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Citation: Ashley, L. and Empson, L. (2012). Differentiation and discrimination: Understanding social class and social exclusion in the UK's leading law firms. *Human Relations*, 66(2), pp. 219-244. doi: 10.1177/0018726712455833

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Link to published version: <http://dx.doi.org/10.1177/0018726712455833>

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To be cited as

Ashley, Louise. & Empson, Laura. 2013. “Differentiation and discrimination: Understanding social class and social exclusion in leading law firms”, *Human Relations*, 66(2) 219–244.

Abstract

For leading law firms in the City of London, diversity and inclusion has become an important human resources strategy during the past fifteen years. A recent focus on social class within the sector has been encouraged by increasing governmental concerns relating to social mobility which acknowledge that elite professions, particularly the law, have become more socially exclusive over the past thirty years. Based on a detailed qualitative study of six leading law firms conducted between 2006 and 2010, this paper asks: why do leading law firms discriminate on the basis of social class? It argues that discrimination is a response to conflicting commercial imperatives, the first to attract talent and the second to reduce risk and enhance image. The paper describes these dynamics, emphasising the role played by the ambiguity of knowledge. It argues that until these conflicting demands are reconciled, organisational and state-sponsored initiatives centred on the ‘business case’ for diversity, may achieve only limited success.

Keywords

Diversity and Inclusion, Inequality, Law Firms, Professional Services, Social Class

Introduction

In May 1997, a Labour government was elected in the UK led by Prime Minister Tony Blair. Despite its foundation on notionally socialist principles, this administration sought to avoid the topic of social class. Indeed, early in his first term Blair made a bold claim that the class war is over.¹ This optimistic rhetoric was cut short ten years later with the commissioning of a review specifically examining social mobility. This report, known as the Milburn Review, was a response to concern that entry into the professions in the UK had become significantly more difficult for less privileged people during the past thirty years (Cabinet Office, 2009).

Limiting access to the professions on the basis of social class has been posited as problematic for two main reasons. In relation to social justice, writers such as Sommerlad (2007) have argued that the professions have historically acted as an important mobility project for less privileged people. In relation to commercial concerns, the Cabinet Office has argued that by stifling the entry and progress of diverse talent, the UK professional services sector is risking its reputation for dynamism, innovation and creativity (Cabinet Office, 2009).

Arguments in favour of widening access are often positioned in relation to this ‘business case,’ which is also a key component of a relatively new diversity discourse within the legal sector. The diversity agenda departs from a previous legislative approach to equality focused on same treatment, and instead prioritises recognition of individual difference (Kirton and Greene, 2007). Though now forming the foundation of many leading law firms’ approach to equality, the diversity agenda, and the ‘business case’ in particular, has proved controversial within the academic literature (Barnes and Ashtiany, 2003; Noon, 2007). Some studies have suggested that the business case is both morally dubious and highly contingent (Dickens, 1999), whilst others have called for a contextual approach which examines the benefits and drawbacks of diversity in practice (Zanoni and Janssens, 2003).

In this paper we contend that, in order to understand the utility of diversity as a means to secure more equal outcomes for previously disadvantaged groups, it is important to understand first *why do leading law firms discriminate on the basis of social class?*² This is the key question addressed in this paper. Within the legal sector, a number of explanations for discrimination on the basis of social class have been put forward, many of which focus on the role played by various forms of capital. For example, analyses focusing on the supply side highlight human and social capital, which are often less available to people from economically disadvantaged backgrounds (Becker, 1975; Bourdieu, 1977, 1984, 1986; Rolfe and Anderson, 2003; Shiner, 1997, 1999, 2000). Explanations focusing on the demand side suggest that discrimination by PSFs serves a clear business purpose. Market control theorists employ Bourdieu's (1986) concept of cultural capital and frame exclusion as a defensive mechanism practised by existing elites as a means to protect their privilege and rewards (Ackroyd and Muzio, 2007; Larson, 1977; Sommerlad, 2007). A further explanation is provided by Hanlon (2004), who sees exclusion and homology as a product of the legal sector's historical development, with similarities between client and advisor helping to build reputational capital, status and trust.

We argue in this paper that each of these analyses offers a useful but only partial explanation for this paper's key question. Based on a qualitative study of diversity policy and practice at six leading law firms, we suggest that in these knowledge intensive firms, clients find it difficult to judge the relative or absolute quality of work (Alvesson, 1993, 2001; Empson, 2001). As a result, presentation of an 'upmarket' image has become an important proxy for 'quality', and this is achieved by appointing graduates with particular forms of cultural capital (Bourdieu, 1986). Many people, often those who have less material advantages, are unable to acquire the legitimised forms of cultural capital. As a result they are excluded from the profession, no matter how great their intellect. Some relatively privileged people may, on

the other hand, gain entry despite limited real aptitude. In short, we contend that leading law firms' rhetorical commitment to recruiting only the most able graduates does not always coincide, and may often conflict, with a secondary objective to enhance their image and reduce risk.

We begin this article by reviewing the relevant literature and positioning our study against the work outlined above. We then go on to describe the methodology of this qualitative study. This draws on 127 interviews conducted at six leading law firms in 2006/2007 and in 2010. The project was conducted in two phases, which shared the same research design and objective, and examined the introduction, development and implementation of diversity and inclusion programmes within the legal sector. The main empirical analysis demonstrates first that image is relevant to each of the case study firms, but second, that the precise emphasis differs within and between firms. We argue that where knowledge is most ambiguous, image is most important. Factors which affect this balance include the organisational culture and the brand it wishes to project; and the profile of the firm's specific client base and the nature of its work. In the concluding section we discuss the implications of these findings with regard to both theory and practice.

Theoretical context

In this section of the paper, we start by theorising social class, as both a discursive construction and a concrete structure and introduce Bourdieu's (1977, 1984, 1986) forms of capital. Following this, we survey previous empirical research which has related these concepts specifically to the legal and other professions. We also introduce a further type of capital considered relevant within the legal sector, namely reputational capital (Hanlon, 2004). Finally, we describe the relationship between image, ambiguity and knowledge work (Alvesson, 2001). This suggests a relationship between cultural capital and the projection of a

‘high-class’ image by leading law firms which has a corresponding impact on social inclusion. The response to these issues by leading law firms has been framed within a diversity agenda, and we therefore provide an overview of related policy and the challenges associated with an equality agenda based on ‘difference’.

Social class, inequality and inclusion

The start point for arguably all modern analyses of class remains the concepts developed by Karl Marx during the nineteenth century. Marx divided society according to individual’s relationship to the means of production, resulting in a differentiation between three ‘primordial’ classes namely landowners, bourgeois capitalists, and proletarian workers. Marx theorised each of these groups as possessing a double identity, as both a ‘class in itself’, and a ‘class for itself.’ The former is purely an objective social category, grouping individuals together on the basis of their shared economic characteristics, whilst the latter conceives of class as a subjective social formation, formulated through struggle which creates a shared identity and thereby a distinct ‘class consciousness’. The theoretical approach to class formulated by Marx was later reworked by Weber (1958), who also understands class in the context of social stratification. However, in Weber’s analysis, class is just one contributor towards social difference, with social status or ‘social honor’ defined as another. As such, Weber is more explicit in relating the material basis of social stratification to the ideological. In more recent analyses, though employment and social class remain closely linked in many class analyses, in others the relationship has been substantially reworked (Crompton, 2010; Erikson and Goldthorpe, 1993; Goldthorpe and Marshall, 1992; Pahl, 1989; Hindess, 1987). In part this is a response to empirical work which has revealed that the development, growth and trajectory of capitalism were significantly more complex and less linear than Marx in particular had envisaged. The so-called ‘linguistic turn’ within the social sciences addressed the role of culture and language as the source of social and political identities, whilst

substantial changes to the composition of the labour force have also raised questions about whether class identity can simply be 'read off' occupational classification (du Gay, 1996). However, precisely how to theorise the relationship between class status and socio-economic positioning remains an important question. Whilst scholars now tend to agree that class defined solely in relation to the means of production is simplistic, differences remain between those who continue to protect an old style class analysis based on occupational classifications (Goldthorpe and Marshall, 1992), and those who prefer a modified version of class analysis which extends beyond material factors (Crompton, 1998; Savage, 2000).

