future compliance with the EU Commission jurisdiction in this area on the part of Member States

that are openly requesting higher autonomy. These include, for instance, the UK with Brexit, and Italy with the rise in popularity of anti-establishment and anti-globalisation political movements such as the '5 Stelle'. However, respondents at the Paris participant law firm pointed out that less legal standardisation across the EU would also result into more legal advice being required by businesses.

Intellectual property: A respondent from the Madrid participant law firm focused on the detrimental repercussions that anti-globalisation trends could have in the IP area. Harmonisation in this area is already hampered by Spain's and Italy's refusal to adhere to the EU Unitary Patent system. This results in complications and inefficiencies. Reforms and moves inspired by anti-globalisation sentiments could further exacerbate the situation.

“Business would not restrict itself to national boundaries as this would be a huge commercial step backwards” (Lawyer, London)

Mergers and acquisitions: There were some mixed responses in relation to the impact of observed trends in the M&A area. Some respondents at the Paris participant law firm had seen no movement in this area but were concerned that anti-globalisation sentiments may stunt foreign investment. Similarly, respondents at the Milan participant law firm noted uncertainties affecting large scale mergers, and respondents at the Zurich participant firm highlighted a “dry period” following Brexit as clients were awaiting the results of political negotiations before investing. References were also made to potential arising battles in terms of the choice of a governing law going forward. Other respondents in Paris and London felt that “deals will still happen because many are necessary”.⁷ Some respondents also pointed out that despite Brexit, Paris had one of its best years for M&A since the 2008 financial crisis. A respondent in London took this even further by suggesting that “business would not restrict itself to national boundaries as this would be a huge commercial step backwards”.⁸

Arbitration: Mixed responses were given also in respect of arbitration. Whilst respondents at the Paris participant law firm found that arbitration was currently a stable practice area, interviewees at the Milan participant law firm feared that the practice would soon

⁷ Lawyer interviewee, Paris

⁸ Lawyer interviewee, London

encounter new challenges as several countries resist the application of international treaties. This could have a negative impact on the working of cross border arbitration awards.

Employment law: Respondents at the Milan, Madrid, Brussels and Paris participant law firms all highlighted concerns in respect of restrictions to free movement of persons following Brexit, and in conjunction with nationalist ferments. Respondents at the Brussels firm in particular anticipated that this could translate into some extra work in the employment law area, in conjunction with redundancies and businesses moving away from the UK.

Other practice areas: Respondents at three participant law firms emphasised that litigation and regulatory work are generally more domestic focused and hence currently stable and more insulated from the anti- globalisation trend. However, litigation can also include foreign work which is heavily dependent on the involvement of other jurisdictions. Respondents at the Zurich participant law firm noted a rise in legislative projects protecting national markets, meaning that even domestic-focused practice areas could see a shift in the required type of legal advice.

“Law firms and their clients alike have not reacted dramatically to Brexit so far” (Lawyer, Munich)

Proposed firm responses by jurisdictions

Collected evidence shows that although participant law firms have recently made changes in some of their international offices structure, this is not in response to anti-globalisation trends, but rather connected to other factors such as financial difficulties in the relevant offices or business opportunities in new jurisdictions.

At least one of the participant law firms had recently established offices in London and the recent rise in anti-globalisation sentiment had not changed or adversely impacted their plans in this sense.

“Many things about London... put it ahead of other cities such as Paris and Frankfurt, and these things cannot be quantified in dollars and cents” (Lawyer, London)

Overall, evidence collected at the participant law firms suggests that they are in a static moment compared to a previous moment of expansion. Some respondents in the London participant law firm, for instance, observed that no need was felt at present to open other offices in financial capitals such as Paris or Frankfurt. They felt that work can sufficiently be handled by current offices and that any additional work can be performed alongside partner firms. They clarified at the same time, in any case, that non-expansion decisions are not related to anti-globalisation sentiments.

London's special place: Participant law firms in general remained optimistic about basing their operations or having a presence in London despite the foreseeable divorce between the United Kingdom and the EU. One interviewee at the London participant law firm referred to the specialism of London. Factors including but not limited to its modern infrastructure and the English common law system make London resilient to anti-globalisation trends. In this respect, it was noted there is a clear distinction between the law firms' business and the banks' business. Unlike banks, who are looking to move operations to other parts of Europe, London law firms are less likely to be affected because London is home to the common law, which has often been the preferred choice of law between parties in commercial contracts.