According to Skeggs (1994), Bourdieu (1979; 1986; 1996) has provided perhaps the most comprehensive and influential approach to theorising the relationship between abstract and concrete structures in relation to social class. Bourdieu identified and defined four different types of capital, namely economic, social, cultural, and symbolic. *Economic capital* includes income, wealth, financial inheritances and monetary assets. *Social capital* is generated by relationships and can broadly be defined as the values and networks passed down from family and developed through friends (Bourdieu, 1977, 1984, 1986; Coleman, 1998). *Cultural capital* exists in three forms. The embodied or incorporated state, in other words consciously acquired and passively inherited properties of the self, which are usually transmitted from the family through socialisation; the objectified state, in the form of cultural goods; and the institutionalised state, where cultural capital, usually in the form of academic credentials and qualifications, is recognised by institutions, including within the labour market. Integral to these various forms of capital is Bourdieu's concepts of habitus and the 'field', of which the latter is most relevant here. The concept of the field denotes the formal context in which the forms of capital, particularly cultural, can acquire their particular value. Thus, whilst legitimisation of a particular type of cultural capital is largely arbitrary, it is also subject to

conflict and struggle. The power to determine what constitutes legitimate cultural capital within a specific field is derived from the fourth type of capital, *symbolic capital*.

Bourdieu's theory was formulated partly in relation to education. He argued that education is often presented by bodies such as the state and indeed educational institutions as an effective mechanism for social mobility, though in fact the impact and effects of education are less certain. His analysis departs from those which focus on *human capital*, typically defined by scholars and practitioners as a relatively neutral measure of intelligence and aptitude (Becker, 1975). In contrast, Bourdieu (1977) argued that this supposedly objective approach fails to recognise that ability is not necessarily the result of investment in time and the acquisition of cultural capital, but is in fact its consequence (Robbins, 2000). Bourdieu's theory offers a route to understanding social class which is not determined solely by socio-economic position. However, though ownership of the various forms of capital is not seen as a direct expression of an individual's 'class' position, its possession is on the other hand partly related to one's own occupation and to that of one's parents (Skeggs, 1997). As such, the forms of capital are not equally available to all people on birth and their acquisition partly depends on material factors. One consequence of these arguments is that alongside culture it is important to retain a focus on both institutions and structures, as these contribute to the persistence of class inequality (Crompton, 2010). We focus on this subject below.

Social class and forms of capital in the legal profession

The role of social class along with the ownership and impact of various forms of capital has been widely studied within the legal sector (Cook, Faulconbridge and Muzio, 2012; Rolfe and Anderson, 2003; Shiner, 1997, 1999, 2000; Sutton Trust, 2005; Sommerlad, 2007; Vignaendra, 2001). Again, whilst these studies do not suggest that socio-economic background can be mapped directly on to class position, this research has identified a

relationship whereby relatively privileged individuals, based on socio-economic factors, are more likely to gain access to leading law firms. Shiner (1997, 1999, 2000) points out that trainees at leading law firms in the UK are often privately educated,³ relatively privileged in terms of material advantage, and likely to have attended an 'old' university, particularly Oxbridge.⁴ These preferences are most marked in the type of leading law firm which are the focus of the current study. For example, in 2005, the educational charity The Sutton Trust published a report examining the educational backgrounds of the UK's top barristers, judges and solicitors. The sample group for the latter comprised partners at three of the City's five leading 'magic circle' law firms for which data was available. This found that in 1988, 59 per cent of UK-educated partners in this sample group younger than 39 years old had attended fee-paying schools compared with 73 percent of those 40 or older. However, in 2004, 71 percent of the younger partners were independently educated compared with 51 percent of the older group.

In order to explain these preferences, traditionally the legal sector has placed a heavy rhetorical emphasis on neutral assessments of human capital, including qualifications obtained at school and at university. Law firms claim that this is an economically rational means to test potential, and that the higher entry requirements of old universities mean that their graduates must be 'better' (Rolfe and Anderson, 2003). Yet as noted, this relationship may not hold. For example, studies have shown that students from less privileged socio-economic backgrounds are less likely to achieve high A-level⁵ grades than their more privileged peers and are more likely to attend a new university. This is not necessarily a reflection of lesser ability but of unequal access to resources and effective teaching (Metcalf, 1997), or to poor information and financial considerations (Archer et al., 2007; Reay et al., 2001). Students educated at private or fee-paying schools, are on the other hand more likely to achieve higher A-level grades and to select more traditional examination subjects, which

facilitate entry to leading universities. As a result, these students gain entry in higher numbers to these institutions. For example, at Cambridge just over 40 per cent and at Oxford just under 57 per cent of full-time undergraduates during 2009/10 were educated privately, compared to seven per cent of the population (Cabinet Office, 2009).

The disadvantage experienced by less privileged students may be compounded by a lack of social capital, differential ownership of which has an impact both on an individual's ability to access a career within the sector and the likelihood that they should aspire to do so (Allatt, 1993; Ball, 2003; Bourdieu, 1984; Reay, 2005; Skeggs, 1994; Francis and Sommerlad, 2009). Whilst it is no longer necessary to have direct personal contacts within the law to guarantee entry, access to a range of formal or informal social networks with experience in this sphere does provide a clear advantage (Cabinet Office, 2009). People from less privileged backgrounds are less able to establish the necessary social networks beyond their immediate circle which provide knowledge and information, whilst the networks of more economically advantaged families tend to be more diverse (Rolfe and Anderson, 2003; Shiner, 1997, 1999, 2000).

Unequal ownership of cultural capital is also an important determinant in relation to access to a legal career, particularly within leading firms. Law firms prefer trainees who display particular types of 'embodied capital' with regard to taste, leisure pursuits, and accent (Cook et al, 2012), whilst Sommerlad (2007) also argues that educational institutions are employed by leading law firms as a primary means to generate, distribute and signify the valorised 'institutional capital'. Attendance at a post-1992 or 'new' university is employed as an indicator of (lower) class (Sommerlad, 2007), whilst attendance at Oxbridge lends a significant degree of 'class cachet' (Galanter and Roberts, 2008). In this respect, Sommerlad (2007) integrates her analysis with a neo-Weberian interpretation of occupational closure. This suggests that the expansion of higher education and its diversification on the basis of

ethnicity and class should, in theory, enable a 'weakening of the social stratification'. Instead however, by making legitimate only certain forms of cultural capital associated with middle-class status, existing law firm elites are able to maximise their rewards by restricting 'opportunities to a limited circle of eligibles' (Parkin, 1974: 3).

In his analysis of institutional homology within the legal sector, Hanlon (2004) describes the role of reputational capital in relation to exclusion. Reputational capital has become central to the selling of professional services and is created through familiarity, face-to-face contact and the building of client/advisor relationships in which each party are social equals (Hanlon, 2004; Homans, 1961). Hanlon argues that professional service firms (PSFs) have historically been based on a clan structure, originally exerted through strong family and friendship ties and now through long periods of socialisation into a firm. During the first part of the last century reputational capital was largely possessed by individual professionals but as firms grew and consolidated during the second half of the nineteenth century, the capital owned by the firm became equally if not more important. 'High status' firms which emerged during the 1980's became highly sought after by high status and potentially high status clients, as a way to send signals to important third parties.

Image, ambiguity, diversity and difference

Many of the themes outlined above are captured in a range of studies examining the role of identity, image and credibility in relation to knowledge work (Alvesson, 1993, 1995, 2001; Alvesson and Empson, 2008; Empson, 2001). Knowledge intensive firms such as law firms have been defined as organisations where most work is of an intellectual nature and is undertaken by well-educated employees, who produce qualified products and/or services (Alvesson, 1993; 1995, 2001; Starbuck, 1992; Empson, 2001). An important property associated with this type of knowledge is its ambiguity, such that the relative and absolute

quality of knowledge work is 'very difficult to evaluate, at least for those outside the sphere of the experts concerned' (Alvesson, 2001: 867).

The property of ambiguity has a number of impacts. One implication is that leading PSFs are not necessarily employed by clients for their problem-solving capacity, but because 'institutionalized 'truths' (myths) say that one should do so' (Meyer and Rowan, 1977; Alvesson, 2001). The increasing professionalisation of legal services procurement may have led to more confidence in this respect, yet historically clients of knowledge-intensive companies have tended to stay with the companies of which they have experience, in order to reduce uncertainty and anxiety (Alvesson, 2001). A second implication is that in the absence of tangible qualities for inspection, it becomes extremely important for those claiming to be knowledge-intensive to nurture an image of being so. Image becomes vital as a substitute for 'the ambiguities of the content of the skills and knowledge of the personnel, for the difficulties in finding out what knowledge people actually do and for evaluating the results' (Alvesson, 2001: 870).

For Alvesson (1993), image must be managed at the professional, corporate and individual level. Building on Alvesson's work and also aiming to unite the organisational and individual level of analysis, Empson (2001) has outlined a process by which professionals define and delimit each other's status and credibility with reference to characteristics including appearance, speech and mannerisms. At the individual level, professionals believe that they 'risk diminishing the perceived value of their service if they allow their image to be called into question by association with apparently 'downmarket' colleagues' (Empson, 2001: 856). According to Empson's analysis (2001), the continuing emphasis on recruiting from leading universities would make sense as a means to provide the type of 'upmarket' brand thought most likely to build trust between clients and professionals, and permit the firm to charge

higher fees. Empson (2001) has named these individual and organisational orientations towards difference a 'fear of contamination'.

Though coming from different perspectives there are many similarities between the various analyses above. For example, (Alvesson 1993, 2001), Hanlon (2004) and Empson (2001) argue or imply that there will always be an 'othering' within professional occupations, not least because this is an essential means to bind a group or society together. More generally, the focus on the 'other' can be traced to post-structuralist and post-colonial theory, and to the identity politics of the 1980's. Both perspectives have shown that the suppression of difference results in continued inequality and the production of hierarchies (Hall and Du Gay, 1992). An attention to difference is also a key hallmark of a new diversity agenda within western workplaces, which can be seen as a challenge to a traditional liberal approach to equal opportunity based on same treatment. Diversity, sometimes known as diversity management, argues that difference should be recognised and rewarded and that organisations which successfully engage in this voluntary agenda will benefit from factors such as improved talent retention, enhanced creativity, or responsiveness towards a diverse client base (Kirton and Greene, 2007).

The extent to which diversity is capable of delivering these advantages is doubtful (Lorbiecki and Jack, 2000). Some academics interpret diversity's notional individualism as an attempt to depoliticize gender, racial and cultural tensions (Lorbiecki and Jack, 2000; Prasad and Mills, 1997). Others argue that in practice equal opportunity and diversity are interchangeable. Certainly, organisations which have adopted a diversity rhetoric often appear to maintain a strong commitment to the notion of merit and meritocracy (Copeland, 1988). This is despite the fact that during the past three decades, a significant body of work has argued that the notion of merit, though often presented as neutral, contains and conceals a series of value judgements and stereotypes (Young, 1990; Kirton and Greene, 2007). Academic studies have

also suggested that the ‘business case’ is problematic when used as a driver towards equality action, since it is both economically contingent and according to some, morally dubious (Noon, 2007). Partly as a result of these and other criticisms, recent studies designed to assess the efficacy of the diversity agenda in addressing disadvantage, take a contextual approach in order to understand what diversity and the business case does, in practice (Zanoni and Janssens, 2003).

In this paper we also take a contextual approach, arguing that in order to understand how to achieve social inclusion within the legal profession, it is vital first to understand precisely why law firms discriminate on the basis of social class. Within the legal sector, efforts to address class-based discrimination are positioned within the business case and as part of the ‘war for talent.’ As a spokeswoman from the law firm Freshfields Bruckhaus Deringer said in a major public forum:

‘...all the evidence shows that greater diversity delivers more creativity and innovation, so for firms anything that can help ensure they identify all possible sources of talent is strategically important.’ (The Lawyer, 2011)

However, this article argues that whilst socially undesirable, discriminating on the basis of social class is considered a rational commercial strategy by most leading law firms, but particularly those seeking to improve their image in order to charge higher fees. As such, the use of the business case as a key driver for equality may be deeply flawed (Ashley, 2010; Noon, 2007). Before discussing these issues in further detail, the following section outlines the research design.

Research design

This paper draws on a study examining the introduction, development and implementation of diversity and inclusion programmes at six leading law firms. The first phase took place in 2006 and 2007 whilst the second was conducted in 2010. Though a total of 174 interviews were conducted during the study, our empirical findings draw on a subset of 127 interviews in which social class was explicitly discussed and considered relevant.

Sequential studies

The six case study firms were selected to participate in the research for their status as leading law firms located in the City of London, organizations which existing studies had demonstrated experience particular challenges with regard to diversity and inclusion (see Table 1). In this sector of the profession, issues surrounding diversity and social class are particularly acute, a situation which we argue in this paper is related to a number of factors, of which the ambiguity of knowledge is one. The research is broken down into two phases:

Phase 1: The central question guiding the study was: *Can diversity deliver fair outcomes where equal opportunities has not?* The specific axes investigated were gender, ethnicity and, as an emergent theme, social class. The research consisted of in-depth case studies of the London offices of five large leading law firms during 2006 and 2007.

Phase 2: The second phase addressed the same question but extended this analysis to a sixth law firm, Firm F, and returned to the firm in Phase 1 which had been identified as most progressive in its diversity management practices (Firm D) to examine the impact that the firm's policies had had in the intervening period on the composition

of the legal workforce and attitudes towards social class. This phase took place during 2010.

INSERT TABLE 1 ABOUT HERE

Development of research agenda

Both phases of this study followed a similar research design, using the same semi-structured questionnaire with only relatively minor adjustments. Although the study intended initially to focus primarily on gender and ethnicity, it became clear early in the process of data collection that social class was an important third axis of difference. A number of questions within the questionnaire led to spontaneous discussion of this subject. Given the strong intersections between class and ethnicity, social class was most likely to be discussed in relation to the following question: *To what extent do ethnic minorities experience challenges that white people do not in this firm?* Other questions which prompted talk of social class included: *What is the biggest diversity challenge for this firm?*; *To what extent do you believe that the firm's current employees are diverse?*; *What would be your vision of a truly diverse and inclusive organisation?*; and *Is there a typical [firm] person?*

Class also arose in the context of people's experiences in the workplace, for example: *Do you believe that you have experienced challenges in your career that your peers have not?*; *What do you believe the firm's clients look for in a lawyer?*; and, *What do you believe the firm looks for in a trainee/associate/partner?* By 2010, when the second phase of the research took place, there was increasing awareness of, and concern about, social exclusion in the professions. In addition to the questions listed above, the issue of social class was therefore addressed directly via an additional question: *Do you think that social class is relevant at this*

firm? In total, 83 (64 per cent) of transcripts originating in Phase 1 of the research discussed issues surrounding social class. As a result of the direct question asked during Phase 2, 100 per cent of participants discussed social class. This made a total of 127 interviews where social class was discussed and where it was also described implicitly or explicitly as relevant to processes within these firms.

Data collection

All interviews were conducted by the first author, face-to-face and took approximately one hour. Interviews took place on the organisations' own premises and were recorded for transcription. In addition, the researcher took detailed field notes. At all six firms, gatekeepers were asked to purposively select interviewees in order to reflect organisational hierarchies and to reflect the firm's diversity in relation to gender and ethnicity. When this research took place, none of the case study firms kept records of the social background of their employees and social class is not necessarily visible. This characteristic could not as a result be selected for. However, in order to assess the composition of the achieved sample group on a retrospective basis, educational background was used as a measure of social class in this research (Erikson and Goldthorpe, 1993). On this basis, the six case study firms showed significant differences in the composition of the sample group. For example, fee-earners within the sample group at Firms A and E were most likely to be privately educated at 78 per cent and 79 per cent respectively. At Firm B, 30 per cent of fee-earners in the sample group had been educated privately. Firm D had the lowest number of privately educated fee-earners, at 18 per cent averaged across Phase 1 and Phase 2. These differences could be mapped on to profit per equity partner (PEP), such that the firms with the highest number of privately educated fee-earners were also those with the highest PEP. There are several possible explanations for this relationship and it is important to note that PEP is the

result of numerous factors including fee-rates, leverage ratios and business strategy. However it is likely that there is circularity to this process, with more profitable and more prestigious firms proving more attractive to graduates from leading institutions. In turn, the higher proportion of graduates with this form of institutional capital is likely to underline the association between a firm's profitability and the presence of graduates who signify 'upmarket' status. We return to this relationship in further detail below.