“Clients will always need advice regarding political changes”
(Lawyer, Munich)

Other Findings

The importance of the clients' needs

In addition to the perceived threat or opportunity provided by anti-globalisation sentiments discussed in the first part of the report, the majority of the respondents also indicated that the implications of relevant trends for different practice areas and jurisdictions depended strongly on the response of clients to relevant developments. As suggested by respondents at the Madrid and Munich participant law firms, “the nature of lawyers' role is to solve problems”⁹ and “to bridge the fragments [that] politics [has] created”.¹⁰ This means that a change in the needs of the clients often leads to a direct change in a practice area or jurisdiction as a result.

⁹ Lawyer interviewee, Madrid

¹⁰ Lawyer interviewee, Munich

Respondents at the Paris, Munich and Brussels participant law firms all highlighted an increase in advisory work as most of their clients are international and “will always need advice regarding political changes”.¹¹ Also it was noted that “clients go where the money goes”¹² regardless of the presence of anti-globalisation sentiments.

Correlation between the geographical spread of clients and vulnerability to anti-globalisation sentiments

One of the other significant findings emerging from the evidence collected is that the wider the geographical spread of a firm's clients, the less vulnerable the firm is to the current anti-globalisation sentiments. For instance, one interviewee in the Zurich participant law firm linked Switzerland’s character as an open nation to stability in transactional work. Indeed other than advising clients from the UK and the continent, the firm works with businesses in Asia, Russia and Brazil.

This in turn makes the cross-continental practice of the Zurich participant law firm more vulnerable to factors other than anti-globalisation trends, such as the local affairs of jurisdictions where clients are based. Currency fluctuation in Brazil or IT developments in China may affect the destiny of the projects the firm advises on more than Brexit or Trump’s election.

¹¹ Lawyer interviewee, Brussels

¹² Lawyer interviewee, Zurich

3) To what extent do individual lawyers perceive the rise in anti-globalisation sentiments, and associated political changes, as a threat or opportunity for them in their own personal and career development? How have/might they respond to these developments?

Overview

Most interviewees were asked specifically if they felt that anti-globalisation had had a negative or positive impact on their personal and career development, their mobility in relation to their work and if anti-globalisation had made them feel less secure about the future of their careers. Overall the vast majority of respondents expressed the view that anti-globalisation had had no impact, either positive or negative on their careers, and many held the view that it was unlikely to have an impact in the future. Explanations offered for holding such view varied. Key findings set out below include a survey of such explanations as well as a sample of less common views. Other findings emerging in relation to this question include thoughts expressed by the respondents on further factors affecting lawyers' careers, such as mobility opportunities and technology.

Key Findings on the Question Set

Reasons why respondents felt that anti-globalisation had not negatively impacted their careers

“Lawyers are restricted to their own jurisdictions anyway, so anti-globalisation has a limited effect on the legal profession” (Lawyer, Zurich)

Two respondents stated that anti-globalisation trends had not and would not in future have a negative impact on their careers because they believe that trade and relationships between companies will prevail despite the current political climate. They also considered that the growing complexity of international trade would increase rather than diminish the demand for legal services.

“Trends do not affect the legal profession – the legal market is very local and nationalised. Anti-globalisation cannot affect a nationalised profession” (Lawyer, Zurich)

A further two respondents took the view that the legal profession is protected from international trends because it is a “nationalised profession”. Whilst yet another one was of the opinion that anti-globalisation is not a trend and therefore is incapable of impacting the legal profession.

A couple of respondents also mentioned that national legal systems are a product in their own right and the knowhow that comes with practicing in a particular legal system protects against the effects of anti-globalisation.

Mitigating negative impacts of anti-globalisation

As most respondents did not feel that anti-globalisation had had a negative impact on their careers most did not mention what they would do to mitigate such impacts. Those that did, said they endeavoured to remain open minded, keep up with developments and undertake a variety of both local and international work to diversify their knowledge and expertise.