Data analysis process

Since the same questions which prompted a discussion of social class were used in both phases of the research, the same process was used throughout for data analysis, performed using specialist qualitative software (NVivo).

- Step 1: Search for all references to *social class* across all the interviews. This was broadly defined and included references to the forms of capital.
- Step 2: Sub-divide these into those who said that social class was *not relevant* (e.g. anybody is welcome here etc.) and those who said that it was *relevant*. The majority were in the latter category.
- Step 3: Divide all responses into those that focused on *graduate recruitment* and those that focused on *career progression*.
- Step 4: Return to the first category (*graduate recruitment*) and map answers in relation to sub-categories, which mapped on to *human capital* (i.e. qualifications/talent), *social capital* (i.e. access and aspiration), *cultural capital* (i.e. that mentioned institutional capital, i.e. university choice, or embodied capital, ie

accent/speech/mannerism) and *reputational capital* (i.e. contacts/networks/shared social status).

The framework was designed to reveal how assumptions about social class, underlying values and behaviour, were justified and explained, and the extent to which these were affected by the emergence of a diversity discourse within the legal sector. Also treated as data were relevant documentary evidence provided by the firms and by relevant agencies, which was publicly available in corporate media.

This research took an inductive approach allowing themes to emerge in part from theory and in part during the process of data collection and data analysis. Questions of plausibility and validity are important and as in all qualitative research, the critical reader 'is forced to ponder whether the researcher has selected only those fragments of information which support his argument' (Silverman, 1998 162). Given the sheer quantity of the data arising in a total of 127 interviews where social class was discussed, it is of course not possible to replicate the data set in full here (Miles and Huberman, 1984). However, Table 2 provides an overview of the percentage of participants who mentioned each form of capital and the type of terms and phrases that were used as a proxy for the various forms of capital. Though the possession of cultural capital emerged as an important theme in this research, no interviewee mentioned its objectified form, suggesting perhaps that material possessions and wealth are a likely by-product of participation in this labour market, rather than a condition for entry. It is also notable that the percentage of interviewees discussing each form of capital was similar in both phases of the research, although during Phase 1 discussion of social class was unprompted. The percentages provided are out of the total number of interviews where social class was discussed (83 in Phase 1 and 44 in Phase 2).

INSERT TABLE 2 ABOUT HERE

We describe the findings from this research below. This is divided into two sections. The first examines the role of various forms of capital at all six case study law firms. In this respect, the analysis identifies a number of strong themes across all six firms, where the ambiguity of knowledge and intense competitive pressures lead to a consistent focus on image. In the second section, we examine in further detail the subtle differences between firms and practice areas in their approach to social inclusion, caused by the nature of the client base and type of work, along with the precise organisational culture and the brand. These differences suggest that where knowledge is most ambiguous, projecting the appropriate classed image is most important.

Forms of capital – human, social, cultural and reputational

Previous studies of the legal profession have found that law firms often focus on *human capital* as the main justification for their preference to appoint graduates only from leading universities (Rolfe and Anderson, 2003). This emphasis was certainly found within documentary sources consulted for the current project including graduate recruitment brochures and websites, where the necessity for strong academic performance is made clear. During in-depth interviews, the role played by human capital was most likely to be discussed by individuals directly involved in graduate recruitment. For example, Firm F's graduate recruitment manager commented in relation to the recruitment of trainee lawyers that:

‘The predominant thing that [the partners] are looking for is intellectual ability...clarity of thought and expression...thinking like a lawyer.’ (F10, Graduate Recruitment Manager)

Educational attainment was presented by interviewees in this context as an objective basis for exclusion, whereby entry into leading universities is seen as a proxy for the very best graduates, on the basis of academic credentials and therefore aptitude. In this respect, a hierarchy of applicants was identified, with the ‘quality’ of candidates often being directly related by interviewees to the entry requirements and prestige of the university they attended. However, though occasionally described as uncomplicated and non-ambiguous, arguments relating to the role of various forms of capital were more regularly characterised by complexity and contradiction.

For example, though the majority of interviewees acknowledged that intellect is a non-negotiable requirement for entry into the elite professions, they expressed considerably less certainty about precisely how able candidates should be, how this can be measured and where exactly this talent is located. An uncertain relationship between educational credentials and real aptitude for the law was underlined by partners at all six case study firms who acknowledged that though highly successful, they would not have gained entry to their firm today on the basis of their own human capital. A number of interviewees acknowledged that talent could be found at a wide range of institutions including the new universities. In this latter respect, the impact of reduced access to *social capital* amongst less privileged people was mentioned by almost half of all participants, with the majority of these acknowledging that potentially excellent candidates may be prevented from reaching leading universities as a result of their circumstances:

‘If you’re living in a deprived area where the education and the opportunities just aren’t that great...the practicalities do push against actually getting to the starting line.’ (B10, Partner)

Evidence such as this appears somewhat at odds with a law firm rhetoric which presents recruitment efforts as a hard fought but relatively straightforward ‘war for talent’. If this were true, the ‘rational’ solution would include employing more students from a wider set of universities. However, as previous studies have suggested, leading law firms prefer to recruit graduates from leading universities as students educated here offer particularly high levels of *cultural capital*, and are therefore considered most likely to help the firm secure a high-class image.

An emphasis on one type of cultural capital, *institutional capital*, can be related first to the perceived reduction of risk. Focusing on ‘high status’ universities was considered to reduce uncertainty and ambiguity experienced both by the firm and its clients, by delivering a series of ‘known quantities’ (Partner, E38). Second, in a context where it is difficult for clients to assess the precise quality of technical expertise, this recruitment strategy sends an important signal to both clients and competitors that a high level of advanced knowledge is present within the organisation (Alvesson, 2001). The more ‘prestigious’ the university from which leading firms recruit their graduates, the more secure and defensible is this relationship. This analysis suggests that any individual or firm wishing to act ‘rationally’ with regard to talent may be discouraged by the knowledge that doing so may damage both their image and their brand.

At the individual level, graduates from leading universities were also considered by interviewees as more likely to possess valorised *embodied capital* which enables leading law firms to present an upmarket image and therefore compensate for the ambiguity surrounding

which firm might possess the very 'best' knowledge and skill. In the words of a senior associate at Firm D:

'Image is everything in the law...it's all we've got, our product...and unless your product is good, very good, the best that it can be, then you're not going to make a good lawyer.' (D12, Senior Associate)

'Product' here refers to accent, speech, mannerisms and dress which, in the absence of other tangible qualities for inspection, are considered essential as a means to convince the client of a lawyer's claim to expertise. Interviewees at each of the case study firms emphasised the necessity to broadly conform to 'middle-class' characteristics and appearance, no matter what an individual's educational or social background. Indeed, even where an applicant's institutional and human capital is considered suitable, unless they also possess the required embodied capital, they may still be denied admission:

'I've known too many people who have applied with good qualifications, I'm not talking mediocre, they have the best qualifications, Oxbridge, whatever...maybe their accent is slightly different and that absolutely matters. Absolutely!' (E3, Paralegal)

Client expectations were repeatedly referenced in this respect by interviewees at all six case study firms, who underlined the need to differentiate themselves from their peers by developing strong relationships with their clients. This is an important aspect of Hanlon's (2004) *reputational capital*. However, it is important to underline that the impact of reputational capital on exclusion varies amongst leading law firms. For example, Firm B recruits from a relatively wide number of Russell Group universities and appears to have a

relatively diverse intake on the basis of social background. Interviewees here underlined that this firm serves a variety of markets and that since their clients may come from a range of backgrounds, so too should their lawyers:

‘...the thing about this firm is that you’ve got lots of different clients, and so we’ve got lots of different types of people from lots of different types of backgrounds.’ (B17, Partner)

It is arguably significant that Firm B also has the lowest profit per equity partner of all six case study firms. Other case study firms can be defined as ‘aspirant’, since they explicitly aim to charge high fees, achieve higher profits and compete for business with the most established and prestigious law firms. This aim appears to be secured, at least in part, by a relatively uniform presentation of the required upmarket image. For example, at Firm F, one partner (F16) argued that the firm had historically suffered as a result of being ‘resolutely middle-class...more grammar school than public school.’⁶ According to the firm’s diversity manager (F8) the firm wished to improve its reputation and status in relation to clients and as a result, ‘the recruitment strategy has certainly changed quite dramatically – it’s primarily from Russell Group universities now.’ This strategy was understood by interviewees as having a negative impact on talent:

‘... we will be a second rate firm within a generation.’ (F8, Diversity Manager)

‘... people [who] perhaps their parents weren’t professionals, or they didn’t go to a private school . . . they can be the best lawyers . . . people that have come with a slightly more well trodden path are often less effective . . . but you have to be brave to do that.’ (F14, Partner).

However, despite a potentially negative impact on talent, this relatively exclusive strategy was consistently justified on the basis that graduates from a small set of leading universities are most likely to present a high quality image. These themes are described in further detail below, specifically in relation to Firm D.

Image and ambiguity

In the section above we demonstrated that the strong focus on image is seemingly applicable to each of the case study law firms, though subtle differences do exist between the case study organisations. In this section we provide further evidence demonstrating that there is variability not only *amongst* leading law firms but also between practice areas *within* the firms with regard to social inclusion. The precise stance towards social class depends on a number of factors. The first of these is the culture of the organisation and the brand it wishes to create, which itself relates to the market in which it wishes to compete. The second is the specific profile of the client base which is closely related to the type of work. These themes are discussed here in relation to Firm D. Though this firm has been established for well over fifty years in North America, its London office is relatively new. As such, it makes an interesting context for studying the emphasis on image. This firm was also studied in 2006 and 2010, which enables us to demonstrate the change in attitudes over time, as an ‘aspirant’ firm which has an explicit strategy to compete with its more established competitors and charge higher fees.

Organisational culture and brand

The founder members of Firm D’s London office appear to have come from marginally less prestigious universities and indeed privileged backgrounds than might be considered

typical for the sector. For example one partner (D24) described its original members as predominantly ‘from red bricks’ as opposed to Oxbridge’. During 2006, Firm D was performing well and was already winning work from more established peers, including those within the ‘magic circle’. However, partners were ambitious to improve perceptions of the firm’s ‘quality’ within the legal market, and concluded that this was dependent in part upon the implementation of a more exclusive recruitment strategy. Whereas diversity on the basis of social class had been positively valued and was closely related to talent, interviewees suggested that an emphasis on the appropriate institutional and to some extent embodied capital became equally if not more important:

‘Firm D [used to allow people] who are very bright to get on with the job...I felt that there were people from the regions, a real variety of people working here. It’s still there but I feel it’s not quite as good as it was.’ (D10, Senior Associate)

The decision to recruit more heavily from Oxbridge was partly facilitated as Firm D became better known and hence more attractive to these graduates, who are highly sought after. However, this strategy should not be seen as inevitable. Indeed, at the time of the study in 2010 there was, in the words of one partner (D4), ‘slight disagreement...on what it is that we need with regard to graduates’. This disagreement was described by interviewees as largely between Oxbridge educated partners versus those educated at a wider range of universities, and can be framed as a struggle over the power to define symbolic capital (Bourdieu, 1990). With some exceptions, both groups expressed a preference to recruit in their own image, which if left unchecked would theoretically at least result in trainee lawyers from somewhat different educational backgrounds. However, the extent to which these preferences were put into practice was constrained because a continued focus on image required that partners at

Firm D replicate the strategy of its competitors and peers in terms of institutional capital, even where this was openly acknowledged to conflict with the attraction of talent:

‘You’re potentially harming yourself [by not recruiting from new universities] because you’re not getting the best people...but on the other hand we wouldn’t [recruit from new universities] because actually we have to have the best people...that’s the conundrum.’ (D27, Partner)

‘...people feel that...they’re more likely to get a quality person if they come from Oxbridge because it’s a quality university...I disagree. [But] as a law firm doing the sort of work we do, charging the way we charge and our economics and our client base, we have to be seen to be recruiting academically at least at the level of our peers.’ (D42, Partner)

‘...people . . . will absolutely justify going to the best universities to get the best graduates but on the other hand they would acknowledge that many of the best lawyers they have, haven’t come from that background...law firms feel that if they start selecting from a wider set of universities that will make them look like a less good firm...’ (D40, Senior Associate)

. . . if you’re only looking at Oxbridge . . . you’re not going to get the best people . . . [but] we’d probably like more Oxbridge . . . from a business perspective you can’t afford to have people in meetings who just will not look good to the clients . . . [even if] some might be very, very bright . . . (D20, Partner, Head of Diversity)

Partners at Firm D aimed to remedy the dilemma, in part, during the selection process. As the following comment demonstrates, graduates from Russell Group universities, particularly Oxbridge, were still favoured by most partners. However, for some this included an emphasis on the corresponding embodied capital, whilst other partners appeared to maintain a relatively open approach to individual characteristics such as accent, mannerisms and speech:

There are one or two partners who like their associates to be very well spoken, but then there are one or two who like...a bit of rough. (D1, Trainee)

In summary, Firm D's London office is a relatively new office for an established US law firm. Interviewees underlined that the group of partners who set up the firm's London office did so with the express intent that the organisation would not replicate its 'magic circle' competitors or clients in every respect. As one partner from a less privileged background himself put it:

'[Firm D] is a late to market entrant...it's quite scrappy [here] and the managing partner slightly embodies that – [the] outsider who wants to win on his merits. He's made the firm in his image really.' (D34, Partner)

Historically, these characteristics may have encouraged the firm to focus on technical ability, along with entrepreneurialism and exceptional levels of commercial nous. However, the extent to which this approach is tolerated is now subject to increasing constraints. As the partner quoted above (D34) went on to say, as Firm D seeks to compete directly with more established and prestigious firms, recruiting from Oxbridge provides a 'fig leaf...having people with the right accent who went to the right schools.'

Client base and work types

At the organisational level, different practice areas may provide different levels of access for lawyers depending on their background. The impact of the client base and work type can be demonstrated by comparing banking with corporate finance at Firm D. Corporate finance lawyers focus predominantly on advising companies and investment banks on the legal implications of large financial transactions, such as mergers and acquisitions (M&A). This practice area was widely regarded by interviewees as perhaps the least tolerant towards diversity on the basis of social class, whilst the banking and finance practice is more so. The latter differs from corporate finance by predominantly advising institutions such as commercial and investment banks, insurance companies, asset-based lenders, hedge funds or other finance companies. Advice is generally related to complex transactions within this field, including for example, asset finance, securitisation and derivatives. According to one senior associate at Firm D interviewed during Phase 1 of the research these differences are reflected in the profile of the lawyers they employ. Corporate finance is:

‘...filled with a lot more white, middle class English whereas if you go to [banking and] finance in any law firm you find a much greater mix of people.’ (D13, Senior Associate)

According to a partner at Firm D (D37), in corporate finance there is ‘a really established career route and probably a disproportionate representation of people that went to the top public schools’. According to the same partner securitisation, which is a form of structured finance aimed at distributing risks in a pool, is ‘relatively new...there isn’t any real cache around it’. There are several explanations for differences in the demographic profile of these practice areas. One is that differences in the client profile may affect the profile of advisors

because, as one senior associate at Firm D (D13) said, ‘you have to have something in common with your client so you tend to mirror-image each other’. Interviewees argued that a higher proportion of banking specialists were not born in the UK and may themselves be less aware of the extremely subtle class distinctions which exist and which are symbolised through various forms of legitimated cultural capital. These findings partially support the role of homology in perpetuating law firm cultures, whilst also suggesting that a growing diversity of clients should therefore offer more and not less scope for inclusion on the basis of social class (Hanlon, 2004).