Comments going against the overall opinion

Respondents who felt that anti-globalisation had a negative impact on their career: A small minority of respondents from the Zurich and Brussels participant law firms felt that anti-globalisation had in fact had or was likely to have a negative impact on their work. The reasons given included remarks that anti-globalisation might impact how interesting client work is in the future, which would impede career development due to a lack of attractive opportunities. The vast majority of respondents across participant law firms mentioned that their motivations for entering the profession and choosing to work at their respective firms was based on the international nature and thus interesting work available at these firms. These respondents mentioned that a breakdown in relationships between nations as a result of anti-globalisation would reduce the quality of work accessible to lawyers. Additionally, a respondent in Zurich felt that anti-globalisation would lead to more hostile work environments within international firms which would limit and alter the interaction between lawyers, to the detriment of the profession.

Mergers and acquisitions: Respondents who felt that lawyers may feel less secure and anxious about their career development stated that this might be the case for lawyers working in mergers and acquisitions as this is a practice area that is vulnerable to changes. A respondent also mentioned that they would feel less secure in their career if their jurisdiction was viewed less desirably by companies and investors as a result of EU-to-country relationship break downs. One respondent also took the view that local firms would be excluded from larger cross border deals as a result of anti-globalisation.

Respondents who felt anti-globalisation had a positive impact on their career: A number of respondents at the Zurich participant law firm held the view that anti-globalisation could

benefit them. One of them remarked that anti-globalisation benefits Swiss lawyers because law is a local commodity and less globalisation will result in less competition within the market for legal services in Switzerland. This respondent also stated that they felt more secure in their career development as a result of anti-globalisation and that the current political and economic climate would produce more opportunities for Swiss lawyers. A trainee lawyer expressed the opinion that anti-globalisation would lead to more travel because their law firm, like many others, has a commitment to the development of trainees, as well as the fact that clients require greater support during times of uncertainty. Further remarks were made by a Brussels respondent who highlighted that uncertainty breeds opportunity for lawyers. In times of uncertainty deals become harder and more complicated to execute and therefore the need for clients to engage lawyers increases.

Other Findings

The discussions with respondents about their feelings towards security in their careers gave rise to a number of interesting findings, not directly related to the question set, but nonetheless illustrative of the aspirations/ambitions/concerns characterising professionals in this industry.

Mobility

Many of the responses to questions about the impact of globalisation on mobility within the profession mentioned that what are currently flexible movements between offices of a firm could become more expensive and difficult for law firms to facilitate. Despite this, respondents stated that travel will remain a priority where it is necessary to meet client needs and that firms would be equipped to overcome any difficulty in practicalities.

One respondent drew particular attention to the mobility of law students, suggesting that this may be impaired going forward. In particular, a concern that was expressed was for a diminution in the number of British EU law lawyers, as key institutions that provide post-graduate specialisation for EU lawyers, such as the College of Europe, would likely no longer fund scholarships for UK students.

Optimism

Many of the responses to various lines of questioning evoked a deep optimism amongst the respondents. Many mentioned that they did not consider anti-globalisation a threat to their career development or their firms because they were confident that international investment, trade and the world's financial capitals will continue to prosper regardless. Most of these expressions of optimism came from young French and English lawyers working at large international firms. Alongside optimism, a number of respondents explained that they felt secure because law firms and lawyers themselves equip themselves

well for change by being prepared to work on strictly national matters and having contingency plans.

The benefits of having been trained in a globalising world

“Lawyers also use experiences abroad to make themselves more valuable in their own jurisdiction” (Lawyer, Brussels)

A number of respondents said that building their careers at a time when globalisation was on the rise had allowed them to qualify in multiple jurisdictions and work abroad, both of which respondents felt added value to their profiles as lawyers in their main jurisdictions. A respondent also noted that qualifying as a lawyer in London as it was evolving into the world’s financial capital meant that there were a number of opportunities on offer.

Concerns about technology

When asked whether they were concerned about the impacts of anti-globalisation on their careers some respondents mentioned that the rise in the use of artificial intelligence, technology and digitalisation within legal practice posed more of a concern to their career security than anti-globalisation.

4) What implications do these developments have for law students and junior lawyers planning their careers in an environment of significant uncertainty? What do students and junior staff need to do to maximise their prospects of success in this new and changing environment?

Overview

In the discussions with the interviewees surrounding this fourth question, four main themes emerged. A first theme, perceptions of, and reactions to the anti-globalisation trend was directly related to the question set. Three further themes were one step removed from the question, but nonetheless enlightened key aspects of the experience of today's young lawyers: the role of legal education, the importance of practical and internal experiences, and the specific challenges to the junior lawyer of today.

Key Findings on the Question Set

Perceptions of, and reactions to the anti-globalisation trend

Responses to the main question focused mostly on three areas: the symptoms of emerging anti- globalisation trends, the perceived impacts for junior lawyers' and law students' career prospects, and broader reactions of junior lawyers to the trend.

Symptoms

In general, British and European respondents seemed the most affected by rising anti-globalisation sentiments, mentioning as symptoms Brexit and Donald Trump's proposed policies on trading rules and visa restrictions. Australian respondents did not appear as concerned by these symptoms, nor did they provide many other reasons to be disconcerted, suggesting a more detached perception of the anti-globalisation wave outside of Europe in the context of the futures of junior lawyers.

“The ‘top’ firms in the UK and elsewhere tend to be international law firms. So, if students want to work at the ‘top’ and have access to the best work they will still choose to work at an international firm despite the current political climate” (Lawyer, Paris)

Perceived impacts

On the one hand junior lawyer interviewees across almost all participating law firms mostly concurred that Brexit has not had and will not have any impact on their career choices and

goals. However, several of them expressed concerns for the personal impact the trend might have on their mobility choices. Responses referred, for instance, to worries of citizenship issues, visa restrictions or, in the case of Brexit, the possible compulsion to requalify into a different jurisdiction should legal qualifications no longer be recognised on a mutual basis across Europe. On the other hand, more senior respondents explained that, as international law firms offer some of the most interesting and remunerative work opportunities for law graduates, many graduates are likely to continue to seek to work in international law firms, whether they are based in the jurisdiction where they have studied or further afield. Similarly, several senior interviewees at the continental European participant law firms disregarded the notion that the weight and importance of experiences abroad during the formation of a lawyer, such as studying an LLM in a common law jurisdiction, had shifted or lessened following the anti-globalisation trend.

Broader reactions

A couple of interviewees disagreed with the majority, stating that there is no anti-globalisation trend at all. This was an anomaly as most interviewees recognised that, while it may not have had any real effect on the international legal profession, we are witnessing a genuine anti-globalisation phenomenon.

Other Findings

Role of legal education

Several respondents offered viewpoints on how legal education has impacted professional experiences and, in certain instances, the shortcomings of this education. A majority of responses hinted to a degree of inadequacy of legal education in preparing lawyers to enter the international legal environment. A number of shortcomings were identified. One of these was the imbalance, in different jurisdictions, between elements of academic and practical legal training. Legal training in continental European jurisdictions was found to be more academically inclined, while UK legal training was criticised for being more pragmatic but far less academic. Despite the assumption that common law jurisdictions may have similar curricula, one Australian interviewee also expressed the desire for a more ‘practically-oriented’ education model, suggesting that it is solely the UK that constructs a system of legal training with more attention to practical aspects. All of the interviewees stressed the importance of well-rounded training in an international environment. However, the interviewees at the Zurich participant law firm, concurred in that successful legal studies at home are the most important first step, before any international training.

Special legal education models

Interviewees in Germany and Italy also commented on the pros and cons of an education at the Bucerius Law School in Hamburg and at the Bocconi Law School in Milan. These are two experiments of private law schools with a specific curriculum. Bucerius Law School is

one of the first and highest-ranking private law schools in Germany, founded in 2000 and based in Hamburg. It offers two programmes; the general law programme (LLB) and the Master of Law and Business programme (MLB).¹³ The Bocconi School of Law is part of the prestigious Bocconi University. It offers a five-year course in Law, which incorporates the Italian equivalents of the Bachelor of Law (3 years) and the Master of Law (2 years).¹⁴

The interviewees who had attended Bocconi were generally satisfied with the legal training they had received. This was largely due to the vast number of ‘study abroad’ experiences available at the school – several of the Bocconi attendees had been encouraged to study in the US or other common law jurisdictions which was perceived by many as what had, ultimately, secured their current positions.