Related to the client profile is the nature of the work, which further underlines the strong emphasis on ambiguity and image. Advisory work within banking and finance is relatively process driven. For example, securitisation is defined by interviewees as highly technical and to some extent the quality of the work is measurable according to clear outcomes. Corporate finance on the other hand is not only less tangible but also has a more sales-driven culture, and verbal communications play a larger role. This ensures that ownership of certain forms of legitimised embodied capital by individual lawyers becomes significantly more important in areas such as corporate finance than might be the case elsewhere:

‘[Corporate finance lawyers] have to stand up in a room, command someone’s attention and tell them what they’re going to be doing [which means that] having somebody who is more polished...speaks in the correct accent, and looks the part is actually quite important...presentation skills are much less important when there is a technical legal issue that people can understand, that’s being solved or not being solved.’ (D37, Partner)

'[Corporate finance lawyers need] a good nose for risk, and you have to be able to draft and you have to know the law. And that's kind of it [so] brand differentiation becomes incredibly important - because we're all selling a Volkswagen...if you go to a bank...let's say on an equity derivatives desk...they want simply the best mathematicians.' (D34, Partner)

'...for good corporate lawyers...it's about organisational skills, communication skills, management skills, stamina, energy, negotiation, exuberance, confidence, client relationships and none of these things particularly correlate to academic ability...for other areas like finance, tax, there is a lot more abstract technical concepts involved, the law is quite difficult.' (D24, Trainee)

The centrality of image in determining attitudes towards social class is therefore underlined when considering both the similarities and the differences within a single case study firm. In relatively new and/or more technical areas, quality is judged on a relatively objective basis, which may enable participation by individuals who might otherwise have been excluded. In areas such as corporate finance, technical skill is not sufficient and these areas require a type of verbal dexterity and confidence that may be more commonly available to, or associated with, 'middle-class' individuals.

Discussion and conclusion

This paper has asked: *why do leading firms discriminate on the basis of social class?* We argue that discrimination of this nature originates in multiple factors and therefore acknowledge the explanatory value of previous approaches relevant to the legal sector, cited in this paper (Rolfe and Anderson, 2003; Shiner, 1997, 1999, 2000; Hanlon, 2004;

Sommerlad, 2007). However, previous analyses have tended to focus on the similarities between leading law firms, whilst the current analysis adds a further dimension by also focusing on the differences. We argue that most leading law firms prefer to employ trainee lawyers with specific forms of institutional and embodied capital which are arbitrarily legitimised and, compared to relevant credentials and qualifications, relatively scarce. These forms of capital enable these law firms to present an 'upmarket' image and therefore verify their claims to knowledge, which is otherwise ambiguous. This argument is particularly relevant to what we call 'aspirant' organisations. This term describes those firms which have achieved a measure of success on the basis of technical ability, but who subsequently wish to compete with the most established and prestigious firms, and charge the highest fees. The current research also explains differences within leading firms with regard to social class, suggesting that in practice groups where knowledge is least open to objective assessment, image is most important.

During the past twenty years leading law firms have expanded and consolidated, competition for clients has intensified and client loyalty has been eroded (Segal-Horn and Dean, 2011). In this context, clients find it increasingly hard to assess the precise quality of the advice they receive and law firms find it increasingly difficult to differentiate their brand from similarly placed organisations. As a result, the value to leading law firms of specific forms of institutional and embodied capital has arguably also grown. This process has coincided with a period during which educational opportunities for less privileged people have become less available, a process that can be related partly to the difficulty they experience accessing necessary social and human capital. Together, these processes have had a substantial impact on limiting access to the professions on the basis of social class, with the latter defined partly in relation to the forms of capital but also in relation to material advantage.

The current analysis has several implications with respect to theories of social class. With regard to Bourdieu's forms of capital, the argument presented here fits with an approach which sees exclusion as a means to secure the reproduction of the middle-class. This process is particularly evident within the education system and on entry to the labour market, and is exercised within the legal profession through a strong focus on human, social and cultural capital. However, this project is theorised by Bourdieu (1984) as taking place largely at the level of deep structure. In contrast, the current study would suggest that leading law firms consider exclusion an entirely rational commercial strategy and as such it is often an entirely conscious project. In seeing a degree of intent, the current analysis resembles neo-Weberian analyses of occupational closure, which posit discrimination as a defensive and therefore a deliberate act (Sommerlad, 2007). However, the current analysis would suggest that exclusion by leading law firms has a more immediate and localised purpose in addition to occupational closure. In this analysis, exclusion can be seen as a means to exploit and enhance hierarchies *amongst* leading law firms (Empson, 2001; Hanlon, 2004). Both processes employ forms of cultural capital, yet they do so with separate purposes in mind. Critically, an 'aspirational' firm's ability to discriminate on the basis of social class becomes not only a competitive project but one that is also consciously pursued.

Of course, no matter what the intention behind exclusion, the outcome for people who do not have access to the legitimated forms of capital remains the same. Nonetheless, we argue that understanding precisely why law firms discriminate on the basis of social class is essential in order to identify effective policy interventions. For example, positing exclusion as the actions of one hostile occupational class against another might suggest that discrimination can be addressed predominantly at the professional level, when in fact exclusion also originates in what Empson (2001) describes as an individual and organisational 'fear of contamination.' Understanding discrimination as taking place primarily as a result of unconscious actions is

also potentially problematic (Bourdieu, 1986). This would suggest that once the unconscious motivations behind discrimination are exposed, the problem can be solved by consciously including previously disadvantaged groups. However, a key contribution of this paper is to demonstrate that discriminating on the basis of social class is perceived as a rational commercial strategy by law firms wishing to charge the very highest fees. Indeed, doing otherwise represents a perceived risk to their image and brand.

The current research would suggest that this strategy is damaging on the basis of social justice but also because the sector may be excluding valuable talent. Yet even where this latter possibility is recognised, the business case in favour of discrimination represents a competing rationale. As such, using the business case as the main driver to motivate progressive action is likely to have serious shortcomings. Against this backdrop, it may seem superficially encouraging that social class has returned to the policy agenda, both within leading law firms and at the level of the state (Cabinet Office, 2009). However, though the current coalition government has made a rhetorical commitment to social mobility, this is also an administration which is committed to implementing neo-liberal economic policy. Historically, this is an ideology which has focused on the efficiency of private enterprise along with open markets, and encouraged globalization as a route towards both. It is an approach which places a heavy emphasis on individualism and choice such that individuals are considered in charge of their own destiny, with less need for intervention by the State (Lash and Urry, 1994).

Whilst some have flourished in this new economy, a second group identified as 'reflexivity losers' have experienced limited benefits as a result of what some term excessive voluntarism (Lash, 1994). It is questionable whether the commitment to social mobility expressed by the coalition government is consistent with the reality of inequality within the UK, where the gap between rich and poor has expanded over the past thirty years. The free market ideologies

which provided the explicit foundation for the conservative Thatcher administration were arguably tempered by the 'new' Labour government elected in 1997 (Harvey, 2005). However, it has been argued that in continuing to argue that social class can be removed from the political agenda, 'new' Labour was in fact also able to continue to shift the blame for 'structural' inequalities on to the individual (Crompton, 2010).

Studies have demonstrated a close link between higher inequality and lower social mobility (Wilkinson and Pickett, 2010). Reducing the gap between rich and poor is though arguably not the primary goal of the current coalition government whose Conservative partner is committed to a rolling back of the state, in part through a lasting programme of budgetary cuts. Within the legal sector, a number of programmes run by organisations such as educational charity The Sutton Trust and the Social Mobility Foundation have been designed to assist individuals, often those from less privileged backgrounds, to gain access to the required social, cultural and human capital via internships, mentoring and support. However, we would argue that whilst valuable, these programmes concentrate on *how* law firms discriminate rather than *why* they do so, which has been the focus of our study. As such, they allow prevailing norms and assumptions to be perpetuated, rather than challenging their very basis, and do not acknowledge the political backdrop or ideological component of discrimination (Nkomo and Cox, 1996).