Importance of practical and work experiences

“We are looking for recruits with open minds, a diversity of interests and life experiences” (Recruitment staff member, Milan)

Several interviewees also stressed the importance of specific aspects of legal education that had been critical in preparing them for their future careers. Among these, the emphasis fell on domestic legal education complemented by international experiences, as well as opportunities that prepare law students for practice even before qualifying such as mooting, legal clinics and work experience. Interviewees in the Brussels office suggested that work experience is possibly the most important factor they look for in applicants. A sentiment shared in the Milan law firm, where prior professional experience among junior recruits is also highly valued. A senior lawyer, in particular, observed that experience of the profession whilst still studying may help direct academic focus.

Importance of experiences abroad

There was a general consensus, among both senior and junior lawyer respondents, that some sort of overseas experience, whether that be academic or professional, is important for the formation of a lawyer. However, the reasons why it was considered a valuable part of an international lawyer’s profile varied between the different jurisdictions.

¹³ <https://www.law-school.de/about-bucerius/facts-figures/>

¹⁴ <https://www.unibocconi.eu/wps/wcm/connect/Bocconi/SitoPubblico/EN/Navigation+Tree/Home/Programs/School+of+Law/>

In particular, interviewees in the Munich and Paris participant law firms focused on the academic importance of an international legal education and on how this could compensate for some of the shortfalls in their domestic systems. One interviewee in the Paris firm, a senior partner who had been educated in France, the UK and the US, stressed the importance of complementing the highly theoretical French teaching method with a more practical Anglo-Saxon legal education. Exposure to the Anglo-Saxon legal system is useful for a lawyer pursuing an international career also because English and US laws are at the basis of several international treaties and are widely used in international commercial contracts.

The LLM

“An LLM shows a firm’s clients that their lawyers are well rounded and intellectuals in their fields” (Recruitment/HR staff member, Madrid)

Several responses, particularly within European participant law firms, pointed to the unquestionable importance of studying an LLM in a common law jurisdiction. Many Swiss and Italian lawyers in particular had completed an LLM or doctorate. Recruitment managers at one participant law firm even suggested that an LLM is an unofficial prerequisite for joining the firm. And respondents at another participant law firm indicated that they personally sponsor their junior lawyers to complete an LLM, if they have not done so already when they join. Relevant respondents underlined that an LLM promotes skills that are highly valued by firms, including English language, open-mindedness and intellectuality.

Senior staff and recruitment staff in the Madrid participant law firm focused on how the experience of the LLM abroad demonstrates to clients that a lawyer is well-rounded and improves the lawyer-client relationship. It also leads to the creation of professional networks, facilitating lawyers in bringing new clients to the firm. Respondents in the Zurich participant law firm similarly stressed the importance of benefits beyond the academic ones, such as concrete opportunities for involvement in those practical activities - mootings, legal clinics - that respondents in several offices concurred in finding critical for the development of a rounded international lawyer.

A gap between clients' expectations and junior lawyers' expectations

One senior lawyer respondent in the Paris participant law firm referred to a concerning gap between the increasingly demanding expectations of clients as to law firms' services, and the increasingly demanding expectations of junior lawyer recruits in terms of their lifestyles. This perspective was echoed in other interviews. The relevant respondent suggested that competition within the legal profession has increased, and law firms are under pressure with regard to fees. Clients expect more than they used to for less money. On the other hand, incoming graduate recruits expect an optimal work-life balance from the beginning as well as flexible working arrangements. Bridging this gap creates a novel dilemma for the law firms' business model.

Conclusion

The research findings indicate that anti-globalisation trends are, at least so far, a pale concern in the eye of international legal practice. Relevant trends have not driven any specific responses or adjustments at the firms' level.

However through the lens of discussions on symptoms, perceptions, and responses to anti-globalisation, other interesting insights on the nature and prospects of the international legal profession were revealed.

Two of these insights are particularly relevant from the perspective of the Sheffield project and its objective to address a gap in understanding of law's global role in the interface between legal education and the international legal profession.

A first insight has to do with the specialism of legal practice in the international business panorama. This is due to the unique blend of domestic dependency and global openness that characterises the practice of law, at least in its international dimension. This gives legal practice a certain elasticity in the face of economic and political contingencies, as well as a distinctive resilience capability.

A second insight has to do with the profile of the modern lawyer. Despite the jurisdiction-tied nature of legal practice, and relatedly of legal education, a degree of international exposure and experience is a fundamental element for the formation of a rounded lawyer, equipped to advise on rapidly changing scenarios, and to effectively combine rigorous understanding of technical legal details with the appreciation of wider context and broader implications.



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