Even where law firms and individuals wish to change their approach to social inclusion, given the relational and hierarchical nature of this project, individual firms may consider the risk of acting alone too great. Government policy and rhetoric within the sector may claim that the attraction of diverse talent leads to competitive advantage. Yet unless a critical mass of competitor firms commit to change at a similar pace, any single organisation will be prevented from implementing a new approach to recruitment for fear that only their brand will be compromised. The introduction of a more progressive approach may therefore depend

on changing diversification from a high risk to a low risk strategy. The current government has shown little appetite for legislating on the basis of social class and given the subtlety and complexity of the issues at stake, this would be a challenging task. Nonetheless, discriminating on this basis may represent the high risk option only when there are clear penalties enshrined within law for doing so.

Funding

Phase one of the research reported in this paper was funded by an Economic and Social Research Council Doctoral Studentship.

Notes

¹ Speech to the Labour Party conference in September 1999.

² Throughout this article the term ‘leading law firms’ refers to the UK’s top twenty firms by turnover ranked by leading trade journal *The Lawyer*. These firms have a turnover, average profit per equity partner (PEP) and average revenue per lawyer (RPL), which is considerably above the UK average. They include the ‘magic circle’, an informal term often used to describe what are generally regarded to be the five most prestigious UK-headquartered law firms. These include Clifford Chance, Allen & Overy, Freshfields Bruckhaus Deringer, Linklaters, and Slaughter and May. They also include the ‘silver circle’, a term created by *The Lawyer* in 2005 to refer to leading UK-headquartered law firms which are commonly regarded as the main competitors of the magic circle. These include Ashursts, Berwin Leighton Paisner, Hebert Smith, Macfarlanes, SJ Berwin, and Travers Smith. The remaining firms within the top twenty are referred to here as ‘second tier’. These leading law firms are also often referred to as corporate or commercial law firms.

³ Approximately 93 per cent of children in the UK attend state-provided schools which are free of charge to students. Schools outside the state system are commonly referred to as independent or private schools and are attended by approximately seven per cent of children in the UK. Sometimes for historical reasons private schools are also referred to as public schools although this term is generally used in relation to a small set of the largest, most prestigious and oldest private schools.

⁴ Universities within the UK are divided along a number of lines. The first major difference is between ‘old’ and ‘new’ universities. The latter are former polytechnics or colleges of higher education that were given university status by the UK government in 1992, as well as colleges that have been granted university status since then. These are also called post-1992 universities, whilst old universities had that status prior to 1992. Old universities are commonly considered more prestigious than post-1992 or ‘new’ universities. However, there are also divisions within this category. The Russell Group is a formal consortium of twenty leading old universities including Oxford and Cambridge (‘Oxbridge’) which is often used as shorthand for the UK’s most prestigious universities, a designation relating in part to their strong research output and higher entry requirements. Throughout this article, ‘leading universities’ refers to Russell Group universities unless specified otherwise.

⁵ In the UK students take their General Certificate of Secondary Education (GCSE) at sixteen and may continue their studies for an additional two years, typically leading to Advanced Levels (A-levels). These, or equivalent qualifications such as the International Baccalaureate, are required for access to higher education.

⁶ Between the mid-1940's and the 1960's a tripartite system of state funded secondary education operated in England and Wales. Grammar schools were designed to teach an academic curriculum to the most able 25 five percent of the school population, selected by the Eleven Plus examination. The remaining 75 per cent of students attended either secondary-modern or secondary-technical schools which had a more vocational curriculum. In 1976 this system was formally abolished and most parts of the UK moved to introduce non-selective comprehensive schools. Grammar schools have been defined as an engine of social mobility by enabling bright working class students to access excellent educational opportunities.

⁷ The term Red Brick university refers to six universities in the major industrial cities of England, all of which achieved university status before WW1. All six are members of the Russell Group. They include Birmingham, Liverpool, Leeds, Sheffield, Bristol and Manchester. Their entry standards are high, though marginally less so than Oxford and Cambridge.

Table 1: Description of the case study firms

	Type of firm	Scale	Position in <i>The Lawyer</i> Top 100 (turnover)	Case study firms relative to each other (turnover)	Phase	No of interviews ¹
Firm A	Magic Circle	International	Top 5	1	1	14
Firm B	Silver Circle	National	Top 20	5	1	17
Firm C	Second Tier	International	Top 20	4	1	17
Firm D	US ²	International	n/a	n/a	1 & 2	44
Firm E	Second Tier	International	Top 20	2	1	15
Firm F	Silver Circle	International	Top 20	3	2	20
TOTAL NUMBER OF INTERVIEWS						127

¹ During this project, a total of 174 interviews were conducted, of which 127 interviewees both discussed class and considered it relevant. This table lists the number of interviewees at each firm who are in the latter category.

² Firm D is headquartered in North America where it is ranked in the top twenty according to turnover according to trade journal *The American Lawyer*. According to *The Lawyer* magazine, in 2008 it was ranked in the top twenty US firms in London according to revenue generated here.

Table Two: Illustration of data analysis process and results

Theme	Illustrative data	Percentage		
		<i>Phase 1</i>	<i>Phase 2</i>	<i>All</i>
Social capital	...it's all about confidence, and thinking I have to be from Oxbridge and have been to private school. (A3, Associate)	39 (46%)	19 (43%)	58 (46%)
	If you look at places like South Bank...the fact that someone has ended up there might just mean...that was the schooling available to them. (B18, Partner)			
Human capital	They recruit people on the back of the knowledge that they can actually do the work. (B9, Partner)	18 (21%)	12 (27%)	30 (24%)
	I went to Cambridge and I do think that...people who go to Oxbridge tend to be cleverer than people who go to other universities. (F15, Partner)			
Cultural capital (embodied)	I've got a regional accent [and in a job interview at Firm F the interviewer was saying], I've got fears about you not conforming...he was prejudiced against me. (C10, Trainee)	52 (62%)	28 (63%)	80 (63%)
	...at some places like [magic circle firm], probably everybody has to pass an elocution test before they're allowed through the door. (D3, Professional Support Lawyer)			
Cultural capital (institutional)	...I heard one partner say the entire firm should be Oxbridge... it just looks better (A15, Director, Professional Support)	55 (66%)	33 (75%)	88 (69%)
	...we recruit from Oxbridge essentially...I think we're trying to be a bit smarter. (E1, Partner)			
Reputational capital	...it's about alignment, empathy, commerciality...that does have an impact...when you get into this all singing, all dancing diversity game. (C18, Partner)	12 (14%)	7 (16%)	19 (15%)
	We have a broad client base and we want people who can attract lots of different business, lots of different ways. (E30, Partner)			

References

- Ackroyd S and Muzio D (2007) The reconstructed professional firm: Explaining change in English legal practices. *Organization Studies* 28(5): 1-19.
- Allatt P (1993) Becoming privileged: The role of family processes. In Bates I and Riseborough G (eds) *Youth and Inequality*. Buckingham: Open University Press, 139-59.
- Alvesson M (1993) Organization as rhetoric: Knowledge-intensive companies and the struggle with ambiguity. *Journal of Management Studies* 30(6): 997-1015.
- Alvesson M (1995) *Management of Knowledge-Intensive Companies*. Berlin/New York: de Gruyter.
- Alvesson M (2001) Knowledge work: Ambiguity, image and identity. *Human Relations* 54(7): 863-886.
- Alvesson M and Empson L (2008) The construction of organizational identity: Comparative case studies of consulting firms. *Scandinavian Journal of Management* 24: 1-16.
- Archer L, Hollingworth S and Halsall A (2007) 'University's not for me – I'm a Nike person': Urban, working-class young people's negotiations of 'style', identity and educational encouragement. *Sociology* 41: 219-37.
- Ashley L (2010) Making a difference? The use (and abuse) of diversity management at the UK's elite law firms. *Work Employment Society* 24(4): 711-727.

Ball S (2003) *Class Strategies and the Education Market: The Middle Classes and Social Advantage*. New York: RoutledgeFarmer.

Barnes L. and Ashtiany S. (2003) The diversity approach to achieving equality: Potential and pitfalls. *Industrial Law Journal* 32 (4): 274–296.

Becker G S (1975) *Human Capital: A Theoretical and Empirical Analysis, with Special Reference to Education*. (2nd ed.) New York: Columbia University Press for NBER.

Bourdieu P (1977) *Outline of a Theory of Practice*. Cambridge: Cambridge University Press.

Bourdieu P (1984) *Distinction: A Social Critique of the Judgement of Taste*. London: Routledge and Kegan Paul.

Bourdieu P (1986) The forms of capital. In Richardson J (ed.) *Handbook of Theory and Research for the Sociology of Education*. New York: Greenwood, 241-258.

Bourdieu, P. (1990) *The Logic of Practice*, trans. R. Nice. Cambridge: Polity Press.

Cabinet Office (2009) *Unleashing Aspirations: The Final Report of the Panel on Fair Access to the Professions*. London: Cabinet Office

Coleman J (1998) Social capital in the creation of human capital. *American Journal of Sociology* 94: S95-S120.

Cook, A., Faulconbridge, J., and Muzio, D. (In-press) "London's Legal Elite: recruitment through cultural capital and the reproduction of social exclusivity in City professional service fields." *Environment and Planning A*.

Copeland, L. (1988) Valuing Diversity, Part 1: Making the Most of Cultural Differences at the Workplace. *Personnel* 65(6), 52 – 60

Crompton R (1998) *Class and Stratification. An Introduction to Current Debates*. (2nd edition), Cambridge: Polity Press

Crompton R (2010) Class and employment. *Work, Employment & Society* 24: 9-26.

Department for Education and Skills (2003) *Widening Participation in Higher Education*.

Dickens L. (1999) Beyond the business case: a three-pronged approach to equality action. *Human Resource Management Journal* 9(1): 9-19.

Du Gay, P. (1996) *Consumption and Identity at Work*. London: Sage.

Empson L (2001) Fear of exploitation and fear of contamination: Impediments to knowledge transfer in mergers between professional service firms. *Human Relations* 54(7): 839–62.

Erikson R and Goldthorpe JH (1993) *The Constant Flux: a Study of Class Mobility in Industrial Societies*. Oxford University Press: USA.

Francis D A and Sommerlad H (2009) Access to legal work experience and its role in the (re)production of legal professional identity. *International Journal of the Legal Profession* 16(1): 63–86.

Galanter M and Roberts S (2008) From kinship to Magic Circle: The London commercial law firm in the Twentieth Century. *International Journal of the Legal Profession* 15(3): 143–178.

Goldthorpe JH and Marshall G (1992) The promising future of class analysis: a response to recent critiques. *Sociology* 26(3): 381–400.

Hall S and Du Gay P (1992) *Questions of Cultural Identity*. Sage: London

Hanlon G (2004) Institutional forms and organizational structures: Homology, trust and reputational capital in professional service firms. *Organization* 11(2): 187-210.

Harvey, D (2005) *The New Imperialism*. Oxford University Press: Oxford.

Hindess, B. (1987) *Politics and Class Analysis*. London: Allen & Unwin.

Homans G C (1961) Social exchange among equals and unequals. Reprinted in Collins R (ed) *Four Sociological Traditions: Selected Readings*. Oxford: Oxford University Press.

Kirton G and Greene A M (2007) *The Dynamics of Managing Diversity*. (2nd ed). Oxford: Butterworth-Heinemann.

Lash, S. (1994) 'Reflexivity and its Doubles: Structure, Aesthetics, Community', in U. Beck, A. Giddens and S. Lash *Reflexive Modernization*, pp. 110–73. Cambridge: Polity Press.

Lash, S. and J. Urry (1994) *Economies of Signs and Space*. London: Sage.

Larson M S (1977) *The Rise of Professionalism: A Sociological Analysis*. London: University of California Press.

Lorbiecki, A and Jack, G (2000) Critical turns in the evolution of diversity management *British Journal of Management* 11 (Special Issue): S17–S31.

Miles, M and Huberman, A M (1984) Qualitative data as an attractive nuisance: The problem of analysis. *Administrative Science Quarterly*, 24 (590-601).

Metcalf H (1997) *Class and Higher Education: The Participation of Young People From Lower Socio-Economic Groups*. London: CIHE.

Meyer J W and Rowan B (1977) Institutionalized organizations: Formal structure as myth and ceremony. In Zey-Ferrell M and Aiken M (eds.) *Complex Organizations: Critical Perspectives*. Glenview, IL: Scott Foresman.

Nkomo S and Cox T (1996) Diverse identities in organizations. In Clegg SR, Hardy C and Nord WR (eds.) *Handbook of Organization Studies*. Sage, London.

Noon M (2007) The fatal flaws of diversity and the business case for ethnic minorities. *Work, Employment and Society* 21(4): 773–84.

Pahl RE (1989) Is the emperor naked? Some questions on the adequacy of sociological theory in urban and regional research. *International Journal of Urban and Regional Research* 13(4): 709–720.

Parkin F (1974) *The Social Analysis of Class Structure*. London: Tavistock Publications.

Prasad, P. and A. J. Mills (1997) From Showcase to Shadow: Understanding the Dilemmas of Managing Workplace Diversity. In P. Prasad, A.J. Mills, M. Elmes and A. Prasad (eds) *Managing the Organizational Melting Pot: Dilemmas of Workplace Diversity*. Sage, London

Reay D (2005) Beyond consciousness? The psychic landscape of social class. *Sociology* 39: 911-28.

Reay D, Davies J, David M and Ball S J (2001) Choices of degree or degrees of choice? Class, ‘race’ and the higher education choice process. *Sociology* 35: 855-74.

Robbins, D. (2000) *Bourdieu and Culture*. London: Sage

Rolfe H and Anderson T (2003) A firm choice: Law firms’ preferences in the recruitment of trainee solicitors. *International Journal of the Legal Profession* 10(3): 315–44.

Savage M (2000) *Class Analysis and Social Transformation*. Open University Press.

Segal-Horn S and A Dean (2011) The rise of super-elite law firms: Towards global strategies. *The Service Industries Journal* 31(2): 195–213.

Shiner M (1997) *Entry into the Legal Profession: The Law Student Cohort Study, Year 4*. London: Law Society.

Shiner M (1999) *Entry into the Legal Profession: The Law Student Cohort Study, Year 5*. London: The Law Society.

Shiner M (2000) Young, gifted and blocked! Entry to the solicitor's profession. In Thomas P (ed.) *Discriminating Lawyers*. London: Cavendish Publishing, 87–120.

Silverman D (1998) Qualitative research: Meanings or practices? *Information Systems Journal* 8(1): 3–20.

Skeggs B (1994) Situating the production of feminist ethnography. *Researching Women's Lives from a Feminist Perspective* 72–81.

Skeggs, B. (1997) *Formations of Class and Gender*. London: Sage.

Sommerlad H (2007) Researching and theorizing the processes of professional identity formation. *Journal of Law and Society* 34(2): 190–217.

Starbuck W (1992) Learning by knowledge-intensive firms. *Journal of Management Studies* 9(6): 713–40.

The Sutton Trust (2005) *The Sutton Trust Briefing Note: The Educational Backgrounds of the UK's Top Solicitors, Barristers and Judges*. London: The Sutton Trust.

Vignaendra S (2001) *Social Class and Entry into the Solicitors' Profession*. Research Study 41. London: The Law Society.

Weber, Max. (1958) 'Class, Status and Party', in Gerth, Hans and C. Wright Mills, *From Max Weber: Essays in Sociology*. Oxford: Oxford University Press

Wilkinson RG and Pickett K (2010) *The Spirit Level: Why Equality Is Better for Everyone*. Penguin.

Young IM (1990) The ideal of community and the politics of difference. In Nicholson L (ed.) *Feminism/Postmodernism*. Routledge: London

Zanoni P and Janssens M (2003) Deconstructing difference: The rhetoric of human resource managers' diversity discourses. *Organization Studies* 25(1): 55 – 74.

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